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**Testimony of Angus Love, Esquire  
On Behalf of  
The Pennsylvania Prison Society  
before the Pennsylvania State  
House of Representatives Judiciary Committee,  
Subcommittee on Crime and Corrections Hearing  
Topic: House Bill 246  
Privatization of Prisons  
Wednesday, April 24, 1996**

I would like to thank Chairman Birmelin and the members of the Committee for this opportunity to comment on House Bill 246. I am testifying on behalf of the Pennsylvania Prison Society, the nation's oldest prison reform organization, founded in 1787. The Society went on record in 1985 supporting a moratorium on private prisons due to the many unanswered questions involved in the licensure process. We later testified before the Private Prison Task Force of the Joint State Government Commission pursuant to Act 1986-19. At that time, we stated our opposition to the use of for-profit companies operating prisons and jails in Pennsylvania. In preparation for these hearings, the Society has reiterated our opposition to private for-profit prisons and to House Bill 246 in its current form.

The decision to take one's freedom away is one of the most powerful tools a government can utilize. Such a process should not be taken lightly. Prisons are an important part in this process. The question I am here to address is whether our Commonwealth should turn over the authority to run a full custody confinement adult correctional facility to a non-government entity operating on a for-profit basis. While we



have seen many aspects of criminal justice operations privatized such as food service, medical treatment, half-way houses and drug treatment centers, we have yet to turn a whole facility over to a private enterprise. Such a major endeavor requires much study and thought. While it may answer some concerns, it raises many more that have yet to be adequately addressed. Until all of these issues are fully studied, we urge the members of the committee to vote against HB 246. Today, I would like to comment on the cost considerations, legal issues and other possible solutions to the high cost of corrections.

In an era of rapidly rising prison and jail populations, budgets for such services have grown astronomically. Our PA D.O.C.'s budget has risen from 30 million in 1971 to 900 million this year. County governments are under similar pressures. This is especially true in larger urban areas that have high crime rates and a shrinking tax base. The pressures to find savings are enormous but the solutions are difficult. Raising taxes or releasing inmates could represent political death for an elected representative, so other solutions are sought. Privatization offers a quick fix. "Give us the contract and we'll save you money" is the usual pitch. To date, neither the White House or the Justice Department can produce one study that shows privatization saves money. Experience has showed the opposite. When the U.S. Marshals contracted with the Correctional Corporation to build and operate its Leavenworth, Kansas facility, the corporation was able to recoup construction costs in 5 years, a task government normally does in 20 to 30 years. This prompted a study by the Marshals that showed costs running 24% higher in private facilities than in public facilities in the same region. The U.S. Bureau of Prisons similarly found that cost shifting represents a hidden cost of a contract. When medical costs rose

from 175 million in 1991 to 250 million in 1995, contracts had to be renegotiated in two Texas facilities. Under the terms of the contract, medical treatment outside the facility such as specialized treatment and hospitalization were the responsibility of the federal government. All of a sudden inmates were getting the outside treatment they longed for. I have seen similar examples here in Pennsylvania. Disabled inmates that require constant care are frequently transferred in the state prison system where each facility has a different private provider. Similarly, county inmates in need of costly operations or treatment are given early release or are transferred to the state system as soon as it is legally permissible.

As staffing is the largest part of any correctional budget, cuts in salaries, pensions and benefits are perceived savings in a privatization scenario. These cost savings are often temporary as the new staff eventually unionizes and fights to get back lost wages. The real loss is the professionalism and experience. The effort to de-stabilize the work force results in the loss of experienced staff, increased turnover, the need for more training and mistakes by inexperienced correctional officers. These savings are illusionary and unfair to the dedicated men and women who work in our prisons under extremely difficult circumstances.

As contracts are usually awarded on a per inmate basis, the incentive to maintain full capacity is great. Introducing this additional motive in running a prison may affect decision making in several ways. If it does not appear that new arrivals are imminent, release decisions could be affected. Quasi-judicial functions that effect release could be altered. Awards of earned time, parole recommendations and disciplinary actions can

keep an inmate for a longer time. Prisons operating at less than capacity have contracted with brokers who bring in prisoners from other states. The Prison Society finds such flesh peddling repugnant. Lobbyists will no doubt be employed to push legislation increasing prison populations. Corporate campaign contributions will go to the staunchest law and order candidates. In an era where it becomes more costly to run for office, elected officials can be tempted to sell off government services to insure continued campaigned contributions.

The quest for privatization raises many more legal questions that it answers. These questions arise out of the transference of legal authority to maintain custody and control of the inmate population. How do we prevent strikes by privatized guards who are forbidden to strike while employed by the state? What legal authority does the state have to retake a facility plagued by riots, escapes, fire, epidemics or natural disasters? How can we regulated employee qualifications such as current ban on employment of ex-offenders imposed after the Banks tragedy? What do we do if the company declares bankruptcy and goes out of business? This has already happened in Pennsylvania at the 286 Center in Armstrong County. Will private providers follow state policies such as use of deadly force? One such provider refused to comply with new federal guidelines imposed after Waco and Ruby Ridge. Their policy called for use of deadly force to protect personal property. How can we continue as a member of the Interstate Corrections Compact (61 P.S. 1062) when only states can transfer inmates to other states? Can the government or a court order the firing of an employee who has abused his authority? How can we prevent "creaming" i.e. taking the easiest and cheapest inmates and "dumping" the

rest back into state facilities? The mental health de-institutionalization movement and the health care industry provide many examples of these practices.

While it is easy to criticize new ideas, it would be irresponsible not to offer a few concrete solutions to the dilemma we find ourselves in. Fortunately, the Commonwealth has commissioned many excellent studies that offer some relief to overburdened taxpayers and overcrowded prisons. Prison and jail space must be utilized as a scarce resource and a last resort for the criminal offender. An escalating scale of punishment should incorporate a variety of alternatives to incarceration especially for the non-violent offender. The use of intensive parole, house arrest, electronic monitoring, restitution of the victim, offender-victim reconciliation, community service, work release and treatment for the drug and alcohol offender are all much cheaper alternatives to incarceration. Governor Thornburg's Panel to Investigate the Hostage Siege at Graterford (1984); Governor Casey's Interdepartmental Task Force in Corrections (1989); The Blue Ribbon Panel on Corrections Planning (1993); Justice Arlin Adam's Report on the Camp Hill Riot (1989); and the Pennsylvania Commission on Crime and Delinquency Report on Overcrowding (1995); are a few of the better studies that we have undertaken. The solutions to the high costs of corrections are contained thereon, now we need only the political will to implement them.