

TESTIMONY
ON
PRIVATE PRISONS

Subcommittee on Crime and Corrections

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PRIVATE PRISONS

Good Morning, Ladies and Gentlemen of the Judiciary Committee, staff members, and members of the audience. The Commonwealth Foundation and I wish to thank you for this opportunity to testify before you today on the issue of private prisons. The Commonwealth Foundation is a non-partisan, non-profit corporation established to offer analysis of public policy issues in order to assist in the formulation of public policy that will help build a better Commonwealth for all of its residents. While the Foundation and I are not permitted to advocate or oppose specific legislative proposals, we do discuss the advantages and disadvantages of public policy concepts.

The privatization of services traditionally provided by state and local government is a movement with momentum. The collapse of the economic systems in the former Soviet Union and its satellites is taken as a testament to the superiority of the capitalistic marketplace for best meeting citizens' needs. Privatization has proven to generally be less costly and more efficient. Throughout the world, more and more tasks that once were performed by government have been transferred to private business. Privatization should be viewed as neither panacea nor poison. It is simply one tool available to public officials. Before public officials apply it universally, there are points that they should remember:

- * The success of privatization is situational, dependent on local circumstances and how well the new approach is implemented. Options to involve the greater use of the private sector should automatically be considered on a periodic basis.
- * A willingness to consider switching back from private service delivery to public service delivery should be maintained.
- * Attention needs to be given to the three potential problems of privatization -- corruption, reduced service quality, and reduced access to services for the disadvantaged.

Perhaps one of the main virtues of the privatization movement is that it encourages public employees to improve their own productivity in order to help ensure their own competitiveness in the face of privatization. Increasingly, the message to the public sector is that if a service has problems in efficiency or quality, the agency needs to "shape up or be shipped out." The net result should be less costly and higher quality services for all the public.

Prisons have become a growth industry throughout the country during the last twenty years. During this time, the number of inmates has increased by more than 200 percent, creating a onerous burden for state governments and a exploding demand for new prisons. To meet that demand, fourteen states are now contracting out the operation of some of their correctional facilities. A half-dozen other states have either passed legislation allowing private prisons, or they are planning to do so. During one year alone -- 1994 -- the number of prisoners in private facilities rose by 51 percent to around 49,000 inmates.

Nationwide, the privatization experiment with penal institutions, has been a success. Public authorities have set standards for the operation of these institutions by private authorities, and these public authorities have retained ultimate jurisdiction. In fact, a far higher percentage of the nation's 88 private prisons win accreditation from the American Correctional Association than do state and local penal facilities. These private prisons also save taxpayers dollars. A typical private prison will cost 15 percent to 30 percent less to operate than a comparable government-run facility.

The crime and prison population trends that are evident throughout the nation have also been apparent in Pennsylvania. Pennsylvania's prison population has increased approximately 294 percent since 1980. During the next four years, the Commonwealth's prison population will expand by about another 32 percent. Consequently, the state's prison system presently exceeds capacity by more than 10,000 inmates, and the Pennsylvania Department of Corrections estimates that the state's penal system will be approximately 14,400 prisoners over capacity at the beginning of the next century.

Pennsylvania's crime rate coupled with its soaring prison population has led to a time that state policymakers should consider new options. The Ridge Administration has begun its term in office by vigorously tackling some of the state's criminal justice problems, such as parole and probation along with creating order in maximum security facilities like Graterford. Certainly, the state's search and sweep of Graterford vividly revealed the range of problems experienced by many prisons throughout the country. As you know, the Graterford raid turned into the largest prison drug raid in American history. Who could ever forget that the prison's sewage treatment system was clogged by condoms filled with cocaine that were being hurriedly discarded by the inmates? When faced with the results of this search, the new Corrections Commissioner, Martin Horn, confessed to "poor management practices," that had been in place at the facility.

In addition to the Graterford sweep, which required the participation of 250 state troopers and 400 members of prison

emergency response teams, one can see other shortcomings throughout our state and local penal systems in Pennsylvania. An audit conducted by Controller, Jonathan Saidel, of the Philadelphia Prison System from July 1993 to October 1994 revealed wide-spread waste and inefficiency. For example, about \$34,000 worth of new or refurbished kitchen equipment was thrown away while the prison's inmate store was also squandering nearly \$300,000 in inventory. These incidents violated Philadelphia's Home Rule Charter that mandates department heads to turn over to the city's procurement department all unused property.

Prisons, therefore, have acquired a loathsome reputation; indeed, they are probably much worse than people appreciate. So the beginning argument for the privatization of prisons is that it would be difficult to do a worse job of dealing with the multitude of mankind packed into our nation's prisons than is being done today.

Prisons have been with us for a long time. As early as 525 B.C., Plato, writing in The Laws, recommended imprisonment for theft as well as assault and battery. The Greek city-states also have historical records of offenders being placed under house arrest. Imprisonment has been used only sporadically to deal with criminals until comparatively recently.

Nevertheless, there are historical precedents of private involvement in the criminal justice system that influenced the American colonies. In 16th, 17th, and 18th Century England, there were several hundred jails that were in theory the king's prisons, but were run by different authorities. These jails were often operated by private citizens, and the jailers made their living, or a portion of it, from fees extracted from their prisoners.

Toward the end of the 18th century, a new type of institution dealing with offenders, the penitentiary, originated in the United States. In this type of institution, offenders were locked up, but not just to wait for their trial. The incarceration itself became the punishment. In 1790 the Walnut Street Jail opened in Philadelphia and became the model for the "Pennsylvania system." This program included solitary confinement of men convicted of felonies, and later, labor was introduced to provide inmates something to do and for its therapeutic effects. Soon private contractors were placed in charge of providing and/or managing various services, including prison labor.

In 19th Century America, the lease system also became widely used. This arrangement gave private contractors complete control of the penal facility, including the maintenance and discipline of the prisoners. The first lease arrangement in America can be traced to the Frankfort, Kentucky state prison, which was not

able to make a profit on convict labor and drained money away from the state at a time when it was experiencing a serious financial crisis. The private contract system, however, disappeared by 1940. From that time, almost all prison labor was performed in the state use system, in which all production was earmarked for supplying the needs of state offices and agencies.

Currently, the rapid and large-scale increase in the number of incarcerated people across the country has resulted in major problems of overcrowding in prisons despite an accelerated effort to build more facilities and enlarge the holding capacities of existing institutions. In 1988, 39 states, the District of Columbia, Puerto Rico, and the Virgin Islands fell under a federal court order to limit their prison and jail population unless they could increase their capacity.

Closely connected with the issue of overcrowding is the problem of prison costs. Correctional expenditures have also been increasing rapidly. Prison costs have varied widely among the states. It was highest in Alaska at \$39,822 per inmate per year, and lowest in Mississippi at \$8,501 per inmate in 1985. Operating costs across the nation increased 470 percent between 1971 and 1985; this category of government spending rose faster than any other during this time period. Between 1984 and 1990, the states' correctional costs increased by 237.4 percent.

The spiraling costs of corrections have been noticed by state governments as well as the general public. A dilemma has developed in the minds of many members of the general public, however, over the issue of prison costs because these escalating costs have come to the attention of the general public at a time when it increasingly is demanding a get-tough approach to crime. For example, bond initiatives for prison construction failed to pass in several states in the early 1990s (e.g., California, Michigan, New York, and Oregon).

Prison privatization has emerged as a means to resolve this dilemma by curbing public expenditures and increasing prison capacity. There has been an increasing interest in the privatization of corrections since the mid-1970s. By the early 1980's, 38 states already had some kind of contract with private companies for the supply of various services, such as medical care, food preparation, educational programs, and so forth. Since the early 1980s, private for-profit corporations have also begun to operate entire prisons. Even though many juvenile correctional facilities and community-based programs are operated by the private sector, only a few adult jails and prisons are managed currently by private corporations. In the mid-1980s, at least one state, Tennessee, seriously considered the transfer of the management of the whole state correctional system to a private corporation, an attempt that did not come to fruition. In a 1991 census of private correctional facilities, 44

facilities were operated by 14 companies, housing about 13,400 inmates.

Private involvement with adult correctional facilities can appear in three major forms. First, many states are seeking private financing and construction of prisons because there are debt limits on government and/or a need for voters' approval of any new bond issues to finance prison buildings. Private companies can finance and build entire prisons in a matter of months; whereas, it may take years for the government to complete the same project. Second, private industry involvement in prisons is a long tradition in American corrections. There is a renewed interest across the country in bringing private companies back into the prison to try to better teach job skills, work habits, and the self-discipline needed to succeed outside of the prison. Third, the management and operation of an entire correctional facility be a private contractor has been the most controversial area of privatization.

Theoretically, it is easy to understand why privatization should be able to increase incarceration capacity at a faster pace and more cheaply than the public sector can do so. The private sector is competitively motivated, and dedicated to providing maximum satisfaction to its customers and clients at a minimum cost. On the other hand, the public sector being monopolistic does not have similar motivation; bureaucrats are rewarded by the size and the budget of their agencies, not its performance. According to E.S. Savas, the major difference boils down to the issue of monopoly versus competition, rather than public versus private. When private companies hold monopolies, they also frequently lose their efficiency and flexibility, as in the case of public utilities.

Although opinions vary, privatization of Pennsylvania's prisons, would likely save at least 10 percent yearly in operation costs. Hence, in FY 1995-96, the state could have saved approximately \$76 million. The Commonwealth could also save in the financing and construction costs for new prisons. Given the state's estimated year 2000 prison overpopulation figure of 14,422 inmates, 15 new prisons would be needed, resulting in a savings of \$551.25 million over 20 years.

Complete privatization of the state's prison system as of the year 2000 would yield \$137.32 million per year in savings, based on current costs and estimated future costs and prisoners as well as housing one prisoner per cell.

Private prisons offer significant financial and service quality advantages to Pennsylvania. with the need for new prison space not abating combined with the high costs of prison construction with a tight state budget, perhaps the time for privatization has finally arrived in our Commonwealth's Corrections Department.

Thank you for the opportunity to testify today.