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PENNSYLVANIA DEPARTMENT OF CORRECTIONS STATEMENT ON PRISON PRIVATIZATION

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The privatization of public services has been a topic of debate for decades. Advocates claim that private providers can deliver many essential services with greater efficiency and effectiveness than can public agencies. Indeed, privatization efforts often hinge upon calculations of costs savings resulting from turning public functions over to private or non-profit entities. Opponents of privatization argue that to the extent that private providers ever achieve economies over public providers, they do so primarily by slashing wages and benefits for workers and cutting the quality of services delivered to taxpayers. They also point out that where privatization occurs in essential functions such as policing, corrections and other public safety areas, there occurs a dangerous delegation of authority from public servants to profit-minded entrepreneurs.

The larger public debate over the merits of privatization, though important, is beyond the scope of my testimony today. Instead, I will focus on privatization within the domain of Corrections. The management of prisons has become a lucrative business opportunity for private prison providers across the nation, such as the Corrections Corporation of America (CCA) and The GEO Group, Inc (formerly knows as Wackenhut Corrections Corporation). Looking at prison privatization nationwide, 7.2% of all federal and state inmates at midyear 2006 were housed in privately operated prisons, up 10% from the year before[1]. This represents 111,975 inmates held in private custody. This does not include offenders who may be held in facilities where services are *partially* provided by private firms. As of 2006, 31 states and the federal

[1] William J. Sabol, Todd D. Minton and Paige M. Harrison. 2007. *Prison and Jail Inmates at Midyear 2006.* Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

government housed at least some of their inmates in private facilities. Indeed, the private prison industry held enough inmates to constitute the fourth largest prison system in the country, behind California, the Federal Bureau of Prisons, and Texas respectively.

While advocates of prison privatization offer many arguments in favor of privately run facilities, I would like to focus on three rather bold privatization claims – (1) that private providers can operate prisons in a more cost effective manner than can the state; (2) that private providers can deliver better treatment services and ultimately produce greater reductions in recidivism; and most importantly (3) that private providers can maintain safety and security at least as well as can state run prisons. The evidence suggests that these claims are largely overstated, and are not supported by solid scientific evidence.

First, the best evidence available about the cost of public versus private prisons indicates that overall there is no financial advantage to privately run prisons. A major review of nearly three dozen studies on this question found that there was no statistical difference in the costs of private and public prisons. More important factors driving costs were the size, age and security level of the prison[2]

Second, there have been few rigorous studies comparing the recidivism rates of public versus private prisons. Much of the data that does exist comes from the state of Florida, and various attempts to analyze it have produced conflicting results. A major review of the existing research however, concluded that there is no statistically meaningful difference in recidivism rates between public and private prisons[3]. Closely related to this finding about the impact of services delivered in private prisons is the strong concern that they often rely upon poorly paid

[2] Travis C. Pratt and Jeff Maahs. 1999. "Are Private Prisons More Cost-Effective than Public Prisons? A Meta-Analysis of Evaluation Research Studies." *Crime & Delinquency*, 45(3), 358-371.

[3] William D. Bales, Laura E. Bedard, Susan T. Quinn, David T. Ensley and Glenn P. Holley. 2005. "Recidivism of Public and Private State Prison Inmates in Florida" *Criminology & Public Policy*, 4(1), 57-82.

staff, suffer from high turnover rates, and tend to take the more manageable inmates into their systems, leaving the more difficult and disruptive inmates for publicly run facilities.

Third, and most importantly, there is no support for the claim that privately run prisons are safer and better managed than public prisons. A review of the research conducted by the Federal Bureau of Justice Assistance found, among other things, that private prisons have lower security staffing levels (which undoubtedly contributes to any cost savings that *may* be produced) and more staff and inmate assaults than do public prisons[4].

Management problems have been noted in every state that operates private prisons. Such problems are perhaps best illustrated by significant management failures that occurred recently in three states - Colorado, Louisiana, and Tennessee. These states have heavily participated in the prison privatization movement, with each having multiple privately owned and operated prisons. While findings may be mixed about cost effectiveness, quality of treatment and services, and facility management, overall, the data document significant problems encountered in these states that cannot be overlooked.

One of the more egregious incidents occurring in a privately owned facility included a riot which took place in the state of Colorado in 2004. The facility was significantly damaged and multiple injuries were reported. Investigations of the incident revealed troubling findings about security protocols and related issues that prison staff failed to address including: inconsistent completion of forms on reportable incidents, emergency plan compliance and response team staffing and training, use of ambulance and emergency room services for routine medical care, mental health and medical treatment staffing ratios, tracking of security threat group intelligence and gang activity report filings, accuracy of quarterly reports, case manager

[4] James Austin and Garry Coventry. 2001. *Emerging Issues on Privatized Prisons.* Washington, DC: U.S. Department of Justice, Bureau of Justice Assistance.

attrition, and inmate grievance processes. Even though the Colorado Department of Corrections cited the private facility with numerous violations prior to the riot, prison management did not address these critical problems which contributed directly to the riot.

Troubling findings also were revealed with the state of Louisiana's experiment with prison privatization. When compared side-by-side, its state operated prisons out performed privately owned and operated prisons on several important measures. For example, it was determined that the state operated prisons had fewer escapes (0 for the state facility, compared to 9 for the private facilities), had fewer reported aggravated sexual misconducts, and were more effective at monitoring and controlling substance abuse among inmates. An audit of one privately owned juvenile facility revealed serious oversights concerning the physical conditions of the prison and staff treatment of inmates, including findings that prison staff were physically abusive, that substance abuse was rampant, and that the conditions inside the facility were dangerous and even life-threatening.

Finally, findings about cost effectiveness and other outcomes within a CCA operated prison in Tennessee also called into question the advantages of private institutions compared to state or publicly operated facilities. An independent audit of CCA and two comparable state run facilities revealed that all three institutions received statistically identical scores across a variety of performance measures. Moreover, this study concluded that there were no cost savings produced by the CCA facility. Another study by the Bureau of Justice Assistance reported that CCA facilities in Tennessee and elsewhere reported the average daily cost-per-prisoner as $30.51. This company, in turn, billed clients like the state of Tennessee an average of $42.72 per prisoner, which put CCA's costs at about 20% higher than similar facilities run by the state.

Additionally, the study revealed more assaults and security issues in privately operated facilities than state run institutions.

More detail on these cases can be found in the Appendix to this testimony, but the point remains that prison privatization, while *promising* great cost savings, efficiency and effectiveness of operations, operates on a very weak foundation of evidence about its effectiveness and raises many issues regarding public safety and delegation of public authority to private entities. This is not to say that the use of vendor-provided services has no role in corrections. The Pennsylvania Department of Corrections has for years contracted with private and non-profit providers for various services in the day-to-day operations of our prisons. Presently, we contract for about half of our outpatient alcohol and other drug (AOD) treatment services, and <u>all</u> AOD services at our dedicated treatment prison – SCI Chester – are provided by a vendor. We also contract for various other treatment services, such as our new parenting program. In addition, 36 of our 49 Community Corrections Center and Facilities statewide are operated by vendors. In the area of medical services, we contract for physician services at all of our institutions. We recognize that private and non-profit providers can make valuable contributions of specialized and highly complex treatment and other services needed in a complex correctional system.

The Department of Corrections concludes that at this point, though, the privatization of entire prison operations in Pennsylvania would undermine the solid reputation for safe, secure, orderly and effective prison management that has been established by the corrections professionals in the Commonwealth.

I thank you for your time and welcome your questions.

Appendix: Prison Privatization Case Studies – Colorado, Louisiana and Tennessee

Case #1: Colorado - The Crowley County Correctional Facility Riot[5]

On the evening of July 20, 2004 the Colorado Department of Corrections (CDOC) was notified of an inmate disturbance that erupted in the recreation yard at Crowley County Correctional Facility (CCCF). CCCF is a privately owned and operated prison. It is designated a Level III (medium) security prison with a capacity of 1,144 inmates dispersed through five cell blocks, with a sixth cell block under construction at the time. At approximately 7:30pm the facility's inmate population, many of whom were located in the recreation yard, began to disregard staff orders and openly began to display combative behavior.

This disturbance quickly escalated to riot level as the inmates began to destroy property, set fires, and assault one another and staff. As a result of the incident at CCCF, multiple Colorado state agencies (CDOC, Office of Inspector General, and Colorado Bureau of Investigations) investigated the conditions that were present at the time of the riot and what could have been done to prevent it from occurring. Findings revealed by this investigation were troubling. First, it was found that CCCF staff were poorly trained to do their jobs within the prison, at least when compared to CDOC staff. In the CDOC's facilities, specially trained and credentialed staff are responsible for implementing and managing specific programs (food service, clinical services, and case management) with each of those programs having specific job classifications and training, unlike the privatized prisons which have general trainings on broader topics in an attempt to cut costs. CCCF were generally "at-will", hourly employees and company policies and costs dictate operational decision making.

Investigators also found very high rates of attrition among CCCF staff. Indeed, they discovered rates that were double that of CDOC staff. High rates of attrition in privately owned

[5] Nolin Renfrow, Cherrie Greco and Anna Cooper. *After Action Report, Inmate Riot: Crowley County Correctional Facility, July 20, 2004*. Colorado Department of Corrections, October 1, 2004.

facilities may adversely impact staff training and may make it difficult to maintain cohesiveness among employees throughout the prison. Also, such high turnover makes it difficult if not impossible for staff to fully understand the current culture and changing dynamic of the prison population. This understanding is critical to mitigating potential problems before they become too overwhelming, resulting in riots and injuries.

Investigators also found that six months prior to the riot in the CCCF, the CDOC conducted its own review of the facility and cited numerous problems including: food quality and quantity, inconsistent completion of forms on reportable incidents, emergency plan compliance and response team staffing and training, use of ambulance and emergency room services for routine medical care, mental health and medical treatment staffing ratios, tracking of security threat group intelligence and gang activity report filings, accuracy of quarterly reports, canteen pricing structure and items sold, inmate telephone services contract, case manager attrition, facility organization chart, inmate grievance process, and inmate banking account activity and records.

Information gathered through interviews with staff and inmates after the riot indicated the problems identified by CDOC had gone unaddressed. These findings indicate that the privately owned and operated CCCF failed to ensure that many basic security and safety protocols, health and medical needs, and administrative duties were performed regularly and properly.

The investigation also reported findings about a woeful lack of structure and management within the prison that may have facilitated the riot itself. Indeed, investigators noted several disturbing findings including: a lack of front end security, no visible evidence of emergency plan usage, a difficulty accounting for tools and keys, staff and inmate accountability uncertain (Librarian unaccounted for, left in prison during riot), physical plant not up to necessary standards for a Level III facility, lack of training for hazardous materials/blood spill clean up, chemical agents not deployed in timely manner and not available on individual housing unit control centers, and CCCF emergency response team ordered to stand down until the CDOC's own team arrived at the scene.

A variety of questions emerged from the investigation of this event. Could the lack of attention and oversight of basic security protocols have contributed to the incident that occurred at CCCF? Were the owners and operators of that facility trying to save money by cutting corners and, if so, how do they account for the significant damage done to the facility and injuries sustained to inmates as a result of the riot? The objective of a public or state owned and operated facility is to confine and treat offenders with the hopes of making a safer community. Within the private sector, the main goal may be to make a profit which makes confinement and treatment a secondary objective putting inmate, staff and community safety at risk.

Case #2: Louisiana

Over the past decade, privately operated prisons in the state of Louisiana have been plagued by controversy. In the late 1980s, three identical medium-to-maximum security prisons were constructed in the state. The first of these prisons to open, Avoyelles Correctional Center, was selected to be state-operated. The remaining two facilities, Winn Correctional Center and Allen Correctional Center, were contracted out to the Corrections Corporation of America (CCA) and Wackenhut Corrections Corporation (now known as The GEO Group, Inc.), respectively.

The state of Louisiana designed a study to compare the cost-effectiveness of its publicly operated versus privately operated prisons[6]. The data used in the analysis were gathered from formal reports submitted by each prison to the Louisiana Department of Public Safety and Corrections. Findings focused on nine critical areas including: comparability among populations, public safety, staff safety, inmate safety, medical risks, formal disciplinary actions, prison organization and management, the creation of a supportive and rehabilitative environment, and cost measures.

Specific findings uncovered showed that the state-operated Avoyelles Correctional Center out-performed the two privately-operated prisons on several important measures related to public, staff, and inmate safety. It was determined that the state-operated prison prevented escapes better, as Avoyelles reported zero escapes during the three years in which data was available, where as the two private facilities reported a total of nine escapes. Additionally, the state-operated prison reported fewer aggravated sexual misconducts and more effective control of substance abuse among inmates through rigorous testing procedures.

Perhaps the most important disparity, however, was found in relation to the broader range of treatment, recreation, social services, and rehabilitative services offered to inmates in the state operated prison. Inmates who are offered various programs and courses that can be individualized to their specific needs, which is what occurs in state owned and operated facilities, may be more likely to successfully complete such programming thus reducing their likelihood of re-offending. Are the owners of private facilities so motivated to provide higher level of quality and services to inmates when compared to publicly operated facilities? The fewer inmates or "customers" who recidivate and return to privatized prison, the lower the profits of the individual

[6] William G. Archambeault, and Donald R. Deis, Jr. (August 1997/1998). "Cost Effectiveness Comparisons of Private versus Public Prisons in Louisiana: A Comparative Analysis of Allen, Avoyelles, and Winn Correctional Centers. " Journal of the Oklahoma Criminal Justice Research Consortium, 4

companies providing these services. Furthermore, when profit becomes the primary motivation for privately-operated prisons, it significantly jeopardizes public, staff, and inmate safety. The researchers who conducted the comparison and analysis of public versus privately-operated prisons recommended that no state should consider a complete privately operated prison system, but were inconclusive on whether privately-operated prisons have a place in any state's overall prison system.

In addition to the comparative analysis of publicly and privately owned and operated facilities undertaken by the state, Louisiana itself came under national scrutiny in 2000 after the United States Department of Justice began investigating the conditions and physical treatment of youths housed at the Jena Juvenile Justice Center for Boys in Jena, Louisiana[7]. This facility was managed by the Wackenhut Corrections Corporation and was designed to be a model correctional facility for young people with substance abuse problems. A federal investigation revealed, however, that many of the prison guards were physically abusive, that substance abuse was rampant, and that the conditions inside the facility were "dangerous and life threatening." Consequently, these findings prompted a federal judge to take emergency action in order to protect the juvenile inmates[8].

While the conditions inside the facility were deemed deplorable, it also was determined that Wackenhut had been frequently changing wardens and staff, thus accentuating mismanagement issues and instability. The investigators also found that a majority of the problems at the Jena facility were attributed to the Wackenhut Corporation cutting costs and its reluctance to spend adequate funds. While Wackenhut vehemently denied the allegations, the

[7] "Privately Run Juvenile Prison in Louisiana is Attacked for Abuse of Six Inmates." *New York Times Online Archives*, March 16, 2000.
[8] "Justice Department Sues to Alter Conditions at a Prison." *New York Times Online Archives*, March 31, 2000.

Louisiana Department of Corrections enacted a moratorium on privately operated juvenile prisons in 2001 as a result of the investigation at Jena.

Case #3: Tennessee

Beginning in 1985, the Correctional Corporation of America (CCA) began soliciting the Tennessee Department of Corrections (TDOC) offering to take over its prison system for 99 years with a promised $100 million dollar a year cost savings.[9] However, it was not until 1992 that CCA was awarded a state contract and began operating the South Central Correctional Facility (SCCF) in Clifton, TN. SCCF is classified as a close security prison with an operating capacity of 1,642; the facility currently houses 1,627 inmates.[10]

In August 1996, the United States General Accounting Office (GAO) presented a report to the Subcommittee on Crime, Committee on the Judiciary and the House Representatives summarizing the findings of five major studies conducted in order to compare private and public correctional institutions. Two of the five studies included Tennessee and the CCA run facility at SCCF. According to the GAO, the most thorough of the studies was conducted by the Tennessee Select Oversight Committee on Corrections (SOCC).

The SOCC study conducted in 1995 compared SCCF with two state run facilities with comparable inmate populations in regards to population and demographics. The SOCC report documented findings about quality of services and costs within the prisons by comparing factors such as safety, physical conditions of the facilities, inmate activities and personnel qualification. In order to assess each facility, an operations audit was performed at each site. An inspection was conducted by a team of professionals from the private and public sector. The team used a

[9] Richard Harding, "Private Prisons," *Crime and Justice*, 28 (2001); 265-346.
[10] Tennessee Department of Corrections, n.d., "South Central Correctional Facility," <http://www.tennessee.gov/correction/institutions/sccf.html> (10/18/2007).

"structured survey instrument" to investigate each facility through interview, observations and review of records.[11] The inspection found no significant differences in inmate programming and activities offered by the state run and CCA operated facilities. The CCA run facility received an overall performance score of 98.49 compared to 97.17 and 98.34 for the state run facilities.[12] On the whole, the report found "no difference between private and public facilities."[13] The SOCC report also revealed that there was no significant difference between the cost per day of the privately run institutions versus the state run facilities. CCA costs were approximately $35.39 per day compared to $34.90 and $35.45 at the state run facilities.[14]

Though the SOCC report found no significant difference in the Tennessee facilities, an independent report presented in 2001 by the Bureau of Justice Assistance (BJA) revealed different findings. BJA showed the CCA's documentation for all company owned and/or operated facilities reported their average *daily costs-per-prisoner* as $30.51 in 1997, while the company *billed* their clients an average of $42.72. CCA documented 10.5 million billable workdays, revenues of $460 million, and a net profit of $400 million.[15] This finding suggests that the SOCC and GAO studies only reported the *actual costs* incurred by CCA, not the *cost per day billed* to TDOC.

Using the actual costs per day billed to each state in 1997, the BJA report showed that CCA costs were, on average, 20% more compared to the reported costs incurred by state run facilities as presented in the SOCC study of 1995. Furthermore, when factoring in security and

[11] U.S. General Accounting Office. *Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service.* Washington: Government Printing Office, August 1996. (GAO/GGD-96-158) at 10.
[12] *Ibid.* at 32-33.
[13] *Ibid.* at 3.
[14] *Ibid.* at 8.
[15] Austin and Coventry, op cit. pp. 28-29.

inmate violence, the BJA reported that "one major disturbance" at any of the privately own facilities could cause per day costs to "greatly accelerate."[16]

Though some investigations have uncovered little difference between state run and the CCA operated facilities in Tennessee, an overall analysis of CCA presented by BJA revealed a quite different picture. By December 31, 1998, CCA was responsible for 51.4% of all privately operated adult correctional facilities.[17] CCA promised a 20% savings in operational costs for state correctional facilities; however findings from BJA could only uncover a 1% reduction.[18] Moreover, the report also showed that CCA facilities have a higher rate of inmate and staff assaults when comparing medium and minimum security facilities. The number of inmate on inmate assaults per 1,000 inmates in CCA operated facilities were reported to be 33.5 compared to 20.2 in state run institutions; inmate on staff assaults were 12.2 and 8.2 per 1,000 inmates, respectively.[19] When comparing all types of institutions (maximum, medium and minimum), privately owned institutions averaged 50.5 "major incidents" a year per 1,000 compared to 42.3 in state run institutions.[20] For the same calendar year, CCA facilities spent 102.5 days in lockdown due to disciplinary problems.[21]

Overall, research conducted on privately operated correctional facilities in Tennessee has revealed no difference between the operational costs or quality of service over state run institutions; in fact, though daily cost per inmates rates were comparable, CCA billed state correctional departments an average of 20% more than what the state was spending per day per inmate in state operated facilities. Again, though Tennessee itself showed no disparity between

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[16] *Ibid.* at 29.
[17] *Ibid.* at 3.
[18] *Ibid.* at 59.
[19] *Ibid.* at 57.
[20] *Ibid.* at 48.
[21] *Ibid.* at 50.

quality of service among state and CCA run institutions, the overall track record of CCA reveals more assaults and security issues per 1,000 inmates than state run institutions.