



**HOUSE LABOR RELATIONS COMMITTEE & HOUSE JUDICIARY
COMMITTEE**

**JOINT PUBLIC HEARING - HOUSE BILL 1469, PRIVATE PRISONS,
PRIVATIZATION OF PRISON SERVICES**

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Witness Testimony

Submitted by

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Pennsylvania Jail Diversion Model
Submitted by Resources for Human Development – October 25, 2007

Formed in 1970, Resources for Human Development, Incorporated (RHD) is a nonprofit, tax-exempt organization registered to conduct business as a 501(c)(3) corporation. RHD has more than thirty years of experience in providing and coordinating supportive services to a variety of programs, with particular emphasis on serving populations with mental retardation, mental illness, drug and alcohol addiction, criminal justice involvement, and homelessness.

In response to the Public Hearings on House Bill 1469, RHD is submitting this concept paper to encourage Pennsylvania to develop a county-based jail diversion model. The **Pennsylvania Jail Diversion Program** would divert people with serious mental illness and substance abuse who have committed a non-violent act into a program that would provide appropriate case management, treatment, housing, employment and appropriate social services. This model would develop partnerships with stakeholders required to create an effective jail diversion process in counties across Pennsylvania and to bring knowledge and experience about best practices in jail diversion to all involved stakeholders. Additionally, the program would seek to help people break the vicious cycle of repeat incarcerations due to treatable medical conditions, specifically mental illness and substance abuse.

Background

The number of inmates with serious mental illness in jails and prisons in Pennsylvania and the Nation has risen dramatically over the past 25 years along with the overall jail and prison populations. At the end of 2005 Pennsylvania had 42,380 incarcerated adults more than 10,000 of whom were diagnosed with mental illness (National Alliance of Mental Illness of Pennsylvania). More than 16% of the Pennsylvania state prison population suffers from mental illness. These incarcerated mentally ill individuals are more likely to spend longer periods of time incarcerated than the general population and are more likely to return, with a staggering 75% recidivism rate (NAMI).

The Forensic Workgroup convened by the Pennsylvania Office of Mental Health and Substance Abuse Services in 2005 recognized the need to develop county-based comprehensive systems of diversion and re-entry services across the state to meet the specialized needs of this population. The recommendations this workgroup submitted in 2006 included the development and implementation of:

- *“Strategies that make it easier for officers to connect people with mental illness and/or substance use disorders to services in order to increase the safety of officers, people with mental illness and/or substance use disorders, and the community.”*
- *“Strategies to improve post-booking jail diversion, transition planning, and linkages between community corrections officers, parole officers and treatment providers.”* (Pennsylvania Forensic Taskforce, 2006)

Program Design

Based on the needs of the target population and the recommendations of the Forensic Taskforce, RHD proposes that Pennsylvania develop a county-based **Jail Diversion Program**.

a) Jail Diversion Approach

The **Pennsylvania Jail Diversion Program** would develop a county-based collaboration of professional stakeholders in corrections, law enforcement, prosecutors, defense attorneys, parole, mental health, substance abuse, housing, employment, benefits, and mental health consumers with

experience in the prison system. This collaboration would create a comprehensive service delivery system for jail-diverted people as well as the infrastructure needed to support the delivery system.

At the core of the **Pennsylvania Jail Diversion Program** would be a hybrid case management/ linkage practice that would coordinate services within multiple systems (i.e. criminal justice, social services, mental health, workforce development, etc.) to enable clients who have been involved in non-violent misdemeanors to remain in the community ultimately fostering independence and reduction in recidivism. Jail Diversion Specialists would form the core of the team.

b) Use of Sequential Intercept Model

The Sequential Intercept Model would provide the framework for identifying the possible diversion point for the **Pennsylvania Jail Diversion Program**. The goal would be to identify the possible points of diversion, where consumers might enter or penetrate deeper into the criminal justice system, and to build screening and services into each point. Services would be front loaded so that consumers could be intercepted at the earliest possible points with decreasing numbers at each subsequent point (Munitz and Griffin, 2006). The primary interception point for the **Pennsylvania Jail Diversion Program** would be law enforcement and emergency services points of contact.

The **Pennsylvania Jail Diversion Program** would focus on the pre-booking and jail intercepts including:

- **Pre-booking (*Intercept Point 1*):** would include two levels of implementation: training and process:
 - **Training:** Program directors would provide intensive training in jail diversion for police officers, municipal prosecutors, municipal judges, support personnel and community-based providers. The trainers would work with each police department to establish special response teams that are able to deal with the offenders targeted for this service in a manner that allows for maximum diversion and to establish one point of contact in each department to ensure effective communication.
 - **Process:** A county-based **Jail Diversion Program Team** would screen potential consumers of the program at the point of interception with law enforcement. Those consumers who are identified as appropriate for the diversion service would receive assistance from the team to support the coordination of substance abuse treatment, mental health treatment, physical health treatment, housing support, vocational evaluation and training via supported employment, social service benefits support, gender based services and transportation.
- **Post-Booking (*Intercept Point 2*):** Counties would focus on implementing the post-booking element of the **Jail Diversion Program** based on the specific needs of the county and on the services and providers available. The legal mechanisms for diversion would be taken from best practices in other jurisdictions and would be consistent with all applicable Pennsylvania and Federal statutes. The diverted person would be given access to assistance from the **Jail Diversion Program Team** to support the coordination of substance abuse treatment, mental health treatment, physical health treatment, housing support, vocational evaluation and training via supported employment, social service benefits support, gender based services and transportation.
- **Jail (*Intercept Point 3*):** The **Pennsylvania Jail Diversion Program** would implement the jail element by screening inmates. If they are identified as appropriate for the diversion service would be given access to community treatment with assistance from the **Jail Diversion Program Team** to support the coordination of substance abuse treatment, mental health treatment, physical health treatment, housing support, vocational evaluation and training via supported employment, social service benefits support, gender based services and transportation.

c) Collaborations

The **Pennsylvania Jail Diversion Program** would work with a Jail Diversion Committee or designee in each participating county that would operate as a high performance collaborative to enhance communication and effectiveness. In each county this committee would stem from existing committees and partnerships, using the Criminal Justice Advisory Boards convened by the Pennsylvania Commission on Crime and Delinquency wherever this resource exists. The Jail Diversion Committee would include representatives from the following departments: mental health, substance abuse, prosecutor, sheriff, jail, public defender, judiciary, emergency screening, social services as well as community providers and consumers with experience in the prison system. This committee would serve as an advisory committee for the **Pennsylvania Jail Diversion Program** in each specific county.

d) Service Implementation

The **Pennsylvania Jail Diversion Program** would include two levels of service implementation – training and case management/linkages. The first priority would be to implement an intensive training program for those front-line workers who interface with potential consumers. Police Officers, municipals prosecutors, municipal judges, support personnel and community-based providers would be engaged in the training which would focus on identification of consumers with mental illness and/or substance abuse issues. The training would help participants know what to look for when in contact with misdemeanants, who to call to access diversion services and how to partner with Jail Diversion Specialists to best engage the consumers. The goal of the training would be to develop a structure within which as many eligible consumers as possible could be diverted from the criminal justice system into the **Pennsylvania Jail Diversion Program**.

When the structure has been created from which misdemeanants would be diverted (ideally within the first 30 days of program implementation), teams of Jail Diversion Specialists in each county would begin to provide screening, identification and case management services to identified consumers. Frontline workers, including police officers, crisis teams and municipals court staff would contact the team in their specific county when they encounter an individual who appears to be appropriate for diversions services.

When a referral call comes into the diversion team, the assigned Jail Diversion Specialist would report to the location when where the frontline worker is engaged with the consumer. The Jail Diversion Specialist would do a screening at the off-site location. The screening process would be used to both identify consumers appropriate for diversion services as well as to engage them in the service process. The screening would determine if the consumer is eligible. Jail Diversion Specialists would be trained to screen for eligibility and to identify consumers who are not appropriate for diversion services, including those that might be faking mental illness to avoid incarceration.

Jail Diversion Specialists would work with each consumer to identify those challenges such as mental illness, substance abuse, homelessness that are preventing stabilization. For each stressor, the Jail Diversion Specialist would identify services and services providers, link the consumer with them and provide follow-up support to ensure effective intake and usage. Jail Diversion Specialists would follow each consumer for the period of time that allows for full use of the program and is determined by the consumer's unique individual needs. The average length of time in the program is expected to be approximately 6-9 months. Consumers would be discharged when their service plan is fully implemented. Jail Diversion Specialists would follow up with each consumer at the 12-month mark to determine the effectiveness of the services. This follow up will be used to make sure the consumer is following through on the service plan and to collect data on the impact of the program.

The primary goal of the **Pennsylvania Jail Diversion Program** would be to divert as many people as possible from the prison system and to break the cycle of repeat recidivism.

The Pennsylvania
PRISON SOCIETY
SOCIAL JUSTICE SINCE 1787

Statement of: Ann Schwartzman
Director of Policy and Public Education

Presented to: Pennsylvania House Labor Relations Committee and
Pennsylvania House Judiciary Committee

Re: Private Prisons

Date October 25, 2007

Individual freedom is the most fundamental right of United States citizens. It is a foundational element that should never be relegated to any private entity. It is a responsibility of government that should never be consigned to non-governmental enterprises where profits trump the well being of prisoners and the security of the general public.

As an organization that was instrumental in the development of the modern penitentiary system, The Pennsylvania Prison Society is unalterably opposed to the furtherance of private prisons.

On behalf of The Pennsylvania Prison Society, I want to thank you for the opportunity to present testimony today on private prisons. Founded in 1787, The Prison Society is the oldest prison reform organization in the world. We began with

Benjamin Franklin, Dr. Benjamin Rush, Bishop White and other leaders of the day who helped to fashion the principles that guide our nation yet today.

The Prison Society has a long history of working with government to strengthen the correctional system, including initiatives to provide separate facilities for incarcerated men, women, children, and the mentally ill.

The Prison Society played an active role in the mid-1980's when the threat of a private prison in Armstrong County led to the Moratorium on Private Prisons. The residents of Cowansville, PA, were surprised when a busload of inmates from Washington, D.C., traveled to their town in the middle of the night to stay at the private 268 Center. They were blocked from entering and returned to D.C. A Moratorium on privatization was enacted immediately following this incident to allow for further study of the issue. We later testified before the Private Prison Task Force of the Joint State Government Commission pursuant to Act 1986-19. During the time of the foiled 268 Center, only a handful of private prisons were operating. By 1996, more than 85,000 inmates were housed in private prisons.¹ Now, there are 112,000 inmates in private prisons in 31 states.²

In the mid-1990's, the Prison Society joined others to again caution against privatization and oppose legislation providing for it. Then Governor Tom Ridge was among the staunchest opponents of private prisons. Ten years later, we are back again. This time, we have examples from a number of locales but one in nearby Youngstown, Ohio, is perhaps the most instructive.

The nation's largest private prisons operator, Corrections Corporation of America (CCA) opened that facility with an outbreak of mayhem and murder that wound up costing \$1.6 million to settle a series of wrongful death lawsuits and included numerous disturbances and escapes. An after action report documents staggering failures of management, including:

- Inadequate medical care to prisoners;
- Failure to control violence in its prisons;
- Substandard conditions that have resulted in prisoner protests and uprisings;
- Criminal activity on the part of some CCA employees, including the sale of illegal drugs to prisoners;
- Escapes, which in the case of at least two facilities include inadvertent releases of prisoners who were supposed to remain in custody.³

Are these the kinds of results that we want to risk having Pennsylvania communities suffer? We think not.

Issues and complaints about private prisons can be found in numerous states. Recently, complaints about squalid conditions and abuse against Florida based GEO Group Inc. resulted in their firing by Texas Youth Commission officials. Of more than 150,000 prison beds in Texas, private companies run at least 18,000 and GEO Group Inc. ran 18 facilities including 4 state prisons, 9 county lockups, 2 parole-violator lockups, 2 county jails, and a halfway house.⁴

Delaware County Prison was also built and operated by GEO Group Inc. (formerly Wackenhut Corrections Corporation.) GEO saved the county nearly \$30 million for constructing the facility in 2006. The ongoing operation also appears to save the county \$1 million per year. The company has, however, settled wrongful death lawsuits, fired employees involved in criminal activity, dealt with drugs in prison, dealt with sexual assaults, and released the wrong inmate on at least three occasions.⁵

Colorado has four private prisons with state offenders: one run by Dominion Correctional Services and three run by Corporation of American CCA.⁶ According to the Colorado Criminal Justice Reform Coalition, these and other facilities have poor inmate programs, security problems, and fiscal woes.

In 1995, the privately run Donald W. Wyatt Detention Facility opened its doors in Rhode Island. Unfortunately for its investors, few of the 300 beds were filled. To remedy the situation, state officials urged Justice Department leaders to send federal inmates at \$83 per day. The company, Cornell Corrections, successfully obtained 232 North Carolina inmates from their outreach effort. Many of these offenders were violent, however, not the low-level offenders Rhode Island had originally expected.⁷

Cornell is now operating the Moshannon Valley Correctional Center in Clearfield County, PA. As of October 18, 2007, there were 1,479 federal inmates at this facility.⁸ Cornell operates 82 correctional facilities including 17 adult prisons and just one other prison for federal offenders located in Texas.⁹ It took well over five years to battle through environmental issues and define state law regarding privatization in Clearfield

County. Residents appeared split as to their support of the facility but those supporting it, assume there will be tax benefits, employment opportunities, and other economic benefits for the county. The jury is still out on what the county may see.

A report from the Institute on Taxation and Economic Policy released in 2001, stated, "Given the relatively low wages paid by the industry and its limited ripple effect on the larger economy, subsidizing private prisons may not provide much bang for the buck... A lot of small, struggling communities have spent a significant amount of money to bring these prisons into existence. There's no evidence there's been any payoff for them."¹⁰

It is important to note that many corporations receive subsidies when they build and operate their private facilities. The Institute on Taxation and Economic Policy Good Jobs First Project found that many were awarded incentives such as property tax breaks, grants for training, financing by the state, and even assistance for construction.¹¹ According to the Institute, \$628 million in tax-free bonds and other government issued securities provided financing for some of the 60 private facilities participating in the study. Seventy-eight percent of CCA facilities and sixty-nine percent of Wackenhut facilities, the two leaders in the privatization field, received subsidies to begin construction and government funding to incarcerate offenders.

Two Rivers Authority, Hardin, Montana's economic development arm built a \$20 million detention facility for 464 inmates.¹² They thought the US Marshall's needed such a facility, but they don't and it sits idle. Negotiations are now underway to

determine if this facility designed for detainees of up to two years can house state and federal inmates from Wyoming.

A detention center in Elizabeth, NJ, experienced an uprising when detainees burned the facility that led to the Department of Justice and Immigration Services canceling their contract. The company running the facility, Esmor Correctional Services, apparently failed to adequately train their officers due to a cost saving measure.¹³

In Ricky Holly v. Willie Scott, Warden at Rivers Correctional Institution, the plaintiff Mr. Holly alleged that the defendants were deliberately indifferent to his need for medical treatment for diabetes. Subsequently, he was put in solitary confinement in retaliation for filing a complaint about the treatment. He then lost accrued earned time credit and his position for a community corrections slot. His suit before the United States District Court for the District of Columbia raised one of many problems with private facilities and chronically ill offenders.

Clearly, solutions to overcrowding and the tremendous costs associated with incarceration, criminal justice, and public safety must be found. Although privatization may be touted as an answer, we firmly believe it is not. Corporations motivated by profit cannot fill the role of the government in such critical areas.

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 segment in the process. We have seen many aspects of criminal justice

operations privatized such as food service, medical treatment, halfway houses and drug treatment centers, and even management but Pennsylvania state law disallows prison ownership by corporations. We have yet to turn the entire operation over to a private enterprise. That is a step we should never take but certainly not before all of the issues are fully studied. We urge the members of the committee to vote for HB 1469, PN 1816 to continue the moratorium until the key concerns – authority, responsibility, liability, punishment – are addressed.

A number of states are rethinking their use of private prisons. Arizona recently found that the state could do this work cheaper.¹⁴ Alabama now wants to bring their inmates home from private prisons across the nation to save taxpayers a projected \$10 million per year since their overcrowding problem has decreased.¹⁵ In 2000, Wisconsin used private prisons more than any other state but since 2005, they used none. Idaho and Montana are now also reconsidering other states' private prisons for their inmates.

Although cost savings in general favor private facilities, these states are examining other factors as well. Those concerned about private prisons suggest that administrative overhead is missing from most comparison cost studies and that many of the studies are looking at apples and oranges. Still, other critics suggest that private facilities take the low-cost inmates or the "cream of the crop" that are medically sound and non-problematic so that they won't incur unforeseen or non-budgeted expenses. And still others suggest that the contractual language holds the key to effectiveness and that anything can be done as long as it is spelled out in detail in the contract.

Corporations constantly concerned about their shareholders often overlook issues of re-entry, rehabilitation, recidivism, and safety. These issues, however, have become paramount in the search for combating crime and enhancing public safety. The bottom line question regarding private prisons, is this:

Are the Commonwealth and its citizens responsible and liable for those in its care or are the shareholders' profits what we are responsible for upholding?

¹ Allegheny Institute for Public Policy, *Prison Privatization in Pennsylvania: The Case of Delaware County*, August 1999.

² Golimowski, Stewart, *Many States Look for Ways to Avoid Private Prisons*, *Crosswalk.com*, August 8, 2007.

³ Gainsborough, *The Truth About Private Prisons*, *AlterNet*, Posted December 15, 2003, Printed October 19, 2007.

⁴ Senators Say Private Lockups Need Closer Monitoring, *Austin American-Statesman*, *Statesman.com*, October 13, 2007.

⁵ Bender, *Pay to Stay: Delco Board Mulls Bids from Two Firms to Run Prison*, *DelcoTimes News*, April 3, 2006.

⁶ Colorado Criminal Justice Reform Coalition, *Private Prisons and Public Money*, September 2002.

⁷ Gerth and Labator, *The Pitfalls of Private Penitentiaries*, *New York Times*, November 24, 1995.

⁸ Federal Bureau of Prisons, *Weekly Population Report*, October 18, 2007.

⁹ Buesko, *Texas Firm to Operate PA's 1st Private Prison in Clearfield*, *Post-Gazette NOW*, *Pittsburg Post Gazette*, April 30, 2006.

¹⁰ Holland, *Private Prisons Don't Pay, Report Says*, *Philadelphia Inquirer*, October 22, 2001.

¹¹ *Ibid.*

¹² AP, *\$20 Million Hardin Jail Sits Empty*, *Great Falls Tribune*, October 21, 2007.

¹³ Gerth and Labator, *The Pitfalls of Private Penitentiaries*, *NY Times*, November 24, 1995.

¹⁴ Golimowski, Stewart, *Many States Look for Ways to Avoid Private Prisons*, *Crosswalk.com*, August 8, 2007.

¹⁵ *Ibid.*