

Public and Private Correctional Partnerships: Deflating Myths and Promoting Reality

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History of Correctional Privatization

While there has been a flurry of discussion and debate about privatization of prisons over the past two decades, the concept of private correctional services is not new. The private sector's involvement in corrections started as early as the Middle Ages where privately owned and/or operated jails were common in England (Pugh 1968). According to Feeler (1991) and Ammons et. al. (1992) the privatization of corrections in America can be traced back to the early 1600s when English felons were "pardoned" to the American Colonies (and later Australia). Privatization of corrections continued to be a method of the American criminal justice system into the 1900s when privately owned and/or operated prison facilities were quite common.

Privatization Today

Today, there are several models of correctional privatization. Halfway houses have historically been private, not-for-profit operations, and community correctional agencies now regularly contract with private companies for electronic monitoring, drug testing, and other program services. Many agencies contract with private companies to provide food services, medical and mental health care, educational programming, and substance abuse counseling. By January 1, 2002, 144 state and federal prisons contracted for food services and 447 for medical care for inmates (Camp 2003). Another 229 prisons had private contractors providing mental health services, and 190 prisons contracted for substance abuse services (Camp 2003).

As the need to increase prison capacity became a national problem, the private sector (through the construction and management of correctional facilities) became a viable option for public agencies unable to keep up with demand. Private industry allows governments to meet their rising capacity needs while at the same time providing capital and flexibility for (often) desperately needed bed and program space expansion. Private entities have provided the public sector with a reasonable way of maintaining positive conditions such as need-based treatment, programming, training and/or education. According to Austin and Coventry, (2002) “. . . governments take five to six years to build a facility, whereas some private companies claim they can do it in two to three years (or less) (13).” The economic and social value of the private industry’s ability to respond to meet bed needs cannot be underestimated. Even if governments have reliable population projections, appropriations are often not dedicated to prison projects. Currently, there are over 160 private facilities with more than 135,000 functioning beds in three-fifths of all U.S. states. (APTCO 2005).

Partnership Between Private and Public Corrections

Many people try to “pit” the public against the private sector. However, correctional policy makers realize the importance of a partnership between public and private entities; a partnership whereby the private sector responds to specific needs of public corrections agencies. These needs often differ in every jurisdiction. The public and private partners share several common goals, to include safety of the community, staff, and inmates, the training and development

of staff to professionally manage the inmate population, and the provision of quality corrections in a cost efficient manner. As well, the public and private sectors have a shared concern for improving our profession. Both the public and private sectors are proud of the services they deliver to our citizens, and are committed to meeting the expectations of the taxpayer and public officials responsible for overseeing our work. We constantly strive to improve, so that we can better serves our citizens, our staff, and the inmates. I ask the members of the Commission on Safety and Abuse in America's Prisons to remember that we in corrections believe that the relationship between the public and private sectors is a partnership and not a competition.

Myth Versus Reality of Private Corrections

There are several myths that persist even after more than two decades of private correctional facility operation. The most common include:

- Private prisons are not accountable to the public
- The profit motive of private corrections encourages cutting corners that can reduce quality
- Private corrections facilities do not offer adequate inmate programming
- The profit motive of the private sector undermines safety in facilities

REALITY: "Private prisons are accountable"

Claims that private prisons are not accountable to the public are unwarranted. In reality, private prisons almost always have extremely detailed requirements by

which their accountability is easily measured and monitored. A study in the Harvard Law Review, “A Tale of Two Systems: Cost, Quality, and Accountability in Private Prisons” (2002) concluded, “there are many reasons to believe that private prisons are more accountable than public prisons both because of heightened legal and market accountability for private firms and because accountability in the public sector is so limited (1891).”

This accountability begins with the public sector determining the types of services needed, creating a rigorous RFP, and opening it for competitively bid. The RFP requirements often list expected outcomes, and may include liquidated damages for failure to maintain expected staffing levels, inmate involvement in program activities, and other RFP requirements. Public customers usually assign full-time contract monitors to constantly measure performance against the contract requirements. Contracts also provide the government customer the ability to cancel contracts with private companies if standards are not met. It should also be emphasized that private companies gain new government customers primarily by demonstrating their capabilities in existing facilities. This provides another, significant form of public accountability.

One of the best measures of accountability for a private prison is whether its contract is renewed. Corrections Corporation of America (CCA), one of the biggest and oldest (the company is 22 years old) players in the private correction industry, currently has a 95 percent renewal rate. To date, CCA has not lost a contract due to poor quality performance.

REALITY: “Private companies do not cut corners and reduce quality”

The notion that private companies cut corners is not accurate, although this is an often cited charge against privatization. Many studies (government, university, research organizations, etc.) have found that quality is not sacrificed for profit (Archambeault and Deis 1996; Arizona Department of Correction 2000; Austin and Coventry 2001; Culp 1998; Knight and Hiller 1997; 1999; Lanza-Kaduce 1998; Logan 1991; Moore 1998; Thomas 1997; OPPAGA 2000; Urban Institute 1989). Segal and Moore (2002) analyzed 28 studies of the cost and quality associated with privatized facilities and found that “there is clear and significant evidence that private facilities provide at least the level of service that government run facilities do (9).” The authors go on to say that “[p]rivate correctional facilities have fared well against government-run facilities in almost all measures of quality (9).”

When considering this privatization reality, one should remember that private facilities are always under the watchful eye of their government partners. As noted above, private operators must ultimately meet standards prescribed in their contracts. The role and professional responsibility to public customers is not to cut corners that reduce quality, but to search for innovative ways to be more cost efficient. Awards to private companies are competitive and often require that we operate at a specific cost below our public sector counterparts. While private entities must find ways to operate efficiently, it is not in their best professional and community interest to accomplish this in a way that reduces quality.

In addition, many private corrections companies are committed to the high standards and accreditation process of the American Correctional Association (ACA). This is especially significant considering that 44 percent of all privately managed facilities are ACA accredited while only 10 percent of publicly-managed facilities are accredited at this level of professional excellence (Accredited Facilities and Programs 2001). In his 2003 review of privatization of prisons, Matthew Mitchell points out that while many state departments of correction were under a court order to improve facility conditions, “[n]ot a single private prison has ever been placed under a court order for unsatisfactory conditions (4).”

Research on private prisons has shown that quality care, custody, and control are not necessarily sacrificed for cost-savings (Harvard Review 2003; Segal and Moore 2002). In a review of cost, quality and accountability of private prisons, a Harvard Law Review study concluded that “none of the more rigorous [private prison] studies finds quality at private prisons lower than quality at public prisons on average.” Segal and Moore’s (2002) quasi meta-analysis of 28 comparative studies of cost and quality in public and privately managed correctional facilities corroborated the finding that private prisons do not result in reduced quality.

Interestingly, privatization can positively affect the quality of public prisons as well. Segal and Moore (2002) posited that privatization of corrections improves quality and cost management of public corrections systems. The authors suggest that this affect may be attributed to “a fear of being privatized themselves, [or] from pride in showing they can compete, or from being held to a

comparison by higher authorities (2).” Mitchell (2003) found “[o]ther factors being equal, those states with a strong commitment to privatization in prison services spend significantly less per-prisoner per year than states without privatization (16).” Blumstein and Cohen (2003) also found that the existence of privatization promotes improved cost management in public facilities. In their study of public and private prisons, the authors concluded that the “existence of prisoners under private management in a jurisdiction seems to have had a restraining effect on the growth of expenditures on public prisons (1).”

REALITY: Private Prisons offer effective inmate programming.

It is commonly (and incorrectly) assumed that private prisons do not offer effective inmate programming. Some anti-privatization proponents have even posited that private entities do not wish to rehabilitate inmates and reduce the number of inmates returning to the criminal justice system. This could not be further from the truth, and it is possible that privatization increases the overall scope and frequency of inmate programming. Due to budget shortfalls, rehabilitation programs in many public corrections facilities have been cut or remained static in the face of growing needs for programming and intervention. However, most private prison companies have not cut back on programming services, believing inmate programs are important and can be provided at a reasonable price to their public customers. For example, during the month of August 2005, CCA’s educational programs had an average daily enrollment of

over 18,200 students. Between January and August 2005, more than 1,580 inmates earned GEDs or high school equivalency diplomas and more than 4,660 inmates earned vocational completion certificates. Under some contracts, private contractors even receive incentives to provide best practice programs that “work” or reduce recidivism.

Private contractors can provide government agencies with flexibility in meeting their needs for specialized inmate programs. Segal and Moore (2002) suggest that, “the breadth of options that privatization gives policy makers is an important benefit . . . several approaches or techniques are available (16).” Essentially, privatization provides public corrections with a variety of solutions to meet their current and future programming needs, whether the needs be general population housing, drug/alcohol treatment communities, or sexual offender residential treatment for inmates.

Private entities recognize that well implemented needs-based programs improve prison management and create a safer environment for staff and inmates. Active programs improve the morale of inmates and enhance communications between staff and inmates. This reduces facility tensions, enhances intelligence gathering, and improves inmate accountability.

While some research has suggested that rehabilitative programming in privately operated facilities produces a lower rate of recidivism than their public counterparts (Bales et. al. 2003; Thomas 1998), overall, the studies examining post-release outcomes between public and private prison inmates have shown mixed results. Results from a Florida study comparing recidivism of releasees

from private and public prisons found that recidivism of releasees from the private prisons was lower than for those released from public prisons, and of those who reoffend, the crimes were less serious for the private prison releasees (Lanza-Kaduce 1999). An evaluation of the privately managed Dallas County Judicial Treatment Center found that graduates of the treatment center showed a rate of recidivism (rearrest) that was 50% lower than for those individuals who were not in the privately-run facility (Knight and Hiller 1997; 1999). However, when the Government Accounting Office (GAO) conducted a comprehensive review of five outcome studies of private prisons completed since 1991 in Texas, New Mexico, California, Tennessee, and Louisiana, analysts did not believe that three of these studies were sufficiently designed to validate results, but found outcomes from the remaining two indicated minimal or no differences between the public and private prison operations. Other studies have also failed to find any significant differences between the outcomes of offenders released from public versus private prisons (Cheung 2002).

<p>REALITY: “Private prisons are safe”</p>

Perhaps most important misconception is that the profit motive of private prisons undermines safety. The reality is that private prisons are safe. While some research found that private facilities experience fewer escapes, inmate disturbances, riots, and inmate deaths than some public facilities (Archambeault and Deis 1996; Austin and Coventry 2001; Moore 1998; Urban Institute, 1989), other studies have produced findings showing that private prisons had higher

escape rates and more positive results from drug tests (Camp and Gaes 2002). Finally, other studies have shown that the safety of private prisons is comparable to that of the public sector (Arizona Department of Correction 1997; Segal and Moore 2001). While these results regarding safety of private prisons are mixed, private prisons are concerned with and ardently monitor the safety of the inmates, staff, and citizens in the surrounding community. In terms of safety, the private sector provides a correctional environment and services that strive to be at least equal to the environment and services provided by the public sector.

CONCLUSION

The public and private sectors have had a long history of partnership in corrections. Under the watchful eye of our government partners, private prisons help reduce the growth of correctional budgets while delivering quality correctional services at the federal, state and local levels. Private prisons offer a level of accountability that taxpayers demand. Every private prison operates under a written contract with government that specifies everything from the cost per inmate to required staff levels for every shift. Failure to meet the requirements can result in a financial penalty or termination of the contract. By introducing competition and innovation, privately run prisons have helped create a modern and efficient criminal justice system in which the public and private systems work closely together and learn from each other. In sum, the modern private prison industry has contributed to the reduction of prison overcrowding,

has reduced the growth of corrections as a budget item in many states, and has delivered quality correctional services to inmates.

From my experience in the private sector, academia, and public sector at both the state and federal level, I believe that the private corrections industry has established itself as a viable and dependable partner to government. Private industry professionals – many of whom have retired from the federal, state or local corrections systems and moved into private operations – take professionalism and quality of service extremely seriously. Not only can private operators provide government agencies flexibility and cost efficiency, it does so without sacrificing quality or safety.

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