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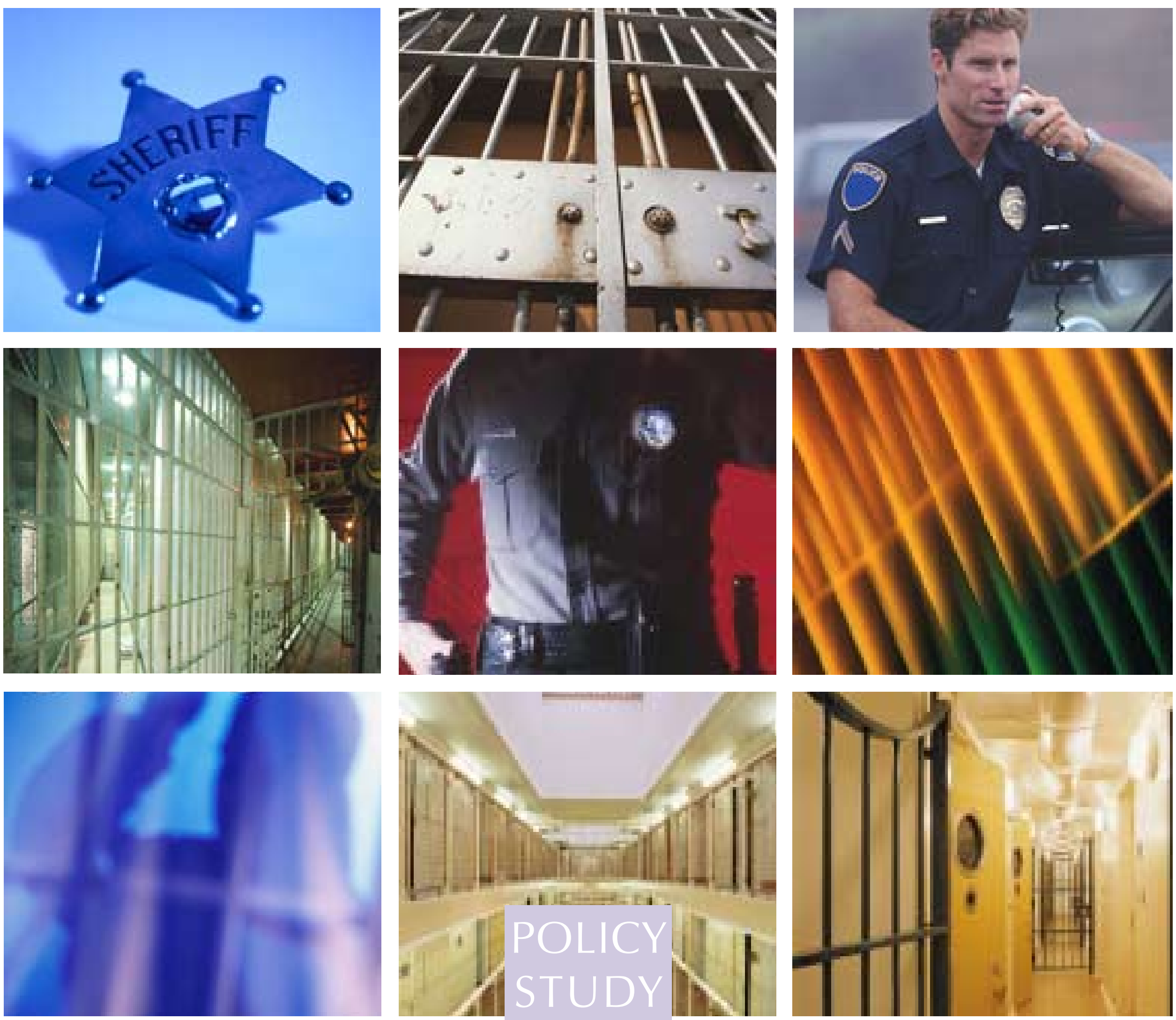
The Extent, History, and Role of Private Companies in the Delivery of Correctional Services in the United States

by Geoffrey F. Segal



POLICY STUDY

302

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BY GEOFFREY F. SEGAL

History

Why are U.S. federal agencies and state and local governments turning to the private sector for correctional services? Because tougher crime policies and budget constraints have combined to create a problem, if not a crisis, in the nation's prisons and jails. Governments are incarcerating more criminals, but they have recently become unwilling to spend sufficient tax dollars for new prisons to house them. The prison system is increasingly characterized by overcrowding, lawsuits, and court orders. Therein lies the problem for federal, state, and local officials—expenditures on corrections have grown rapidly, but the prison population has grown faster.

During the 1960s and 70s, violent crime increased dramatically in the United States. The 1980s saw this trend level off and the 90s has seen slight decreases in serious crimes. However, serious crime remains at levels three times those seen in the 1960s. As prison populations have swelled around the country, budget constraints at the federal, state, and local levels have left little room for the substantial growth needed to accommodate new and existing prisoners, occasionally resulting in the release of dangerous prisoners to relieve prison overcrowding.

Corrections is one of the fastest-growing state budget items. In the last 15 years, state spending on corrections grew more than 350 percent—compared to 250 percent growth for spending on public welfare and 140 percent growth for spending on education. More than one-third of the states devote 5 percent or more of their spending to corrections.

As many recent reports have chronicled, correctional departments now face a crisis in space and cost that they often cannot resolve with current resources. In response to these mounting pressures, federal, state, and local correction authorities are turning to the private sector to relieve the stress by contracting for the construction, financing and management of private prisons.

Private prisons are on the rise. Privately operated juvenile facilities — mostly community-based group homes or halfway houses — and federal adult halfway houses have been common since the 1960s.[1] In 1979, the Immigration and Naturalization Service began contracting to detain illegal immigrants pending hearings or deportation. But private prisons did not fully come into public view until the mid-1980s, when the Corrections Corporation of America (CCA) offered to take over Tennessee's prison system and get it out from under a recent court decree.[2] Ultimately CCA's offer was refused, however, it was a sign of the increasing role of the private sector, in years to come.

The Numbers Tell the Story

State spending on corrections has gone up because the number of inmates in the system has skyrocketed. Since 1984 the number of inmates has risen 100 percent in local jails, 213 percent in state prisons, and 290 percent in federal facilities. Incarceration rates are well over double what they were in 1980.[3]

Some states have embarked upon unprecedented prison building programs. Texas and California have led the pack, spending billions of dollars in the last 15 years building new facilities. According to the Bureau of Justice Statistics, the capacity of state and federal prisons grew 41 percent in the first half of this decade. Local jurisdictions have felt similar pressure: over 800 jurisdictions have identified the need for new construction in the next few years.

Despite all the building, the need has not been met. Today many state and federal prisons are holding over 20 percent more prisoners than their capacity, and a great number of facilities—even entire state and county systems—are under court order to limit or reduce their inmate populations.[4] Nineteen state prison systems are 25 percent or more over capacity, and at least 10 more state systems, and federal prison systems, could be considered very overcrowded. In most of these states, the situation is not getting better. Crowding in California's prison system worsened between 1994 and 1996, going from 84 percent over capacity to 96 percent over capacity.

With taxpayers clearly demanding that criminals be put in prison and kept in longer, there seems to be no choice but to increase the capacity of the prison system. But with popular pressure to cut government spending, funding the increase will be difficult. Legislators face a lot of pressure to hold the line on corrections spending, and fewer than half of referendums to approve bond financing of new prisons are being approved by voters.[5]

Alternatives

There are alternatives to incarceration. Many states are starting to look at alternative sentencing, including community-based institutions, home confinement, and other programs. But there is a limit to how many criminals such methods can cope with. California's legislative analyst calculates that alternative punishments will be appropriate or possible for only a small share of future convicted criminals.[6] The need for additional prisons and jails will not disappear, and policy makers must look in new directions for corrections policy.

This has led federal, state, and local officials to consider how the private sector can become involved in corrections. The private sector's lower costs and quality services can help cope with the growing number of prisoners without busting the budget.

Types of services offered

There are three basic types of correctional services offered by the private sector:

1. Design and construction of jails and prisons.
2. Services for offenders, such as food service or medical care, and juvenile and community correction centers.
3. Contract management of major detention facilities.

Local, state, and federal governments have contracted with the private sector for each of these types of services. The first two services have been used widely, with little controversy, for decades. The last has grown rapidly, amidst controversy, since the early 1980s.

Design and Construction

Private contractors have long designed and built jails and prisons. In a relatively new development, some governments have accelerated completion of projects by delegating more authority to, and reducing regulatory requirements on, private design-build teams. Private contractors also have wholly financed and built by the private sector, which offer their bed space on a per-diem contract basis to jurisdictions experiencing an overflow of prisoners.

The per-bed cost of prison space is influenced by many factors, including the security level, location, and jurisdiction of the facility. Coming up with useful average costs for government construction is difficult. However, the Criminal Justice Institute has calculated that the average cost of government construction is $80,562 for a maximum-security cell, $50,376 for a medium-security cell, and $31,189 for a minimum-security cell.[7]

Services for Offenders

For-profit and nonprofit private organizations play a major role in providing services to correctional agencies. Most correctional institutions use some form of privatization in such areas as medical services, mental-health services, substance-abuse counseling, educational programs, food services, and management of prison industries.[8]

The use of private services by correctional agencies is most extensive outside institution walls. This reflects the fact that more than 80 percent of convicted offenders in most states are in community supervision, either on parole or on probation.

Private involvement in community corrections (low-security work-release or halfway-house facilities) is a long-standing tradition in the US. In addition, state governments have traditionally let contracts for services such as counseling on abuse of alcohol and other drugs; assessment and treatment of sexual offenders; and job training and placement.

Private involvement in providing services to inmates during detention and after release has brought a new wave of innovation. Florida legislators found the private prisons in their state to be miles ahead of the state prisons in providing effective rehabilitation, education, and other services.[9] Private firms are developing efficient and effective post-release programs aimed at reintegrating inmates into the community and reducing recidivism rates.[10]

Providing these kinds of services does cost money. Inmates will receive these services only if the services are included in the terms of the contract. However, given that a contract with a private firm to house inmates saves money, more funds may be available to pay for specialized services that can reduce recidivism rates.

Example: Health Care

Contracting with the private sector to provide prison health care is a proven money and life saver. The practice is not new: At the beginning of 1997, 12 states had contracts with private firms to provide health care to their entire prison system, and another 20 states had contracted health care for part of their systems—a total of 498 prisons in the 32 states. The largest company that provides these services has contracts for facilities in 28 states and is responsible for over 162,000 inmates.

Private health care for prisoners is likely to become even more widespread. Recent activity includes the 1996 sale by the District of Columbia of its Correctional Treatment Facility to a private firm. The District then leased it back and contracted with the firm to run it. In early 1997 New Jersey hired a private company to provide health care for its 26,000 inmates. State officials estimate that this will save taxpayers $14 million in the first year alone. At the end of 1997, Indiana signed a four-year contract with a private firm to provide health care for all state inmates; state officials anticipate saving $3.8 million each year. At almost the same time, Mississippi contracted with another firm to build and operate a 500-bed mental-health correctional facility.

Some critics have expressed concern over this trend, fearing that lack of public visibility means private companies have little incentive to provide quality care. Indeed, in at least one case, prison officials terminated a contract with a private company because of poor care. But this appears to be the exception rather than the rule. In fact, several cases of government medical care were so bad that courts found they violated inmates' rights and ordered jails to hire a private company. Many officials claim that medical treatment in prison is far better than most inmates could expect to get outside of prison. Also, the National Commission on Correctional Health Care provides an accreditation program, which can assist officials to monitor the quality of contract medical care. Some states are making achieving accreditation part of the contract—all private prison contracts in Puerto Rico include such requirements.

Two Types of Private Management. Private management of prisons takes two forms. One is standard contract operation, where a private management firm is hired to run a government prison. The other is contracting for bed space to house prisoners. States such as Oregon, Hawaii, and Wisconsin have no privately operated prisons within their borders but contract with out-of-state private prisons to house overflow inmates.

Number of firms

There are currently at least 15 firms operating adult correctional facilities in the United States. Two large firms—Corrections Corporation of America and Wackenhut Corrections Corporation (recently merged with Danish firm Group 4 Flack)—manage the majority of private prisons. Four midsize firms—Correctional Services Corporation, Cornell Correction, Management and Training Corporation, and U.S. Corrections Corporation—each manage a number of facilities and have developed a breadth of experience. Other firms in the industry manage just a few facilities each. Two British firms—Securicor and Group 4 Prison Services—operate prisons in the United Kingdom and Australia and now have subsidiaries in the United States. A key point: the size of the smaller firms belies their experience. Most of the private firms' management personnel come from careers in government prison systems, so even small private companies can draw upon a wealth of experience and expertise.

The number of facilities and their rated capacity by geographic location:

Australia – 14	7334
Canada – 1	1184
England – 10	7161
Netherlands – 1	737
New Zealand – 1	384
Scotland – 1	650
South Africa – 2	6048
United States – 151	119023

As of June 2002 there were 119,023 state and federal prisoners held in private facilities in the United States. The use of private facilities is concentrated in the South and the West. Texas and Oklahoma have the greatest number of inmates in private facilities; only six states — New Mexico, Alaska, Montana, Oklahoma, Hawaii, and Wisconsin, which between them have about a quarter of all state inmates — keep over 20% of their prison population in private facilities. Privatization has been less widespread in local jails than in state prisons — only about 2% of jail beds are private — but jail privatization has been called the "next frontier" of privatization.[11]

Why Privatize—"Not Enough Space or Money"

The public debate over privatization often revolves around whether privatization saves money. This is particularly true when the topic is correctional services. Costs are easy to grasp, the figures are usually large, and other issues are more subtle and less sensational for proponents or critics to use in arguments. But a 1998 survey of state correctional departments found cost savings to be only the fourth most often cited objective for privatization, with the most states indicating they privatized in order to reduce overcrowding, acquire additional beds more quickly, or gain operational flexibility.[12] Similarly, an American Correctional Association (ACA) survey of juvenile-corrections privatization found that over the course of the 1990s cost savings fell from being the most important reason for privatization, overtaken by seeking services not available within the state agency.[13]

Several other factors may be as important as cost savings to justify privatizing, but they are harder to measure and even harder to qualify in a political debate

Competition, Not Private-sector "Magic," Creates Efficiency and Innovation

When governments contract with the private sector, efficiency and innovation do not come about because private firms have some magic pixie dust, unobtainable by the public sector, to sprinkle about. It is competition that creates efficiency and innovation, because competition punishes inefficiency and inertia. That means two things: first, that the contracting process needs to be competitive in the long run for efficiency to remain, and second, that competition from the private sector makes the public sector more efficient as well. This is the great uncounted benefit of private-sector provision of correctional services. Contracts usually save money not only directly, but also indirectly, by forcing the government corrections departments to tighten up their ships.

There has been little success at quantifying the indirect benefits competition brings to the overall provision of correctional services. Perhaps the best attempt was part of the 1995 cost comparison study in Tennessee.[14] The study compared costs at two government prisons and one private prison at the beginning and at the end of the year of study. When the facilities knew they were being compared, they strove for their best efficiency, and the cost at all three prisons declined over the year—5 and 8 percent at the two government prisons and 15 percent at the private prison.

Anecdotal evidence of competitive pressures and "cross-fertilization" abounds as well. Russ Boraas, Private Prison Administrator for the Virginia Department of Corrections, believes the cross-fertilization benefits of contracting with private firms to run some prisons may be the greatest benefits of contracting. Virginia has two new prisons designed, built, and operated by private firms. Both firms dramatically reduced capital and operating costs of the facilities by replacing expensive external guard towers with high-tech sensors and a roving patrol, and by eliminating a 30-day food storage warehouse and storing just enough food for a week.

For no reason that anyone can remember, Virginia prisons keep 30 days of food on hand in warehouses that are expensive to build, maintain, and operate. Boraas believes it is a practice going back to when prisons were remote and supplied by mule train. No one had ever bothered to question the practice until the private companies came in and did something different. He says that the rest of the state prisons are now adopting the private firms' food storage practices, and that only maximum-security prisons are likely to have external guard towers in the future.

There are plenty of similar stories:

- Responding to a perceived threat from the growth of private prison operation, the Connecticut Department of Corrections (DOC) adopted a philosophy of running its prisons more like businesses and dramatically cut annual spending. At the end of 1996, the department returned $46 million to the state treasury. Savings were realized by cutting staff and increasing revenue generated by inmates. Despite this, Connecticut still spends $65 a day for each inmate, one of the highest per-inmate cost rates in the nation.[15]
- Carl Nink, of the Arizona DOC, explains how the state's prison wardens had never defined the measures that constitute successful perfor-mance of a prison until they had to write a contract with the operator of the state's first private prison. The result forced a lot of wardens to go back and reevaluate their own policies and practices to ensure they meet the same standards being asked of the private firm.

- According to Tim Wilson, Head of Contracts for Her Majesty's Prison Service, in the years since the lower costs at new private prisons have become public, costs at government prisons in the United Kingdom have been falling.

The existence of private prisons, and the threat of privatization, changes the incentives for government corrections officials. As long as there is a credible threat of privatization, these incentives to reduce costs and improve quality will remain. It remains to be seen what amount of competition is necessary to maintain these incentives for the public sector.

To Better Manage Capacity

Prison overcrowding continues to plague many corrections agencies across the country. Over 21 percent of state agencies say speedy project delivery is an important reason for privatization.[16]

Furthermore, speedy project delivery can translate into cost savings. Since the final payment does not come until project completion, private firms strive to complete construction more quickly. While construction of a prison or jail takes governments an average of two and one-half years, private firms complete the same type of project in about half the time.[17] The United Kingdom's National Audit Office reports that the first two privately built prisons there were built 45 percent faster than usual.[18] In the United States, one company may have set a record, constructing a new facility in less than 90 days. The firm purchased land, got zoning clearance, lined up financing, and designed, built, and opened a 100-bed maximum-security juvenile facility in just three months.[19] A more representative example is Delaware County, Pennsylvania. A group of private firms financed and built a new prison in two years less than it took the state to build a similar prison in a neighboring county, built it for only $55.84 million compared to the $93 million estimated cost if built by the county, and is saving the county an additional $1.5 million a year in lower debt costs.[20] Yet another example is the 350-bed detention center in Houston, Texas, completed in 5 ½ months at a cost of $14,000 per bed. The Immigration and Naturalization Service calculated construction to take 30 months at a cost of $26,000 per bed.[21]

To Improve Quality

With the increased private responsibility inherent in outsourcing, there is increased incentive for the contractor to produce high-quality work, and to ensure proper performance of facilities. According to the Council of State Governments, over 18 percent of state agencies indicate that high-quality service is one reason they have outsourced.[22] Other surveys, including one by the ACA, report similar findings.[23]

Quality outcomes from outsourcing arise from appropriate safeguards governments write into contracts. Contracts can be performance-based (focusing on outputs or outcomes) and can include quality assurances or quality-control assurances.[24] With performance-based contracts public official can capture the broad range of privatization goals that go beyond simple cost savings, to purchase results, not just process, rewarding the private firm only if specified quality and performance goals are met.

To Improve Accountability and Better Manage Risks

If done properly, a privatization contract gives policy makers more control and flexibility than the sometimes red-tape bound system in house. This means that: 1) contracts have to be written with measurable criteria for success and mechanisms for termination where appropriate; 2) the government has to monitor compliance and be able to demonstrate non-compliance if it occurs; and 3) procurement laws have to allow selection criteria other than low bid so that a firm with a record of terminations can be excluded from bidding.

Only a handful of private-prison contracts have been terminated,[25] but those instances demonstrate accountability not found with in-house services. For instance, in 1999, allegations of sexual misconduct by correctional staff at a private prison in Texas led to the termination of the operating firm's contract. But the same month the General Accounting Office released a study of sexual misconduct in government prisons; it found widespread allegations of sexual misconduct in Texas government prisons and no management or supervisor firings as a result. Regardless of the truth of either allegation, which instance appears to offer more accountability?

Privatization allows governments to shift risks to contractors, which helps achieve both the most efficient risk allocations and allows risk to be used as a management tool rather than just something to fear. The power of the contract is often a power overlooked by public officials, who thus miss the opportunity to build quality assurances and/or quality controls into project delivery as means to manage risk.[26]

To Spur Innovation

Competitive outsourcing can produce innovative solutions. The freedom to invent "allows for old processes to be discarded in favor of entirely new ones—processes that integrate relevant technological advances."[27] One in five state agencies says that increased innovation is an important reason for privatization.[28] Privatization is widely credited with spurring innovation in correctional services.[29] In Florida private prisons brought innovation in construction and operation of prisons, such as more compact prison designs and greater use of technology.[30]

To Gain Access to Expertise and Acquire New Services

Over 32 percent of state agencies say that lack of state personnel and expertise was an important reason for privatization.[31] Private corrections companies, with the ability to draw inmates from a larger pool, can specialize in unique facility missions.[32] Examples of unique private facilities include those devoted to geriatric inmates, or terminally or chronically ill inmates, or even regional jails that avoid barriers to joint-operating agreements between governments.

In 1996 a regional director of juvenile corrections in Florida was touring vacant sections of a remote military base when he realized that an empty duplex-style housing complex could be converted into a correctional facility. The state had no plans for a new facility, but he convinced them to let him request proposals for something new and innovative, rooted in the latest research on transitioning juvenile offenders back into the outside world. The result was a contract with a private firm to run a first-of-its-kind facility focused on providing older juveniles who would not be returning to their families upon release with the skills needed to live on their own.[33] The program is unique, but in retrospect seems a logical outgrowth of the latest research on juvenile reintegration and recidivism. That Florida official was willing to work to create an opportunity for something new, though he knew not what. And a private firm, competing for the opportunity, discovered a hitherto untried program. If it succeeds, others will most likely adopt it, at least within Florida, but likely elsewhere. If it fails, it will at least be a test of current theory.

Government officials should realize that by privatizing, they are, in effect purchasing a service inherently different from what is provided by in-house resources. As such, policy makers can tailor their privatization initiatives to meet their specific goals and specific needs and actually seek services not available in house.

To Improve Efficiency and Flexibility

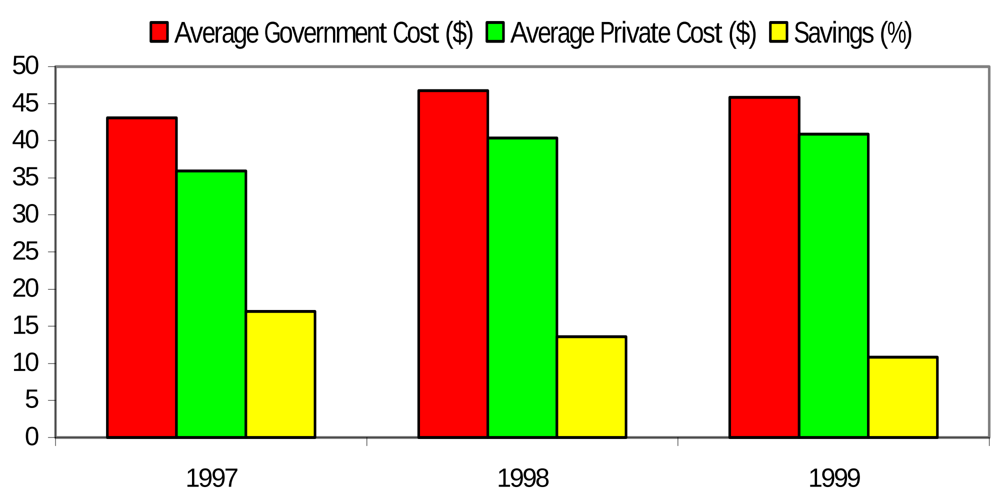
Since they must compete to win the right to manage a facility or for contracts to house inmates, private corrections firms have strong incentives to run efficient operations. Some means by which they improve efficiency include controlling legal liabilities, reduced use of overtime, managing to prevent injuries and workers' compensation liabilities, and improved labor productivity. The last is particularly important—accomplishing the job without using excess personnel. Private correctional firms are particularly adept at consolidating administrative jobs and using fewer overall non-security staff per inmate.[34]

Moreover, competition and the fear of privatization drive efficiency in the entire corrections marketplace. Government facilities are pressured to become more efficient and provide better services to compete with private prisons.

To Achieve Cost Savings

Indeed, two states (Arizona and Texas) that require cost savings provide some of the best time series data about cost savings in corrections privatization. In Arizona (Figure 1), two separate cost comparisons have produced similar results. A 1997 report compared the cost and performance of a 444-bed private prison to 15 government-run prisons in Arizona. After controlling for indirect costs, it found average cost per inmate per day was $43.08 in the government prisons and $35.90 in the private prison—a 17 percent savings.[35] A second study in 2000 used available data to assess costs. It found average per diem costs of $46.72 and $45.85 for state facilities in 1998 and 1999 versus $40.36 and $40.88 for private facilities—savings of 13.6 percent and 10.8 percent respectively.[36]

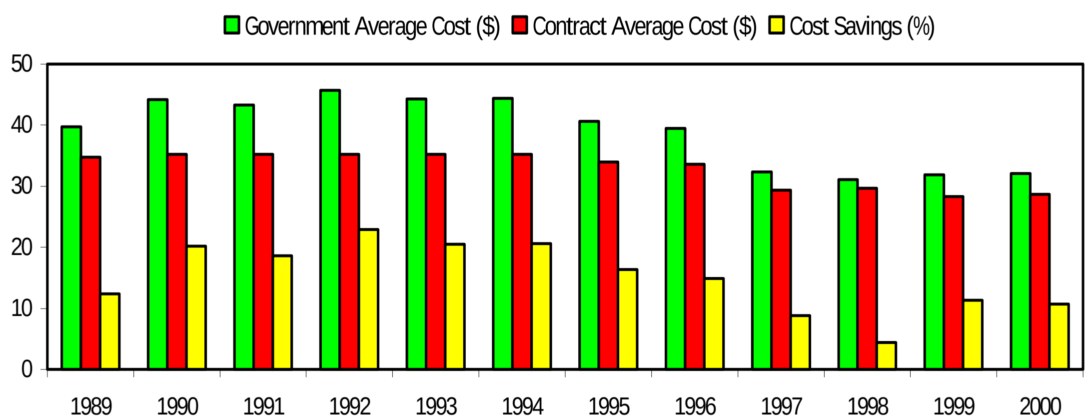
Figure 1: Arizona DOC Average Per Diem Costs and Savings



Source: "Public-Private Prison Comparison," *Arizona Department of Corrections* (Phoenix, AZ: October, 2000).

The Texas Criminal Justice Policy Council conducts a biannual review of the average cost per day of government facilities and the average contract price at private facilities to measure compliance with the privatization cost-savings requirement. The first comparison was published in 1991 with the latest published in 2001 (Figure 2).[37] These data represent the best longitudinal evidence of cost savings. The average contract price has consistently been between 4.4 percent (1998) and 22.9 percent (1992) lower than the average cost of government facilities.

Figure 2: Texas Criminal Justice Policy Council Time Series Data



Source: Texas Criminal Justice Policy Council, Texas Correctional Costs 1989-1990 (January 1991).

Why Privatize: Conclusion

The proliferation of motivations for privatization signals a change in how public officials view privatization. It is no longer simply a means to cut the budget, but has evolved into a complex policy tool that can be wielded to achieve a wide range of objectives. The ascendance of complex goals for privatization, beyond cost savings, shows how public officials seek to harness more dynamic results from private partners.

Quality Comparisons between Public and Private Prisons

The major charge against privatization is that by reducing costs, quality and security are sacrificed. Yet, there is clear and significant evidence, including a wide range of quality comparison studies, that private facilities provide at least the level of service that government run facilities do. Private correctional facilities have fared well against government-run facilities in almost all measures of quality, for example, in achieving independent accreditation, in contract terminations and renewals, and in the extent of court orders and litigation by prisoners.

Quality Comparison Studies

Measuring quality can be as difficult as comparing costs, because so many dimensions and variables can be included, from recidivism to access to phones, from health care to the variety of vegetables with meals. A sensible approach to comparing private and government prisons considers the various factors that typical taxpayers might consider in judging what kinds of prisons their tax dollars are buying.

A number of independent studies, using a variety of approaches compare the quality of government-run and private correctional facilities. We identified 15 such studies, and all but one found the private facilities perform as well or better than government-run facilities.[38] Overall, the research supports a pattern of high-quality services in private facilities.

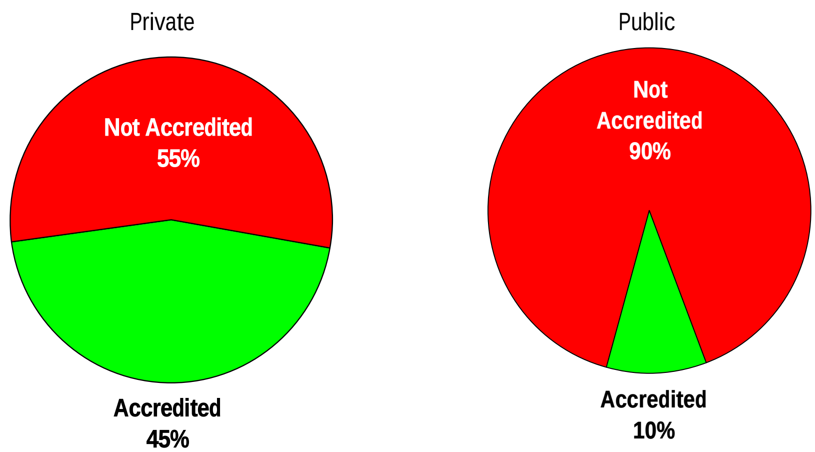
Comparative Studies of Private Facility Quality	
Table 3A	
Study	Findings
Urban Institute: Kentucky and Massachusetts, 1989	Quality advantage to private facilities; staff and inmate ratings are higher; fewer escapes and disturbances.
National Institute of Justice—Well Kept, 1991	Private facility outperformed state facility in seven of eight dimensions.
Louisiana State University, 1996	Outperformed government prison in 5 categories, government outperformed private in 5 categories.
Arizona DOC, 1997	Superior performance in public safety issues, protecting staff and inmates, and compliance with professional standards.
Juvenile Facilities in United States, 1998	Private facilities outperform in 23 of 30 indicators.
Florida Recidivism, 1998	Private facilities outperform in four of five measures.
OPPAGA, 2000	Satisfactory management with three noteworthy examples of performance.
Arizona DOC, 2000	Private facilities outperform seven of 10 measures in 1998; five of 10 measures in 1999.
Dallas County Judicial Treatment Center, 1997, 1999	Private program treatment recidivism rate is almost 50% lower than non-participants.
Table 3B	
Study	Findings
National Institute of Corrections—Okeechobee, 1985	No fundamental differences; noted improvement in private operation.
Silverdale Study, 1988	Private facility ranked high on most issues; other areas had equal positive and negative responses.
Sellers, 1989	Enhanced level of programming and better conditions in two of three private facilities.
Tennessee Fiscal Review, 1995	Private facility had higher overall performance rating.
United Kingdom, 1996, 1997	Private facility outperforms government prisons overall.
Minnesota Inmate Interviews, 1999	Services at government facilities rate higher.

American Correctional Association Accreditation

Independent accreditation by the ACA is designed to show a facility meets nationally accepted standards for quality of operation, management, and maintenance. ACA accreditation is frequently used by the courts as proof of improvement toward the lifting of court orders. In Louisiana state prisons were under court order for overcrowding and poor conditions for decades. A crucial step to getting the order lifted was achieving ACA accreditation for each facility. For years, little effort was expended to meet that goal and none of the facilities, including new ones, succeeded. But in 1990, when writing its first contract with a private firm to operate a prison, the state required the firm to achieve accreditation. It did. Encouraged, the new head of state corrections ordered the rest of the state system to seek accreditation. Serious improvements had to be made, but by 1996 every prison in the state save the one maximum-security facility had achieved the goal, and the court order was lifted.[39]

There are currently 5,000 government and privately managed detention facilities located around the United States, with only 532 accredited by the American Corrections Association (ACA)--465 are public and 67 are private.[40] Thus, no more than 10 percent of government correction facilities have been accredited, whereas 45 percent of private facilities have been accredited (see Figure 4).

Figure 4: Private vs. Public Facilities with ACA Accreditation



Source: American Correctional Association, Commission on Accreditation for Corrections, *Accredited Facilities and Programs* (Washington D.C: American Correctional Association, 2001).

Contract Terminations and Renewals

"This indicator evaluates quality by measuring the willingness of contracting agencies to renew existing contracts. The hypothesis behind this first indicator is that contracts would be terminated for cause or not renewed if the contracting agency was dissatisfied with the caliber of services they received."[41] Since the first modern private prison opened in 1985 there have been only a handful of contract terminations.[42] Virtually every contract up for renewal has been renewed. In the few cases of contract termination that have occurred, competition in the industry has assured that public officials were quickly able to hire a new firm to replace the old.

Recent terminations have followed renewals…changes in the political climate – see Puerto Rico and CCA

Court Orders and Prisoner Litigation

In 2001, of the 50 state correctional departments, 13 entire departments were under a court order to relieve unsatisfactory conditions, and 15 states had at least one facility under court order.[43]

In comparison, no privately operated prison has ever been placed under a court order for problems with conditions. In fact, several states have had tremendous success in getting facilities *out from under* court orders by contracting with a private firm to run it, and making meeting the court-imposed standards a term of the contract.[44] At the same time, though private-prison companies and correctional officers are much easier for inmates to sue than are governments and public employees, they appear to suffer fewer lawsuits.

Cost Comparisons Between Public and Private Prisons

The debate over prison privatization continues to revolve around whether privatization saves money. The concept of cost is easy to grasp and the figures are usually large, while other issues are more subtle and less sensational for either proponents or critics to use in arguments. Quality, flexibility, innovation, and competitive pressure on the entire correctional system may be as important as cost savings in justifying privatizing, but they are harder characteristics to measure and even harder to hang an argument on in a political debate.

When critics of privatization focus on cost issues, their assumption is that a mathematical process can determine policy choices. If that were true, a computer could decide whether or not to privatize, and we would not need elected officials. But the decision to privatize or not to privatize is not a mathematical one—it is deliberative, and requires weighing a number of factors, of which some general knowledge of costs is but one.

Government procurement and service contracting are steadily moving toward "best-value" evaluations, wherein rather than selecting a private provider based on low cost alone, governments choose the best combination of both cost and quality. Despite this trend, however, a number of states currently have legislated requirements for evidence of cost savings before contract award or renewal.

The Difficulty in Conducting Comparisons

Comparing the cost of privatized services to government services is a complex undertaking that requires making initial assumptions that partly shape the outcome, and for which there is no one generally accepted process and set of assumptions. A survey of the contracting practices of 120 cities, counties and district governments nationwide found that half the respondents had no formal method for analyzing and comparing costs.[45] And it is widely recognized that government cost accounting does not provide adequate data to allow accurate comparison with private-sector costs. Hence, cost comparisons can *always* be legitimately critiqued on their technical merits. "Analysts must apply professional judgment. Because of the subjective nature of these decisions, it is inevitable that these conclusions will be challenged."[46]

The simple fact is that cost comparison is more an art than a science[47]—a fact that pains many who would like cost comparisons to be simple matters of data analysis. In short, cost comparisons are not a mathematical exercise. Government's own inability to properly estimate its own true, fully allocated costs makes meaningful comparisons rarely available.

Indeed, studies of privatization cost comparisons almost always discuss the lack of agreement on a single acceptable way to measure and compare costs.[48] All too often legislation or policy directives that direct cost comparisons require "appropriate adjustments" be made to the data. But such adjustments are necessarily matters of judgment based on assumptions—in effect, policy decisions—and thereby the results of cost comparisons are often muddled.

Adjustments are made to cost data to attempt to get rid of problems of comparing apples to oranges. It is a fundamental tenant of cost comparisons that the work requirements, physical plant, quality measures, etc. must be identical for a cost comparison to be accurate.[49] In comparing costs of privatized correctional services, this means assuming away different factors that may include inmate population characteristics, facility age, design, and layout, differences in accounting for indirect and even some direct costs, and regional wage and materiel cost differences, to name but a few. Indeed, those who dismiss the existing corrections privatization cost-comparison literature base their position on the accusation that the comparisons were apples to oranges—that there were too many differences between the facilities compared.[50] "Researchers who compare institutions must realize that facilities vary widely on a great number of factors that affect costs; so much so that simple comparisons are not very meaningful."[51] Indeed—the Florida Office of Program Policy Analysis and Government Accountability has gone so far as to modify some government prisons to make them more comparable to private prisons.[52]

But achieving identical facilities, populations, and conditions is perhaps impossible. More important, creating identical situations puts the cart of cost comparison before the horse of motivations for privatization in the first place. If a government and private prison are identical in every detail that could affect cost—what is the point of privatizing, since many of the driving factors for privatization (quality, innovation, etc.) are necessarily lost. The fact remains that many of the differences found in private prisons are a result of their ability and freedom to use different facilities and to run them differently.[53] Arguably, no meaningful pure "apples to apples" comparison is possible.

Alternatives to Cost Comparisons

Can cost savings become somewhat less important than quality? Are quality improvements possible? On what basis should privatization decisions be made? Simple cost comparisons are often plagued by criticism. What alternatives to simple cost comparisons are available when making privatization decisions? We suggest that correctional services privatization catch up with the best practices of privatization of other services nationwide and adopt a best-value selection criteria. Best value is rooted in the simple concept of value—selecting firms to provide complex services or projects based on qualifications and technical merits, as long as the price is a value for what is promised. Governments are beginning to recognize what every consumer already knows—sometimes if you pay more, you get more; that is, the cheapest is not always the most desirable. Requiring the government to always buy the cheapest assumes all other things are equal—which they rarely are.

The more complex the privatization is, the more important issues other than lowest absolute cost will be. When the goal of privatization is a mix of cost savings and other objectives, best-value procurements allow all factors to be weighed appropriately in making the privatization decision. Policy makers recognize that with privatization they are often *buying something different* from the services traditionally provided in house. Best-value selection allows these differences to be properly weighed in context of goals or desired outcomes.

1. How-to Tips for Using Best-value Contracting[54]

Successful best value contracting requires three things:

- First, an early determination of key parameters i.e., completion date, security requirements, mobilization, etc;
- Second, development of key project criteria translated into performance measures; and,
- Finally, and the most essential, the development of evaluation criteria. Evaluation criteria can be either quantifiable (dollars) or nonquantifiable. Common criteria include: technical excellence; management capability; financial capability; prior experience; past performance; optional features offered; completion date; and risk to government.

Once selection criteria have been established and bids have been received, successful selection depends on evaluation. The following five steps help ensure a successful selection:

- First, identify technical differences between proposals, comparing their strengths, weaknesses, and risks against evaluation criteria;
- Second, identify the potential impact of each difference—assigning a positive or negative impact to each strength or weakness;
- Third, consolidate similar technical differences and eliminate differences that will likely have a small impact on selection. Remaining proposal discriminators should be developed, ensuring that the team understands what is offered and why or why not it adds value to the proposal;
- Fourth, rank the discriminators on a relative scale. This is very important. Nonquantified criteria should be ranked as favorable, neutral, or unfavorable. Once nonquantifiable criteria are ranked, quantified discriminators are evaluated; and,

Finally, document the analytical processes and the cost/technical tradeoff process used in selection.

2. Performance-based Contracting

Expanded use of privatization brings more pressure to ensure results, control outcomes, and avoid problems. Performance-based contracts have emerged as a state-of-the-art contracting tool to give government managers better control over contractors and greater assurances of accountability.

Typical contracts for correctional services tend to emphasize inputs: procedures, processes, the wages to be paid, amount or type of equipment, or time and labor used. But forcing contractors to emulate in-house procedures eliminates many of the reasons to privatize. Such micromanaging removes the ability of the contractor to innovate, be flexible, or offer enhanced or different types of service. More and more, governments are using performance-based contracts—an output- and outcome-based approach to contracting.[55]

> *A performance contract is one that focuses on the outputs, quality and outcomes of service provision and may tie at least a portion of a contractor's payment as well as any contract extension or renewal to their achievement.*[56]

Performance contracts clearly spell out the desired result expected of the contractor, but the manner in which the work is to be performed is left to the contractor's discretion. Contractors are given as much freedom as possible in finding ways to best meet the government's performance objective.

What this means for corrections privatization is that performance-based contracts are a key way to capture the broad range of privatization goals that go beyond simple cost savings. They allow governments to purchase results, not just process, rewarding the private firm only if specified quality and performance goals are met. This makes privatization even more dramatically a case of purchasing something fundamentally different from in-house services.

But contracts for correctional services have been among the slowest to adopt performance approaches, and even to begin to agree on how to define performance.[57] But there is some progress. The American Correctional Association is in the process of changing its accreditation standards, which are the standards used in most correctional privatization contracts, to go beyond simple process measures and include a broad range of performance measures.[58] And the Office of Juvenile Justice and Delinquency Prevention is six years into a program to develop performance-based outcome standards for juvenile correctional facilities.[59] Both efforts will help make outcome measures more accepted and systematically used in corrections and will make performance-based privatization contracts easier to develop and monitor.

Today, the fullest use of performance-based contracts in corrections is in Australia. The State of Victoria uses private prisons to house nearly half of its inmates, using a set of performance measures to govern the contracts and structure payments to private firms.[60] Private operators receive three revenue streams from the government:

- An *accommodation-service fee* pays for housing the prisoners; this essentially offsets the private debt incurred in constructing the facility.
- A *correction-service fee* covers specific services, such as correctional officers, health care, food, education, and rehabilitation programs.
- A *performance-linked fee* aligns the company's long-term interests with the government's goal of quality services. The fee is tied to a set of performance indicators, including escapes, deaths in custody, assaults on inmates, and assaults on staff. As long as the company meets standards in these areas, based on averages from government prisons, it receives the full fee.

This last fee is what makes the Australian model innovative. It ties the private companies' return on equity to a set of performance goals, thus aligning their long-term interests in running profitable facilities with the government's interest in quality services. Recently an audit suggested that the performance goals be ratcheted up to continue to push outcomes above average for government facilities.[61]

Cost Comparisons Studies

The most significant body of evidence on the relative costs and quality of privatized correctional facilities comes from a wealth of studies performed by government agencies, universities, auditors, and research organizations. The studies can be broken into three distinct groups. The first group includes rigorous, peer-reviewed, serious academic studies where methodological approaches to comparison are sound and are often refereed. The second group consists largely of government studies focusing on average costs, contract prices, or basic accounting comparisons. The third and final group of studies is widely regarded as less credible, as research methodology does not follow common standards and is less clear.

We identified 28 studies that analyze cost data to measure the relative costs of correctional facilities managed by government vs. private firms—22 of which found significant savings from privatization. We also identified 17 studies that use various approaches to measure the relative quality of care at correctional facilities managed by government vs. private firms—15 of which conclude that quality at private facilities is as good or better than at government-run facilities.

The most important cost comparison information for policy making is really between competitive and non-competitive regimes. Privatization brings competition into a correctional system and naturally affects the behavior of individuals throughout the system.[62] Whether from fear of being privatized themselves, or pride in showing they can compete, or from being compared by higher authorities, workers and management throughout the system respond to privatization.[63] In Florida, auditors suggest that prison costs statewide have been reduced by the introduction of privatization.[64] And in Arizona, a report examining costs in the state-run prisons compared to Arizona's one private prison found the cost difference converged over 1998 and 1999, mostly due to falling costs in state run prisons.[65]

Nevertheless, many governments are using privatization to reduce correctional costs and to finance additional services. Tables 5A, 5B, and 5C summarize the groups of studies comparing the cost of government–run and private prisons. Though none of these studies can be declared perfect, the studies in Table 5A applied more rigorous standards to their methodology. Many of them went to great lengths to compensate for differences between compared facilities and to develop useful comparison figures. Moreover, there is nothing inherent in the problem of differences between facilities that we would expect to bias results towards lower costs at private facilities. Thus the extreme one sidedness of this literature—near universal findings of cost savings from privatization—is on its own very persuasive. The following are brief descriptions of the studies and their findings.

Comparative Studies of Private Facility Operational Cost Savings	
Table 5A	
Study	Estimated Savings
Louisiana State University, 1996	14–16%
Wisconsin Task Force, 1996	11–14%
Arizona Department of Corrections, 1997	17%
Delaware County Pennsylvania, 1999	14–16%
Florida OPPAGA, 2000	3.5–10.6%
Arizona Department of Corrections, 2000	12.23%
Table 5B	
Study	Estimated Savings
Hamilton County, Tennessee, 1989	5%
Texas Sunset Advisory, 1991	14%
Texas Criminal Justice Policy Council, 1991	12.4–20.2%
Florida Corrections Commission, 1993	8–10%
Australia, 1993	23%
Texas Criminal Justice Policy Council, 1993	18.6–22.9%
Australia, 1994	11–28%
Kentucky Department of Corrections, 1994	9%

Comparative Studies of Private Facility Operational Cost Savings	
Texas Criminal Justice Policy Council, 1995	20.5–20.6%
Tennessee Fiscal Review Committee, 1995	0%
United Kingdom, 1996	13–22%
United Kingdom, 1996	11–17%
Washington (TN and LA), 1996	0–2%
Kentucky Department of Corrections, 1996–1997	12%
Texas Criminal Justice Policy Council, 1997	14.9–16.4%
Texas Criminal Justice Policy Council, 1999	4.4–8.8%
University of Cincinnati, 1999	\$0–\$2.45 per inmate/day
Texas Criminal Justice Policy Council, 2001	10.7–11.3%
Table 5C	
Study	Estimated Savings
Urban Institute: KY and MA, 1989	0%
Sellers Study, 1989	63%
California Community Corrections, 1993	0%
National Institute of Corrections: Florida, 1995	0%

Other Evidence

To buttress the copious empirical evidence that the private operation of prisons saves money, there are simple commonsense observations. For one thing, why would so many states and federal agencies enter into contracts with private prison firms if not to save money? Tennessee state senator Jim Kyle points out that only the potential cost savings that private prisons offer will entice a politician to take on the battle to contract for correctional services.[66] Indeed, the most frequent reason given for privatization is to save money. Unless we assume that the decision makers in all the governments that contract with private prison firms are willfully stupid, we have to believe that cost savings are being achieved.

This observation is buttressed by the legislation many states have passed to ensure cost savings from prison privatization. For example, Texas and Mississippi both require contracts with private prisons to cost at least 10 percent less than using the state system, Florida requires 7 percent savings, and Tennessee requires payments to private firms to be less than government facility costs. States are refining their methods of assuring savings. Several of the studies in Table 3 were commissioned by state governments checking to see that cost savings were achieved. The Arizona Department of Corrections, in cooperation with the state Office of Excellence, is developing a new and sophisticated cost comparison model.[67]

Conclusion on Cost Savings

The evidence from comparative cost studies strongly supports the conclusion that private prisons save an average of 10 to 15 percent on operating costs. The conclusion is also supported by the experience of public officials in many states that use private prisons. Competitive pressure provides the incentive to be efficient that helps drive private-sector costs down, and the firms achieve cost savings through innovative design and management practices.

How do the Private Companies Save Money

Undeniably, the key to the lower costs of the private sector is competition. In order to win contracts—and keep them—a firm must be efficient. Rising costs, or cuts that lead to poor quality, would soon take a firm to where it could win no more contracts.

The private sector saves money by doing a number of things differently from government. Since their success hinges on delivering the same product as the government but at lower cost, or a better product at a cost-effective price, they turn to new management approaches, new monitoring techniques, and administrative efficiencies—in a word, innovation.[68] Moving beyond "the way it has always been done" allows them to reduce labor costs, reduce tension between correctional officers and inmates, make full use of a facility's capacity, and make more efficient purchases.

Reduce Labor Costs

About two-thirds of correctional departments' operating budgets are devoted to personnel,[69] so naturally that is where most of the opportunity for savings lies. Private operating firms strive to reduce personnel costs without understaffing a facility. They do this by:

Using more efficient facility design. If a private firm has a role in designing a facility, it is likely to use innovative new design techniques, with sight lines and technology that allow inmates to be monitored with fewer correctional personnel.[70]

Reducing administrative levels. Private operating firms tend to have fewer administrative personnel than the often bureaucratic structures of government correctional departments.[71] One private prison administrator, with 14 years of experience in government corrections, says that private prisons use roughly one-third the administrative personnel government prisons use.[72]

Minimizing the use of overtime. Many correctional departments are understaffed, leading to the use of overtime to ensure sufficient correctional officers for each shift in each facility. Sometimes it is less expensive to use overtime than to hire more employees, but only up to a point. Overtime also increases when employees call in sick. In the public sector, sick time is considered an entitlement, not a privilege, and it is almost rebellious not to use it.[73] With considerable success, private firms use incentives to reduce sick time and the consequent overtime expenditures.[74] While overtime helps raise the take-home pay of existing employees, it can significantly raise operating costs. By using full staffing and more efficient personnel management, private prison firms use less overtime.[75]

Exercising greater freedom to manage personnel. Private operating firms are not bound by civil-service rules in managing their personnel; this significantly reduces personnel management costs.[76] Private opera-ting firms can use both positive and negative incentives to induce employees to perform. Civil-service rules and terms of public-employee union contracts tend to increase costs.[77]

As a rule, private operating firms do not cut costs by cutting personnel quality. Pay for correctional officers at private firms tends to be nearly the same, or only slightly lower, than for government correctional officers.[78] Where compensation is lower, private operating firms make up for it in part by offering opportunity for advancement based on merit rather than civil-service rules. Also, many private operating companies offer employee incentive packages that can be very lucrative. For instance, employee stock ownership plans have reaped tremendous rewards for many employees.[79]

Reducing Incidents

Almost every incident between inmates, or between inmates and correctional officers, costs a prison money. These incidents lead to lawsuits, which also increase personnel costs. Private operating firms respond to these incentives by managing facilities in ways that minimize incidents.[80] This means maintaining tight control of inmates and keeping them well-fed and occupied with work, education, or recreation—in short, establishing in the inmates' eyes the legitimacy of the private correctional officers' authority.[81] Several studies have shown that privately operated facilities tend to have fewer incidents than comparable government facilities.[82] In Florida, "get tough" policies in the state-run prisons have been accompanied by a 62 percent increase in inmate assaults on other inmates and a 250 percent increase in inmate assaults on correctional officers. In the state's private prisons, where the new policies did not apply, there has been no such increase in incidents.[83]

Using Full Capacity

If a jurisdiction does not use all of the beds in its facility, private operating firms can often lower the per-inmate costs by contracting to hold prisoners from other juris-dictions in the excess space. This allows the local jur-isdiction to reduce its share of covering the fixed costs of operating the facility.

Efficient Purchasing and Management

Freedom from bureaucratic purchasing rules and procedures lets private operating firms shop locally for the lowest-cost necessary supplies and services.[84] This saves both time and money. One private prison warden explains that if he needs some item, such as camera film, he doesn't have to order it through a complex state purchasing process or wait for it to be shipped from a distant supplier—he just goes to a store and buys it.[85]

The story is similar for facility maintenance. Private operators and owners of prisons have incentives to make maintenance decisions that save long-run capital costs as well as current operating costs. Private firms can invest today in ways that generate savings over time, while the public sector often has difficulty getting approval or funds for such investments. For example, in one prison a private company that took over operations switched all lighting over to fluorescent bulbs and refitted the plumbing to stop rampant leaks, generating considerable savings in utility costs.[86]

Conclusion and Policy Recommendations

DOCs at the federal, state, and local level should closely examine how and by what standards the private sector can be involved in their corrections system. Experience with privatization to date shows that it requires care in use, but when properly implemented can deliver quality improvement and cost savings.

Further study of the benefits of a competitive environment in corrections is needed. Theory, and examples from other industries suggest that competition ensures the optimal level of efficiency and quality. In choosing whether to privatize, decision makers should:

1. **Recognize the varied motivations for privatization.** Cost comparisons are only part of the data needed to evaluate the merits of privatization, and the measurable data alone cannot paint a full picture. The full measure of worth of privatization has to be assessed in a policy context with due given the broader goals that can be achieved. Privatization can offer increased innovation, access to expertise, improved quality, and enhanced accountability. Most important is recognizing that cost savings from privatization is itself a product of competition, and that competition has beneficial effects on the entire system.

2. **Avoid over-reliance on cost comparison data.** In evaluating privatization's merits and deciding whether or not to use it, policy makers should be wary about over-reliance on cost comparisons. They should recognize that cost comparisons tend to be static in nature, assuming away changes and differences that privatization brings about. The simple fact is that cost comparison is more an art than a science[87]—a fact that pains many who would like cost comparisons to be simple matters of data analysis. With such cautions in mind, however, well-conducted accounting and economic studies can be very helpful in judging the merits of privatization.

3. **Use current best practices for contracting to ensure optimal results.** Performance-based contracts have emerged as a state-of-the-art contracting tool to give government managers better control over contractors and greater assurances of accountability. Performance contracts clearly spell out the desired result expected of the contractor, but the manner in which the work is to be performed is left to the contractor's discretion. Contractors are given as much freedom as possible in finding ways to best meet the government's performance objective.

   What this means for corrections privatization is that performance-based contracts are a key way to capture the broad range of privatization goals that go beyond simple cost savings. They allow governments to purchase results, not just process, rewarding the private firm only if specified quality and performance goals are met.

4. **Recognize the benefits of meeting needs and having options.** Privatization gives policy makers a unique opportunity to address specific needs and specific goals they may have. Privatizations and contract awards can be structured so that goals are met. Furthermore, the breadth of options that privatization gives policy makers is important. Privatization is not a one- size-fits-all solution—several approaches or techniques are available to decision makers. After evaluating all of the options available, negotiations with the private partner still can be used to create a structure and mechanism that is mutually beneficial.

The cost and quality comparison literature tells us two things. First, it is remarkable that such a wide variety of approaches spanning over a decade and half of research conducted in states across the nation repeatedly comes to the same conclusion—that privatization saves money without reducing quality. No one has offered a technical argument for how the admitted imperfections of this literature could lead to such one-sided conclusions. Rather, it takes a huge leap of skepticism to conclude anything but that privatization saves money without reducing quality. Second, there is good reason to continue to conduct such comparisons and strive to improve data collection and comparison techniques.

Cost comparisons are only part of the data needed to evaluate the merits of privatization, and the measurable data alone cannot paint a full picture. The full measure of worth of privatization has to be assessed in a policy context with full due given the broader goals that can be achieved. Most important is recognizing that cost savings from privatization is itself a product of competition, and that competition has beneficial effects on the entire system.

Policy makers should be wary of over-reliance on cost-comparison data in making privatization decisions, and be certain that cost analyses do not take upon themselves to make policy assumptions in determining cost figures. Factors such as quality and innovation are often key reasons for privatizing, even if the cost is higher. Cost savings can be important, if weighed in the context of system-wide dynamic change that competition, through privatization, brings. Performance-based contracts allow governments to capture the broad range of goals of privatization, while rewarding good performance and penalizing poor performance.

Furthermore, there is clear and significant evidence that private prisons actually improve quality. Independent accreditation by the American Correctional Association (ACA) is designed to show a facility meets nationally accepted standards for quality of operation, management, and maintenance. There are currently 5,000 government and privately managed detention facilities located around the United States, with only 532 accredited by the ACA--465 are public and 67 are private.[88] Thus, no more than 10 percent of government correctional facilities have been accredited, whereas 44 percent of private facilities have been accredited. This dramatic difference suggests that private prisons are providing quality services—while remaining cost- efficient and providing significant cost savings.

When goals are properly identified and established, privatization often leads to success. Numerous independent studies show that the quality of private prisons is at least the same level as government prisons, and in most cases improved through privatization. Best practices suggest that cost savings is rarely used as a stand-alone merit for privatization, but when savings is a motivation it can be achieved. Time series data from Arizona and Texas coupled with several other studies, support conservative estimates of savings between 5 and 15 percent.

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50 This is the central thrust of the critique offered in U.S. General Accounting Office (GAO), *Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service* (Washington D.C., August 1996) and Travis C. Pratt and Jeff Maahs, "Are Private Prisons More Cost-Effective Than Public Prisons? A Meta-Analysis of Evaluation Research Studies," *Crime & Delinquency*, vol. 45, no. 3 (July 1999), pp. 358-371. Also see Wisniewski, "A Framework for Considering," p.104 and note 12.

51 Adrian L. James et al., *Privatizing Prisons: Rhetoric and Reality* (London: Sage Publications), p. 23

52 OPPAGA, *Comparing Costs*, p.5.

53 McDonald et. al., *Private Prisons*, pp.34, and Moore, *Private Prisons*, pp.18.

54 Douglas D. Gransberg and Michael A. Ellicott, "Best-value Contracting Criteria" *Cost Engineering*, vol. 39, no. 6 (June 1997), pp. 31-34 and Michael J. Mickaliger, "Understanding Source Selections: A Best-value Methodology" *Contract Management* (August 1999), pp. 43-51.

55 See Roget D. Behn and Peter A. Kant, "Strategies for Avoiding the Pitfalls of Performance Contracting," *Public Productivity and Management Review*, vol. 22, No.4 (1999), pp.470-489, and William D. Eggers, *Performance Based Contracting: Designing State-of-the-Art Contract Administration and Monitoring Systems*, Reason Public Policy Institute How-to Guide No. 17, (Los Angeles: Reason Public Policy Institute, 1997).

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57 McDonald et.al, *Private Prisons*, pp.47 discuss the issues in defining performance for correctional services.

58 Claudia Rowland, "Discovering the New World of Accreditation Standards," *Corrections Today* (August 2000), pp.76-80; and Ronald Angelone, "Performance-based Accreditation," presentation at the Performance Measurement and Partnership Strategies for Correctional Facilities conference, Palm Beach Gardens, Florida, November 2000.

59 Edward J. Loughran and Kim Godfrey, "Performance-based Standards for Juvenile Facilities: The Wave of the Future," *Corrections Today* (August 2000), pp.91-96.

60 Victoria Department of Justice. See also William D. Eggers, "Prison Reform," *Infrastructure Finance* (December/January 1997), pp. 53–55 and Adrian Moore, "Performance-based Contracts: Getting More from Private Prisons," *Corrections Professional*, v.4, no.1 (1998).

61 Auditor General of Victoria, *Victoria's Prison System: Community Protection and Prisoner Welfare*, (Melbourne: State of Victoria, 1999), p.5.

62 Richard W. Harding, *Private Prisons and Public Accountability* (New Brunswick, New Jersey: Transaction Publishers, 1997), pp. 31.

63 Adrian Moore, *Private Prisons: Quality Corrections at a Lower Cost*, Reason Public Policy Institute Policy Study No. 240 (Los Angeles: Reason Public Policy Institute, 1998) p.18.

64 Office of Program Policy Analysis and Government Accountability (OPPAGA), *Comparing Costs of Public and Private Prisons* (Tallahassee, FL: State of Florida, March 1997), p.6.

65 "Public-Private Prison Comparison," *Arizona Department of Corrections* (Phoenix, AZ: October, 2000).

66 Sen. Kyle, in an interview with the author, September 1997.

67 Carl Nink, Assistant Director, Prison Operations, Arizona Department of Corrections, in an interview with the author, December 1997.

68 Daniel W. Okada, "Maybe This Will Work," *Infrastructure Finance,* October 1996, emphasizes how innovative private-sector practices change the very static world of corrections.

69 American Correctional Association (ACA), *Vital Statistics* (Washington, D.C.: American Correctional Association, 1994), p. 43.

70 Logan, *Private Prisons*, p. 81; Gold, "Privatization of Prisons," pp. 382–383; Randy Gragg, "A High-Security, Low-Risk Investment," *Harper's Magazine,* August 1996, p. 50. The United Kingdom's first prison to be designed, financed,

built, and operated entirely by the private sector is also its first “smart prison,” using innovative new technology to track and monitor prisoners, assuring direct observation of inmates but using fewer personnel.

[71] Public prisons spend about 29 percent of their operating budgets on administrative costs (ACA, *Vital Statistics,* p. 43), while annual reports of private operating firms indicate average administrative expenditures of around 6 to 8 percent.

[72] Mahtesian, “Dungeons for Dollars,” p. 83. This ratio is similar to that experienced with administrative staff in the privatization of many services and industries.

[73] Richard W. Harding, *Private Prisons and Public Accountability* (New Brunswick, N.J.: Transaction, 1997), p. 20.

[74] Federal employees use two-thirds more sick time than private employees, according to Peter Samuel, “Battling the Budget—Gracefully,” *Reason,* May 1984, p. 36.

[75] Logan, *Private Prisons,* p. 82; Lazere, “Privatizing Prisons,” p. 45.

[76] Logan, *Private Prisons,* pp. 82–83.

[77] Harding, *Private Prisons,* pp. 19–20.

[78] Logan, *Private Prisons,* p. 82; Singal and Reed, “Overview of the Private Corrections Industry,” pp. 14, 22. Private correctional officers are usually paid less only in areas where the salaries of public correctional officers are disproportionately high. For example, in California government correctional officers are paid 50 percent more than the national average, and $10,000 a year more than the average teacher in California. It requires only a high-school diploma to be a correctional officer.

[79] Charles Logan, on National Public Radio’s *Talk of the Nation,* January 9, 1997, tells the story of a man who worked for a private operating firm for five years; when he left, his employee-benefit stock options were worth $35,000. In the state system, he would not even have been vested in five years. (See p. 36 for more on benefits.)

[80] Robin M. Gragal, “With a Captive Audience, Private Prisons Propagate,” *Investors’ Business Daily,* May 21, 1996. Investment analysts say that private prisons maintain less-crowded and better conditions than many government prisons, meaning fewer inmate fights, happier correctional officers, and less employee absenteeism and turnover.

[81] Logan, *Private Prisons,* p. 55.

[82] See Archambeault and Deis, “Cost Effectiveness Comparison”; Thomas, “Comparing the Cost”; and Charles H. Logan, *Well Kept: Comparing Quality of Confinement in a Public and a Private Prison* (Washington, D.C.: National Institute of Justice, 1991), also at www.ucc.uconn.edu/~wwwsoci/nmexsum.html.

[83] National Public Radio, *All Things Considered,* report on private prisons, October 18, 1997.

[84] Joel, “Privatization of Secure Adult Prisons,” p. 64.

[85] Kevin McKenzie, “Tennessee Considers the Pros and Cons of Prisons for Profit,” *The Commercial Appeal,* May 25, 1997, p. A1.

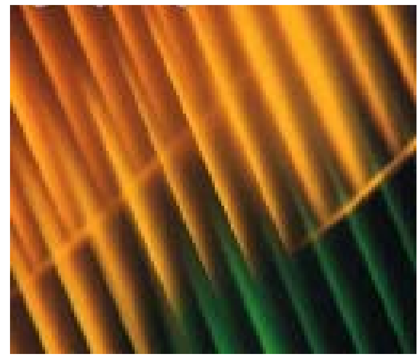
[86] Joel, “Privatization of Secure Adult Prisons,” p. 64.

[87] Jonathan Richmond, *The Costs of Contracted Service: An Assessment of Assessments*, (Cambridge, Mass: MIT Center for Transportation Studies, 1992).

[88] American Correctional Association, Commission on Accreditation for Corrections, *Accredited Facilities and Programs* (Washington D.C: American Correctional Association, 2001).





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