

# Prison privatization

Literature



Prison overcrowding has become a major issue in the last decade. The number of inmates has risen dramatically even while violent crime is down. The drug war is the primary reason for the ever-increasing number of prisoners. Whether this policy is wise is arguable. For the time being, however, strict drug law enforcement remains the policy and the corrections system must adjust. Many state and local jails have been stretched beyond capacity. This has given rise to a number of proposals to ease the problem. Overcrowding is not only detrimental to the inmates, it is a security risk.

A trend toward privatization has emerged in recent years. States have begun sending some prisoners, particularly youth offenders and illegal immigrants, to privately run detention centers. The theory is that these centers, free from government bureaucracy, can operate more efficiently and save the state money. The state, in turn, is relieved of the burden of building new prisons. This is a controversial move. Prison privatization, supposedly a cost saving measure, will actually end up being more expensive and will produce a less equal and effective system.

Constitutional questions have also arisen. States considering prison privatization as a cost saving measure would be well advised to remember the old saying – You get what you pay for. Literature Review Many organizations have taken strong stands either for or against privatization. The proposal has been argued from various perspectives in books, magazines, newspapers and the internet. Capitalist Punishment: Prison Privatization and Human Rights, edited by Andrew Coyle, et. al, takes a critical look at this trend. Several noted authors in human rights contributed to this book.

It examines what led us to this point and what effect privatization has on various individuals and groups. Some states, such as Arizona, have published assessments of the effectiveness of privatization. Prison Privatization: a feasibility study, by the Arizona Department of Corrections is one such study. It does not take a firm stance, but it does recommend further study. Many organizations have opined on the theoretical aspects of the issue. The American Civil Liberties Union is a primary force against privatization.

The AFL-CIO, AFSCME and the American Bar Association have all issued statements critical of the privatization trend. The American Friends Service Committee has written a more data centered criticism of privatization in Overview of Prison Privatization in Arizona. The American Correctional Association, the National Governors Association, and a variety of other politicians have come out in support of privately managed penal institutions. Methodology The arguments for and against private prisons will be analyzed and put into historical perspective.

Data on effectiveness, where available, will be reviewed. Organizations who have taken a position on the issue will be reviewed and their perspectives will be taken into account. Given all available data and opinions, a projection of what widespread prison privatization could mean will be presented. Data The costs incurred by the criminal justice system are exploding along with the inmate population. The share of the criminal justice system within the Gross Domestic Product is more than twice the level that it was in 1965. The amount spent on corrections alone has risen 154% over the last two decades.

During the same period, state spending on criminal justice has risen 848% and federal spending has risen 668% (Culp, 1998). Prison privatization is an emerging trend and there is not a great deal of long-term data on its' effectiveness. Some early data has shown modest savings for states using privatization. The data is limited in scope, not always independent in nature, and far from being long-term. Corrections Corporation of America, the largest private firm in the business was recently ranked as the 67th fastest growing small company in the United States. (Culp, 1998)

Most surveys of the effectiveness of privatization have come back with mixed results. In 2001, a State of Arizona study found that the cost of having its' Marana facility run by a contractor were only slightly less than average for that state. The State of Texas found a 10% savings in a similar study. Meanwhile, the state of Utah closed its' only privately run facility due to cost concerns (AFDC, 2003). A federal study conducted by The U. S. Department of Justice summarizes current research in it's" conclusion. The cost benefits of privatization have not materialized o the extent promised...Although there are examples of cost savings, there are other examples in which such benefits have not been realized. (Culp, 1998) Quality of service issues have also arisen in some states. Dade County, Florida was forced to cancel a contract with a prison management corporation because of allegations of mistreatment of their juvenile inmates. Some were kept past their release dates, allegedly, so the company could make more money. (AFSC, 2003) In Arizona, it was discovered that a prison gang was effectively in control of a private prison.

Security was substandard, reportedly. Drugs and sexual contact were prevalent within the prison. (AFSC, 2003) Analysis With data still incomplete, the argument over privatization is primarily ideological. The proponents of privatization have effectively pointed out the flaws in the current system. Are profits and prisons compatible? This is an ethical question that is central to the debate. Private prisons primarily exist to make a profit and not to serve the public [and] private prisons have financial incentives to cut corners at the expense of inmates' Constitutional rights. (Culp, 1998)

The general public may not be particularly sympathetic to the issue of prisoners' rights. An argument against privatization based on these grounds may have difficulty gaining traction. It is in the best interests of the public, however, for prisoners rights to be protected. Corporate may choose to ship prisoners out of state. This can have a devastating effect on families and increase the odds of re-offense or disciplinary problems within the prison. This effect is difficult to quantify in dollars. The disruption of families can have a profound effect on generations down the line.

The effect is particularly severe for African-Americans who already suffer disproportionate rates of poverty and incarceration. In the book by Coyle, et. al. *Capitalist Punishment: Prison Privatization and Human Rights*, Monique Morris illustrates the problem for African-Americans. Prison privatization is only an extension of the disenfranchisement from the criminal justice system. It may create more space to lock people up, but it in no way addresses the problems that caused them to be locked up in the first place. (Coyle, 2003) In the profit-conscious prison programs like job training and family counseling are minimized.

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These institutions are concerned primarily with decreasing the amount of money spent on each prisoner. This creates their profit margin. Reducing recidivism is not a primary concern. In effect, doing so would cut into their business. Case law on private prisons is still being developed. This means that as the number of private prisons increases, so will the number of lawsuits the state has to defend. Issues that have already been decided in the public sector must be re-litigated for the private sector. Additionally, the system of privatization itself will face ongoing, costly legal challenges.

Are private guards authorized to use deadly force? In what situations? Will the state be held responsible? These are troubling constitutional questions which have yet to be resolved. In the public sector, prison guards are not allowed to strike. In the private sector, they are. Not only can this be costly, it can make the private system unreliable. The state, who imprisons citizens, has a high responsibility to protect their rights during incarceration.

Oversight costs money. The state risks being held legally responsible for actions carried out by its contractors.

There are several other hidden costs which may negate any savings gained on paper. Even in a private system, the state is ultimately responsible for many of the administrative tasks involved in running a prison. The state must ensure legal access for the prisoners, transport them and investigate any security issues. To date, states have only sent low-risk or juvenile offenders to private institutions. Therefore, the real cost of running a prison is obscured. Given these difficulties, even proponents of the privatization scheme cannot say whether the plan is actually saving money.

Some states claim modest savings, while others have abandoned privatization to return to the old system. According to author Dana Joel from the Heritage Foundation, “ Comparing costs in the private and public sectors admittedly is not easy. Accounting procedures differ and quality is hard to compare. ” (Joel, 1988) Conclusion If we, as a nation, are to continue incarcerating offenders at ever higher rates something will have to be done. Either the taxpayers will have to pour more money into the criminal justice system, or there will have to be some alternate solution.

The hard truth is that criminal justice cannot be done on the cheap. Proponents of privatization claim that exposing the system to economic competition can only produce a better product. However, competition also produces price pressure. The best prison management firms will end up in the richest areas. Other municipalities will have to go back to the previous system or choose from the leftovers. Saving money is not a valid measure of the success of our society or criminal justice system. The data has shown that the criminal justice system is being strained to its’ limits.

That can be agreed upon. However, the rush to privatize can be fraught with problems. The unsure prospect of cost savings is a questionable justification for risking civil rights. Some aspects of privatization could potentially be adopted into the state run system. Consultants from the private sector could make helpful suggestions on how to make the system more efficient and humane. Programs that give the inmates more meaningful work and pay could, in the long run, ease the costs to the state. Privatization, however, is too risky to undertake on a large scale