

Research paper privatization of prisons



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Many feel that the line dividing the institution system and professional world should not be crossed. Privatization of prisons is a controversial topic for the business world. The advantages and disadvantages teeter on the scale of ethics. The temptation of financial gain has drawn the attention of many who seek to use the age old form of correctional rehabilitation as a way to increase their bank accounts. Through review of the prison system and its operational background with and without the influence of privatization the advantages and disadvantages of business involvement will be revealed.

Through historical research of the prison system and its operation one must understand the purpose of having a prison system. According to Webster (2010), “ prison means a state of confinement or captivity” (para. 1). Being imprisoned or jailed is a way to create a form of punishment to provide an atmosphere leading to rehabilitation. This task has been handled for hundreds of years at the state and federal level. An individual is sentenced according to the severity of his/her offense and sent to a period of confinement corresponding with the offense.

As a prisoner of the state or federal institution they must abide by the laws of that entity. The problem arises when a private entity has the authority to make decisions on the operation and legalities of handling an institution. Privatization defined by Webster (2010) is, “ to change a business or industry from public to private control or ownership” (para. 1). Privatization of prisons came into being because of the “ tight strain on state and federal budgets” (Grapes, 2000, pg. 95).

The private institutions record lower operational costs and equal quality in their institutions, the main issue concerns fall within the idea of private authority and law. The control afforded the operators of the private prison system allows them to cut cost and hire less security which has been shown to increase inmate violence. The guards are often paid less and required to do the same job as public owned prisons, which has led to a history of high turnovers. The punishment for individuals also has the potential to be harsher when in the private sector.

The purpose of this research is to weigh the advantages and disadvantages of privatization of prisons. The research questions asked will be; 1) What factors present a need for a private institution? 2) How is the public prison system different than the private? 3) Are the laws based on the same principles in private prisons as public? 4) Who can own a prison? Status, education, finances? 5) What impact does imprisonment in private versus public have on the prisoner?

The significance of the research will be to identify which option private or public would be beneficial to all parties involved. Research should show the relevance of using one or the other to increase the well being of the individual, the community, and the institutional system. The assumption that would be presented would be concerning the involvement of lobbyists a possible increase in prison population would occur to create financial gain. The private systems might be filled with individuals that were wrongly imprisoned to profit those in control.

For most of the first 200 years of American history, the Eighteenth Amendment's prohibition on cruel and unusual punishment banned torture and other barbarous punishments. Then it banned punishment that was disproportionate to the crime, such as stealing a loaf of bread. (Grapes, 2000, p. 78) This amendment was created to protect the rights of the individuals in the system against similar issues that are feared to come into play in the private systems. Limitations would arise through means of regulation and how it should be handled to ensure fair practices within the system without constriction of administrative power.

The birth of the contemporary American private prison industry may be traced to 1984, when the United States Immigration and Naturalization Service became the first federal agency to contract for private correctional services, with the Corrections Corporation of America. This initial movement toward the federal privatization of corrections was quickly followed by contracts for outsourcing developed by the US Marshals Service and the US Bureau of Prisons in 1986. (NICIC, 2001). The first county-level private prison contract was signed in 1984, between Hamilton County, Tennessee and the Corrections Corporation of America. Shortly thereafter, in 1985, the first state-level contract was signed, between the Commonwealth of Kentucky and the United States Corrections Corporation (NCPA 1995). In 1987, approximately 3, 122 inmates out of 3. 5 million inmates were confined in private corrections facilities in the United States. By 2001, the total United States inmate population had swelled to a staggering 6. 5 million inmates—123, 000 of whom were confined in private facilities.

This 4, 000% increase in the number of prison beds in private hands was fed by the concomitant 90% growth in total inmate populations in the United States as a whole. (BOJS, 2001). The current crisis in corrections, which has been characterized by severe overcrowding, antiquated facilities, and court orders mandating state and local governments to address their unconstitutional prison conditions, has generated interest in contracting out the management and/or ownership of entire correctional facilities to private corporations.

This idea has attracted the attention of state and local governments that are finding it increasingly difficult to raise additional revenues to finance improvements in correctional facilities. The high cost of building facilities and providing adequate services comes as no surprise to those who have worked in the field. The AFSCME does not believe that the “ private ownership and operation of correctional facilities” is the answer.

Although a state or local government may attempt to contract out its correctional facilities, they cannot relinquish the legal responsibility or liability for the incarceration of inmates. Contracting out correctional facilities to private corporations creates an inherent conflict of interest between a corporation’s desire to maximize profits by maintaining maximum capacities, and state or local government efforts to develop possible alternatives to incarceration for specific classifications of inmates.

Staff salary and benefit levels make up approximately two-thirds of the cost of operating correctional facilities. Several major corporations involved in the privatization of corrections have clearly indicated that cutting salary and

benefit levels is one way they plan to realize profits. Current salary and benefit levels for corrections staff are extremely low in relation to the responsibilities, complexities, and the unusually high levels of stress and danger which are characteristic of the occupation. Further reductions in salary and benefit levels will severely hinder the recruitment of competent and qualified professionals into the occupation. Current staff-to-inmate ratios in many state and local correctional facilities are too high to maintain adequate levels of security. While further reductions in staffing levels may create profits for private corporations, the security of the institution may be compromised. Traditionally, the deprivation of an individual's freedom has been a sanction imposed only by government. Ethical consideration must be given to the legitimacy of delegating such an awesome responsibility to a private, profit-motivated corporation.

Although private corporations argue that they can operate correctional facilities less expensively, governments will assume costs such as the development and monitoring of contracts, the intake and classification of inmates, the risk of potential bankruptcy of the private corporation, and other hidden risks and costs that may not be immediately apparent. (NICIC, 2001). Worldwide, there are currently 17 firms managing secure facilities for adults, of which 13 are American firms (Corrections Corporation of America, 2003). Thirty-one states have contracts with one or more private firms, as well as the District of Columbia, the Federal Bureau of Prisons, the Immigration and Naturalization Service, and the U. S. Marshals Service (CCA, 2003). " That's 154 privatized facilities nationwide, with 31 more private prisons and jails around the world (CCA, 2003). Meanwhile, the private prison

industry is one of the fastest growing industries in America; yet, in spite of the rapid growth of the private prison industry, many unaddressed concerns remain.

One of the main concerns relating to prison privatization is that private corrections companies will cut costs by reducing the quality of programs and services in private prisons and public prisons which rely on some privatized services. However, " most states place legal requirements in their contracts that corrections management firms must offer programs and services that are at least equivalent to those provided by government agencies, as well as offer cost savings to taxpayers (CCA, 2003). " By doing so, these states set standards ensuring a high quality product. Breach of these standards can result in contractual sanctions, including termination (TGG, 2003). "

Additionally, private corrections companies, themselves, have an economic interest in providing quality services. For example, providing high quality food to prisoners is important because it helps prevent costly prison riots. Meanwhile, offering competitive pay to employees helps limit turnover and the cost of training new employees. Finally, private prison companies are often judged by the quality of their offender rehabilitation programs.

These programs are often a major selling point with clients and not something a private prison company can afford to skimp on. Another concern relating to prison privatization is the question of how private prisons will be monitored to ensure compliance with contract terms. Most private prison contracts provide for an " on-site public sector monitor who has complete and unrestricted access, at all times, to all facility employees, offenders,

records, and information (TGG, 2003). " Unfortunately, this type of oversight can be very expensive, an expense not included in the cost of the contract.

Some critics of prison privatization fear that private prison companies will " lowball" their initial bids and then raise their fees later when their contracts come up for renewal and governments have become dependant on their services. However, prospective clients can prevent this by avoiding short term contracts. For example, most new prison operating contracts are for terms of three to five years. Additionally, competition among private corrections companies helps keep down prices, since any company which raises its price significantly risks losing the contract to a competitor (TGG, 2003).

Recidivism is another major concern in prisons, both public and private. " According to a recent University of Florida study and report to the Florida State Legislature, inmates in privately managed prisons were 27% less likely to become repeat offenders (CCA, 2003). " Another fear voiced by critics of prison privatization is that private prison companies will cut costs by understaffing prisons. However, most private prison contracts set specific standards for staffing. Private prisons that do not maintain required staffing levels risk financial penalties if positions are not filled within designated time periods (CCA, 2003).

Additionally, there are some unanswered legal concerns surrounding prison privatization. For example, in New York there is concern that if private employees were allowed to guard prisons or jails, they would not be subject to the state's Taylor Law, which prohibits public employees from striking

(Stashenko). Meanwhile, in Virginia, Keefe Supply Co. , which runs 33 prison commissaries, is being sued for using inmate labor, since state law specifies that inmate labor can only be used for government, nonprofit, or civic organizations (Blackwell, 2003).

However, " to date, no state or federal court has ever held a correctional privatization initiative to be unconstitutional or otherwise unlawful (CCA, 2003). " Perhaps the greatest single concern with prison privatization is that private prison companies save money by hiring non-union employees, who are willing to work for less pay. These are significant savings since labor accounts for about two thirds of the cost of operating an average prison (Clement, 2002).

However, the result is that security staffs at private prisons have less experience and higher turnover rates than those at public prisons. For example, at TGG operated TAFT Federal Prison in California over 50% of all guards have less than four years on the job and only 10% had any prior corrections experience (Federal Prison Privatization, 2002). " By comparison, when a new federally run prison opens over 50% of the security staff are experienced seasoned Officers transferred in from various institutions (Federal Prison Privatization, 2002). According to a summary prepared by the BOP, studies by the National Institute of Corrections and the governments Office of Research and Evaluation revealed that, 'privatized prisons require larger staffs, have higher turnover among Corrections Officers, and have a higher rate of drug use among inmates than federally operated prisons do. ' In June 2001 the Office of Research and Evaluation found that, 'incidents such as escapes and inmate disturbances were more common at Taft, than

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at comparable government run prisons. (Federal Prison Privatization, 2002). " The cost of poor quality is then shifted onto the public sector as county or state police deal with escapes, court systems cope with prison lawsuits and public hospitals treat injured inmates (Clement, 2002). " Additionally, security staffs at privately-run prisons generally receive less training than those in public prisons. For example, at CCA operated North Las Vegas Women's Prison, new guards train for only 5 weeks before setting foot inside the facility (Private Prisons Surrounded by Conflict, Profit, 2002).

These problems may be addressed by setting specific requirements for staff experience and training in private prison contracts; however, by doing so, a client may use up much of the savings which makes privatization so attractive in the first place. Finally there is growing concern over the emergence of the Private Prison Lobby. This special interest group encourages key politicians to support prison privatization through campaign contributions and hires professional lobbyists to push for things like stricter sentencing and more mandatory minimums.

In the future, the Private Prison Lobby is likely to play an even larger role in American politics and exert greater influence over the criminal justice system (Prison Politics; It Takes Money To Run A Prison - Or Pass A Prison Bill, 2002). In the end, it seems that in spite of the many concerns associated with Prison Privatization, the trend toward increased privatization is likely to continue. In fact, recent initiatives like the Bush Administration's FAIR Act seek to ensure such an outcome by setting mandatory privatization quotas including the privatization of 7, 200 federal corrections jobs.