

Approved February 19, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE ROBERT D. MILLER at
Chairperson

2:40 a.m./p.m. on FEBRUARY 15, 1990 in room 521-S of the Capitol.

All members were present except:

Representative Gomez, excused
Representative Sawyer, excused
Representative Russell, excused

Committee staff present:

Mike Heim, Legislative Research Dept.
Theresa Kiernan, Revisor of Statutes' Office
Connie Smith Committee Secretary

Conferees appearing before the committee:

Representative Artie Lucas
Elizabeth E. Taylor, representing Horton Kansas, Inc.
Jeffrey Teter, President of Horton Kansas, Inc.
Dr. Allan Ault, employed by Rosser Fabrap International
Douglas A. Boyd, HNTB Architects
Robert Becker of Becker Homes, Everest, Kansas
Dick Mills representing Westridge Group of Associates
Jim Yount, representing Betterment of Northeast Kansas
Jonathan Small, representing Washington County Citizens for Sound
Economic Progress
Barbara Bosley, representing the American Civil Liberties Union

The Chairman called the meeting to order upon adjournment of the House of Representatives.

The Chairman called the Committee's attention to a bill requested by the Treasurer's Association relating to certification as a public finance officer. (Attachment I)

A motion was made by Representative Williams to introduce the legislation relating to certification as a public finance officer; seconded by Representative Graeber. The motion carried.

Chairman Miller stated that the hearing on HB 2679 will be recheduled next week.

Chairman Miller announced that due to the committee time being cut short (approx. 45 min.) there will be absolutely no inner reaction between the audience and absolutely no questions from committee members to the conferees. He also stated that there are 18 conferees and that their time allotted for a presentation will be limited to two minutes.

The Chairman called for a hearing on HB 2835.

HB 2835 - Act relating to regional prison authorities; authorizing the formation of same and the acquisition, construction and operation of regional prison, correctional or detention facilities.

The Chairman informed the Committee he had received letters in support of HB 2835 from Van B. Norris, President of the Bank of Horton; Kevin Struckhoff, citizen of Horton; and George M. Camp of Criminal Justice Institute, Inc. out of New York. (Attachment II)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S Statehouse, at 2:20 a.m./p.m. on FEBRUARY 15, 1990

Representative Lucas, one of the sponsors of HB 2835, appeared in support and stated this bill which is referred to as the Regional Prison Authority Act was requested to assist the state in addressing the prison overcrowding situation being experienced in Kansas both now and predicted in the future. Representative Lucas went over the balloon copy of a proposed amendment which had been developed by the Attorney General, Kansas Department of Corrections, and Counsel for Horten, Inc. (Attach. III)

Elizabeth E. Taylor, representing Horton Kansas, Inc., acknowledged there are 80 to 90 citizens, (businessmen and others in the surrounding area) in the Capitol in support of the bill. Ms Taylor gave a description of what was attached in the packet. (Attachment IV)

Jeffrey Teter, President of Horton Kansas, Inc., testified in support of HB 2835 (See Attachment IV)

Dr. Allan Ault employed by Rosser Fabrap International, architects and consultants as a specialist in corrections, testified in support of HB 2835. He feels there is a need for privatization, staff will be well trained and he felt it is an excellent proposal. (No testimony)

Douglas A. Boyd, HNTB Architects, testified in support of HB 2835. His offices are located in Kansas City, Missouri and Overland Park. (No testimony)

Ms Taylor stated that Claudia York, Attorney with the firm Shughart, Thomson & Kilroy; and Dane Britten, President of Citizens State Bank of Ellsworth, expressed their support of the program.

Robert Becker of Becker Homes, Everest, Kansas, appeared and testified in support of HB 2835. Mr. Becker spoke on commercial growth and economic need for it. (no written testimony)

Dick Mills representing Westridge Group of Associates, testified that HB 2835 will provide the policy and guidelines to cities and counties for the appropriate development and operations of corrections facilities. (Attachment V)

Chuck Simmons, representing the Department of Corrections for Secretary Davies, provided written testimony but was not present to testify. (Attachment VI)

Jim Yount, representing Betterment of Northeast Kansas, testified as an opponent and outlined some of the points provided in his written testimony. (Attachment VII)

Dave Woods, President of Betterment of Northeast Kansas, submitted written testimony but did not testify. (Attachment VIII)

Jonathan Small, representing Washington County Citizens for Sound Economic Progress, testified in opposition to HB 2835. Mr. Small provided written testimony and a copy of a researched and documented overview of the private prison issue nationwide of Ira P. Robbins. (Attachment IX)

Barbara Bosley, representing the American Civil Liberties Union testified in opposition to HB 2835. (Attachment X)

Vice-chairman Brown closed the hearing on HB 2835.

Meeting adjourned at 3:33 p.m.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE Feb. 15, 1990

NAME

ADDRESS

REPRESENTING

NAME	ADDRESS	REPRESENTING
Jessie D. Woods	221 Norton	BNEK - prison opposition
Doris J. Strube	R.R. 1 Horton	BNEK - prison opposition
Fern N. Stube	R.R. Horton	BNEK
Kathleen A. Wenger	RR 1 Powhattan	Assoc. B.N.E.K
Marianne Yussie	Rt 5 Hawatha	BNEK - prison opposition
Arthur Yussie	Rt 5 Hawatha	BNEK - " "
Alma Knudson	Horton	BNEK
Paul Lueske	Horton	BNEK
Naama Lueske	Horton	BNEK
Dale Williams	R5 Hawatha	BNEK
Marvin E. Strube	R.R. Whiting	BNEK
Ed Bentley	Whiting	BNEK
Sam & Jim Young	Valley Falls, Ks	Betterment NE Kansas
Frances Malt	Horton Kansas	BNEK
Harold Malt	Horton Kans	BNEK
Alan Peterson	Morrowville Ks	CSEP
Vicki Meyer	Washington, Ks	CSEP
Ed Miller	Heard Ks	BNEK
Kenneth Thornton	Whiting, Kan	BNEK
Larry Thornton	Whiting, Ks.	BNEK
Kimberly Rodvelt	Muscatah, Ks	BNEK
Cynthia A. Thornton	Whiting, Ks	BNEK
Karin Rodvelt	Muscatah, Ks	BNEK

HOUSE BILL No. _____

By Committee on _____

AN ACT concerning county treasurers; relating to certification as a public finance officer.

Be it enacted by the Legislature of the State of Kansas:

Section 1. From and after the effective date of this act, each county treasurer or deputy county treasurer of this state, in order to use the designation of certified public finance officer, shall be required to complete a course of instruction made available through a Kansas college or university authorized by agreement with the Kansas County Treasurers Association, and which course of instruction consists of at least 40 hours of professional education, and such additional hours as may be required to maintain current certification. Said Kansas college or university shall be an institution of postsecondary education under the jurisdiction of the board of regents.

Sec. 2. The Board of Regents is hereby authorized to promulgate rules and regulations necessary to establish and accredit the certification program and to establish registration fees payable by each county treasurer in an amount deemed appropriate to defray the cost of administering this act. Any county treasurer shall include the registration fees and costs of the certification program in his or her budget for the year in which payments on behalf of the county treasurer or his or her deputy treasurer are required to be made.

Sec. 3. (a) Not less than one-half of the credit hours necessary to complete the requirements for certification shall be for programs approved as relating to Kansas law or practices. The administering college or university may accredit any other sponsor of courses, programs or other continuing professional activities for county treasurers of this state if said college or university is satisfied that the sponsor's programs will meet the standards set forth in this section.

(b) The following standards shall be met for any program for which credit or approval is sought:

(1) It shall have significant intellectual or practical content;

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Attach I

(2) it shall deal primarily with matters related to the duties, responsibilities or operation of the office of county treasurer;

(3) it shall be presented by a person qualified by practical or academic experience to present the subject;

(4) written materials should be distributed whenever practicable to all participants at or before the time the program is offered; and

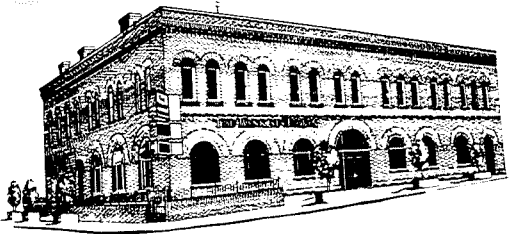
(5) it shall be presented in a suitable classroom setting devoted to the educational activity or program.

(c) Certification credit shall be awarded on the basis of one hour for each 50 minutes devoted to professional educational activities.

(d) The Kansas college or university administering the certification program shall issue certificates to each county treasurer and deputy county treasurer who successfully completes certification requirements, authorizing each such county treasurer or deputy county treasurer to use the designation "certified public finance officer."

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

FEB 13 1990



THE BANK OF HORTON

HORTON, KANSAS

66439

February 12, 1990

VAN B. NORRIS
PRESIDENT

Robert D. Miller, Chairperson
State Capitol Building
Room 183-W
Topeka, Kansas 66612

RE: HB2835 Regional Correction Authority

Dear Representative Miller:

Committee consideration on the above bill is scheduled for February 15 with testimony from representatives of Horton, Kansas, Inc. and experienced professionals in the correctional field that are part of the HKI team. Horton has spent a great deal of time, effort and money over the past two years in an effort first to win the State's designated prison site, and when that failed, to develop a municipal prison.

Benefits to Horton and the surrounding area would be substantial. The tremendous impact of 425 new jobs that create a \$9 million annual payroll would literally send prosperity shock waves in Brown County and neighboring counties. Only a precursory look at the County's extremely high unemployment rate, low average income, and projections for declining population over the next several decades is needed to justify the need for jobs this type of service industry provides. Furthermore, correction is a clean industry that does not pollute, and offers stability in employment and service demand that few other industries can match. Drawbacks in the form of "risk of escapes" or increased demands on infrastructure are either minimal or can easily be rebuffed by the economic benefits of such a project. A publication by the State's Department of Commerce showing the impact of 100 additional basic jobs on the average Kansas County, demonstrates a projected annual increase of \$25.5 million in personal income, \$539,000 in increased property taxes, and over \$11 million in retail sales for a project of this magnitude.

Benefits to the State of Kansas, apart from the spillover economic benefits to other parts of the State and the increased revenues these would produce, are most obviously found in the availability of added prison space on a leased basis at a generally lower cost. Incarceration demands are projected to swell over the next decade, nationwide and for the State as well. The leased option approach offered by HKI gives the State a viable and forward looking alternative to expensive state constructed projects and is intended to supplement rather than replace present building programs. The present HKI development team is representative of the high level of professionalism that would manage and operate the facility all under the review and regulatory guidelines of the State's Department of Corrections.



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attach - II

RE: HB2835 Regional Correction Authority
February 12, 1990
Page Two

This facility is wanted and it is greatly needed. The State is not being asked to invest any dollars, yet when the need arises, leased prison space will be made available if the State so chooses. The facility will meet and exceed all State standards and guidelines and the Department of Correction is presently giving its welcomed input as to its design and construction. The only drawbacks are those common to correctional facilities everywhere, yet because of the rural but convenient location on K-20 only seven miles from US 75, even these drawbacks are less than those normally found. The evidence and weight of fact is clear. The Horton Correctional Facility offers Kansas a unique, safe, economically beneficial, and controllable option to the overcrowding of our prison system. I hope you will join your colleagues in giving this proposal your unqualified support. Thank you.

Sincerely,



Van B. Norris
President
Finance Commissioner for City of Horton

VBN:jf

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FEB 13 1990

216 East 10th Street
Horton, KS 66439
February 12, 1990

Mr. Robert D. Miller
Chairperson
Room 183-W
State Capitol Building
Topeka, KS 66612

Dear Mr. Miller:

As a citizen of Horton, I understand a bill has been introduced that would allow for the creation of a prison authority in northeast Kansas. If passed, this bill will allow the city of Horton to proceed with its plan to build a correctional facility.

As a member of the Local Government Committee, I ask for your support of this bill. The opportunity for our community to build a correctional facility would provide a much needed economic boost for Brown, Atchison, Jackson, Nemaha, and Doniphan Counties. In fact, this facility would create over 400 new jobs with an annual payroll of over \$11 million.

By supporting this legislation, you will give our community and surrounding communities a fighting chance for future economic and industrial development. Please vote **yes** on **House Bill 2835**. In doing so, you will give my children (Darcy--age 3 and Kelsey--age 1 month) and future generations the hope of growing up and raising their children in a prosperous community.

Thank you for your consideration and support.

Sincerely,

Kevin Struckhoff

Kevin Struckhoff

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Criminal Justice Institute, Inc.

FEB 15 1990

February 9, 1990

Representative Robert D. Miller, Chairperson
Local Government Committee
State Capitol Building
Topeka, Kansas 66612

Re: House Bill 2835

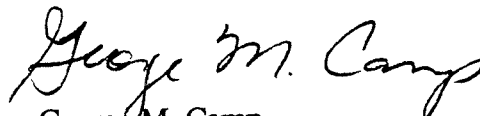
Dear Representative Miller:

I understand that on Thursday, the 15th, your committee will hold hearings on House Bill 2835. The reason I am writing is to express my support for that legislation. Had I been able to be in Topeka on Thursday, I would have asked to testify before the committee to allow for fuller explanation.

As you can see, our firm is based in New York, but our work is national in nature and focuses on correctional issues. One of our recent assignments was in Horton, where we served as consultants and researchers for Horton Kansas, Incorporated. In that capacity we conducted a national survey to determine the degree to which correctional agencies are interested in sending prisoners to the proposed facility in Horton. Since completing that survey last spring, we have continued to advise Horton on staffing, programming, and operational aspects of the facility.

The proposed facility would be operated by the governmental unit in accordance with not only Kansas laws, but would meet national and state standards for the operation of a safe and secure facility. I am convinced that Horton is approaching this endeavor in a thoroughly professional and responsible manner and that it will result in a model prison of which the entire state can be proud. The adaptation of this legislation will help make it a reality. I hope that you and your committee will come to the same conclusion and pass it on to the full house.

Sincerely,


George M. Camp

cc: Steve Davies, Secretary
Department of Corrections

STATE OF KANSAS

ARTIE LUCAS
REPRESENTATIVE, FORTY-NINTH DISTRICT
DONIPHAN COUNTY AND PARTS OF
BROWN, ATCHISON AND
JACKSON COUNTIES
608 E. VIRGINIA
RT. 1, BOX 170A
HIGHLAND, KANSAS 66035



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ELECTIONS
ENERGY AND NATURAL
RESOURCES
TRANSPORTATION

TESTIMONY BEFORE THE
HOUSE LOCAL GOVERNMENT COMMITTEE
House Bill 2835

February 15, 1990

Mr. Chairman and members of the committee, thank you for allowing me this opportunity to come before you to discuss HB 2835. This bill which is referred to as the Regional Prison Authority Act was requested to assist the state in addressing the prison overcrowding situation being experienced in Kansas both now and predicted in the future. As the committee is aware, Kansas is now under court order to reduce prison overcrowding and the Legislature has approved construction of a \$78 million, 620 bed facility. But, according to the Secretary of Corrections, the day that facility opens its doors, Kansas will need more space. He is also quoted as saying that by the year 2000, we will have a need for 9,000 beds in the Department of Corrections, if the proposed drug laws are enacted.

This is not a problem which is peculiar to Kansas. Forty-seven of the 50 states are in the process of building new prisons. Over 700 new facilities housing 133,000 inmates are planned during the next few years at a cost of \$5.6 billion and an operating cost for the next 30 years of over \$70 billion. California alone plans to spend \$1.2 billion during the next 5 years. The sad part is no amount of construction is likely to catch up with the overcrowding problem. The volume of new inmates is too great and their terms too long. Texas, California and Florida could build a new 500 bed prison every month and never reduce overcrowding if the trend continues.

In some instances, part of the long-range solution to the overcrowding crisis will involve building new state and county owned prisons and jails. But in many cases, that costly and problematic step can be avoided. In all instances, there must be a more profound

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Attach. III

commitment to thinking about the consequences of prison and jail construction than there has been in the past. Looking at all possible options and the total economic impact to the state as a whole, utilizing a totally integrated approach joining forces between the public and private sectors to develop the most economically viable approach to attack the problem.

There are many who feel that the private sector can be a great ally in this struggle and it has been shown around the country that private community-owned facilities are being utilized to cost effectively meet the need.

There are presently, in Kansas, 2 communities proposing to construct detention facilities and several others which have voiced interest in this area. However, the Attorney General has stated that until a state-wide policy is approved by the Legislature, he would have major concerns with potential liability to the state and also for the protection of Kansas residents. In discussions of this bill on Monday with Attorney General Stephan and Secretary of Corrections Davies and his staff, several amendments were suggested; and I will review these with you. With the amendments included, both Attorney General Stephan and Secretary Davies are comfortable not only with the concept, but also with the bill as a whole addressing all concerns they raised.

I feel that it is responsible leadership for the Kansas Legislature to establish a state policy to address the construction of these types of community-based prisons and also to consider these facilities as viable alternatives to further state-funded prison construction to relieve the prison needs of Kansas in the years ahead.

I would now like to review the proposed amendments and would then stand for any questions.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

February 14, 1990

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

The Honorable Artie Lucas
State Representative
State Capitol, Room 181-W
Topeka, Kansas 66612

Re: House Bill 2835

Dear Representative Lucas:

This is to confirm our conversation of last week in regard to House Bill 2835. As you know, in Attorney General Opinion No. 89-139, I advised that a city could not by charter ordinance exempt itself from certain statutes relating to the construction of a penal facility. It was my opinion that such an endeavor did not fit within the "local affairs and government" language of Article 12, Section 5 of the Kansas Constitution, and are outside the authority granted by that constitutional provision.

After examining House Bill 2835, which sets up a regional prison authority, I believe this legislative authorization would meet the objections stated in Opinion 89-139 and thereby authorize local authorities to engage in a regional prison authority.

Very truly yours,

A handwritten signature in cursive script that reads "Bob Stephan".

Robert T. Stephan
Attorney General

RTS:bls

The amendments below have been developed in the specific language shown in meetings held on February 12, 1990 between the Attorney General of the state of Kansas and Horton, Inc. and between the Kansas Department of Corrections and Horton, Inc. Previous technical amendments provided by bond counsel for Horton, Inc. have also been included and agreed to by the above parties.

Session of 1990

HOUSE BILL No. 2835

By Representatives Lucas, Amos, Bryant, Chronister, Eckert,
Flower, Freeman, King, Lawrence, J.C. Long, Lowther,
Mollenkamp, O'Neal, Patrick, Pottorff, Samuelson, Schauf,
Shallenburger, Smith, Snowbarger, Turnbaugh, Vancrum, Wil-
liams and Wisdom

2-6

13 AN ACT relating to regional prison authorities; authorizing the for-
14 mation of same and the acquisition, construction and operation of
15 regional prison, correctional or detention facilities, _____ and authorizing the issuance of bonds relating thereto.
16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. As used in sections 2 through 9: (a) "Regional prison
19 authority" means a regional prison authority created pursuant to
20 section 2 and amendments thereto.

21 (b) "Publication" means publication once a week on the same two
22 day of the week for ~~three~~ consecutive weeks in a newspaper of
23 general circulation in the county or counties wherein such publication
24 is required to be made. Publication shall be complete on the date
25 of the last publication.

26 (c) "Created," as related to regional prison authorities, means the
27 activation of such authorities by ordinance or resolution as provided
28 herein.

29 Sec. 2. (a) It is the purpose of this act to promote, stimulate
30 and develop the general welfare, economic development, and pros-
31 perity of the state of Kansas, while providing for the safety of its
32 citizenry; to provide for the creation of regional prison authorities
33 and the construction and operation of regional prison, correctional
34 or detention facilities within the state; to thereby encourage and
35 assist in the expansion or retention of existing businesses and industry
36 while encouraging and assisting the location of new business and
37 industry in the state; and to promote the economic stability of the
38 state by maintaining and providing employment opportunities, thus
39 promoting the general welfare of the citizens of the state. A regional
40 prison authority shall be a public body corporate and politic which
41 if established shall be known as the "regional prison authority" of _____ or cities
42 the city or of the county. Joint regional prison authorities may be _____ or counties
43 created under authority of this act by cooperative agreement ex-

1 cuted by the governing bodies of any city or county or cities or
2 counties. Such joint authorities formed by such cooperative agree-
3 ments shall have all the powers and jurisdiction enumerated in this
4 act. ~~The creation of joint regional prison authorities shall be by~~
5 ~~ordinance or resolution and none shall be created without approval~~
6 ~~of the legislature by concurrent resolution. The authorities shall not~~
7 ~~transact any business or exercise powers hereunder until the passage~~
8 ~~of a concurrent resolution of the legislature as herein provided.~~ A
9 regional prison authority created hereunder may sue and be sued, and
10 plead and be impleaded, subject to the limitations and other pro-
11 visions of the Kansas tort claims act. The exercise by such regional
12 prison authority of the powers conferred upon it shall be deemed
13 to be essential governmental functions of the creating city or county.

14 (b) Subject to making due provisions for payment and perform-
15 ance of its obligations, a regional prison authority may be dissolved
16 by the city or county, or any combination thereof, comprising it,
17 and in such event the properties of the regional prison authority
18 shall be transferred to the subdivision comprising it, or, if comprised cities
19 by more than one city or county, the ~~city or county comprising it~~ counties
20 in such manner as may be agreed upon by them. Obligations of the
21 authorities shall not be obligations of the state of Kansas, nor of any
22 city or county which creates the authority, unless the obligations are
23 specifically accepted by a majority vote of the electors of such city
24 or county voting on the issues. Notice of such election shall be
25 published in a newspaper of general circulation in the county or
26 counties once each week for two consecutive weeks, the first pub-
27 lication to be not less than 21 days prior to such election. Such
28 notice shall set forth the time and place of holding of the election
29 and the issue which the vote is to determine.

30 Sec. 3. (a) A regional prison authority created in accordance with
31 this act shall be governed by a board of directors. Members of a
32 board of directors of a regional prison authority created by the ex-
33 clusive action of a city or a county shall consist of the number of
34 members, not less than five, it deems necessary. The ordinance or
35 resolution creating the regional prison authority shall further specify
36 the manner and procedure for selection or appointment of all initial
37 and successor members of the board of directors of such authority.
38 Members of a board of directors of a regional prison authority created
39 by combinations of cities and counties shall be divided among such
40 subdivisions in such proportion and be appointed in the manner as
41 such political subdivisions may agree. The appointing body may at
42 any time remove a director appointed by it for misfeasance, non-
43 feasance or malfeasance in office.

1 (b) The directors of any regional prison authority first appointed
 2 shall serve staggered terms. Thereafter each successor shall serve
 3 for a term of four years except that any person appointed to fill a
 4 vacancy shall be appointed to only the unexpired term and any
 5 director shall be eligible for reappointment, and no director shall
 6 be removed except for cause.

7 (c) The directors shall elect one of their membership as chair-
 8 person and another as vice-chairperson, and shall designate their
 9 terms of office, and shall create and appoint such other positions
 10 and officers as the directors deem appropriate and provided for in and regulations
 11 their rules. A majority of the board of directors shall constitute a
 12 quorum, the affirmative vote of which shall be necessary for any
 13 action taken by the regional prison authority.

14 (d) Each member of the board of directors of a regional prison
 15 authority shall be entitled to receive from the regional prison au-
 16 thority reimbursement for necessary and actual expenses incurred
 17 in the performance of such director's duties.

18 Sec. 4. A regional prison authority established by section 2 and
 19 amendments thereto, shall have the full power and authority to: (a)
 20 Purchase, acquire, construct, reconstruct, improve, equip, furnish,
 21 maintain, repair, enlarge, remodel, own, sell, lease, market, and
 22 operate a city, county, state, regional, or federal prison, correctional
 23 or detention facility, or correctional training facility within the ter-
 24 ritory of the city, county or combination thereof establishing the
 25 authority, consistent with the purpose of the regional prison au-
 26 thority, which purpose is hereby declared to be a public purpose.

27 (b) (1) Borrow money from either private financial institutions or
 28 any agency of the state of Kansas or the United States of America,
 29 and to issue therefor such notes or other evidence of indebtedness
 30 as may be required, and to mortgage, pledge, or otherwise encumber or
 31 the assets of the authority ~~as~~ security therefor, and (2) issue bonds
 32 as provided in sections 7 and 8 and amendments thereto;

33 (c) apply for, receive and participate in grants from the state of
 34 Kansas, any other state of the United States, or from the United
 35 States of America;

36 (d) purchase, acquire, own, maintain, furnish, improve, repair,
 37 enlarge, remodel, construct, reconstruct, equip, hold, sell, lease or
 38 operate real or personal property for the authorized purposes of the
 39 regional prison authority, which exercise of such authority is hereby
 40 declared to be for a public purpose;

41 (e) operate, supervise, and manage a regional prison, correctional
 42 or detention facility for the housing, confinement, or incarceration
 43 of persons committed to or otherwise placed in its custody by

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1 any city, county, state, or federal government, authority or depart-
2 ment of corrections;

3 (f) operate, lease, manage, or conduct any correctional training
4 facility for the training of correctional officers and personnel;

5 (g) employ, terminate and fix the qualifications, duties and com-
6 pensation of such employees and professional help as it may require;

7 ~~(h) exercise the right of eminent domain, if approved by a two-~~
8 ~~thirds vote of the governing body of the regional prison authority,~~
9 ~~to appropriate any land, rights, rights of way, franchises, easements,~~
10 ~~or other property, necessary or proper for the construction or the~~
11 ~~efficient operation of any facility of the regional prison authority, and~~
12 ~~included in an official plan, pursuant to the procedure provided by~~
13 ~~law, that funds equal to the appraised value of the property to be~~
14 ~~acquired as a result of such proceedings shall be on hand and avail-~~
15 ~~able for such purposes. The regional prison authority shall not ex-~~
16 ~~ercise the right of eminent domain without first having received~~
17 ~~approval, by resolution, of the governing body of the city or county~~
18 ~~or combination thereof which created such regional prison authority~~
19 ~~and within whose boundaries the facility is to be located.~~

20 ~~(i) maintain such funds as it deems necessary;~~ (h)

21 ~~(j) sell, lease or convey real and personal property not needed~~ (i)

22 for the operation of the regional prison authority and grant easements
23 of rights of way over property of the authority; and

24 ~~(k) promote, market and publicize the regional prison authority~~ (j)

25 and its facilities to city, county, state, and federal correctional de-
26 partments and officers when necessary in order to insure full utili-
27 zation of its facilities.

28 Sec. 5. The board of directors of a regional prison authority shall (a)
29 prepare or cause to be prepared plans for any prison, correctional
30 or detention facility or correctional training facility together with
31 staffing, security, programming, marketing, emergency, and other
32 operational plans as may be necessary to set forth the location, type,
33 character and manner of operation of the facility to be constructed
34 and operated by the regional prison authority. Such plans shall be
35 developed in conjunction with and upon full consultation with the
36 secretary of corrections of the state of Kansas. Any facility to be
37 constructed and operated by any regional prison authority shall be
38 operated in conformity with the standards of the secretary of cor-
39 rections, and shall be regularly inspected by the secretary of cor-
40 rections pursuant to K.S.A. 75-5228 and amendments thereto.

American Correctional Association

and meet applicable American Correctional Association accredita-
tion annually. Findings and recommendations of such accreditation
shall be provided to the Secretary of Corrections within thirty
days of receipt by the regional prison authority. No contract
shall be entered into by the regional prison authority for the
confinement or incarceration of any person unless that con-
requires conformance with the American Correctional Associ-
standards.

3-7

41 Sec. 6. (a) The board of directors of a regional prison authority
42 created in accordance with section 2 shall annually prepare a budget
43 for the authority.

(b) (NOTE: amendment on next page.)

(b) Rents, charges, inmate per diem rates, and administrative fees received by the regional prison authority shall be used for the general expenses of the authority and to pay interest, amortization, and retirement charges on money borrowed and reserves therefor. If there remains, at the end of any calendar year, any surplus of such funds after providing for the above uses and reserves therefor, the board of directors may pay such surplus into the general funds of the political subdivisions creating and comprising the regional prison authority in proportion to their taxable tangible property valuation as adjusted by the assessment ratio of the state.

Sec. 7. (a) For the purpose of paying all or any part of the cost of purchasing or acquiring land or interests therein, the cost of purchasing, acquiring, constructing, equipping, reconstructing, improving, repairing, enlarging, remodeling, and furnishing of buildings, structures, correctional facilities, and related roads, fences, containment systems, and correctional training facilities or any part thereof, including additions, improvements, relocations, renovations, extensions and modifications thereof (all of which are included in a single project are hereafter referred to in this act as "facility" or "facilities"), the regional prison authority created pursuant to this act is authorized to borrow money upon credit of the income and revenues to be derived from the operation of such facilities, and to issue negotiable bonds of such regional prison authority in such amounts as the board of directors of the authority shall deem necessary for the purpose; and provide for payment of such bonds and rights of holders thereof as herein provided.

(b) The regional prison authority shall not issue bonds without first having received approval, by resolution, of the governing bodies of the cities or counties which comprise such regional prison authority.

Sec. 8. (a) Any revenue bonds authorized by this act shall be issued as provided in K.S.A. 10-1201 *et seq.* and amendments thereto, except to the extent that such statutes are in conflict with this act.

(b) Before any revenue bonds, notes or other evidence of indebtedness, in a total amount of \$1,000,000 or more, are authorized or issued under the provisions of this act, the regional prison authority shall adopt a resolution specifying the amount of such bonds, notes or other evidence of indebtedness and the purpose of the issuance thereof. The resolution shall provide that if within 60 days after the last date of publication of the resolution a petition in opposition to the resolution, signed by not less than 3% of the total of the qualified electors, of the county in which the facility is located

Sec. 5 (b) Neither the state of Kansas nor the Kansas department of corrections shall be held liable for the design, construction or operation of such correctional facility. The regional prison authority shall reimburse the state of Kansas for the reasonable cost incurred by the state in responding to any emergency situation which response is initiated by the state or requested by the regional prison authority and those reasonable expenses incurred by the Department of Corrections in monitoring pursuant to K.S.A. 75-5228, and amendments thereto, a facility operated by a regional prison authority.

Sec. 5 (c)

(75-5228(d).) Whenever the secretary determines through inspection or upon review of audit findings of the American Correctional Association that a facility operated by a regional prison authority fails to comply with the standards specified in section 5(a), the secretary shall call a meeting of the board of directors of the regional prison authority. The meeting shall be at a time and place specified by the secretary of corrections. Such hearing shall be held in the courthouse in the county in which the facility operated by the regional prison authority is located and a notice of the time, place, and purpose of such meeting published in the official county newspaper. Within 15 days after the meeting the board of directors shall file with the secretary of corrections a plan to achieve compliance with the standards. The secretary shall monitor the plan and shall annually submit a report by February 1 to the legislature regarding the regional prison authority's compliance actions.

in the most recent general election

and the qualified electors^{of any county or counties, any portion of} in the most recent general election
 which lies within 10 miles of the site or proposed site of the facility
 to be constructed, is filed with the county clerk of the county of
 residence of such electors, the authority shall submit the question
 to the voters of such county or counties at an election called for
 that purpose or at the next general election. Such resolution shall
 be published ~~once a week for two consecutive weeks in the official~~
~~city newspaper and in a newspaper having general circulation~~ in the
 county or counties creating the authority and in counties, any portion
 of which lies within 10 miles of the site or proposed site of the
 facility to be constructed. If a sufficient petition in opposition to the
 proposition is filed, such revenue bonds, notes or other evidence of
 indebtedness may be issued only if approved by the affirmative vote
 of a majority of all of the electors voting at the election held thereon.

Sec. 9. The exercise of the powers granted by this act will be
 in all respects for the benefit of the people of the state, for the
 increase of their commerce and prosperity, and for the improvement
 of their safety, health and living conditions, and the activities and
 operations of a regional prison authority will constitute the perform-
 ance of essential government functions. No regional prison authority
 shall be required to pay any taxes or assessments upon any property
 acquired and used by it or leased to another under the provisions
 of this act or upon the income therefrom, and any bonds issued
 under the provisions of this act, their transfer and income therefrom
 (including any profit made on the sale thereof) shall at all times be
 free from taxation within the state.

All sales of (1) tangible personal property or services purchased
 directly by any regional prison authority for use exclusively by such
 authority; (2) tangible personal property or services purchased by a
 regional prison authority for constructing, maintaining, equipping,
 reconstructing, repairing, enlarging, remodeling or furnishing cor-
 rectional facilities; and (3) tangible personal property or services
 purchased with funds of a political subdivision by a contractor for
 constructing, reconstructing, repairing, enlarging or remodeling a
 correctional facility for any regional prison authority shall be exempt
 from Kansas retailers tax imposed by K.S.A. 79-3603 and amend-
 ments thereto.

Sec. 10. This act shall take effect and be in force from and after
 its publication in the Kansas register.

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Horton Kansas, Inc.

Packet Contents

**House Bill 2835 with Amendments
(goldenrod)**

**General Information & Testimony
(white)**

**Articles
(ivory)**

**Letters of Support
(canary yellow)**

Attach IV

Ly

2-15-90

The amendments below have been developed in the specific language shown in meetings held on February 12, 1990 between the Attorney General of the state of Kansas and Horton, Inc. and between the Kansas Department of Corrections and Horton, Inc. Previous technical amendments provided by bond counsel for Horton, Inc. have also been included and agreed to by the above parties.

Session of 1990

HOUSE BILL No. 2835

By Representatives Lucas, Amos, Bryant, Chronister, Eckert,
Flower, Freeman, King, Lawrence, J.C. Long, Lowther,
Mollenkamp, O'Neal, Patrick, Pottorff, Samuelson, Schauf,
Shallenburger, Smith, Snowbarger, Turnbaugh, Vancrum, Wil-
liams and Wisdom

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13 AN ACT relating to regional prison authorities; authorizing the for-
14 mation of same and the acquisition, construction and operation of
15 regional prison, correctional or detention facilities, ~~_____~~ and authorizing the issuance of bonds relating thereto.
16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. As used in sections 2 through 9: (a) "Regional prison
19 authority" means a regional prison authority created pursuant to
20 section 2 and amendments thereto.

21 (b) "Publication" means publication once a week on the same two
22 day of the week for ~~three~~ consecutive weeks in a newspaper of
23 general circulation in the county or counties wherein such publication
24 is required to be made. Publication shall be complete on the date
25 of the last publication.

26 (c) "Created," as related to regional prison authorities, means the
27 activation of such authorities by ordinance or resolution as provided
28 herein.

29 Sec. 2. (a) It is the purpose of this act to promote, stimulate
30 and develop the general welfare, economic development, and pros-
31 perity of the state of Kansas, while providing for the safety of its
32 citizenry; to provide for the creation of regional prison authorities
33 and the construction and operation of regional prison, correctional
34 or detention facilities within the state; to thereby encourage and
35 assist in the expansion or retention of existing businesses and industry
36 while encouraging and assisting the location of new business and
37 industry in the state; and to promote the economic stability of the
38 state by maintaining and providing employment opportunities, thus
39 promoting the general welfare of the citizens of the state. A regional
40 prison authority shall be a public body corporate and politic which
41 if established shall be known as the "regional prison authority" of _____ or cities
42 the city or of the county. Joint regional prison authorities may be _____ or counties
43 created under authority of this act by cooperative agreement exe-

1 cuted by the governing bodies of any city or county or cities or
2 counties. Such joint authorities formed by such cooperative agree-
3 ments shall have all the powers and jurisdiction enumerated in this
4 act. ~~The creation of joint regional prison authorities shall be by~~
5 ~~ordinance or resolution and none shall be created without approval~~
6 ~~of the legislature by concurrent resolution. The authorities shall not~~
7 ~~transact any business or exercise powers hereunder until the passage~~
8 ~~of a concurrent resolution of the legislature as herein provided.~~ A
9 regional prison authority created hereunder may sue and be sued, and
10 plead and be impleaded, subject to the limitations and other pro-
11 visions of the Kansas tort claims act. The exercise by such regional
12 prison authority of the powers conferred upon it shall be deemed
13 to be essential governmental functions of the creating city or county.

14 (b) Subject to making due provisions for payment and perform-
15 ance of its obligations, a regional prison authority may be dissolved
16 by the city or county, or any combination thereof, comprising it,
17 and in such event the properties of the regional prison authority
18 shall be transferred to the subdivision comprising it, or, if comprised cities
19 by more than one city or county, the ~~city or county comprising it~~ counties
20 in such manner as may be agreed upon by them. Obligations of the
21 authorities shall not be obligations of the state of Kansas, nor of any
22 city or county which creates the authority, unless the obligations are
23 specifically accepted by a majority vote of the electors of such city
24 or county voting on the issues. Notice of such election shall be
25 published in a newspaper of general circulation in the county or
26 counties once each week for two consecutive weeks, the first pub-
27 lication to be not less than 21 days prior to such election. Such
28 notice shall set forth the time and place of holding of the election
29 and the issue which the vote is to determine.

30 Sec. 3. (a) A regional prison authority created in accordance with
31 this act shall be governed by a board of directors. Members of a
32 board of directors of a regional prison authority created by the ex-
33 clusive action of a city or a county shall consist of the number of
34 members, not less than five, it deems necessary. The ordinance or
35 resolution creating the regional prison authority shall further specify
36 the manner and procedure for selection or appointment of all initial
37 and successor members of the board of directors of such authority.
38 Members of a board of directors of a regional prison authority created
39 by combinations of cities and counties shall be divided among such
40 subdivisions in such proportion and be appointed in the manner as
41 such political subdivisions may agree. The appointing body may at
42 any time remove a director appointed by it for misfeasance, non-
43 feasance or malfeasance in office.

1 (b) The directors of any regional prison authority first appointed
 2 shall serve staggered terms. Thereafter each successor shall serve
 3 for a term of four years except that any person appointed to fill a
 4 vacancy shall be appointed to only the unexpired term and any
 5 director shall be eligible for reappointment, and no director shall
 6 be removed except for cause.

7 (c) The directors shall elect one of their membership as chair-
 8 person and another as vice-chairperson, and shall designate their
 9 terms of office, and shall create and appoint such other positions
 10 and officers as the directors deem appropriate and provided for in and regulations
 11 their rules. A majority of the board of directors shall constitute a
 12 quorum, the affirmative vote of which shall be necessary for any
 13 action taken by the regional prison authority.

14 (d) Each member of the board of directors of a regional prison
 15 authority shall be entitled to receive from the regional prison au-
 16 thority reimbursement for necessary and actual expenses incurred
 17 in the performance of such director's duties.

18 Sec. 4. A regional prison authority established by section 2 and
 19 amendments thereto, shall have the full power and authority to: (a)
 20 Purchase, acquire, construct, reconstruct, improve, equip, furnish,
 21 maintain, repair, enlarge, remodel, own, sell, lease, market, and
 22 operate a city, county, state, regional, or federal prison, correctional
 23 or detention facility, or correctional training facility within the ter-
 24 ritory of the city, county or combination thereof establishing the
 25 authority, consistent with the purpose of the regional prison au-
 26 thority, which purpose is hereby declared to be a public purpose.

27 (b) (1) Borrow money from either private financial institutions or
 28 any agency of the state of Kansas or the United States of America,
 29 and to issue therefor such notes or other evidence of indebtedness
 30 as may be required, and to mortgage, pledge, or otherwise encumber or
 31 the assets of the authority as security therefor, and (2) issue bonds
 32 as provided in sections 7 and 8 and amendments thereto;

33 (c) apply for, receive and participate in grants from the state of
 34 Kansas, any other state of the United States, or from the United
 35 States of America;

36 (d) purchase, acquire, own, maintain, furnish, improve, repair,
 37 enlarge, remodel, construct, reconstruct, equip, hold, sell, lease or
 38 operate real or personal property for the authorized purposes of the
 39 regional prison authority, which exercise of such authority is hereby
 40 declared to be for a public purpose;

41 (e) operate, supervise, and manage a regional prison, correctional
 42 or detention facility for the housing, confinement, or incarceration
 43 of any person sentenced to or otherwise placed in its custody by

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1 any city, county, state, or federal government, authority or depart-
2 ment of corrections;

3 (f) operate, lease, manage, or conduct any correctional training
4 facility for the training of correctional officers and personnel;

5 (g) employ, terminate ~~and~~ fix the qualifications, duties and com-
6 pensation of such employees and professional help as it may require;

7 ~~(h) exercise the right of eminent domain, if approved by a two-~~
8 ~~thirds vote of the governing body of the regional prison authority,~~
9 ~~to appropriate any land, rights, rights of way, franchises, easements,~~
10 ~~or other property, necessary or proper for the construction or the~~
11 ~~efficient operation of any facility of the regional prison authority, and~~
12 ~~included in an official plan, pursuant to the procedure provided by~~
13 ~~law, that funds equal to the appraised value of the property to be~~
14 ~~acquired as a result of such proceedings shall be on hand and avail-~~
15 ~~able for such purposes. The regional prison authority shall not ex-~~
16 ~~ercise the right of eminent domain without first having received~~
17 ~~approval, by resolution, of the governing body of the city or county~~
18 ~~or combination thereof which created such regional prison authority~~
19 ~~and within whose boundaries the facility is to be located.~~

20 ~~(i) maintain such funds as it deems necessary;~~ (h)

21 ~~(j) sell, lease or convey real and personal property not needed~~ (i)

22 for the operation of the regional prison authority and grant easements
23 of rights of way over property of the authority; and

24 ~~(k) promote, market and publicize the regional prison authority~~ (j)

25 and its facilities to city, county, state, and federal correctional de-
26 partments and officers when necessary in order to insure full utili-
27 zation of its facilities.

28 Sec. 5. The board of directors of a regional prison authority shall (a)

29 prepare or cause to be prepared plans for any prison, correctional
30 or detention facility or correctional training facility together with
31 staffing, security, programming, marketing, emergency, and other
32 operational plans as may be necessary to set forth the location, type,
33 character and manner of operation of the facility to be constructed
34 and operated by the regional prison authority. Such plans shall be
35 developed in conjunction with and upon full consultation with the
36 secretary of corrections of the state of Kansas. Any facility to be
37 constructed and operated by any regional prison authority shall be
38 operated in conformity with the standards of the secretary of cor-
39 rections, and shall be regularly inspected by the secretary of cor-
40 rections pursuant to K.S.A. 75-5228 and amendments thereto.

American Correctional Association

and meet applicable American Correctional Association accredita-
tion annually. Findings and recommendations of such accreditation
shall be provided to the Secretary of Corrections within thirty
days of receipt by the regional prison authority. No contract
shall be entered into by the regional prison authority for the
confinement or incarceration of any person unless that contract
requires conformance with the American Correctional Association
standards.

41 Sec. 6. (a) The board of directors of a regional prison authority
42 created in accordance with section 2 shall annually prepare a budget
43 for the authority.

(b) (NOTE: amendment on next page.)

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1 (b) Rents, charges, inmate per diem rates, and administrative
 2 fees received by the regional prison authority shall be used for the
 3 general expenses of the authority and to pay interest, amortization,
 4 and retirement charges on money borrowed and reserves therefor.
 5 If there remains, at the end of any calendar year, any surplus of
 6 such funds after providing for the above uses and reserves therefor,
 7 the board of directors may pay such surplus into the general funds
 8 of the political subdivisions creating and comprising the regional
 9 prison authority in proportion to their taxable tangible property val-
 10 uation as adjusted by the assessment ratio of the state.

11 Sec. 7. (a) For the purpose of paying all or any part of the cost
 12 of purchasing or acquiring land or interests therein, the cost of
 13 purchasing, acquiring, constructing, equipping, reconstructing, im-
 14 proving, repairing, enlarging, remodeling, and furnishing of build-
 15 ings, structures, correctional facilities, and related roads, fences,
 16 containment systems, and correctional training facilities or any part
 17 thereof, including additions, improvements, relocations, renovations,
 18 extensions and modifications thereof (all of which are included in a
 19 single project are hereafter referred to in this act as "facility" or
 20 "facilities"), the regional prison authority created pursuant to this
 21 act is authorized to borrow money upon credit of the income and
 22 revenues to be derived from the operation of such facilities, and to
 23 issue negotiable bonds of such regional prison authority in such
 24 amounts as the board of directors of the authority shall deem nec-
 25 cessary for the purpose; and provide for payment of such bonds and
 26 rights of holders thereof as herein provided.

27 (b) The regional prison authority shall not issue bonds without
 28 first having received approval, by resolution, of the governing bodies
 29 of the cities or counties which comprise such regional prison
 30 authority:

31 Sec. 8. (a) Any revenue bonds authorized by this act shall be
 32 issued as provided in K.S.A. 10-1201 *et seq.* and amendments
 33 thereto, except to the extent that such statutes are in conflict with
 34 this act.

35 (b) Before any revenue bonds, notes or other evidence of in-
 36 debtedness, in a total amount of \$1,000,000 or more, are authorized
 37 or issued under the provisions of this act, the regional prison au-
 38 thority shall adopt a resolution specifying the amount of such bonds,
 39 notes or other evidence of indebtedness and the purpose of the
 40 issuance thereof. The resolution shall provide that if within ~~60~~ days }
 41 after the last date of publication of the resolution a petition in op- } 30
 42 position to the resolution, signed by not less than ~~2%~~ of the total } 5%
 43 of the qualified electors, of the county in which the facility is located } in the most recent general election

Sec. 5 (b) Neither the state of Kansas nor the Kansas de-
 partment of corrections shall be held liable for the design, construc-
 tion or operation of such correctional facility. The regional
 prison authority shall reimburse the state of Kansas for the
 reasonable cost incurred by the state in responding to any
 emergency situation which response is initiated by the state or
 requested by the regional prison authority and those reasonable
 expenses incurred by the Department of Corrections in monitoring
 pursuant to K.S.A. 75-5228, and amendments thereto, a facility
 operated by a regional prison authority.

Sec. 5 (c)

(75-5228(d).) Whenever the secretary determines through
 inspection or upon review of audit findings of the American
 Correctional Association that a facility operated by a regional
 prison authority fails to comply with the standards specified in
 section 5(a), the secretary shall call a meeting of the board of
 directors of the regional prison authority. The meeting shall be
 at a time and place specified by the secretary of corrections.
 Such hearing shall be held in the courthouse in the county in
 which the facility operated by the regional
 prison authority is located and a notice of the time, place, and
 purpose of such meeting published in the official county news-
 paper. Within 15 days after the meeting the board of directors
 shall file with the secretary of corrections a plan to achieve
 compliance with the standards. The secretary shall monitor the
 plan and shall annually submit a report by February 1 to the
 legislature regarding the regional prison authority's compliance
 actions.

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and the qualified electors/ of any county or counties, any portion of which lies within 10 miles of the site or proposed site of the facility to be constructed, is filed with the county clerk of the county of residence of such electors, the authority shall submit the question to the voters of such county or counties at an election called for that purpose or at the next general election. Such resolution shall be published ~~once a week for two consecutive weeks in the official city newspaper and in a newspaper having general circulation~~ in the county or counties creating the authority and in counties, any portion of which lies within 10 miles of the site or proposed site of the facility to be constructed. If a sufficient petition in opposition to the proposition is filed, such revenue bonds, notes or other evidence of indebtedness may be issued only if approved by the affirmative vote of a majority of all of the electors voting at the election held thereon.

in the most recent general election

Sec. 9. The exercise of the powers granted by this act will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their safety, health and living conditions, and the activities and operations of a regional prison authority will constitute the performance of essential government functions. No regional prison authority shall be required to pay any taxes or assessments upon any property acquired and used by it or leased to another under the provisions of this act or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state.

All sales of (1) tangible personal property or services purchased directly by any regional prison authority for use exclusively by such authority; (2) tangible personal property or services purchased by a regional prison authority for constructing, maintaining, equipping, reconstructing, repairing, enlarging, remodeling or furnishing correctional facilities; and (3) tangible personal property or services purchased with funds of a political subdivision by a contractor for constructing, reconstructing, repairing, enlarging or remodeling a correctional facility for any regional prison authority shall be exempt from Kansas retailers tax imposed by K.S.A. 79-3603 and amendments thereto.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

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Horton Kansas, Inc.

Presentation by

J. Jeffrey Teter

for

The Local Government Committee

Kansas House of Representatives

February 15, 1990

*Conferees Representing
Horton Kansas, Inc.*

Elizabeth E. Taylor

Owner and President of the TaylorCo Companies, including Taylor and Associates, Topeka, Kansas. Ms. Taylor serves as lobbyist for Horton Kansas, Inc.

J. Jeffrey Teter

President, Horton Kansas, Inc. for past two years. Vice President, Bank of Horton with responsibilities in Data Processing. Immediate past president, Horton Chamber of Commerce.

Dr. Allan Ault

Currently employed by Rosser Fabrap International, architects and consultants as a specialist in corrections. Dr. Ault has been the warden of a 1,000 bed maximum security prison in Georgia and has served as Secretary of Corrections in Georgia, Mississippi and Colorado. He is a member of the Board and former chairman of the National Institute of Corrections under the U.S. Department of Justice and over the past 5 years has been Vice Chair and Chairman of the Governor's Advisory Board for Corrections in the State of Florida. Over the past 11 years, he has consulted in thirty-eight states with state and county governments (as well as the U.S. Navy) concerning correctional facility design and planning. He has chaired the Criminal Justice Department of Georgia State University and is a full professor in that department.

Douglas A. Boyd, AIA

Mr. Boyd is an Associate in the firm of Howard Needles Tammen and Bergendoff Architects Engineers Planners and has wide experience in design and construction of correctional facilities including the Western Missouri Correctional Center in Cameron, Missouri. Mr. Boyd joined HNTB after serving 5 years as Chief Architect in the Missouri State Architectural and Engineering Office.

Claudia York, Attorney

Ms. York is with the firm Shughart, Thomson & Kilroy and specializes in constitutional law. She has represented the State of Missouri as well as other correctional client work and has assisted in research and preparation of the HKI project.

Dane Britten

President, Citizens State Bank of Ellsworth and represented Ellsworth in their seeking to be the site of the State facility now located there. Mr. Britten served as a police officer in Houston, Texas and served under President Reagan as Assistant Secretary of the Department of the Interior, Law Enforcement Division. Mr. Britten also has been a City Commissioner in the City of Ellsworth.

Robert Becker

Owner of Becker Homes in Everest, Kansas providing contracting services for residential and commercial construction. Also, owner and operator of two retail businesses in Horton and Everest. Mr. Becker has served on several local boards and is currently a member of the U.S.D 330 School Board.

Horton Kansas, Inc.'s Proposal

- * Utilize a basic facility design already in operation at Cameron, Missouri, thereby saving on design and construction costs. Construction is estimated to take 15 to 18 months at a guaranteed maximum price of \$51 million.
- * Financing for the project will be through revenue bonds secured by contracts and the intent of Kansas, other states, and the Federal government to utilize the facility. The regional prison authority created by HB-2835 will lease-purchase the facility and responsibility for the facility would fall back to the leasing corporation in case of default. In the case of a revenue issue, the general obligation capabilities of the city or regional authority are not affected.
- * Construct a 1,000 cell facility, upgraded to maximum security standards and within or exceeding applicable American Correctional Association standards.
- * Space in the facility will be available to the State of Kansas, to other states, and to the Federal government on a lease contract basis.
- * In constructing and operating this facility, the regional authority will create approximately 400 jobs at an average annual salary and benefits package of \$21,000. This annual payroll of \$8.4 million and the spin-off demand for goods and services will have significant positive impact upon the northeast Kansas area.
- * The facility will be required to maintain conformance to American Correctional Association accreditation guidelines annually and the Secretary of Corrections will have responsibility for reviewing compliance.
- * Any expenses directly attributable to the State for assistance in management or emergency assistance will be reimbursed to the State by the regional prison authority.

Testimony of J. Jeffrey Teter
Before the
Kansas House of Representatives
Local Government Committee
February 15, 1990

Mr. Chairman and members of the committee, I am Jeff Teter, President of Horton Kansas, Inc. a not-for-profit Kansas corporation originally formed over two years ago as a focal point for the Horton City Commission, the Horton Chamber of Commerce and the Horton Industrial Development Commission. Our original goal was to have Horton selected as the site of the new state facility now being planned in El Dorado. Through selection as that site, it was our intent to create new jobs, foster new business and improve the general welfare of northeast Kansas. When we were not selected as the State site, we examined our options and found that the available projections continue to show a need for Kansas, as well as other states, beyond the beds already planned for El Dorado.

During the last two legislative sessions, we have heard described by the State the need for two new correctional facilities because of the expanding population in the Kansas system. Secretary Davies last week released projections showing the need for over nine thousand additional beds within the next five to ten years. Nationally, thirty-nine states are currently under Federal court order to reduce overcrowding in one or more of their institutions. In fact, nationwide there are over 100,000 more beds needed than current facilities are designed to accommodate.

We have stayed the course and overcome a myriad of obstacles in our path to successful completion of this project. The most recent, a negative Attorney General's opinion dealing with the ability of the

City of Horton to pursue such a venture under Home Rule, has come just as we were preparing the financing and hoping to get on with the project. After meeting with the Attorney General and with Secretary Davies, we have attempted to come to a more satisfactory solution for all with HB-2835.

The conferees here today on behalf of HKI ask your support of HB-2835. This bill has been designed to answer the concerns of the Attorney General, to accommodate the request of the local citizens to bring the issue to a local election and provide the Secretary of Corrections with a workable means of interaction with such a facility. The Attorney General and the Secretary of Corrections have both indicated that their concerns have been addressed via this legislation.

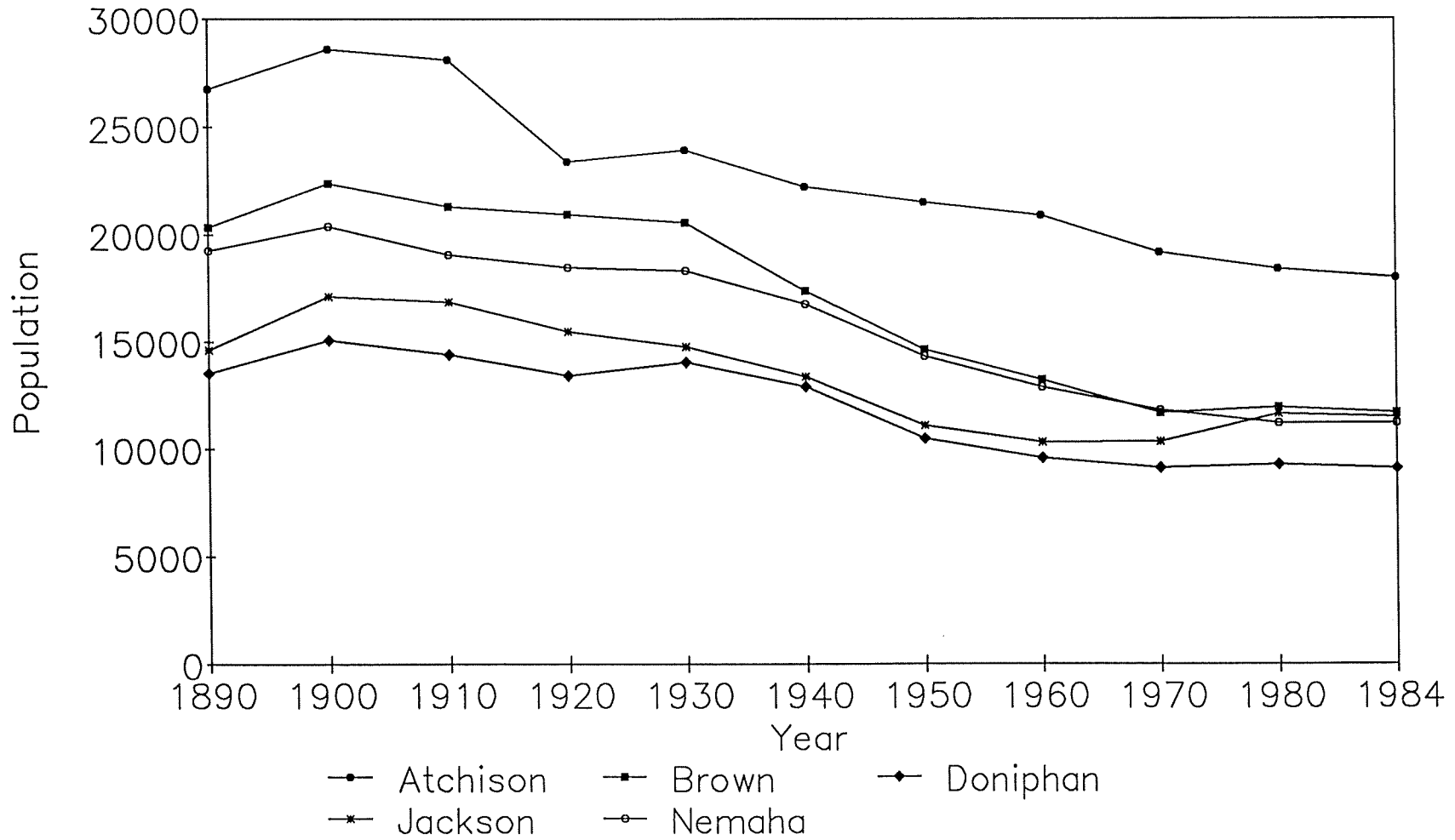
HKI cannot speak to the preparedness of the other communities that are seeking to construct and operate a correctional facility, but we can attest to the amount of planning and preparation which has gone into our project. We have been in regular contact with Secretary Davies regarding our proposals, security and procedural concerns and our intent to be consistent with Kansas programming and policy. We have also kept the Governor apprised of our project and the progress that we have and there has been no indication from his office that we are proceeding contrary to his goals or directives for the State.

Secretary Davies has met with the team that HKI has assembled on several occasions and his help has been invaluable in our preparation. The amendments that we are offering seek to clarify the relationship between the regional prison authority, the Department of Corrections and the State of Kansas.

While we realize that viewing corrections as economic development is difficult for many, we believe that the examples of Ellsworth, Leavenworth and the many other cities that are host to facilities show well corrections importance as an industry. The creation of these jobs and the spin-off benefit to the whole of northeast Kansas will go far toward reversing the flight of so many young adults and families from the area.

Northeast Kansas Counties

Population Change



Federal prisons 56 percent too full

WASHINGTON (AP) — The federal prison system is 56 percent over capacity, with more than twice as many inmates as in 1980 when the system was less than 1 percent above capacity, a congressional report says.

Federal prisons contained 24,162 inmates in 1980, but the number mushroomed to 48,017 by 1989, said the report Sunday by the General Accounting Office, Congress' investigative arm.

The 70 institutions operated by the federal system were designed

to hold a maximum of 30,860 prisoners.

Even under a Federal Bureau of Prisons plan to increase capacity by 109 percent to 64,400 inmates within the next five years, the system is still projected to be operating at 30 percent over capacity, the report said.

And authorities are projecting an inmate population of up to 147,000 in the federal system within a dozen years, the report said.

National Institute of Justice

Research in Brief

March 1985

Corrections and the Private Sector

Joan Mullen

The debate

Few proposals in the field of corrections have stimulated as sharply divided opinions as the prospect of contracting with the private sector for the management of prison and jail facilities. While the National Sheriffs' Association has expressed its disapproval and opposition to the concept of proprietary jail facilities, the executive director of the American Correctional Association has suggested that "We ought to give business a try."¹

1. Kevin Krajick, "Prisons for Profit: The Private Alternative," *State Legislatures*, April 1984, pp. 9-14.

Both deep reservations and high expectations have also come from the research community. Recognizing the flexibility and economic capabilities that reside in the private sector, some foresee the chance to introduce efficiency and innovation to a field laboring under the burden of outmoded facilities, rising staff costs, declining resources, increasing executive and judicial demands for improved services, and public calls for more prisoners at half the price. Others fear that the profit motive will interfere with professional corrections practice and question whether any part of the administration of justice is an appropriate market for economic enterprise.

The available research

Far more testing and evaluation are required before the ideological debate that surrounds these issues can be waged in more practical terms. Although the adult corrections field has a long history of contracting with private organizations for secondary community corrections placements, the concept of contracting for primary facilities is relatively new and has yet to be tested on any significant scale. For the most part, information on the benefits and hazards of privately operated adult facilities must be inferred from the experience of correctional agencies in contracting for

From the Director

Crowding and the escalating costs of American prisons and jails are among the factors prompting public officials and the private sector to experiment with new alliances in the field of corrections. Corrections departments have long relied on private vendors to furnish specific institutional services or to operate aftercare facilities and programs. But they now are turning to the private sector for help in financing new construction and in managing primary confinement facilities.

Some of the controversial issues of such arrangements—quality, accountability, security, and cost—have been hotly debated and widely reported in the news media, including *Newsweek*, *The Wall Street Journal*, and *Cable News Network*. Only fragments of experience, however, have been docu-

mented, and no comprehensive discussion of the issues has been available.

To respond to this clear need and to inform the debate, the National Institute of Justice, as the research arm of the U.S. Department of Justice, reviewed the extent of private-sector involvement in the corrections field. A special *Issues and Practices* report was commissioned to identify major trends in the privatization movement through the quick assembly of literature, expert opinion, and assessment of field practices. Corrections departments in all 50 States were contacted as well as many private vendors involved in correctional operations or construction financing.

Because data collection was completed in less than 6 weeks, the information developed is neither exhaustive nor detailed. The objective, however, was not to conduct an extended research project but to provide decisionmakers

with timely information and to lay the foundation for future experimentation and evaluation.

This *Research in Brief* summarizes some of the significant findings of *The Privatization of Corrections* and outlines the issues surrounding the new proposals for private financing, construction, and operation of prisons and jails. It also reviews other important background work sponsored by the National Institute of Corrections. The views and conclusions presented are, of course, those of the author and do not necessarily represent the official view of the National Institute of Justice. They do, however, provide a foundation for further inquiry into the private sector's potential for contributing to corrections management.

James K. Stewart
Director
National Institute of Justice

special institutional services and aftercare programs. Additional insight can be drawn from related fields of human service (such as health care) as well as the juvenile corrections field, where deinstitutionalization initiatives have prompted the development of a broader array of privately managed programs and facilities. Two recent reports have addressed this experience in the course of reviewing current developments in the movement toward proprietary adult facilities.

The National Institute of Corrections study

One study, conducted by the Criminal Justice Institute for the National Institute of Corrections, focused on the extent to which the private sector is involved in providing services to juvenile and adult corrections agencies.² In this survey, contracting was found most frequently in juvenile rather than adult agencies and was typically used to provide health services, educational and vocational training, aftercare services (including halfway house placements), and staff training. Generally, privately provided services were reported to be more cost effective than those that public corrections agencies could provide. Respondents particularly favored medical service contracts, noting improvements in both the quality of service and staff. Overall, the perceived advantages of service contracting outweighed the disadvantages, although the two most common problems mentioned by respondents were monitoring the performance of providers, followed closely by poor quality of service. Contracting agencies stressed the importance of clearly defining contractor roles and responsibilities, thoroughly checking prospective vendors' competence, and establishing careful contract monitoring and evaluation systems.

While the majority of respondents indicated plans for expanding their use of contracts for specific services, far more uncertainty was attached to the prospect of contracting for the management of entire facilities. Only 22 percent of the responding agencies

suggested that facility management contracts might be considered; about 75 percent would not consider such an arrangement and roughly 4 percent were unsure.

The National Institute of Justice study

A second inquiry, conducted by Abt Associates for the National Institute of Justice, provides an overview of several aspects of the emerging trend toward greater private-sector involvement in corrections.³ Three areas are discussed: (1) the participation of private industry in prison work programs, (2) the use of private-sector alternatives for financing the construction of prison and jail facilities, and (3) the involvement of private organizations in actual facility management and operations.

In many respects, the first area may hold the greatest promise for introducing new models of corrections practice. The aggressive participation of private industry in organizing institutions as places of work might go far toward achieving Chief Justice Burger's vision of prisons as "factories

with fences" instead of warehouses with walls. To date, however, the private sector's involvement in prison work programs has been relatively modest. Thus, while activity in this area is discussed in the full report, this summary focuses on private financing arrangements and facility management contracting—the two areas that lead the current privatization debate.

Private financing alternatives for construction

Faced with continually escalating prison and jail populations, it is hardly surprising to find State and local governments searching for alternatives to the traditional ways of meeting the needs for prisoner housing. At the State level alone, more than 77,000 beds have been added over the past 5 years. And, as Table 1 indicates, States reported plans to expend more than \$5 billion over the next 10 years to increase their prison capacities by another 104,688 beds.

Recognizing the new market opportunities presented by these expansion plans, the private sector has become increasingly active in marketing financing packages for prison and jail construction. Traditionally, governments have financed prison and jail

3. Joan Mullen, Kent Chabotar, and Deborah Carrow, *The Privatization of Corrections*, Abt Associates for the National Institute of Justice, Washington, D.C., May 1984.

TABLE 1
State prison expansion plans
(for the 10-year period beginning Jan. 1984)

Region ¹	Number of beds			Estimated cost ² (in millions)		
	Funded	Proposed	Total	Funded	Proposed	Total
Northeast	15,590	933	16,523	969.4	22.5	991.9
North Central	22,288	4,099	26,387	871.95	151.94	1,023.89
South	15,272	9,742	25,014	385.7	403.5	789.2
West	10,975	25,789	36,764	665	1,561.7	2,226.7
Total U.S.	64,125	40,563	104,688	2,892.05	2,139.64	5,031.69

Source: As estimated by respondents to a telephone survey of State departments of correction administered in Jan./Feb. 1984 and displayed by State in *The Privatization of Corrections*.

Notes: 1. Northeast (ME, NH, VT, MA, RI, CT, NY, NJ, PA); North Central (OH, IN, IL, MI, WI, MN, IA, MO, ND, SD, NB, KS); South (DE, MD, DC, VA, WV, NC, SC, GA, FL, KY, TN, AL, MS, AR, LA, OK, TX); West (MT, ID, WY, CO, NM, AZ, UT, NV, WA, OR, CA, AK, HI).

2. Estimated costs not provided for 5,206 beds (900 in the Northeast, 770 in North Central, 1,574 in South, and 1,962 in West). Note that estimates are for *capital expenditures only*, exclusive of operating costs.

2. Camille G. Camp and George M. Camp, *Private Sector Involvement in Prison Services and Operations*, Criminal Justice Institute for the National Institute of Corrections, Washington, D.C., February 1984.

combination with current operating revenues and general obligation bonds. By paying cash rather than borrowing, the use of current revenues (the "pay-as-you-go approach") avoids interest charges and long-term liabilities. It is, however, difficult to implement when construction costs escalate and cash reserves are insufficient. With general obligation bonds, governments can raise large amounts of investment capital at competitive interest rates because their "full faith and credit" is pledged to repay the debt. The problem is that general obligation bonds are subject to debt limits and voter approval which, in an era of economic uncertainty and taxpayer revolts, are often insurmountable obstacles.

For these reasons, some governments are turning to the private sector for access to a variety of lease financing alternatives. Most widely discussed are lease contracts, in the form of lease/purchase agreements, which are used to purchase a facility over time, much like an installment sale. Depending on the length and type of lease, prevailing interest rates, and other factors, leasing may be less expensive than bond financing, but the most significant advantage is the ability to evade debt limits by insisting on an annually renewable lease subject to nonappropriation. Private investors underwrite lease arrangements because they gain tax advantages, a steady cash flow from periodic lease payments, and the opportunity to transfer some of the risks of ownership to the lessee (for instance, buying insurance against accidental damage or loss). As a result, the costs may be competitive with bond financing.

Stimulated by the successful development of office buildings, port facilities, school buildings, and telecommunications systems, lease/purchase financing is relatively new to corrections. A legal entity, such as a joint powers authority or nonprofit corporation, finances the project "on behalf of" the government through the sale of revenue bonds or certificates of participation (which split the lease into \$5,000 pieces), both of which are backed by the lease payments. Promoted by investment bankers and brokerage houses, lease/purchase arrangements are being seriously considered in a growing number of States:

- In early 1984, enabling legislation had been introduced in Arizona and Missouri and had passed in Illinois, States where lease/purchase was under active consideration.
- California, Kentucky, and Minnesota had or were then evaluating proposals for lease/purchase financing of State facilities.
- While Ohio was the only State that had acquired beds through lease/purchase, some of the major sponsors of lease/purchase agreements (Merrill Lynch Capital Markets, E.F. Hutton, and Lehman Brothers Kuhn Loeb) reported significant activity at the local level: a \$30.2 million jail and sheriff's facility in Colorado, a \$50 million jail project in Philadelphia, a \$5 million jail project in Rutherford County, Tennessee, and a project in Los Angeles County for a jail and criminal justice training center.

The most controversial aspect of lease/purchase financing is its use to circumvent the debt ceilings and referenda requirements of general obligation bonds. Because no voter approval is required, lease/purchase agreements undeniably reduce citizen participation in corrections policy. Arguably, however, the public often expresses inconsistent preferences, simultaneously demanding stiffer penalties but refusing to authorize funds for prisoner housing. All too often public officials are left with no clear directions for developing realistic corrections policy.

Private facility ownership and operations

Confinement service contracts are another way of expanding corrections capacity—without assuming ownership of the required facilities. In these arrangements, vendors are responsible for locating a suitable site, leasing or constructing an appropriate building, and providing all the staff and services necessary to operate the facility. Much like the business of running a full-service hotel, room rates are established based on capital investments, operating costs, and expected occupancy, and the government is often charged by the day for each (unwilling) guest. Table 2 highlights some of the major developments in this area. Since the Abt assessment focused on contacting Federal and State adult

corrections agencies, information contracts for the confinement of juveniles and offenders under local jurisdiction is necessarily limited but nonetheless instructive.

Federal experience

The most active new market for confinement service contracting has clearly emerged at the Federal level in response to growing demands for housing illegal alien populations. Three Federal agencies have elected to develop contracted facilities to accommodate these demands:

1. The Immigration and Naturalization Service, which is responsible for the apprehension and confinement of immigration law violators pending deportation;
2. The U.S. Marshals Service, responsible for the custody of alien material witnesses—essentially, smuggled aliens held to testify against their smugglers; and
3. The Federal Bureau of Prisons, which has jurisdiction over sentenced aliens—generally violators who have reentered the country following deportation.

These facilities focus on providing short-term confinement space for aliens who may be held only a matter of days; security and treatment requirements are minimal. Beginning in mid-1984, the Bureau of Prisons also contracted for operation of a 60-bed facility for offenders sentenced under the Federal Youth Corrections Act.

State adult experience

Although the publicity that has surrounded Federal facility management contracts has led many to infer the emergence of a national trend toward "prisons for profit," little change was found in the contracting practices of State adult corrections agencies. Although new corporate providers had entered the field more aggressively than ever before, their most immediate prospects appeared to be confined to contracts for community-based facilities. Any contract resulting from the Kentucky Corrections Cabinet's RFP for minimum security housing for 200 sentenced felons (Table 2) reportedly will be administered by the Community Corrections Division. The population pressures that have required States to respond fairly rapidly to the need for larger facility networks may

TABLE 2
Facility management contracting activity
in early 1984¹

Federal Contracts	State Corrections Contracts	Local Jail Contracts
<p>Immigration & Naturalization Service</p> <ul style="list-style-type: none"> • 4 facility contracts for aliens awaiting deportation were operating (in San Diego, Los Angeles, Houston, Denver), providing a total capacity of 625 beds. • 3 facility contracts were nearing award (in Las Vegas, Phoenix, San Francisco), providing another 225 beds. • 2 additional facility contracts offering a total of 270 beds were planned in the near term (Laredo and El Paso, Texas). <p>U.S. Marshals Service</p> <ul style="list-style-type: none"> • 2 small (30-bed) facilities operated under contract in California. • Plans to open a larger (100- to 150-bed) contracted facility in Los Angeles for alien material witnesses. <p>Federal Bureau of Prisons</p> <ul style="list-style-type: none"> • Plans to operate a 400- to 600-bed contracted facility for sentenced aliens in Southwest region. (Project delayed due to siting difficulties.) • A 60-bed facility in La Honda, California, operated under contract for offenders under the Federal Youth Corrections Act. 	<p>Secondary Adult Facilities</p> <ul style="list-style-type: none"> • 28 States reported the use of privately operated prerelease, work-release, or halfway house facilities. Largest private facility networks found in California, Massachusetts, Michigan, New York, Ohio, Texas, and Washington. <p>Primary Adult Facilities</p> <ul style="list-style-type: none"> • No contracts reported for the confinement of mainstream adult populations; most private proposals still focused on community corrections facilities. • Two interstate facilities for protective-custody prisoners planned by private contractor. <p>Juvenile Facilities</p> <ul style="list-style-type: none"> • A 1982/83 survey of private juvenile facilities found 1,877 privately operated residential programs holding a total of 31,390 juveniles, 10,712 of whom were held for delinquency. Only 47 institutions were classified as strict security and 426 as medium security.² • Departing from the small, less secure settings characteristic of contracted juvenile facilities, a private contractor operates the Okeechobee (FL) Training School for 400 to 500 serious juvenile offenders. 	<p>Local Jail Contracts</p> <ul style="list-style-type: none"> • Legislation enabling private jail operations was pending in Colorado and had passed in New Mexico and Texas. • While the National Sheriffs' Association registered formal opposition to privately operated jail facilities, corporate providers reported significant interest and a number of pending proposals for jail operations in the Southern and Western regions. • In Hamilton County, Tennessee, a private contract took over the operations of a local workhouse holding 300 males and females awaiting trial or serving sentences up to 6 years in length. <p>Shared Facilities</p> <ul style="list-style-type: none"> • One private organization in Texas is planning to construct and operate a facility that would serve local detention needs as well as the needs of Federal agencies responsible for confining illegal aliens. • Other proposals have called for the development of regional jail facilities that would serve multicounty detention needs.

1. Reported in phone contacts made in January/February 1984 with additional followup later in 1984.

2. Unpublished tables from *Children in Custody: Advance Report on the 1982/83 Census of Private Facilities*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Washington, D.C.

simply be prompting a shift in the characteristics of providers—from smaller voluntary groups to firms with stronger organizational capabilities. Whether this apparent trend will lead to contracts for the management of more secure adult facilities remains unclear, particularly in view of the hesitance expressed by the majority of respondents to the NIC survey.

Juvenile facility contracting

In the juvenile field, where so-called primary facilities often resemble secondary adult facilities in their community treatment emphasis, facility management contracts have been far more prevalent. The largest of these efforts, and the one most analogous to adult facility operations, is the Okeechobee Juvenile Training Facility operated in Florida by the Eckerd Foundation, the nonprofit arm of a major U.S. drug manufacturer. Award-

ed in the fall of 1982, the contract called for Eckerd to take over the operations of an existing facility serving between 400 and 450 committed delinquents. Currently the subject of an evaluation by the American Correctional Association, the Eckerd experience is certain to offer valuable lessons to contracting agencies in both juvenile and adult corrections.

Local jail contracting

In many respects, the smaller fiscal and management capabilities at the local level provide a climate that may be most conducive to the development of private facilities. As Table 2 indicates, one contractor has taken over operation of a local workhouse. Both opposition and interest at the local level run high—particularly in arrangements that will permit the costs of jail construction and management to be shared across jurisdictions. In

order to proceed with the construction of a local jail in Texas, one private contractor had sought Federal guarantees for the use of a portion of the space to detain aliens; the balance of the facility would serve moderate-risk county prisoners. Another contractor was aggressively marketing regional jail facilities that would be shared by two to four counties. (Notably, the only primary adult facility under negotiation at the State level was also based on the concept of interjurisdictional operations. A number of States had reportedly expressed interest in the plans of one private contractor for two institutions that would specialize in protective custody prisoners drawn from the populations of a number of State prisons.)

In short, while the market for confinement service contracting at the State and local levels is clearly in its nascent stages, interest is sufficiently high to warrant a careful examination

issues that may attend any further expansion of the private sector's role in correctional management.

The issues

In the politically charged environment of corrections, the concept of privately managed facilities raises a host of questions that range from relatively simple matters of legal feasibility to more complex issues of political philosophy. Figure 1 outlines the key issues to be considered in planning the development of proprietary institutions.

Political issues. The political issues identified in the Abt report cover both conceptual and strategic considerations.

1. *Conceptual.* In a facility entirely operated by the private sector, a range of management functions involving the classification and control of inmates (including the use of deadly force) might be delegated to a private contractor. Quite apart from any legal constraints on the delegation of these functions, some observers have questioned the fundamental propriety of such a shift. There are those who will argue that some functions (including the administration of justice) are the *raison d'être* of government and cannot nor should be delegated. With equal vigor, others will argue that there is a legitimate and necessary role for private enterprise in corrections management, and the level of individual decisions that may be required to manage the flow of inmates through a facility hardly constitutes an abrogation of the broader role of government in forming system policy. In the final analysis, the issue is grounds for lively ideological debate that calls for a careful definition of the appropriate role of private providers and the limits to be placed on contracted functions.

Another level of conceptual issues relates to the general concern that privatization may have unintended effects on public policy:

- Will private providers use their political power to lobby for the development or continuation of programs that may not be in the public interest? Or, will the corrections field, which typically operates without political advantage, benefit from the new lobbying skills of private providers?

- Just as the critics of commercialized hospital facilities fear that a larger share of the burden for providing nonreimbursable public services may be placed on public hospitals, will private facilities "skim off the cream of the crop," leaving the public correctional system with the most troublesome inmate management problems? Or, can contracting agencies develop a conscious policy of distributing contract ventures across populations of differing security and service needs?

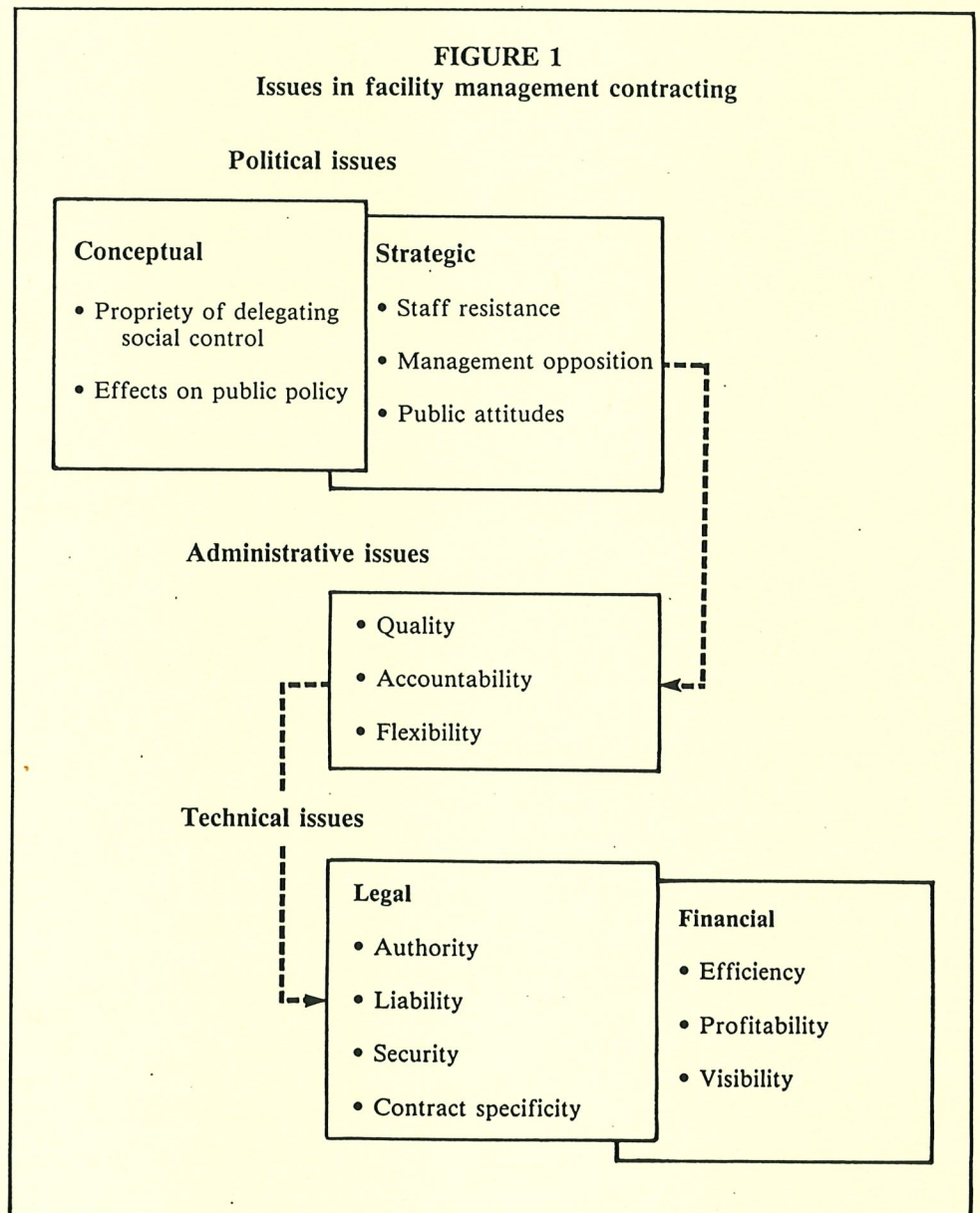
- Will the economic motives of business conflict with the objectives of providing decent conditions of confinement? Or, will public agencies develop sufficient proficiency in contract specification and monitoring to resolve this concern?

- Will contractors be susceptible to

the "Hilton Inn mentality," referring to the pressure to maintain high occupancy rates even in the absence of demonstrated need? Will the availability of a network of private facilities result in a "widened net of social control" as so often happened with the expansion of community corrections programs? Can payment provisions and careful admission, transfer, and release policies minimize these dangers?

Although no answers are now available, anticipating these issues may assist in controlling any unintended consequences.

2. *Strategic.* In the category of strategic issues, at least three sources of opposition to privately operated facilities can be anticipated. First, public employees may resist the loss of public-sector employment opportu-



nit. Whether or not there is formal union opposition, some resentment from public employees as well as strained relations between public and private corrections staff may be inevitable—particularly if private providers take over an existing public facility. The Okeechobee facility in Florida faced a good deal of opposition and staff turnover, leading most participants to agree that the time requirements for the takeover were extremely unrealistic.

General public attitudes may also constrain the development of private facilities. Fear about the security of private facilities may join traditional public reluctance to host a corrections facility in the community. In this context, private providers face substantial risk since they have no access to the override powers of government in coping with problems of community resistance.

Finally, corrections management may not be uniformly supportive of private operations that may threaten a loss of agency control. As the NIC survey has noted, "loss of turf" may, in fact, be more of an inhibitor to expanding the role of the private sector than the actual loss of employment for State workers. In short, contracting ventures are certain to require planning carefully precontract and startup activities, thoroughly calculating and communicating the anticipated benefits to the State, and actively lobbying to diffuse these sources of opposition.

Administrative issues. Issues of quality, accountability, and flexibility dominate discussions of the managerial consequences of privatization.

1. *Quality.* Because the private provider is under competitive pressure to perform and is free of civil service restrictions and the cumbersome administrative procedures commonly associated with government operations, many contend that the quality of privately provided services is likely to be superior—at least in the short run. Whether there will be sufficient market pressure to sustain improvements over the long term remains uncertain. Adequate monitoring systems, frequent onsite inspection programs, and judicious rebidding and renewal procedures are the key tools available to ensure continued performance, and need to be carefully designed at the outset.

2. *Accountability.* As respondents to the NIC survey have suggested, the difficulties and the importance of the monitoring function cannot be overestimated. The potential loss of control over agency operations was a major reservation expressed by respondents in considering the liabilities of contracting. Addressing the issue of "who's in charge" requires clearly defining roles and responsibilities in the contract document and continuing efforts to communicate and review performance expectations. While quality control is inherently more difficult when the government is dealing with an independent provider and can exert only indirect control, corrections departments remain accountable for contracted services and will be faced with the need to adapt their supervisory practices in order to create an effective public-private alliance.

3. *Flexibility.* Most observers would agree that contracting offers public agencies the ability to respond to immediate needs with greater flexibility and speed than is typically possible under government operation. In times of severe crowding, this capability is particularly compelling. The possible cost may, however, be constraints on the government's ability to change course over the long term. Transferring facility operations from one contractor to another can be a logistically difficult matter. Contracting also means reducing the public sector's own facility management capabilities, making it more difficult to revert to public management or limiting the personnel pool available to meet future corrections management needs. Finally, fewer publicly operated facilities may mean fewer opportunities to shift staff or inmates among facilities for purposes of staff training or population management.

No one of these issues poses an insurmountable barrier. Many, in fact, become irrelevant if population pressures ease, for the option to terminate contracted facilities is then readily available. All, however, need to be considered in planning the types of facilities and contract arrangements best suited to the circumstances in a given correctional jurisdiction.

Legal issues. Turning to more technical matters, at least four legal issues require careful consideration in the course of planning the development of proprietary facilities:

1. *Authority.* The first issue to be considered is whether States and counties have specific statutory authority to contract with private firms. Even where service contracting is authorized, legislative amendments may be required to permit contracts for primary facility operations. Specific language may also be needed to open contracting to for-profit organizations.

2. *Liability.* While correctional agencies may understandably wish to delegate both the authority and responsibility for facility operations, there is no legal principle to support the premise that public agencies and officials will be able to avoid or diminish their liability merely because services have been delegated to a private vendor. In this context, it becomes crucial to ensure that contractors observe appropriate staff selection and training standards.

3. *Security.* While there appear to be no legal barriers to the delegation of security functions, the issue is central to the debate on the appropriate roles of the State and its private providers. A variety of questions needs to be addressed in defining the proper role of the private sector in corrections management. Should positions that may call for the use of restraining or deadly force (e.g., perimeter security) be retained by the State? What role should the State play in internal disciplinary proceedings? Once again, if the decision is to contract these functions, staff training and supervisory requirements must be carefully specified. In addition to frequent review and inspection by contracting agencies, written client complaint procedures, client access to mechanisms for monitoring abuse, and periodic client surveys have been suggested as useful techniques to ensure the accountability of private providers.⁴

4. J. Michael Keating, Jr., *Public Ends and Private Means: Accountability Among Private Providers of Public Social Services*, National Institute for Dispute Resolution, N.Y., February 1984.

4. *Contract specificity.* Perhaps the most important contracting issue is the development of appropriate standards of performance to govern the operations of private facilities. Without explicit standards, the goals of profit maximization may well conflict with the State's interest in maintaining safe, secure, humane facilities. The standards of the Commission on Accreditation for Corrections will provide a useful reference in drafting this aspect of the solicitation and subsequent contract.

Financial issues. Last, but among the foremost issues of technical concern, are questions regarding the efficiency, profitability, and cost visibility of private facilities.

1. *Efficiency.* The relative costs of public vs. private management are a highly controversial aspect of the privatization debate. Advocates suggest that private vendors can operate equivalent facilities at lower cost due largely to the staffing efficiency that may be realized in the absence of civil service regulation, lower private-sector pension and benefits costs, and greater market incentives to increase productivity. Critics fear that the costs of private management will escalate once vendors become established, and point also to the costs of monitoring private providers as a potentially large hidden cost of management contracting.

Comparisons are difficult since public and private institutions may differ and the true costs of public facilities are often hard to isolate. The privately operated juvenile facilities described in the Abt report involved costs ranging from roughly \$30 per day at Okeechobee in Florida to \$110 per day at the Weaversville facility in Pennsylvania. The INS facilities for illegal aliens operate on average rates of \$23 to \$28 per day. It is difficult to determine, however, whether any of these facilities are less costly than public institutions, since figures for comparable public facilities are not generally available. Even where adequate data exist, strict cost comparisons may be confounded by the fact that the public corrections function is frequently underfunded. In this situation, higher costs may be a precondition for operating private institutions in accord with minimum professional standards.

Despite the difficulties, rigorous assessments of the cost issue are clearly needed. In fact, respondents to the NIC survey emphasized the importance of conducting a thorough cost-benefit analysis prior to contracting.

2. *Profitability.* The question of whether private providers should profit from providing a public service is an issue of both conceptual and financial concern. Some are offended by the concept of corrections as a business enterprise and fear that profit may be taken at the expense of sound corrections practice. Others point to the equivalent financial motivation of nonprofit organizations, the small and highly regulated opportunities for accruing profit, and the management and fiscal advantages of for-profit status. In the final analysis, choosing a private provider is no more or less than a decision to hire additional staff and is best made by evaluating the provider's history of performance, staff competence, and correctional philosophy, rather than its organizational classification.

3. *Visibility.* One of the advantages typically ascribed to contracting in public-sector areas is its ability to reveal the true costs of the public service. Corrections is no exception. The dollars required to serve particular numbers of clients under specified conditions will be clearly visible and more difficult to avoid through crowding and substandard conditions. While this may be a feature welcomed by correctional administrators, it remains unclear whether legislators and their voters will be prepared to accept the real costs of confinement practices that meet professional standards.

The next steps

Private-sector participation in the adult corrections field clearly raises many complex issues of policy and law not encountered in other fields of human service. As such, it provides a particularly critical test of the limits of privatization—a test that warrants the most systematic planning, implementation, and evaluation efforts. The Abt report identifies at least five circumstances under which careful experimentation with privately managed facilities may prove fruitful:

1. *Rapid mobilization.* Given the widely acknowledged ability of the private sector to move more rapidly to bring additional facilities and manpower on-line, combined with the uncertainty that surrounds future population trends, contracting may be useful at the State level to avoid permanent facility expansion but still accommodate near-term population shifts.

2. *Experimentation.* An agency can test new models of institutional corrections practice without making a permanent commitment or laboring under the constraints to innovation typically present in traditional corrections bureaucracies.

3. *Decentralization.* Greater geographic and programmatic diversity may be possible by calling on local contractors rather than trying to provide the same community-oriented services under the direct control of a centralized agency.

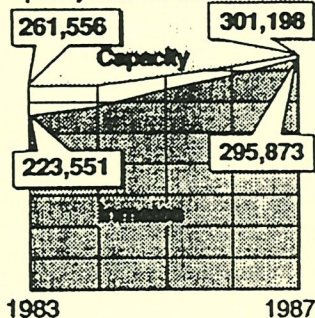
4. *Specialization.* The flexibility of private contractors to satisfy unique demands suggests that contracting for the confinement of offenders with special needs may offer significant relief to general-purpose institutions as well as more opportunities for the successful treatment of the "special management" inmate.

5. *Regionalization.* Finally, the private sector is not typically bound by the jurisdictional politics that might otherwise impede efforts to develop shared facilities among States or counties within a State.

As this list implies, the major challenge is not simply to turn "business as usual" over to the private sector, but to develop true private-sector alternatives to traditional public-sector corrections practices. As one former corrections official has asked, "Are they just going to run an outmoded system more efficiently or are they going to bring some real improvements and new ideas?" If the latter can be achieved, the emerging interest of the private sector in corrections management can only be welcomed.

Many jails overflowing

Local jails were 98 percent full at midyear 1987 and many exceeded their capacity. How the gap between inmates and capacity has closed:



Source: Bureau of Justice Statistics
(Most recent figures available)

By Elys McLean-Ibrahim, USA TODAY

Cities seek options to crowded jails

By William Dunn
USA TODAY

Crowded jails across the USA are forcing cities and counties to free scores of inmates early, or find innovative solutions such as New York's "jail barges."

In Atlanta, a court order this week will free nearly 500 Fulton County inmates before their sentences are up because of the jail's "unquestionably unconstitutional" conditions.

The jail holds about 2,250 inmates, well over the 1,800 capacity. About one in six inmates sleep on the floor.

"It is a sad commentary on the American judicial system

when more consideration is given to the constitutional rights of prisoners than to the public safety of citizens," says Michael Lomax, Fulton County Commission chairman.

A Dedham, Mass., court freed 21 county jail inmates. More may walk out Monday.

Each year, 8 million people pass through U.S. jails — city- or county-run facilities where people await trial or serve sentences of one year or less.

Although the number of jail inmates who are released early is not known, one of every four of the USA's largest jail systems is under a court order to limit population.

Early release isn't the only

option. Other jail plans:

► New York City corrections department Wednesday got its second "jail barge."

Like the first, it was used to transport British troops off the Falkland Islands. It will dock in the Hudson River and house 384 inmates.

Officials also use two converted Staten Island ferries, and ordered a \$125 million, 800-bed barge, to be ready in 1990. Since 1983, jail space has doubled, but the 18,747 population exceeds capacity by 512.

► Cook County (Chicago) jail has 300 inmates on work release and plans to put 400 on electronic monitoring systems.

The USA's largest single jail

has a population of 6,367 — 450 over capacity.

► Dade County (Miami) is using cells built for one to house four inmates. A new 1,000-bed facility just opened.

The population is at 4,808 — 467 over capacity.

► King County's (Seattle) "rent-a-bed" program sends jail overflow to state prisons with extra beds. For a year, the county has released inmates with home-monitoring devices.

The population is at 1,878 — 380 over capacity.

Dick Ford, of the American Jail Association, says crowded jails are a symptom of sluggish courts: More than half of all jail inmates are awaiting trial.

4-23

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CCA Is Proving That The Private Sector Can Build And Operate Jails At Huge Tax Savings

CCA Designs, Builds, And Manages New Prison Facilities And Renovates And Manages Existing Jails, But Most Of All They Save Taxpayers Money. After A Rough — And Expensive — Start-Up, The Company Now Is Looking To Turn A Profit Soon. The Stock's Between \$5.50 And \$6 — And Even The Prisoners Like CCA.

By Ted J. Rakstis

NASHVILLE |

It's been a long time coming, but governmental bodies at last are turning to private enterprise as a way to trim costs. The technique is known as "privatization." That's an awkward and cumbersome term, but nobody has yet come up with a better one.

The Council of State Governments estimates that private-sector companies in the United States earn \$100 billion a year by furnishing services to local governments.

For example, Phoenix has achieved annual savings of \$2.3 million by jobbing out such city functions as security and crowd control, bus system operations, trash collection, and streetsweeping.

Encouragement From Voters

Privatization isn't a new idea, but its greatest impact has been felt within the past decade. The swing to widespread use of private contractors for government work can be traced to the 1978 passage of California's Proposition 13.

The proposition placed tough limits on the power of local governments to raise property taxes. It forced California's cities and counties to develop economical methods to finance public services. Many of them found the answer through contracts negotiated with private business.

Pasadena slashed the cost of janitorial services by 25 percent — an annual savings of \$250,000 — by hiring outside contractors to wash the windows and clean the corridors of city buildings.

In Imperial Beach, municipal government faced bankruptcy because Proposition 13 had reduced yearly property tax revenues by \$600,000. The city responded with a 65 percent cut in its work force.

Along with many other measures, Imperial Beach entered into a contract with a San Diego firm that provides emergency ambulance service. And, at a cost of only \$1,000 a month, it handed operation of the community's recreation centers over to the non-profit Boys and Girls Clubs of America.

In 1984, the U.S. Department of Housing and Urban Development (HUD) released a study of 20 cities in southern California. It examined 10 municipalities that used public employees to supply eight basic services. They were compared with 10 other cities that had agreements with outside private contractors.

The results were amazing. City government came out ahead in only one category: payroll administration. Otherwise, it was no contest. HUD researchers discovered that cities using their own personnel spent 37 percent more for tree maintenance, 73 percent more for janitorial services, and 96 percent more for asphalt paving.

Beyond California, reductions in federal funding have caused many local governmental units to find new ways to offer good service at low costs. Among the most essential needs, cities and towns of all sizes have worked out arrangements with private enterprise to handle fire and police protection.

Go Directly To Jail

Privatization is showing up in some highly innovative forms. The use of private security forces is fairly common, but now entrepreneurs also have become active in jail and prison construction and management. Corrections Corporation of America (CCA) is the leader in this field.

CCA was organized in 1983 and just now is on the verge of turning a profit. As of this past June 30, its cumulative start-up deficits came to a staggering \$9.85 million. The company has long-term debt of \$11 million.

Following April, the company entered into a contract with the U.S. Immigration and Naturalization Service to run the Houston Processing Center. It houses 350 illegal aliens. By the end of 1984, CCA also was operating the Silverdale Work Camp in Chattanooga.

CCA soon acquired other jails and prisons in Texas, Florida, North Carolina, New Mexico, and Tennessee. They previously were run by federal, state, county, and municipal authorities.

A Shining Example

In October, 1985, CCA began to operate the Bay County Jail in Panama City, Florida. The deal provides a striking illustration of how private business can save tax dollars on a grand scale.

The Bay County Jail has 196 beds. Its annual budget was \$4.3 million, and the county sheriff demanded a sizable operating increase. Instead, Bay County commissioners turned the jail over to CCA on a 20-year contract basis. In the first year alone, CCA saved the county \$750,000.

"We were paying \$38 to \$40 a day per inmate when we were running the jail ourselves," says Ralph Burgess, chairman of the Bay County board of commissioners. "Today, CCA does it for \$31. I think even the biggest skeptics have come to appreciate the job CCA is doing."

When CCA first came in, the 75 jail employees were especially apprehensive. However, they soon learned that you can make more money in the private sector than in most tax-supported jobs.

Management won them over with 7 percent pay increases, first-year bonuses of \$500, and an employee stock-option plan. CCA agreed to match whatever the workers put into their stock fund.

The morale among Bay County prisoners also improved visibly. When the county ran the jail, state investigators repeatedly cited it for health and safety violations. The cells were overcrowded, and there weren't enough guards.

Newsweek reports: "A new warden retained most of the old staff, hired more guards, and distributed them through the building. Previously, the guards rarely patrolled above the basement level, leaving the inmates to run the asylum.

"CCA thoroughly cleaned the joint, hired a doctor and lawyer for regular inmate consultations, and reinstated exercise periods at the rooftop gym . . . CCA has converted a local dump into a showplace."

The per-inmate costs at all nine CCA institutions are lower than what government had been paying.

Among the most compelling comparisons, CCA slashed daily expenditures at the Santa Fe, New Mexico, County Jail from \$75 to \$44.90. At the Shelby Training Center for juveniles in Memphis, costs went from \$84.50 down to \$67.25.

Santa Fe police chief Ray Sisneros calculates that CCA is saving taxpayers close to \$300,000 a year.

Says Sisneros: "We no longer have to deal with the county bureaucracy to get things done. It was a nightmare trying to follow the county's chain of command."

How does CCA do it? Management says that their streamlined construction schedules result in an average saving of 10 percent. Further, sizable economies are made possible by volume buying of equipment and supplies.

The Latest Deals

Late in 1987 and early this year, management disclosed three major new deals. The biggest is a contract with the Texas Department of Corrections. It entails the management of 1,000 minimum security, pre-release prison beds at two locations.

The five-year agreement was signed this past April. Management expects it to bring in more than \$10 million in annual revenues.

"This contract represents the culmination of over three years of work by CCA in Texas," chairman Tom Beasley says. "The last five months required exhaustive attention to siting the facilities, developing a finance plan, and negotiating the final details."

Two facilities with 500 beds each will be built in the Texas towns of Cleveland and Venus. Total construction costs are estimated at \$24 million. The funding will be provided through tax-exempt bonds secured by a lease/purchase agreement with the state. Management expects to have the prisons going in 1989.

CCA's other new contracts are with Hernando County, Florida, and the state of New Mexico.

On October 1, CCA will take over the management of a new 252-bed jail in Hernando County. Its pact with New Mexico calls for the design, financing, construction, and management of a 200-bed women's prison.

The company also is moving into the foreign penal market. CCA International, a wholly owned subsidiary, and its French partners have been selected to design, build, and provide non-custodial management service for 3,600 prison beds in northern France.

There are 800,000 people locked up in the U.S., and 36 states are under court order to rehabilitate their prisons. State and federal facilities are overcrowded at rates that range from 106 to 159 percent. Most states have packed their overflow inmates into county jails, which have even less money and manpower.

Last December, the President's Commission on Privatization conducted extensive hearings on the possibility of full-scale private contracting of detention and corrections centers. Its published report urged the expansion of private-sector involvement.

In 1987, seven states passed legislation that authorizes prisons to enter into agreements with private enterprise. That brings the total number of such states to 12. It's anybody's guess as to what effect union opposition will have in the other 38.

CCA's industry is controversial, and there will be many attempts to derail it. Nevertheless, the company was in the business early. It's the established leader and soon should become profitable. We're going to see a public clamor for more inventive ways to save taxes and still provide essential services. Privatization, it seems, is the answer.

For additional information, contact: Corrections Corporation of America, 28 White Bridge Road, Suite 206, Nashville, Tennessee 37205; (615) 356-1885. NASDAQ stock symbol: CCAX.

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A C R C

STATESLINE

FROM USA TODAY'S NATIONAL NEWS NETWORK

Population explosion fuels prison spending

States are on a prison-building binge. Overflowing facilities are forcing many states to spend more than \$4 billion this year to build and expand their prisons.

That money will finance beds for 80,152 prisoners some of whom are now in facilities that house far more inmates than they were built to hold. Already prisons take a large percentage of state budgets: States spend more than \$14.5 billion annually to clothe, guard and feed 583,000 state prisoners.

"Everybody's building prisons," says Samuel Sublett, president of the American Correctional Association. "The hysteria is to lock them up and throw the key away."

Why the building boom: Mandatory prison sentences, more convictions and less parole, moves which almost have doubled state prison populations since 1980 when states housed 300,000 prisoners.

Colorado Senate President Ted Strickland says court decisions forcing prison systems to relieve overcrowding is causing taxpayers to spend more to house prisoners than what's available for the elderly and the developmentally disabled. "It's unfair," Strickland says.

In many states prison spending is a growth industry, outstripping increases in education and welfare spending. School budgets have grown 15.6 percent since 1987; corrections: 20.2 percent.

"Our children and seniors' health needs are hurting because of the amount we have to spend on corrections," says Florida state Rep. Doug Jamerson.

Overcrowding

Forty-two states and the District of Columbia are under court orders to relieve overcrowding. The eight that aren't: **Alabama, Alaska, Minnesota, Montana, Nebraska, New Jersey, New York and North Dakota.**

— LaBarbara Bowman

Facilities, state by state

The size of state prison populations range from 421 in North Dakota to almost 60,000 in California. Here's a look at the number of prisoners in each state; the capacity of existing facilities; the number of new beds that have been added or are planned and construction cost.

State	Inmates	Official capacity	New beds	Cost (millions)
Ala.	11,710	11,107	2,243	\$37.8
Alaska	2,460	—	440	\$20.0
Ariz.	9,434	—	—	—
Ark.	4,701	—	900	\$28.3
Calif.	59,484	—	16,630	\$1,553.4
Colo.	3,804	4,597	1,070	\$85.3
Conn.	6,905	6,072	2,086	\$133.3
Del.	2,823	—	—	—
D.C.	6,618	7,032	800	\$70.0
Fla.	32,237	36,363	60	\$1.7
Ga.	17,363	—	1,795	\$58.0
Hawaii	2,180	1,670	—	—
Idaho	1,448	1,149	356	\$29.3
Ill.	19,456	19,911	3,397	\$212.5
Ind.	10,175	9,802	1,856	\$18.3
Iowa	2,777	2,918	—	—
Kan.	5,345	3,786	1,012	\$16.4
Ky.	5,288	5,170	550	\$28.0
La.	14,300	11,738	1,200	\$0.1
Maine	1,316	934	500	\$30.0
Md.	13,326	—	716	\$148.3
Mass.	5,636	—	2,479	\$171.9
Mich.	20,742	—	2,394	\$58.7
Minn.	2,462	2,605	—	—
Miss.	6,747	6,375	1,500	\$47.0
Mo.	10,309	—	40	\$2.0
Mont.	1,111	956	—	—
Neb.	1,953	1,562	—	—
Nev.	4,367	—	0	\$0.7
N.H.	782	689	404	\$33.9
N.J.	12,020	11,571	3,264	\$155.8
N.M.	2,416	2,459	300	\$11.6
N.Y.	38,449	—	2,869	\$597.4
N.C.	17,698	16,694	0	\$0.7
N.D.	421	—	—	—
Ohio	22,463	—	4,610	\$272.9
Okla.	9,596	7,643	80	\$9.8
Ore.	4,770	4,201	—	—
Pa.	15,201	—	8,605	\$175.7
R.I.	1,358	1,458	397	\$41.1
S.C.	11,676	10,202	2,594	\$69.0
S.D.	1,164	1,189	—	—
Tenn.	7,591	—	1,460	\$53.0
Texas	38,534	40,508	8,500	\$195.5
Utah	1,845	—	623	\$18.0
Vt.	697	597	—	—
Va.	12,930	10,746	2,794	\$144.8
Wash.	6,603	5,838	—	—
W.Va.	1,482	1,547	203	\$0.5
Wis.	5,697	4,680	785	\$55.5
Wyo.	855	—	—	—

Source: Census Bureau, Bureau of Justice Statistics, American Correctional Association

Officials ^{RMN} ^{Nov 13} ^{1:15} aim to kill jail myth

By JOHN BENNETT
Scripps-Howard Staff Writer

WASHINGTON — Corrections officials want to shatter a "myth" that state or federal prisons near metropolitan areas lower land values and raise the crime rate.

The goal is to knock down barriers to construction of new prisons near cities and communities.

Bureau of Prison officials say four studies the past seven years indicate land values are not adversely affected and, in fact, prisons make nearby residential areas safer places to live.

But because unprecedented state and federal prison construction is expected to continue for the next 10 years, bureau planners are launching more comprehensive studies.

"We think they will shatter some of the myths," said Aaron Brown, project director on the study. "It should have been done 20 years ago."

Brown said prison administrators, politicians, architects and concerned citizens are always asking what economic and public harm can come to communities from nearby prisons.

Planners agree the most desirable sites are near metropolitan areas. But numerous prison construction plans have been derailed by neighborhood opposition.

Bureau studies in behalf of state, local and federal corrections officials, will determine:

- How land values adjacent to prisons — before, during and after construction — rate with comparable neighborhoods.

- What annual economic benefits accrue to a community as a result of prison operations.

- What prison incidents have threatened a community — riots, escapes, fires.

- Public attitudes about particular prisons.

"The results will be available for state, local and federal officials concerned with the problem," Brown said.

Results of studies of state prisons in Texas, Wisconsin, New York and Vancouver, British Columbia, show lower-than-average crime rates in nearby communities, and no drop in land values. The Wisconsin study reported land values increased.

Brown said many prisons help local economies. One of the latest examples is at Loretto, Pa., where guard employment at a federal 500-bed medium security facility is expected to make a major dent in the area's 34 percent unemployment rate.

7-29-89 St Joseph News Press Gazette

Prison rent-a-cell program filling up

By MICHAEL McCANN
News-Press/Gazette Staff Writer

CAMERON, Mo. — With the addition of 100 inmates from Colorado last week, the state prison here is now hosting 292 out-of-state prisoners under Missouri's rent-a-cell program.

Western Missouri Correctional Center Superintendent Mike Kemna said Friday that 192 prisoners from Illinois were moved here beginning earlier this month. Another 500 out-of-state prisoners are expected to be housed in rented cells here by the end of September.

AND, WHEN ANOTHER 300 Missouri prisoners are moved here in the next two months, the total inmate population will be close to the medium-security prison's capacity of 1,900, Kemna said. Originally, it was expected to take until the end of 1990 for the facility to reach capacity.

"We want the prison to be filled," the superintendent said. "We want all posts filled and all our staff people here so we can go through our growing pains."

In order to accommodate the influx of new inmates, the prison has hired an additional 130 corrections officers since June 1. Kemna said another 100 corrections officers will be trained by the first week of August. At present, the prison employs about 400 employees. By the end of August, it will provide jobs to about 583 people, primarily from the surrounding four counties, the superintendent said.

One advantage of filling the prison soon, Kemna explained, is that all of the locks and other equipment can be tested more thoroughly before the one-year warranty expires at the end of September.

The plan to rent cell space to out-of-state prisoners won support last session from the Missouri General Assembly largely because the state expects to make \$10 million to \$12 million a year from states with overcrowded prisons.

Missouri is charging states \$65 a day per inmate. It costs the state \$27 a day to house each prisoner, so the state realizes a \$38-a-day profit for each out-of-state prisoner.

But the plan is not without opponents. Some lawmakers object because Missouri has had its share of prison overcrowding the past few years. The intake into the Missouri system continues to grow, Kemna said, in large part because of stepped-up drug enforcement in the state.

As a result, the rent-a-space plan may last only 12 months instead of its originally intended 18 months.

"There'll come a day when we'll have to say, 'you have to come get your inmates,'" Kemna said.

DESPITE SOME ILLINOIS inmates expressing displeasure with being transferred here without notice, they are now making a satisfactory adjustment to this facility, officials said.

Only prisoners with seven years or less remaining to their sentences are eligible for transfer here. Kemna said officials here screen each prisoner's file before they're accepted. Some, like sex offenders and those with more than seven years to serve, are culled.

Although Missouri corrections officials have only signed contracts with Illinois and Colorado, they are negotiating with other states to rent space. This is the only prison in the state participating in the program.

Op-Ed Page

Horton's hopes and dreams riding on prison project

Horton, Kansas, wants to be a prison town. Last year, it urged the state to build its new prison there. In March, the state decided to put the prison in El Dorado.

So, Horton's civic leadership decided to build a prison anyway, on a 385-acre site outside of town, and rent cell space to counties and states with overcrowded jails and prisons. It could turn out to be the best recipe for an economic turnaround that any declining Kansas town ever concocted.

Many business ventures that development-hungry towns enter into are risky. This one is a sure thing — if the prison, once built, offers affordable, secure cell space that meets constitutional standards. The project's overseers say that it will.

If Horton opened its prison tomorrow, says Kansas Corrections Secretary Steve Davies, a supporter of the project, it instantly could fill the 1,000 cells from a pool of 2,400 inmates in 12 states. When the prison does open in late 1990 or early 1991, the available inmate supply is likely to be even larger. As James Cox, director of the Horton prison project, notes, "Prisons are the fastest-growing industry in the United States."

AMERICANS ARE demanding that miscreants be locked up, and legislatures are responding with tougher sentencing laws. Many states, Kansas included, are stuck with more inmates than they can constitutionally house, particularly maximum-security inmates, and need some place to send them. By building the nation's first non-state, non-federal prison capable of housing maximum-security inmates, Horton plans to cash in on this market, at \$55-\$65 per inmate per day.

The prison, to be modeled upon a new, easily managed state prison in Missouri, would create about 400 new jobs and an annual payroll of \$15-\$18 million. If you figure, as Horton banker Jeff Teter does, that each inmate uses dollars lands in four local pocket before leaving the communi-



**Denney
Clements**
Editorial Writer

ty, the prison's economic impact would be enormous.

Local industries, for instance, might contract for prison labor, and local teachers would have all the tutoring work they could handle. The prison would create new work, as well, for the region's mental health facilities, and spawn all manner of new businesses and business expansions.

MR. TETER IS president of Horton Inc., the public-private partnership that organized the prison project. He and Mr. Cox bristle at any suggestion that Horton's prison project was born in despair. Only the residents of prosperous communities such as Wichita would view a prison as an undesirable way to create jobs.

Mr. Cox contended that a prison is good for any town. "It's a clean industry," he said. "There's no medical waste discharge to contend with."

The prison's up-to-date design makes escapes unlikely. And research suggests that having a prison in a town's midst enhances the public safety, if anything.

Mr. Teter added that corrections officers, being trained in law enforcement and security techniques, and being productive, positive people, make desirable new neighbors. As well, many folks in the five counties surrounding Horton — Brown, Doniphan, Atchison, Nemaha and Jackson — already work in corrections at the state prison in Lansing and the federal prison in Leavenworth. There's a kind of corrections tradition in the region.

Certainly, the project enjoys broad com-

munity support. A visitor from Wichita, accepting a challenge from Mr. Teter, could find no one who opposed it. Mr. Teter attributes this unanimity to a common understanding — which Horton Inc. developed patiently during the past 16 months — that a prison offers the five-county region its best hope of economic revival. That consensus was behind Horton's 1988 proposal to host a state prison, and it's behind the present proposal.

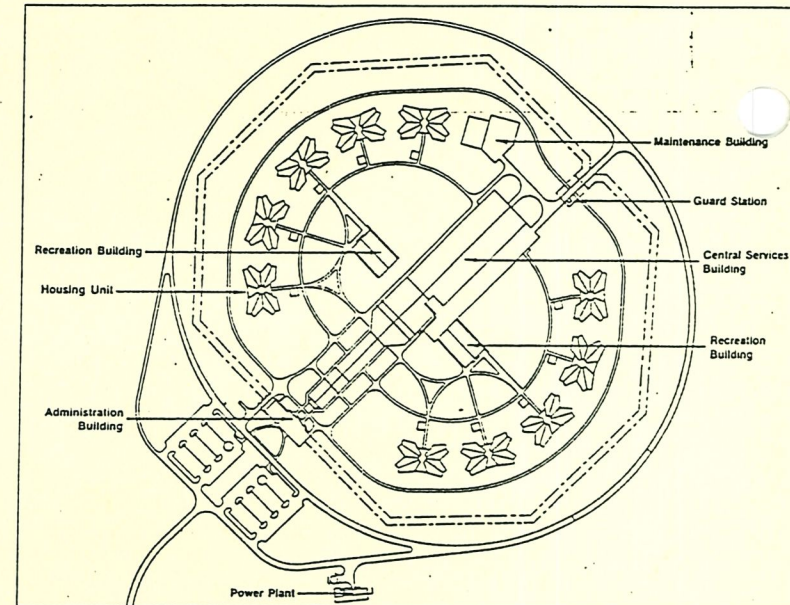
A PART OF that consensus, from the beginning, has been the region's many Indian residents, primarily members of the Iowa, Sac-and-Fox, Kickapoo and Potawatomi tribes. The tribes' economic development arm, the United Tribes of Kansas, has been involved in the prison project from the start, bringing with it two federal grants to help defray planning and start-up costs.

The Indians are participating in the project, said United Tribes Chairman Don Robidoux, because they need jobs, too. But United Tribes' participation in the project also gives the Indians a piece of the action. The city of Horton, through a public building commission, will own and operate the prison. But "other entities" that contributed to its creation, including United Tribes, will share in the profits.

Mr. Teter and Mr. Cox insist, however, that profit is secondary. It's wrong, they say, to compare the Horton project with those ubiquitous private prisons operated by for-profit corporations. A for-profit corporation, especially one with stockholders, can't "afford" to operate a prison at the break-even level.

Horton's city government can and will, if it has to, because its objective is to use the prison to generate economic activity. The city will pocket prison profits only after debt, operating expenses and "other entities" are paid off.

Corrections Secretary Davies cited that objective as one reason he and his staff support the prison project: A municipality



Horton's prison would house inmates in low-tension, easy-to-manage "P"
Scale: 1 inch equals 354 feet

bent on creating jobs is more likely than a for-profit corporation to build and operate a prison that's humane — and that will stand up to inmate challenges in the courts.

BUT THERE'S another, more selfish reason that Mr. Davies supports the project and is helping the Horton team make sure it meets prevailing corrections standards. The state is trying to work its way out from under an inmate glut, a situation complicated by a federal judge's order to cut prison-overcrowding. It may aid the Horton prison as a "relief valve." Certainly, he added, the \$55-\$65-per-inmate-per-day cost is at-

tractive.

The project now has reached its toughest phase — raising the estimated \$58 million it will cost to build the prison. But Mr. Teter is confident that the Horton team will clear this hurdle, too. Already, he said, several investment banking firms have submitted bids on a public bond offering.

Once the financing is set, and ground is broken this August, Horton's prison-town dream will begin to come true. When it does, Horton will have proven that a town in decline, largely on its own, can turn itself around. All it takes is willpower and imagination.

CORRECTIONS DIGEST

THE ONLY INDEPENDENT NEWS SERVICE FOR THE CORRECTIONS PROFESSIONAL

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Page 1

BJS Reports:

PRISON POPULATION JUMPS 7.3 PERCENT IN SIX MONTHS

The nation's Federal and state prison population increased by a record 46,004 inmates, or 7.3 percent, during the first half of this year to reach 673,565 men and women as of June 30, the U.S. Justice Department's Bureau of Justice Statistics (BJS) announced on Sept. 10. The Bureau said the six-month gain exceeded the largest annual increase ever recorded during the 64 years the government has counted prisoners.

This growth more than doubled last year's demand for new prison beds. The 1988 increase was equivalent to the need for 80 additional beds a week. Thus far, this year's growth translates to almost 1,800 additional beds a week.

Attorney General Dick Thornburgh labeled the jump in the prison population as "an indication that more criminals, many convicted of drug-related offenses, are being caught and punished. The criminal justice system is working. People who break the law do pay the price.

"These statistics also make clear that more prison space is needed," Thornburgh said. "Congress needs to act swiftly on President Bush's violent crime legislation, which provides for the construction of more than 24,000 new Federal prison beds.

"Anyone who contemplates breaking the law must know that he or she will be caught, will be prosecuted and will spend time in a jail or a prison," Thornburgh stated.

Since 1980 the total number of Federal and state inmates throughout the country serving sen-

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Senate Told:

DON'T LET CORRECTIONS BE THE SCAPEGOAT IN WAR ON DRUGS

By Anthony P. Trivisono
Executive Director
American Correctional Association

Editor's Note: Reprinted below is an edited version of Anthony P. Trivisono's testimony to the U.S. Senate Judiciary Committee on Sept. 12. The Committee was conducting hearings on the National Drug Strategy unveiled by President Bush Sept. 5.

ACA believes that violent and habitual offenders must be incarcerated to protect the public. However, we also maintain that non-violent offenders should be assigned to community control programs rather than prison or

(See TRIVISONO, page two, column two)

(PRISON POPULATION, *continued from page one*)

tences of more than one year has more than doubled. This doubling also occurred in 29 states, the District of Columbia and the Federal Prison System.

In four of these states the populations tripled. California's 245 percent increase (from 23,264 such inmates to 80,237) was the largest. By contrast, Tennessee's count of such inmates last June 30 was 7.4 percent larger than the Dec. 31, 1980, figure (from 7,022 inmates to 7,541). This was the smallest percentage gain among the states.

During the period from Dec. 31, 1988, to June 30, 1989, Federal prisoners increased by 9.6 percent to reach 54,718 inmates. State prisoners increased by 7.1 percent to reach 618,847 inmates. Male inmates increased seven percent, and female inmates increased 13.0 percent more than the number last December 31.

Nine jurisdictions reported double-digit growth during this year's first six months. They were Rhode Island (20.3 percent), South Dakota (19.9), Connecticut (18.4), Utah (13.2), the District of Columbia (12.1), Idaho (11.3), Mississippi (10.6), Missouri (10.4) and Kentucky (10.2 percent).

Northeastern states reported the largest six-month gains (9.1 percent), compared to an 8.1 percent growth in the Western states, 7.8 percent in the Midwest, and 5.4 percent in the South.

On June 30 the number of Federal and state prisoners with sentences of more than one year was 260 per 100,000 U.S. residents, which also set a new record. This compares to 139 such prisoners as of Dec. 31, 1980.

Editor's Note: The charts on pages 3 and 4 depict total prison populations and the rate of growth in populations. ■

NEW CORRECTIONS MINISTER APPOINTED IN ONTARIO

A Cabinet reorganization in Ontario, Canada, has resulted in the appointment of Richard Patten as Minister of Correctional Services. Patten, 46, was formerly Minister of Government Services, and has a broad background in the social services field.

(TRAVISONO, *continued from page one*)

jail. Such programs are far less expensive than incarceration, and equally importantly, intermediate community-based programs and intensive probation permit nonviolent offenders to repay their debt to society while they continue to be taxpayers and a part of the community, under controlled conditions.

Nearly all of our nation's prisons and jails are reeling under the pressure of too many inmates in too little space. The need for correctional programs, both in institutions and the community, has never been greater. The term "epidemic proportions" accurately describes the current population explosion in our correctional programs. Nearly every state in the nation, as well as the Federal Bureau of Prisons, has prisons and jails operating well over the capacity for which they were designed.

In 1980, we had in state and Federal prisons 315,974 men and women with no war declared. In 1988, 627,402 with no war declared. Since then, the number of those in correctional institutions has risen 7.3 percent. In the first six months of 1989 we had 673,565 men and women in our nation's prisons and still no war declared.

The incarceration rate has climbed from 134 to 260 per hundred thousand U.S. population in the same period. The states and local jurisdictions have added more than 400,000 beds to the total system since 1978 — spending more than \$20 billion for construction plus \$8 billion in operating expenses. More dramatically, the states are currently spending \$5.5 billion and the counties are spending \$3.5 billion just for construction in 1988-89. Even without the potential implications of the President's plan, they are asking for \$7 billion for 1990-91.

Predictions about what will happen in the future when social and criminal policies are changing so rapidly almost become meaningless, although most correctional agencies are forecasting high increases in population. We all are waiting for the process of deterrence to kick in as we continue to incarcerate more and more citizens who offend against the basic premises of American life. However, even though our incarceration rates

(*Story continued on page five*)

climb skyward and the deterrence effect cannot be measured successfully, it is virtually impossible to know where we will be in the next 10 years.

This huge increase does not include the more than 300,000 offenders in our local jails. All told, we now have nearly one million people incarcerated in our nation's prisons and jails. It is anyone's guess what it will be 10 years from now.

Public Weary Of "Alternatives"

In all of the "war on crime" programs of the '70s and the limited skirmish of the '80s within the Federal establishment, no money was ever allocated to build correctional facilities. Yes, money was available to improve programs but apart from the Federal Bureau of Prisons, the Federal Government determined that the building of state and local institutions was a function of state and local government, plain and simple.

Consequently, even though the tolerance of crime has continued to decrease since the mid 1970s, correctional beds have become more scarce, even though the state and local governments have done more than their fair share of correctional building. Now, if the Federal plan is to increase the use of correctional beds, it obligates the Federal Government to help the states and local governments do what the President wants.

It is obvious that at the moment states and local jurisdictions are generating their own "zero tolerance" attitudes, even without the new war that will begin sometime soon. The casualties are great and will continue to be great in terms of offenders and their families and, as we all wish, beneficial to the public at large.

We also believe that states need resources to create innovative alternatives to incarceration for nonviolent adult offenders, even though we disagree who these people are. LEAA in the 1970s poured millions of dollars into alternative programs and, frankly, the public became upset with the use of the word "alternative" because its use was interpreted as being equal to "slap on the wrist" sanctions.

Today, correctional professionals are really talking about intermediate sanctions in the community. This new program, recommended by prosecutors and courts, should be used because we truly do want intermediate sanctions and not because the institutions are crowded. The new lexicon of home arrest, electronic monitoring, community service, day fines, day centers, intensive probation and parole, night centers and shock incarceration are all becoming acceptable because they convey a sense of personal restriction on the individual that the "slap on the wrist" approach did not convey.

Treatment Programs Necessary

At our annual meeting last month in Baltimore, Sen. Joseph Biden (D-Del.) indicated that treatment programs for all drug addicts are necessary. And we concur. We would like to take the issue a step further for those addicts within the correctional system and we know they most likely will not participate in voluntary programs. It is just the way it is with persons who have not made the enormous commitment to stop abusing drugs.

We suggest that all of the releases from flat time sentences or parole must be given a term of community supervision that is coercive. In order to accomplish that task, we will need much more attention to be paid to community control programs. As Sen. Biden said, most everybody at some time comes out and we must be continuously aware of our duty to protect the public.

In other words, we are called upon to supervise a person after a judge has imposed a sentence, regardless of what that sentence is. We are a part of the preventative community, a part of the law enforcement community, and a part of the social welfare/human service challenge. Whatever we are called upon to do after adjudication, we do as loyal workers in a very complex arena to provide ordered liberty in a free society. Every one of us like to think we can be helpful in reordering the social fabric of our community and we, like others, are aware of the complexities of that social fabric.

Drug Testing Would Bust Budgets

One of the major recommendations of the President's plan is drug testing of all criminal justice system personnel and inmates on a regular basis. We are struggling with this concept within corrections because we are not sure it will help the situation and because of the enormous cost of regularized testing. There are a minimum of 500,000 correctional employees in the U.S. and 1,000,000 inmates. At best the cost of drug testing — in the initial test only — could not be done more cheaply than \$10 per drug screen. It isn't hard to calculate the cost of such drug testing on a frequency basis by the use of simple multiplication. If we only test staff, it is a budget busting trauma. If we also test inmates, probationers, and parolees at the same frequency, the costs are enormous.

Finally, the correctional community, along with all Americans, is desperately seeking to find a solution to this dreaded problem. We look to President Bush as our elected leader to set the tone and by that tone we will begin to set the public and private agenda. We have to assume that the President as our leader has had the benefit of massive input from experts as he put together the strategy that was presented to the American people on Sept. 5.

The committees of Congress have the responsibility — to react to the plan, change the plan, but in the end to offer

guidance, and hopefully, accomplish the same end result. The President's advisers and those who are asked to contribute are not publicly known and when Dr. (William) Bennett (director of the Office of National Drug Control Policy) indicated that he has had major input from the nation's leaders, we really don't know who they are. In contrast, the committees of Congress have open testimony and record what is said. That record is open and available to the public.

We don't think Dr. Bennett regarded our input significantly important as he and his team worked on the strategy for the President.

The President is a highly respected human being, and the public is looking to him to provide the best plan that he can recommend. Our Federal Government has enormous resources, both fiscally and with the potential of human leadership of our people. He need but ask and he will be given the brains, the blood, and the backs of our people to rid this nation of the scourge of illicit drugs.

But the President's plan will be thwarted unless there are sufficient beds for these predators. They cannot be allowed to control the situation, nor can those who become their successors.

No More Scapegoating . . .

Our message was simple. If you take the criminal justice system approach to solve the problem, please don't allow the correctional system to continue to be the scapegoat. In every phase of corrections — both adult and juvenile — we offer valuable services and we can take approaches to solving problems rather than to give the appearance we are the problem that prevents our police, prosecutors, and courts from doing their job.

The President's plan asked that state and local governments should do more.

The state and local governments are reaching far beyond their means, and that certainty begins to make our political leaders think and plan to cut into other services — programs that all of us know are the bread and butter prevention programs such as schools and basic social welfare support items. America is full of "Catch 22" situations and this drug dilemma is probably the one that most consistently defies logical solutions.

We in corrections want to work with the President; we applaud him for focusing on this issue, but at the same time we do not want to work with him with our hands tied behind back. We do not want the correctional component of the criminal justice system to go down in history as the one component that thwarted the President's plan to rid the nation of the "drug plague" of the last quarter of the 20th century.

The definition of a war on drugs gives the public the image of a massive, all-out effort — a no-holds-barred approach with unconditional surrender as the final result. This is not the definition that the Administration has in mind. The definition in today's world means a decrease in use of drugs by 50 percent in the next 10 years. This "war" is translated to mean, from the supply side, a series of skirmishes and, from the demand side, a long-term educational effort that has begun but is hindered by a combination of poverty, hopelessness, and meaningless future for many people. The attitudes of an American society that can meet the needs of all of its citizens cannot be reached until the concepts of ordered liberty are accepted — each of us demands a certain amount of discipline within ourselves as well as in others.

If corrections professionals had the decision making power over who goes into prisons, they would ensure that space was available to the predators of society, and this means drug dealers from all walks of life, not just street dealers. The pressure that society places on decision makers is enormous and that decision making includes making the right decisions about who is to use security space that, at best, will always be scarce.

From our perspective, what the President has said is that it is time to get serious with this drug scourge. All Americans agree. If we asked the major drug dealers, even they probably would agree that we let them get away "with murder," both literally and figuratively.

From our point of view, we would like to see a war on drugs and an equal war on addiction of all chemicals that our people use to sustain themselves from day to day. The time is ripe to take a bold new look at the American way of life. The Administration and Congress have a great opportunity to move toward a solution that will create a more healthful America. ■

COMMUNITY CORRECTIONS LIABILITY

The American Probation and Parole Association (APPA) will conduct a training course, "Liability Issues for Community Corrections Personnel," Oct. 2-3 in Atlanta and Nov. 6-7 in Las Vegas. The program, designed for adult and juvenile system personnel, covers: Liability issues in community service sanctions; civil liabilities of parole personnel for release, non-release, supervision and revocation; and managing community corrections sanctions. Tuition is \$175. For more information, contact: Leann S. Hatcher, APPA, Iron Works Pike, P.O. Box 11910, Lexington, Ky 40578. Phone: 606-231-1916.

P 13

Senator Phil Gramm
"The National Drug and Crime Emergency Act"
January 5, 1990

NATIONAL CRIME EMERGENCY

- Declare the existence of a National Crime Emergency
 - A. During the period of the National Crime Emergency, every individual convicted of a violent crime or a drug felony must serve the full prison sentence imposed by the court, up to five years.
 - B. During the period of the National Crime Emergency, prisoners may be housed in temporary or sub-standard facilities, including tents.
 - C. During the period of the National Crime Emergency, courts will be able to limit, or "cap", inmate population levels in state prisons only when it has been proven that overcrowding has imposed cruel and unusual punishment on an individual prisoner and when no other remedy exists.

EXPANSION OF PRISON SPACE

- Direct the federal government to identify facilities such as military installations, for use as temporary detention quarters.
- Authorize the U.S. Attorney General to enter into private contracts for prison construction and operation.
- Identify and eliminate non-essential prison construction costs with specific review of such requirements as air-conditioning and recreational facilities.

PRISONERS, WORK AND BENEFITS

- Repeal legal constraints on the interstate sale of goods produced by prisoners.
- Require that every prisoner work while incarcerated; such requirement may be suspended only for medical reasons.
- Require the U.S. Attorney General to recommend to Congress any changes in law required to encourage the development of public and private prison industries.
- Use prison labor (with appropriate security safeguards) for public purposes such as road repair, picking up litter, etc.
- Withhold Federal benefits from prisoners--up to the cost of their incarceration.
- Require states, as a condition of receiving federal funds, to begin drug testing of individuals arrested, incarcerated or released from prison.

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435

Senator Phil Gramm
"The National Drug and Crime Emergency Act"

Page 2

- Establish a program for drug testing of individuals released from federal prisons.
- Authorize the U.S. Attorney General to contract with private businesses for the use of inmate skills that are in market demand. A portion of the fees and payments for such services would be used to offset the cost of incarceration. Inmates would return to prison each day and only those who pose no security risk would be able to participate.

IMPOSE MINIMUM MANDATORY PRISON SENTENCES WITHOUT RELEASE

- 10 years without release for possession of a firearm during commission of a violent crime or drug crime; 20 years without release for discharge of a firearm during such a crime; death penalty for killing another person with a firearm during commission of a violent crime or a drug crime or mandatory life imprisonment without release if the death penalty is not imposed for such crimes.
- 10 years without release for the sale of drugs to a minor or for involving a minor in drug trafficking; 20 years without release for a second offense; life imprisonment without release for a third offense.
- 5 years without release for drug trafficking involving an adult; 10 years without release for a second offense.
- 1 year extension of current sentence for drug possession in prison; 10 years without release for smuggling drugs into prison or for trafficking drugs in prison.
- Deportation of criminal aliens immediately upon completion of prison sentence; 20 years without release for illegal re-entry or attempted illegal re-entry into the United States; life imprisonment without release for 2d illegal re-entry or attempt.
- Encourage states to impose minimum mandatory prison sentences by giving them 10% of the federal law enforcement assistance funds that would otherwise go to the states that do not have such mandatory sentences.

JUDICIAL REFORM TO ELIMINATE CRIME WITHOUT PUNISHMENT

- Limit authority of court appointed "Special Masters" who oversee prison operations.
- Habeas Corpus reform as proposed by Sen. Strom Thurmond to speed and streamline the judicial appeal process while protecting Constitutional rights.

Page 3

- Exclusionary rule reform as proposed by President Bush to help prevent criminals from being released on technicalities.
- Compile and make public an annual report on the sentencing patterns of judges.
- Prevent convicted felons from retaining or using property obtained with illegal drug profits.

DRUG USER PENALTIES

- Require individuals convicted of drug possession to pay for the cost of their trial and, in addition, fine them 10% of their annual income for a first offense; 25% for second and subsequent convictions. Empower government to seize assets and garnish wages to obtain payment.
 - Withhold unearned federal benefits from those convicted of drug possession---one year for a first offense and 5 years for second and subsequent offenses.
- Empower school systems, states, counties, cities and private entities to engage in random drug testing.
- Require states to revoke for 1 year the drivers license of those convicted of drug possession; for first offenders, allow restoration of the license after 3 months of community service or upon completion of a drug rehab program.
 - Require states to implement statewide drug-treatment programs and to use the performance of treatment centers as a factor in determining how drug funds are allocated.
 - Require as a condition of eligibility for federal funds, that schools and universities establish drug-free programs.
 - Direct the U.S. Department of Transportation to implement a system of random drug testing of transportation employees, including operators of aviation, rail, and motor carriers as proposed by Senators Danforth and Hollings and extend these requirements to all mass transit authorities which receive federal funds.

Gramm details drug legislation

Republican senator briefs law officials

By Anne Belli

Staff Writer of The Dallas Morning News

U.S. Sen. Phil Gramm met with Dallas-area law enforcement officials Friday to discuss his national emergency plan to combat drugs and violent crime.

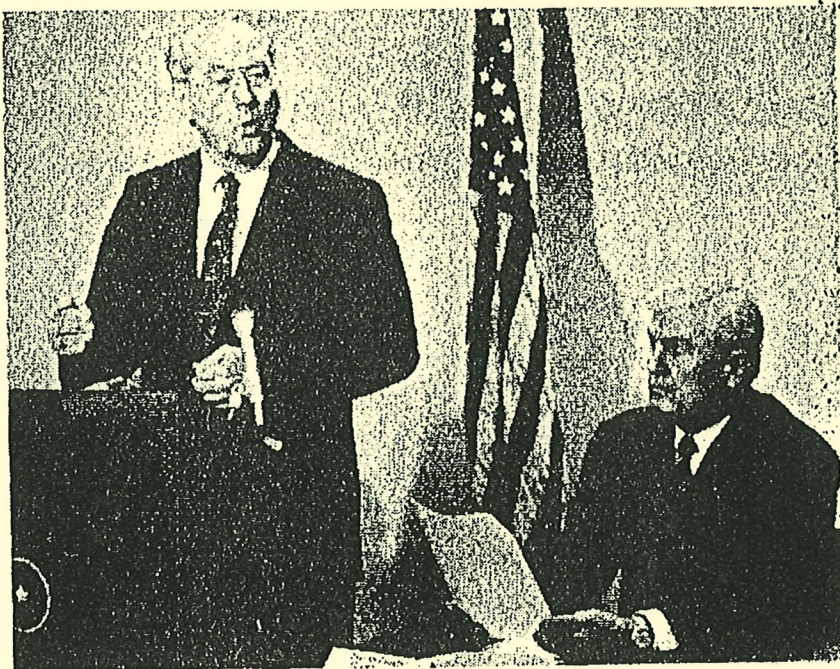
On Wednesday, the Texas Republican joined House Republican Whip Newt Gingrich of Georgia in proposing the five-year legislative plan to Congress.

"I believe that if this is a war, and it should be, then these are the measures we should take," Mr. Gramm said at the Dallas briefing.

The proposed National Drug and Crime Emergency Act calls for strict incarceration policies that already have drawn fire from civil libertarians, Mr. Gramm said.

Specifically, the bill calls for use of temporary prison facilities, including tents and military installations. It also urges requiring everyone convicted in a federal court of a violent or drug crime to serve at least five years in prison if sentenced to five years or more.

The bill also would authorize the U.S. attorney general to enter into private contracts to construct prisons.



The Dallas Morning News: Milton Hinnant

U.S. Sen. Phil Gramm briefs law enforcement officials on his drug bill in Dallas on Friday. He announced the legislation package with House Republican Whip Newt Gingrich earlier this week.

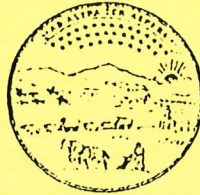
It would require that prisoners work while incarcerated and eliminate non-essential prison construction costs, such as air conditioning.

"We have 10 million Americans who can't afford air conditioning in their homes, yet we tax them to provide central air for prisoners," Mr.

Gramm said.

Among other proposals are widespread random drug testing, heavier fines and longer prison sentences without parole for drug offenders.

The bill is to be introduced in Congress on Tuesday.



JUL 27 REC'D

DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Steven J. Davies, Ph.D.
Secretary

Mike Hayden
Governor

July 25, 1989

Mr. J. Jeff Teter
President
Horton Kansas Inc.
205 East 8th Street
Horton, Kansas 66439

Dear Mr. Teter: *Jett*

As you know our populations have escalated significantly over the past 10 years. Our current projections indicate a temporary slow down as a result of adjustments to good time credits pursuant to SB 49. Subject to the deliberations of the Sentencing Commission established by the 1989 Session of the Legislature and the Governor's and Legislature's acceptance of Commission recommendations we expect a pattern of growth to continue after this period of adjustment.

Should such a pattern of growth continue, populations would reach court established capacity by FY 1991 - FY 1992. Depending on our actual status at that time, we could be interested in contracting placements. Our decisions at that time will depend upon the type of population, the placement options available, and the cost of placement. As I have stated many times, should we find ourself in need, we will first consider locations and options in Kansas. If Horton is developed as planned, it would certainly be one of those locations and options.

Sincerely,

A handwritten signature in cursive script that reads "Steven J. Davies".

Steven J. Davies, Ph.D.
Secretary of Corrections

SJD:GLS:pb



Office of the Director

Government of the District of Columbia
DEPARTMENT OF CORRECTIONS

Suite N-203
1923 Vermont Avenue, N.W.
Washington, D.C. 20001

DRAFT

Mr. J. Jeffrey Teter
President
Horton Kansas, Inc.
205 East 8th Street
Horton, Kansas 66439

Dear Mr. Teter:

This letter confirms the D.C. Department of Corrections interest in entering into a contract to house inmates in the planned Mid-Continent Correctional Facility of the City of Horton, Kansas.

This letter of intent is based on our understanding that the facility will be open to begin accepting inmates during the month of January 1991 and that the facility will have sufficient capacity to accept the Department's minimum requirements on or before July 1, 1991. The D.C. Department of Corrections expects to need housing for an average monthly minimum of 200 inmates in medium or maximum security custody classification.

The District of Columbia's intention to enter into a contract is contingent upon the following criteria: availability of adequate appropriated funds, continuing shortfall in available bedspace in District of Columbia operated-facilities, a fixed base rate of \$67 per inmate per day for the first year, and opening of the Mid-Continent Correctional Facility by the scheduled date of January 1991.

I have enclosed a copy of our standard Interstate Compact Agreement for your information. If you have any questions or need further information, please feel free to call Arthur F. Graves, Acting Associate Director for Operations, at (202) 673-7181.

Sincerely,

Walter B. Ridley
Acting Director

Enclosure

4-40

March 24, 1988

Secretary Roger Endell
The Department of Corrections
State of Kansas
Topeka, Kansas

Dear Sir:

We understand the magnitude of the decision that must be made by the State of Kansas regarding overcrowding in the state prison system. The attention given this by the media, the possibly limited time frame allowed for finding solutions, and the pressures placed on yourself and the Legislature by huge expenditures on one hand and questionable social policy on the other, present a difficult situation that begs an acceptable and timely solution. The City of Horton would like to offer such a solution by expressing our enthusiastic interest in being selected as the site of additional correctional facilities needed by the State of Kansas.

The City of Horton is an opportunity waiting to be developed. The advantages we offer are unique and significant. As a potential site for a state correctional facility, Horton offers benefits to both the facility itself and its employees, not the least of which is broad based support for the facility within the community and surrounding trade areas.

We are a community that is rarely passive about anything. Community issues have been hotly debated, for, while we may strongly disagree, we all strongly feel a commitment to our past and belief in the direction of our future. Since the totally united effort of our community twenty-five years ago to build the state's first all-electric hospital, no other issue has been so widely supported among our organizations, churches, schools and citizenry, as has been the correctional facility effort. If past history is any indication, this support will never waiver or fail, and guarantees a close and ongoing working relationship between the facility and its employees, and all commercial, organization, and social components of our community.

We feel locating correctional facility in Horton offers a much needed opportunity for Northeast Kansas to share in the economic recovery and growth that has largely passed us by. We feel this opportunity for new jobs will act as a catalyst for future growth, and contribute to a wider diversity of employment opportunities for our large contingent of farm workers, Indian minorities, and young people, thereby stemming the net out-migration from the area and contributing to community and area pride.

We, the undersigned, lend our wholehearted support to locating a correctional facility in Horton. We respectfully ask that you and the Legislature of the State of Kansas do the same.

Sincerely,

SAFETY



Horton City Police Department

CITY HALL • 205 EAST 8TH STREET • HORTON, KANSAS 66439 • PHONE (913) 486-2604

Jim Sperry
President of Horton Inc.
Horton, Kansas

April 11, 1988

Re: Horton Correctional Facility

As Chief of Police, I would like to assure all those concerned that the Horton Police Department wholeheartedly supports the location of a new correctional facility in Horton. Our department employs five full time officers; all of whom have completed the KLETC training at Hutchinson. The Horton Police Department would be willing to work in co-operation with state agencies concerning this facility, should it be located in Horton. We provide law enforcement and protection for the community twenty-four hours a day, seven days a week. Therefore an officer would always be available for any assistance that may be required. We have a dispatcher on duty continuously, also. Our department has a very good working relationship with other law enforcement agencies in our area. Let me reiterate that the Horton Police Department will give its support to this project and encourages our legislators to select Horton as the site of the new correctional facility.

Donnel Groshong
Donnel Groshong
Chief of Police

ENE MEYER, CLERK
PHILLIP A. BURDICK, ATTORNEY
JIM WOLNEY, SHERIFF

COUNTY COMMISSIONERS
ALVIN H. KRUSE, FAIRVIEW, CHM.
FRANK W. DAVIS, HIAWATHA
LUTHER PEDERSON, HORTON

THELMA LANCE, TREASURER
NANCY REYNOLDS, REGISTER OF DEEDS
GALEN LAY, SURVEYOR

County of Brown, State of Kansas

HIAWATHA, KANSAS 66434

April 22, 1988

Mr. Jim Sperry, President
Horton, Inc.
205 East 8th Street
Horton, Kansas 66439

Dear Jim:

In response to Horton, Inc.'s recent efforts to obtain a prison in the Horton area, I would like to offer my support of the project and provide you with information about the Sheriff's Department.

The Brown County Sheriff's Department is responsible for county wide law enforcement. To achieve this, we have 14 employees, including the Sheriff, the Undersheriff, 3 road deputies, 1 secretary, and 5 dispatcher/jailers. We also employ 2 part-time officers and one part-time secretary. All members of the department are deputized.

The Sheriff's Department has an active reserve force consisting of 8 deputized officers. The Brown County Sheriff Reserves receive on-going training in all phases of law enforcement.

The Brown County Correctional Facility is located at the Sheriff's Department and consists of a 24 bed medium security jail which detains both juvenile and adult offenders.

We are also responsible for maintaining the 24 hour communication system which allows us immediate contact with all law enforcement and emergency personnel.

I feel that obtaining a prison in the Horton area would further the economic development of Horton as well as all of Northeast Kansas. If I can offer any further support, please feel free to contact me at 913-742-7125 or 913-742-7257.

Sincerely,

Jim Wolney Sheriff

Jim Wolney, Sheriff
Brown County, Kansas

EDUCATION



April 15, 1988

Mr. James Sperry
President, Horton, Inc.
205 East 8th Street

Dear Mr. Sperry:

I enjoyed our conversation on Friday and am happy to respond to you concerning the possibility of a correctional facility in Horton.

Benedictine College would be most willing to cooperate with the State of Kansas in providing an educational program for such a facility. We have had long experience in working with the prison in Leavenworth and have done some work in Lansing also. We have offered college courses and done some GED. Our faculty has always been interested in such programs. Even after our formal program in Leavenworth was discontinued, one faculty member continued to volunteer her services. We will be happy to discuss details with you at some future date.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Sister Mary Irene Nowell, O.S.B.'.

Sister Mary Irene Nowell, O.S.B.
Acting Vice President for Academic Affairs

cc: Dr. Thomas O. James
Sr. Georgia McGarry

Vice President for Academic Affairs
Academic Dean
Atchison, KS 66002-1499
(913) 367-6110

4-46

Highland

Community College

March 14, 1988

Mr. Jim Sperry
Horton Inc.
205 East 8th Street
Horton, KS 66439

Dear Mr. Sperry:

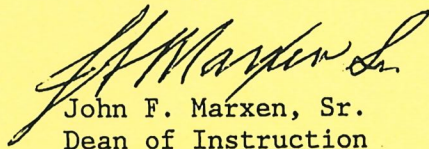
We are writing to you at this time to let you know Highland Community College completely supports your efforts to locate a corrections facility in the Horton community.

The college stands ready to provide any and all of its services to the inmate population that may occupy such a facility in Horton. The college can provide adult basic education, the G.E.D. exam (high school equivalency), two years of post secondary education and skill development training. Highland Community College will be available to contract for such educational services as may be necessary to meet the inmates' educational needs.

Highland Community College has experience in providing for the educational needs of inmate populations. From the late fifties until the eighties, the college provided educational services to the U.S. Disciplinary Barracks at Ft. Leavenworth, Kansas and the Federal Prison in Leavenworth. The college provided adult basic education, post secondary and vocational training at each of these institutions.

Should the college be able to assist your efforts in any way, please do not hesitate to call upon us.

Sincerely,



John F. Marxen, Sr.
Dean of Instruction

JFM/jw

Box 68 • Highland, Kansas 66035 • (913) 442-3236

Oldest Institution of Higher Learning in the State of Kansas

April 19, 1988

Mr. Roger Endell
Secretary of Corrections
700 Jackson
Topeka, KS 66612

Dear Mr. Endell:

I am writing to you at this time to support a corrections facility in the city of Horton and to let you know Highland Community College is ready, willing and able to supply a vast number of educational services to the inmate population of such a facility.

The college is one of nineteen community colleges in the state community college system. It is North Centrally accredited and accredited by the State Department of Education.

The college has courses in corrections as a part of its criminal justice program. Such a program would be very beneficial to staff members employed at such a facility.

Other services available to the staff and inmate populations are wide and varied. We are enclosing a copy of our current catalog for your consideration and review. After reviewing the catalog, you will realize the inmate population would have a wide range of educational opportunities available to them. Such opportunities may include the following:

Adult Basic Education
General Education Development Testing (GED)
(high school equivalency test)
Educational Counseling Services
Guidance Services
Military Service Credit
Associate of Arts Degree Program
Associate of Applied Science Degree Program
Associate of General Studies Degree Program
Certificates in Office Education, Emergency Medical Training

Cooperative Instruction with the Northeast Kansas Area Vocational
Technical School in Atchison
Articulation Services for those students wishing to transfer to a
four-year college or university
Financial Aid through various federal student aid sources

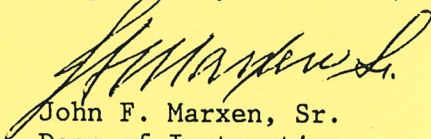
Highland Community College was one of the pioneers in the field of
inmate education. The college started educational programs in the
U.S. Disciplinary Barracks at Ft. Leavenworth and in the Federal
Prison at Leavenworth during the 1950's and 1960's. Both programs
were very successful and would be in existence today if funding
could have continued.

Mr. Endell, the college stands ready to contract for the various
educational needs of such an institution. Its location in Horton
will, of course, be a great economic boost to the economy.

Many times the people of northeast Kansas feel they live in an
unimportant part of Kansas. Locating the facility in Horton would
make the citizens of northeast Kansas feel they truly are an
important part of the great state of Kansas.

Thank you very much for your consideration. Should the college be
of any assistance, please feel free to call.

Respectfully submitted,



John F. Marxen, Sr.
Dean of Instruction

JFM/jw

Enclosure

cc: Governor Mike Hayden
Horton, Inc.

neka Vocational
Technical
School

1501 W. RILEY/ATCHISON, KANSAS 66002/(913)367-6204

March 15, 1988

Mr. Jim Sperry
Horton Incorporated
1540 1st Avenue West
Horton, KS 66439

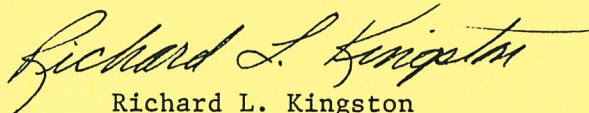
Dear Mr. Sperry:

The Northeast Kansas Area Vocational Technical School stands ready to assist the city of Horton in providing training for staff of the Horton Correctional facility.

Our school, in serving Northeast Kansas these past 22 years, has provided numerous training contracts for new industry as well as training for present businesses and their employees.

Give me a call if we can be of any assistance.

Sincerely,



Richard L. Kingston
Director

RLK:dmm

neka Vocational
Technical
School

1501 W. RILEY/ATCHISON, KANSAS 66002/(913)367-6204

April 19, 1988

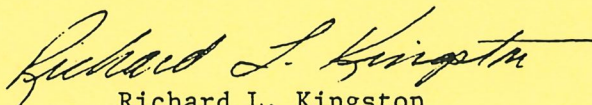
Mr. Roger Endell
Secretary of Corrections
700 Jackson
Topeka, KS 66612

Dear Mr. Endell:

This is to advise you that our school is ready to assist Horton, Kansas in their bid for a correctional facility.

Our school has served Northeast Kansas these past 22 years, and would be pleased to help provide any expertise we have to the Horton facility. Being only 27 miles from Atchison, on excellent highways, we believe we could provide the necessary support the correctional facility at Horton would need in rehabilitation training of inmates.

Sincerely,



Richard L. Kingston
Director

RLK:dmm

copy: Governor Mike Hayden
Kansas State Capitol
Topeka, KS 66612-1590

Bill Crawford
Horton Incorporated
Box 30
Horton, KS 66439

UNIFIED SCHOOL DISTRICT 430

SOUTH BROWN COUNTY

Telephone 913-486-2611

114 West 8th Street

HORTON, KANSAS 66439-1696

BOARD OF EDUCATION:

Rev. JIM AUTREY, President

PAT GISH, Vice-Pres.

GALEN BECHTOLD

MARY EDWARDSON

BILL GOINS

BETTY LARSON

TERRY RICE

Daryl L. Haegert Supt.

—:—

Donald L. Jones Treasurer

—:—

Gail Streeter Clerk

March 11, 1988

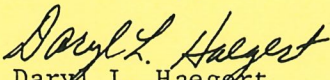
Mr. Jim Sperry
Horton Incorporated
Horton, Kansas 66439

Dear Jim Sperry,

Our U.S.D. #430 School System is most interested in the total community and the future of our North East Kansas Area. Our staff members are currently provided evening classes to local residents and our system does contract with the Highland Junior College to provide instructors for college credit courses in our high school. We will continue to be available to provide educational needs through direct contract with a respective agency or through our area junior college or our vocational technical school.

Best wishes in your endeavors. You have our full support.

Yours truly,


Daryl L. Haegert
Supt. of Schools

DLH/as

HEALTH CARE



Horton Community Hospital

"To promote health and to provide excellent health care services."

March 28, 1988

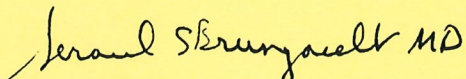
Jim Sperry, President
Horton, Inc.
205 East 8th
Horton, KS 66439

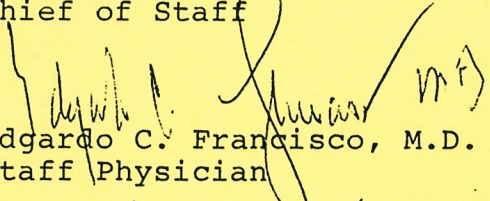
Dear Jim:


As we have heard of the effort being put forth by the Horton Community to realize the placement of a correction facility in Horton, we would like to extend our support. The active medical staff at Horton Community Hospital is dedicated to supplying excellent health care to this community.

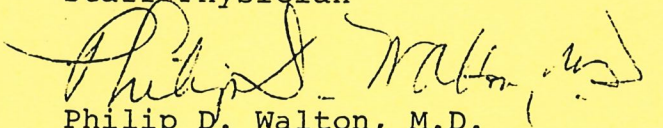
We wholeheartedly support the location of the correctional facility and will supply as best we can, excellent medical care as the need arises. We feel, with the additional support of the specialists that come to the Physicians Specialty Clinic, that the Horton Community is well supplied with excellent health care facilities and personnel.

Sincerely,


Gerard S. Brungardt, M.D.
Chief of Staff


Edgardo C. Francisco, M.D.
Staff Physician


Filipinas Micalat-Francisco, M.D.
Staff Physician


Philip D. Walton, M.D.
Staff Physician

GSB/ECF/FMF/PDW/dkb

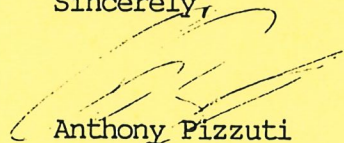
April 11, 1988

Jim Sperry, President
Horton Chamber of Commerce
Horton, KS 66439

Dear Mr. Sperry,

The Horton Community Hospital would like to express its wholehearted support of a state prison being built in Horton, Kansas. We have a wonderful hospital and a great staff and would be very supportive of any action to bring a state detention facility to Horton, Kansas.

Sincerely,



Anthony Pizzuti
Chairman of the Board
Horton Community Hospital

AP:al

Kanza Mental Health and Guidance Center, Inc.

POST OFFICE BOX 353
HIAWATHA, KANSAS 66434

3-14-88

Jim Sperry
Horton, Inc.
205 E. 8th
Horton, KS 66439



Dear Mr. Sperry,

Re: Correctional Facility.

Thank you for contacting me about the possibility of a correctional facility in Horton and its need for mental health and chemical dependency services. I believe that the Horton and Brown County area can easily support all the needed services. Our region of the state gives us access to many agencies and resources that can offer critical adjunctive services.

Our licensed mental health and chemical dependency treatment programs could fit very well with the needs of a correctional facility. We would likely work together on a fee-for-service arrangement as outside consultants and providers. Coverage for such services could range from minimal to extensive depending upon regulations, need, budget, and so on. We can be very flexible. We will also gladly supply you with any data you may need in doing your planning, and would be glad to help in any way we can. Just call us.

Specifically, we could provide any number of services to include:

- a. crisis intervention 24 hours per day.
- b. psychological testing/evaluation.
- c. psychiatric consultations, medication, and follow-up.
- d. all types of mental health and chemical dependency counseling.
- e. encourage support groups within the facility such as A.A., etc.
- f. case management for inmates with severe mental problems.
- g. in-service training for staff.
- h. educational and growth workshops for inmates and families of inmates.
- i. consultation regarding program planning for inmates.
- j. counseling services to family members when needed.
- k. reading material for inmates interested in learning to solve problems by becoming better educated in the areas of mental health and substance abuse.

Jim, I wish you and your colleagues the best as you plan for the possibility of such a facility. Our local economy dictates that we look for alternatives for our communities. I am also certain that the people of Horton would be excellent hosts and hostesses of such a facility in that they are warm and accepting of those in need. Community support is vital, and Horton is a supportive community. Please call if you need anything at all. Have a good day.

Sincerely,


Bill D. Persinger, Jr.
Executive Director

Kanza Mental Health and Guidance Center, Inc.

POST OFFICE BOX 353
HIAWATHA, KANSAS 66434

April 18, 1988

Roger Endell
Secretary of Corrections
700 Jackson
Topeka, Ks 66612

Dear Mr. Endell:

RE: Mental Health Support Services
Horton, Ks Prison Proposal

Please accept this letter as a part of the Horton, KS prison proposal. I have been in contact with Horton, Inc. in the development of the mental health and chemical dependency portion of their proposal. Your review will be most appreciated.

I feel strongly that any prison program proposal should have a strong mental health and substance abuse segment. Prisoners often require alcohol and drug rehabilitation and supportive mental health services. Punishment for a crime is an important part of incarceration, but the offender must be prepared for a healthy return to the community. Our licensed community mental health center has the capability and the desire to work collaboratively with any correctional facility that might be located in Horton, KS.

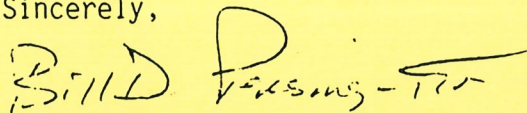
Not only does the prisoner need mental health and chemical dependency services, but families are in dire need as well. A healthy family system could make the difference for the inmate upon release in terms of post-incarceration adjustment. Our aim would be to work with families and the prisoner in tandem, and to help each achieve specific goals that would increase the chances for adjustment after the prison term. Such could even lessen the incarceration period in some cases if community adjustment is a factor.

Our mental health center has been in existence since 1963. We hold both mental health and chemical dependency licenses from the State of Kansas. Our programming is extensive and flexible. Our center's main office is only 12 miles from Horton, so we're quite accessible, should a facility need our services. In fact, depending upon the need, an office can be created in Horton with staff dedicated to a correctional facility.

Our center is a full-service agency regarding mental health and chemical dependency care. The only service we don't offer is in-patient care. We can, however, make arrangements for such. All other direct services and training programs could be offered through our center. Our staff would be on-call 24 hours per day to handle emergency and crisis situations. We could do all types of psychological evaluations, and could assist staff in making discharge recommendations concerning any needed post-incarcerations services.

In sum, our local agency can tailor-make a program to meet local needs. Thank you for considering my input on the Horton, Inc. application.

Sincerely,

A handwritten signature in black ink that reads "Bill D. Persinger, Jr." with a stylized flourish at the end.

Bill D. Persinger, Jr.
Executive Director

BDP:dsd

cc: Governor Hayden
Jim Sperry ✓

COMMUNITIES AND COUNTIES



N.E.K.-C.A.P., INC.

NORTHEAST KANSAS COMMUNITY ACTION PROGRAM, INC.

PLEASANT VIEW, R.R. 4, Box 187, Hiawatha, Kansas 66434

(913) 742-2222

COMMUNITY SERVICES

Community Outreach
Referral Services
Emergency Food/Clothing
Crisis Intervention
Homeless and Transient
Consumer Education
Nutrition Counseling
Gardening Workshops
Budget Counseling
VITA
Warmth & Light
GED
Christmas Bureau
Handyman
Transportation
Special Services
Medical Assistance
Community Job Club

AD START

Pre-School Education
Handicap Services
Parenting Education
USDA Day Care -
Provider Assistance
Dental & Health Serv.
Mental Health Serv.
USDA Approved Meals
Staff Training

WEATHERIZATION

Attic Insulation
Wall/Floor Insulation
Door/Window Repair/Replace
Storm Windows
Rehab/Minor Repairs

VOCATIONAL REHABILITATION SERVICES

Job Placement
Job Followup
Job Coaching

HOMELESS SERVICE COORDINATION

April 8, 1988

Mr. Jim Sperry, President
205 E. 8th St.
Horton, KS 66439

Dear Mr. Sperry:

On behalf of the NEK-CAP, Inc. Multi-County Board of Directors, I am extremely pleased to write a letter of support for Horton, KS to be the site selected for a prison facility for the State of Kansas.

My association with Horton has been one of cooperation for the past 24 years that NEK-CAP has been in existence. I have found the townspeople to be energetic, highly spirited and well known for their ability to work together. They are a pleasure to work with.

In support of the Horton proposal, I am offering the full range of applicable NEK-CAP programs (as listed on the letterhead). Furthermore, we have the capability of implementing new programs to address the needs of the inmates and/or their families and would be most happy to do so.

As you know, NEK-CAP has been recognized nationally as one of the most outstanding Community Action Programs in the Nation and was recently selected to do a National demonstration of our "Total Family Approach to Self-Sufficiency". We feel that if one person in a family has a problem, it affects the whole family. Consequently, we work with all family members. It appears to me that this approach would be beneficial to some of the new people coming into the community as well as those we are now serving.

CONDUCTING THE NATIONAL DEMONSTRATION FAMILY SELF SUFFICIENCY PROJECT

SERVING ATCHISON, BROWN, DONIPHAN, JACKSON, JEFFERSON, LEAVENWORTH, MARSHALL, NEMAHA, AND POTTAWATOMIE COUNTIES
AN EQUAL OPPORTUNITY EMPLOYER

4-60

The Board of Directors and I wish you success in your endeavors and rest assured that we stand ready to assist you and all those involved in any way we can.

Sincerely,


Annie L. Johnson
Executive Director

ALJ/bs

COMMUNITY SERVICES DEPARTMENT PROVIDES THE FOLLOWING SERVICES:

TOTAL FAMILY APPROACH PROGRAM

G.E.D. CLASSES and REFERRALS

EMERGENCY FOOD

CLOTHING

TRANSPORTATION

EMERGENCY MEDICAL CARE

NUTRITION INFORMATION and COUNSELING

BUDGET COUNSELING

ASSISTANCE in FILLING OUT FORMS for OTHER AGENCIES

VITA (Volunteer Income Tax Assistance - from IRS)

HOUSING

WARMTH & LIGHT (utility, electric or gas)

TRANSIENTS, EMERGENCY ASSISTANCE

EMERGENCY LOANS/GRANTS

CHRISTMAS BUREAU

COMMODITY ASSISTANCE

HEAD START and WEATHERIZATION, filling out forms and referrals

ALCOHOL and DRUG REFERRALS

WORKSHOPS: Job Skills, seeds/gardening, canning/preservation, nutrition, over-the counter drugs, sewing, crafts, summer activities for children, bicycle safety, day care providers, babysitting, needs assessments and others.

JOB REFERRAL

JOB CLUB

SPECIAL HOLIDAY EVENTS, other than Christmas

COAT DRIVE

SPECIAL SERVICES/PROJECTS: Includes, but not limited to: Handyman jobs, infant seats, smoke detectors, fans, fresh food and others.

ASSISTING LOW-INCOME PERSONS TO BECOME SELF-SUFFICIENT

CREATE RESOURCES FOR LOW-INCOME PERSON WHEN NEEDED

ILLITERATE ADULT EDUCATION

ADVOCATE FOR LOW-INCOME

COORDINATE PROGRAMS FOR OTHER AGENCIES

ASSIST WITH SENIOR CITIZEN PROGRAMS

ASSIST OTHER SERVICE AGENCIES IN ORGANIZING PROGRAMS FOR LOW-INCOME PERSONS



N.E.K.-C.A.P., INC.

NORTHEAST KANSAS COMMUNITY ACTION PROGRAM, INC.

PLEASANT VIEW, R.R. 4, Box 187, Hiawatha, Kansas 66434

(913) 742-2222

COMMUNITY SERVICES

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Handicap Services
renting Education
USDA Day Care -
Provider Assistance
Dental & Health Serv.
Mental Health Serv.
USDA Approved Meals
Staff Training

WEATHERIZATION

Attic Insulation
Wall/Floor Insulation
Door/Window Repair/Replace
Storm Windows
Rehab/Minor Repairs

VOCATIONAL REHABILITATION SERVICES

Job Placement
Job Followup
Job Coaching

HOMELESS SERVICE COORDINATION

April 22, 1988

Mr. Roger Endell, Secretary
Kansas Department of Corrections
700 Jackson
Topeka, KS 66612

Dear Mr. Endell:

In regard to the Horton, Inc. Prison Application, I would like to submit that NEK-CAP, Inc. is committed to providing any services that we have that will assist the inmates and/or their families.

Throughout its 23 year history, NEK-CAP has established itself as a leader among social service providers by developing many innovative projects to meet the needs of low-income families and individuals.

Services presently available through the Agency are: The Total Family Approach to Self-Sufficiency, Energy and Weatherization Programs, Head Start, GED, VITA, Christmas Bureau, Warmth and Light, Job Placement for Kansas State Rehabilitation Services, a Community Job Club in coordination with SRS and many emergency programs. Services not directly available from NEK-CAP are provided through an extensive network of providers, both public and private, with whom we maintain linkages for the mutual referral of clients.

The Agency philosophy is "A Hand Up, Not a Hand Out." Therefore, NEK-CAP programs mainly focus on helping clients learn how to help themselves.

The programs and services provided by the Agency should be very beneficial to the prison community, especially in the areas of providing GED classes, Job Club, Vocational Rehabilitation and family support services.

A Self-Sufficiency Program

The business of the corporation is conducted by a Board of Directors comprised of 15 members. One-third of the members are public officials, one-third are elected representatives of the low-income pop-

CONDUCTING THE NATIONAL DEMONSTRATION FAMILY SELF SUFFICIENCY PROJECT

SERVING ATCHISON, BROWN, DONIPHAN, JACKSON, JEFFERSON, LEAVENWORTH, MARSHALL, NEMAHA, AND POTTAWATOMIE COUNTIES
AN EQUAL OPPORTUNITY EMPLOYER

Page 2

ulation and one-third are representatives of the private sector.

NEK-CAP maintains a sound fiscal system which provides for strict control of all grants and contracts. There are currently no unresolved audit findings.


The Central Office is located in rural Hiawatha in a former county hospital. The buildings and 10 acres of land, valued at \$350,000, was donated to NEK-CAP in 1986. This is only one indication of the community support generated by the Agency.

Recently, the Department of Health and Human Services Family Support Administration awarded grants to 5 CAP Agencies in the county to demonstrate model self-sufficiency programs. NEK-CAP was selected as one of the five Agencies. This demonstration will run for two years; this is another indication of the quality of services provided by the Agency.

The NEK-CAP Inc. Board of Directors and I are extremely pleased that Horton is being considered as a possible site for the prison and pledge our wholehearted support to this effort.

If I can be of any assistance to you in any way, please let me know.

Respectfully,


Annie L. Johnson
Executive Director

ALJ/bs

Brown County Economic Development Board
Brown County Court House
Hiawatha, Kansas 66434

April 20, 1988

Horton, Inc.
c/o City Hall
Horton, Kansas 66439

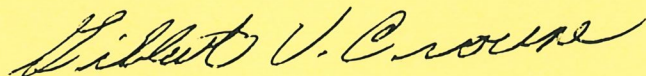
Dear Sirs:

The Brown County Economic Development Board wants to inform you that it is in full support of Horton, Inc., and the city of Horton in their combined efforts to obtain a correction facility to be built near Horton.

The Brown County Economic Development Board of Directors is comprised of fifteen members who were selected by the cities of Hiawatha, Horton and Sabetha, the districts of Brown County, and the Indian Tribes of Brown County.

Please contact us if we can be of assistance in your continued efforts to obtain this facility.

Sincerely,



Gilbert Crouse
Chairman of the Board

April 8, 1988

Mr. Jim Sperry
Horton, Inc.
Horton City Hall
Horton, Kansas 66439

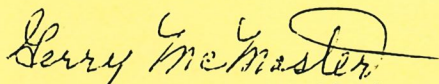
Dear Jim:

The Brown County Economic Development Program Development Committee supports your efforts to secure a prison facility for your community. This committee is committed to full cooperation with any group or individuals seeking to economically develop Brown County. We also offer our assistance to act as a resource and contact with Kansas State University Extension Service.

Brown County has become aggressive in its active participation in economic development efforts and working together we will certainly succeed in providing more jobs for the citizens.

Good luck with this project.

Sincerely,



Gerry McMaster, Chairman
212 Cheyenne
Hiawatha, Kansas 66434

CITIZENS GROUPS

Hiawatha Chamber of Commerce

Phone (913) 742-7136

110 North 7th
Hiawatha, Kansas 66434

April 18, 1988

Board of Directors
Horton Chamber of Commerce
823 Central
Horton, Ks. 66439

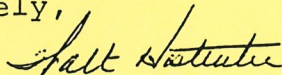
Dear Board members;

The Board of Directors of the Hiawatha Chamber of Commerce wish to show, with this letter, their support for your efforts in developing economic resources for Brown county and the surrounding area.

If it is the desire of your Chamber of Commerce and economic development committees to obtain the proposed detention facilities presently being considered, you have our support. As other alternatives may develop, we will continue to support your endeavors in these areas also.

Our cooperation and encouragement are at your disposal. Feel free to call upon us as the need arises.

Sincerely,



Walt Hostettler, President
Board of Directors
Hiawatha Chamber of Commerce

WH/bs

April 11, 1988

Jim Sperry, President
Horton, Inc.
205 East Eighth
Horton, KS 66439

Dear Mr. Sperry,

The Horton Ministerial Alliance is aware of the effort by Horton, Inc. and the community effort to secure a correctional facility in Horton. We are very interested in showing our support of this project.

We would like to officially give our support and would give our support to such a facility, if it was located in Horton. Please contact us if we can be of assistance.

Sincerely,

Rev. Herbert J. Stittkeit, Chairman
Rev. Tom Stone, Treasurer
Rev. Eugene Pasmussen, Vice-Chairman

April 16, 1968
Horton, Kansas

Mr. Jim Sperry, Chairman
Horton, Inc.
Horton, Kansas, 66439

Dear Jim:

The 180 members of the Horton Women's Division Chamber of
Commerce pledge their support for a Correctional Facility to be
built at Horton, Kansas.

Irene E. Mydland
Irene E. Mydland, President

Shirley Hosford, Vice President

Lila Ross, Secretary

Darlene Stirton, Treasurer



April 21, 1988

Jim Sperry, President
Horton, Inc.
1540 1st Ave. West
Horton, Kansas 66439

Dear Jim:

I have talked with Jim Enyart on several occasions concerning Horton, Inc. and your efforts in trying to get a state correctional facility located in Horton.

Jim had ask me about the availability of natural gas to serve these new facilities. We have a gas line reasonably close to the proposed location and with the estimated return on our investment, would be able to extend our gas line to the proposed location at no cost to the City or State.

Also, I am pleased to inform you that KPL Gas Service has an Economic Development Rider - Gas rate (copy attached) in place which would greatly reduce the cost of natural gas for a period of five operational years. The amount of gas consumption would determine eligibility of this economic rate.

KPL Gas Service wholeheartedly supports your endeavor in getting a correctional facility located in Horton.

If you need additional information or help in any way, please contact me.

Sincerely,

Bill Goins
Bill Goins
Division Manager

bks
encl.

THE KANSAS POWER AND LIGHT COMPANY

SCHEDULE... EDG

(Name of Issuing Utility)

Replacing Schedule... EDG Sheet 1

Kansas - All Rate Areas

October 28, 1987

(Territory to which schedule is applicable)

which was filed

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet 1 of 2 Sheets

ECONOMIC DEVELOPMENT RIDER - GAS

PURPOSE

The purpose of this Economic Development Rider is to encourage industrial and commercial development in Kansas. These activities will attract capital expenditures to the State, diversify the Company's customer base, create jobs and help retrain and employ dislocated farm families.

AVAILABILITY

Gas service under this rider is available to certain customers otherwise qualified for service under one of the Company's contract schedules for large volume users and as more fully set forth herein.

APPLICABLE

Upon the election of the customer and acceptance by the Company, the provisions of this rider are applicable to new industrial and commercial customers having a maximum requirement in excess of 3,000 MCF per month and to the new facilities of existing industrial and commercial customers who expand operations at a new location having a maximum requirement in excess of 3,000 MCF per month. The availability of this rider shall be limited to industrial and commercial customers not involved in selling or providing goods and services directly to the general public. All requests for service under this rider will be considered by the Company; however, requests will not be accepted for new or expanded facilities under construction or otherwise committed to operation prior to the first effective date of this rider.

Commission File Number 154608-U

Issued December 4 1987
with sales rendered on and after Jan. 4, 1988
Effective

By *Steven L. Kitchen* Sr. Vice President
Signature of Officer Title

NOTED & FILED DEC 22 1987
THE STATE CORPORATION COMMISSION
OF KANSAS

By *Judith M. Powell* Secretary

THE STATE CORPORATION COMMISSION OF KANSAS

Index No

THE KANSAS POWER AND LIGHT COMPANY

SCHEDULE..... EDG

(Name of Issuing Utility)

Replacing Schedule..... EDG Sheet..... 2

Kansas - All Rate Areas

October 28, 1987

(Territory to which schedule is applicable)

which was filed.....

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet 2 of 2 Sheets

INCENTIVE PROVISIONS

1. Rate Discount: The commodity margin of the applicable sales rate and transportation rate will be discounted by 50% during the first contract year, 40% during the second contract year, 30% during the third contract year, 20% during the fourth contract year, and 10% during the fifth contract year. After the fifth contract year, this incentive provision shall cease.
2. Minimum Bill Waiver: Minimum bill provisions of the applicable rate will be waived during the first five contract years. After the fifth contract year, this incentive provision shall cease.
3. Local Service Facilities: The Company will not require a contribution in aid of construction for standard facilities installed to serve the customer if the Company's analysis of expected revenues from the new load on an ongoing basis is determined to be sufficient to justify the required investment in the facilities.

TERM

The Company may freeze the availability of this rider with respect to new loads at any time following the first anniversary of the initial offering hereof. Any customer receiving service under the rider on the date it is frozen may continue to receive the benefits of the incentive provisions herein through the first five years of such customer's contract.

154608-U
Commission File Number

Issued..... December 4 1987
 with sales rendered on and after Jan. 4, 1988
 Effective.....
 By.....
 Steven L. Kitchen Sr. Vice President
 Signature of Officer Title

NOTED & FILED DEC 22 1987
 THE STATE CORPORATION COMMISSION
 OF KANSAS
 By.....
 Secretary

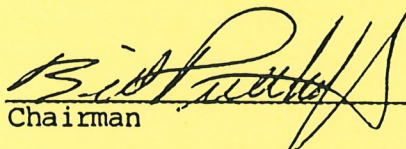
RESOLUTION

WHEREAS, The Board of County Commissioners of Atchison County supports the economic development of the geographic area in and around Atchison County; and,

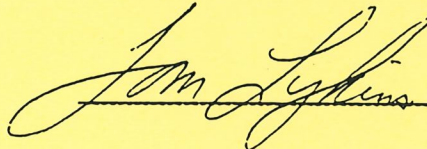
WHEREAS, the City of Horton, Brown County, Kansas is interested in having a State Minimum Security facility established in their area.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Atchison County Commissioners supports the City of Horton and Brown County in their endeavors to establish a State Minimum Security facility within their area.

DATED this 30th day of March, 1988.


Chairman





DARLENE MEYER, CLERK
LIP A. BURDICK, ATTORNEY
WOLNEY, SHERIFF

COUNTY COMMISSIONERS

ALVIN H. KRUSE, FAIRVIEW CHM
FRANK W. DAVIS, HIAWATHA
LUTHER PEDERSON, HORTON

THELMA LANCE, CLERK
NANCY REYNOLDS, REGISTER
GALEN LAY, SURVEYOR

County of Brown, State of Kansas

HIAWATHA, KANSAS 66434

RESOLUTION NO. 88-18

A RESOLUTION OF THE COUNTY OF BROWN, KANSAS, OFFERING ANY SUPPORT WE MAY GIVE TO HORTON, KANSAS IN THEIR EFFORTS TO OBTAIN A DETENTION FACILITY IN THIS GEOGRAPHIC AREA.

WHEREAS, THE COUNTY OF BROWN, KANSAS, REALIZES THAT THE CITY OF HORTON, KANSAS, IS EXTENDING EFFORT AND MONEY TO OBTAIN A DETENTION FACILITY IN OUR IMMEDIATE AREA, AND;

WHEREAS, THE COUNTY OF BROWN REALIZES THE POSITIVE IMPACT THAT SUCH A FACILITY WOULD HAVE ON THIS ENTIRE GEOGRAPHIC AREA.

NOW THEREFORE BE IT RESOLVED, BY THE COUNTY COMMISSIONERS, COUNTY OF BROWN, KANSAS, THAT THE CITY OFFERS ALL THE SUPPORT WE COULD POSSIBLY GIVE TO THIS WORTHWHILE PROJECT.

PASSED AND APPROVED THIS 28TH DAY OF MARCH, 1988.

APPROVED:

Alvin H. Kruse
CHAIRMAN

Frank W. Davis
Luther Pederson

ATTEST:

Darlene Meyer
COUNTY CLERK

RESOLUTION NO. 1021

A RESOLUTION SUPPORTING THE ENDEAVORS OF THE CITY OF HORTON, KANSAS IN THEIR EFFORTS TO OBTAIN A DETENTION FACILITY IN THIS GEOGRAPHIC AREA.

WHEREAS, the City of Effingham, Kansas, is aware that our sister city of Horton, Kansas, is attempting to obtain a Kansas State Detention Facility, and;

WHEREAS, the City of Effingham, Kansas, realizes that the City of Horton has expended much effort and money in the attempt to locate such a detention facility in this geographic area, and;

WHEREAS, the City of Effingham, Kansas, realizes the positive economic impact that such a facility would have on the entire Northeast Kansas Area;

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Effingham, Kansas, that the City of Horton be encouraged to continue their efforts to secure a Kansas State Detention Facility;

AND BE IT FURTHER RESOLVED that the City of Effingham, Kansas, offers its support in the location of a detention facility in Horton, Kansas.

PASSED BY THE GOVERNING BODY OF THE CITY OF EFFINGHAM, KANSAS, THIS 5th DAY OF APRIL 1988.



ISABELLE M. FARRELL, MAYOR

(SEAL)

ATTEST:



PAT STRINE, CITY CLERK

Board of County Commissioners of Doniphan County

PHONE 913-985-3723
TROY, KANSAS 66087

FRED CLUCK, First District
JOHN E. SMITH, Second District
DANA FOLEY, Third District

April 11, 1988

Dear Sirs,

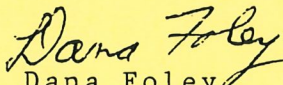
We the Doniphan County Board of County Commissioners ask that you consider Horton, Kansas in Brown County as the location for the proposed minimum security prison.


Both Doniphan and Brown Counties are agriculturally based. During recent years, the farm crisis has taken a cruel toll on many farming operations and agriculture related businesses throughout both Counties. Many farmers and others have been left without employment or sufficient income.


The location of a minimum security prison in Horton would most definitely have a great impact on local economies. Not only would Brown County benefit, but so too would the bordering Counties.

For this reason, we the Board of County Commissioners of Doniphan County do not oppose the location of a minimum security prison in Horton.

Sincerely,


Dana Foley
Chairman


John E. Smith
Member


Fred Cluck
Member

RESOLUTION #168

A RESOLUTION OF THE CITY OF HORTON, KANSAS, IN SUPPORT OF HORTON, INC. IN THEIR EFFORTS TO OBTAIN A DETENTION FACILITY IN THIS AREA.

WHEREAS: The City of Horton, Kansas, realizes that Horton, Inc. is extending effort and money to obtain a detention facility in the immediate area, and;

WHEREAS: The City of Horton, Kansas, realizes the positive impact that such a facility would have on this entire geographic area.

NOW THEREFORE BE IT RESOLVED, by the City Commission of the City of Horton, Kansas, that the City supports Horton, Inc. in their efforts to obtain this detention facility.

Approved: LeRoy Paden
LeRoy Paden, Mayor 4-12-58

Attest: William W. Crawford
William W. Crawford, City Clerk
4-12-58

seal

Resolution No. 3-88

A RESOLUTION OF THE CITY OF HIAWATHA, KANSAS IN SUPPORT OF THE CITY OF HORTON, KANSAS (OUR NEIGHBORS TO THE SOUTH) IN THEIR EFFORTS TO OBTAIN A DETENTION FACILITY IN THIS GEOGRAPHIC AREA.

WHEREAS, The City of Hiawatha, Kansas realizes that the City of Horton, Kansas is extending effort and money to obtain a detention facility in our immediate area, AND;

WHEREAS, The City of Hiawatha, Kansas realizes the positive impact that such a facility would have on this entire geographic area.

NOW THEREFORE BE IT RESOLVED, by the City Commission of the City of Hiawatha, Kansas that the City support the City of Horton in their efforts to obtain a detention facility.

Passes and approved this 28th day of March, 1988.

Approved *Jerry E. Young*
Jerry E. Young, Mayor

(SEAL)

Attest: *Laurie E. Neumann*
Laurie E. Neumann, City Clerk

CITY OF EVEREST

EVEREST, KANSAS 66424

4-8-68

Horton, Inc.
205 E. 8th
Horton, Ks. 66439

Att: Jim Sperry

Dear Mr. Sperry:

The possibility of location of a correctional facility in City of Horton was discussed at Everest City Council meeting April 7.

This letter is to inform you that you have the wholehearted, unanimous support of the Everest City Governing Body in this endeavor.

Sincerely yours,

Robert A. Bunch Mayor

_____ Councilman

_____ Councilman

_____ Councilman

_____ Councilman

_____ Councilman

A RESOLUTION STATING THE INTENT OF THE CITY OF HORTON, KANSAS TO PROVIDE SUPPORT FOR OBTAINING A CORRECTIONAL FACILITY IN THE CITY OF HORTON, KANSAS, AND TO PROVIDE ASSISTANCE IN OBTAINING FINANCING FOR ACQUIRING AND CONSTRUCTING SUCH A CORRECTIONAL FACILITY.

WHEREAS, the City of Horton, Kansas, recognizes the benefits to the City of economic development in this community; and

WHEREAS, the City of Horton, Kansas is advised that one possible avenue of economic development would be the locating of a correctional facility for the State of Kansas in the City of Horton, Kansas; and

WHEREAS, the City of Horton, Kansas, through its commissioners, is in full support of the idea of obtaining such a correctional facility in this City; and

WHEREAS, the City of Horton, Kansas intends to assist in any way it can to obtain such a facility and to secure the financing for such a facility.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HORTON, KANSAS:

Section 1. That the City of Horton, Kansas shall assist in whatever manner it can to secure a correctional facility within the City of Horton, Kansas.

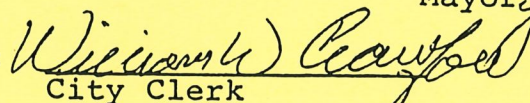
Section 2. That the City of Horton, Kansas shall assist in securing financing and funding for said correctional facility.

Section 3. That in securing the financing and funding for said project, the City of Horton, Kansas declares its intend, subject to successful negotiations with the State of Kansas, to assist in the financing of the project by whatever manner or means may appear appropriate, including, but not limited to, the formation of a public building commission, for the purpose of financing such a project, the issuance of Certificates of Participation to finance such a project, and/or the issuance of General Obligation Bonds or Revenue Bonds to assist in the financing of a portion or all of said project.

PASSED by the Governing Body of the City of Horton, Kansas, this 11th day of April, 1988.



Mayor

ATTEST: 

City Clerk

RESOLUTION NO. 1988-7

A RESOLUTION ADOPTED BY JACKSON COUNTY, KANSAS, OFFERING SUPPORT TO HORTON CITY LOCATED IN BROWN COUNTY, KANSAS, IN THEIR EFFORT TO OBTAIN A DETENTION FACILITY IN THIS GEOGRAPHICAL AREA.


WHEREAS, the County of Jackson realizes that the City of Horton, Kansas is extending efforts and money to obtain a Detention Facility in our immediate area, and

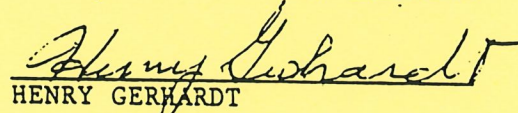
WHEREAS the County of Jackson would realize a positive impact that such a facility would have in this immediate area.

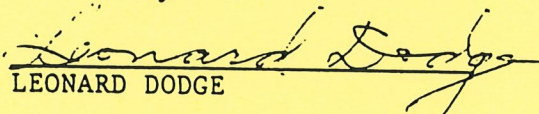
BE IT HEREBY RESOLVED that Jackson County shall support the worthwhile effort of Horton and community in obtaining a Detention Facility in Brown County, Kansas.

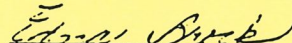
Dated this 4th day of April, 1988.

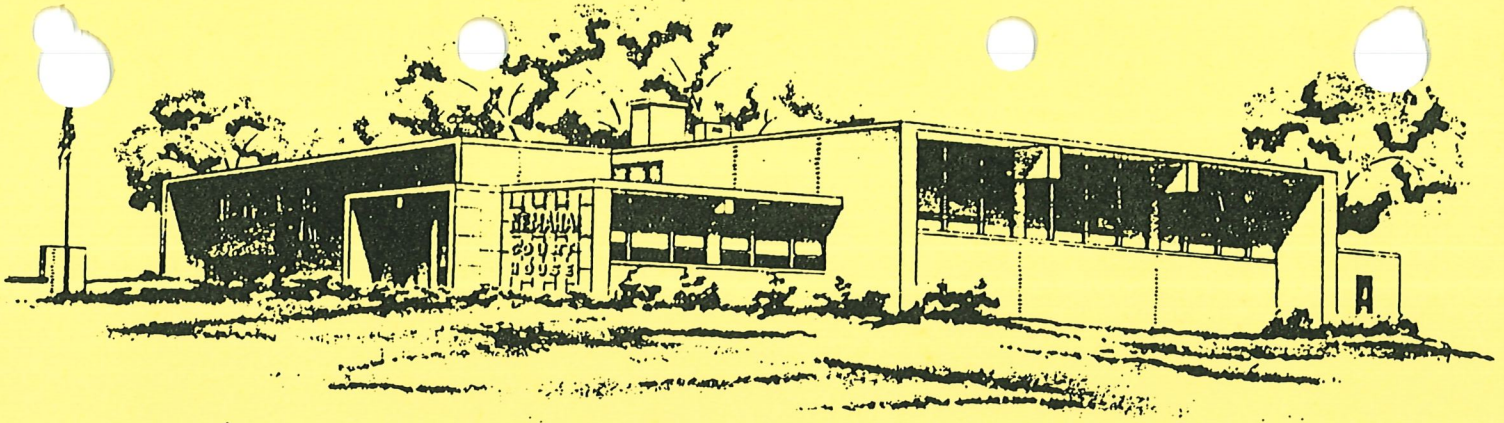
BOARD OF COMMISSIONERS
JACKSON COUNTY, KANSAS


ROGER S. COVERDALE, Chairman


HENRY GERHARDT


LEONARD DODGE

ATTEST: 
Edna Brock
County Clerk



NEMAHA COUNTY
SENECA, KANSAS
66538

April 4, 1988

Bill Crawford
Horton City Adm.
Horton, Kansas 66439

Dear Bill,

Nemaha County Commissioners support the effort of the City of Horton seeking to locate a detention facility in this geographical area.

We feel such a facility would enhance employment in our County as well as the host county. The rural setting as opposed to an urban setting would also be of benefit for rehabilitation for inmates.

BOARD OF COUNTY COMMISSIONERS
Nemaha County

H. F. Niehues
Chairman

Jim D. Brouwer
Member

Kenneth Leegan
Member

RESOLUTION NUMBER 198811

A RESOLUTION SUPPORTING THE ENDEAVORS OF THE CITY OF HORTON, KANSAS IN THEIR EFFORTS TO OBTAIN A DETENTION FACILITY IN THIS GEOGRAPHIC AREA.

WHEREAS, The City of Sabetha, Kansas is aware that our sister City of Horton, Kansas is attempting to obtain a Kansas State detention facility, and;

WHEREAS, The City of Sabetha realizes that the City of Horton has expended much effort and money in the attempt to locate such a detention facility in this geographic area, and;

WHEREAS, The City of Sabetha realizes the positive economic impact that such a facility would have on the entire Northeast Kansas Area.


NOW THEREFORE BE IT RESOLVED, by the Governing Body of the City of Sabetha, Kansas, that the City of Horton be encouraged to continue their efforts to secure a Kansas State Detention Facility, and;

AND BE IT FURTHER RESOLVED, that the City of Sabetha, Kansas offers its support in the location of a detention facility in Horton, Kansas.

Passed by the Governing Body and Signed by the Mayor this 29th day of March 1988


LaVon Wenger, Mayor

ATTEST:


Maurine Reid, City Clerk

(SEAL)

RESOLUTION NUMBERS 1988-3

A RESOLUTION SUPPORTING THE ENDEAVORS OF THE CITY OF HORTON, KANSAS IN THEIR EFFORTS TO OBTAIN A DETENTION FACILITY IN THIS GEOGRAPHIC AREA.

WHEREAS, The City of Troy, Kansas is aware that our sister City of Horton, Kansas is attempting to obtain a Kansas State detention facility and;

WHEREAS, The City of Troy realizes that the City of Horton has expended much effort and money in the attempt to locate such a detention facility in this geographic area, and;


WHEREAS, The City of Troy realizes the positive economic impact that such a facility would have on the entire Northeast Kansas Area.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the City of Troy, Kansas, that the City of Horton be encouraged to continue their efforts of secure a Kansas State Detention Facility, and;

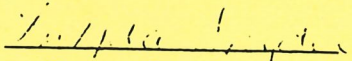
AND BE IT FURTHER RESOLVED, that the City of Troy, Kansas offers its support in the location of a detention facility in Horton, Kansas.

Passed by the Governing Body and signed by the Mayor this

5th day of April 1988


Clarence E. Blake

ATTEST:


LaNeta Snyder, City Clerk

HOUSE COMMITTEE
ON LOCAL GOVERNMENT
R. D. Miller - Chairman

Testimony by
Dick Mills

In the 1989 session The Secretary of Corrections was authorized and directed to investigate, initiate and participate in discussions, and negotiate contracts with local public officials regarding the opportunities in such cities and counties to satisfy anticipated needs for additional inmate housing. (H.B. 2548)

House Bill 2835 is the logical and certainly the most reasonable approach as the next step in providing the public policy necessary for local units of government to proceed with plans to be a partner with the state and private sectors as relates to the growing need to provide adequate housing for the inmate population.

The Secretary of Correction has recently assessed the probable growth to Kansas Prison as a result of the war on drugs, as much as an additional 9,000 inmates in next 5 years. The budget for the department for FY 90 reached 150,000 million, add the normal growth that will surely come with the potential of increase in population due to war on Drugs, you are looking at an excess of a 300,000 million budget by 1995. That is without addressing the capital improvements demands that come with this growth.

LJ
2-15-90
Attach. IV

Nationwide, in the confinement segment of corrections, The Bureau of Justice statistics has reported that there were 604,000 male and female offenders under the jurisdiction of state and federal correctional institutions at the end of 1988. Added to those already record-breaking numbers, the state and Federal prison population grew by 7.3 percent- a total of 46,000 additional inmates the first 6 months of 1989. This unprecedented growth is estimated to continue well into the next decade.

State Governments across this nation are faced with finding ways to deal with this nagging problem that will not go away. Some are now developing policies. Others have policies in place, similar to House Bill 2835 that allows joint effort between State, Local government and the private to spread the cost, create jobs and bring revenue into the state.

There are some fears associated with the term "Private", some due to Turff issues, etc. But there is no such thing now nor will there ever be what could be called "complete private prison operations". There are no Donald Trump's of Corrections out there just waiting to get their hands on, and finance private prison operations. There are joint efforts - between units of governments using a combination of private investment funds arranging for guaranteed maximum on construction cost, leasing space for lease payments to

operate the facility and retire the capital improvement debt, all regulated and monitored by state law. This joint effort will help to finance a function of the state that is very rapidly eating into state resources that should be used for education, health and environment, human services, youth and senior citizens programs, medical care, etc.

There is also fears associated with prison in our communities. In my 30 years in the criminal justice system I have found, most, if not all are unfounded. In fact, the communities that have developed projects and are present locations for corrections facilities have experience lower crime rates, lower unemployment, improved the housing market, have experienced an increase demand for goods and services, and maintained a stable economy. And they do so with an industry that is clean and safe, that offers no threat to the environment and it is safer to live next to a corrections facility than your neighbor in your typical culdesac or on any other quiet street in our neighborhoods.

HOUSE BILL 2835:

- * Will provide the policy and guidelines to cities and counties for the appropriate development and operations of corrections facilities, something they have already been doing at some level for 200 years.

- * It satisfies the policy need for proper monitoring and regulating by the appropriate state agency - at all stages of development, construction, and operation.
- * It satisfies the question and provides the vehicle of the right for a community vote.
- * It satisfies the legal question and recent opinion by the Attorney General for the issuance of bonds for such projects by cities and counties.
- * Provides the appropriate policy and vehicle for Kansas in dealing with the issue in an orderly manner.
- * Provides the appropriate message to local units of government at a time when many are struggling to stay alive, pay their bills and provide essential services to the citizens.

Mr. Chairman and members of the committee. There is one very important lesson that I learned from many of you while in state service. That Good Government is Good Politics!

House Bill 2835 is visionary and looks to the future.

Passage of this Bill is Good Government!

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Mike Hayden
Governor

Steven J. Davies, Ph.D.
Secretary

HOUSE COMMITTEE ON LOCAL GOVERNMENT

RE: HOUSE BILL NO. 2835

Section 5 of H.B. 2835 addresses the role of the Secretary of Corrections in the regional prison authority concept. Secretary Davies has reviewed that section and has discussed his concerns about it with individuals interested in the Horton project. The Secretary's comments are limited to Section 5 of the bill inasmuch as the remainder of the bill involves issues over which the Secretary will have no direct involvement or responsibility.

Secretary Davies believes that the State should have a public policy regarding the operation of correctional facilities by municipalities or other entities. H.B. 2835 could be the vehicle to establish that public policy. However, in its current form, H.B. 2835 leaves a number of questions unanswered as to the role of the Secretary of Corrections and, as such, fails to adequately establish such a policy.

However, the Secretary has been informed that a number of significant amendments to H.B. 2835 will be offered. If these amendments are offered and adopted, many of the concerns of Secretary Davies will have been addressed.

The amendments clarify the standards by which a regional prison authority facility must operate; establish the frequency of inspections to determine if the facility is meeting those standards; define the role of the secretary of corrections in monitoring compliance with the standards; restricts the liability risk of the state and department of corrections; and provides a basis for the state to obtain reimbursement for expenses incurred in providing assistance to the regional prison authority facility.

All of these issues were raised by Secretary Davies in discussions with proponents of H.B. 2835. They are issues which the Secretary believes must be addressed. The amendments which have been

SD
2-15-90
Attach. VI

discussed with the Secretary address those issues in a manner acceptable to the secretary.

By way of background, Secretary Davies has tried to cooperate with and assist those communities which have an interest in constructing correctional facilities. Discussions have been held with representatives of both Horton and Washington. The Secretary's position with both communities has been:

- A. The Kansas Department of Corrections will not place inmates in a facility operated by either community unless the facility meets standards of the American Correctional Association.
- B. The Kansas Department of Corrections will not at this time sign a contract to place inmates in a facility operated by either community due to uncertainty about the Department's population needs in the future.
- C. In the event that the Department does need additional space in the future the Department will look first to Kansas facilities for that space. Whether that space will be utilized depends on whether acceptable financial and other terms can be negotiated.
- D. Both communities have been told that the Department's policies and procedures, general orders, post orders, and emergency procedures will be made available for use in developing procedures for their facilities. In addition, representatives of those groups planning the facilities may tour any DOC facility and utilize any operational procedures which may be of assistance to them. The Secretary has also offered to have department personnel train the community facility's trainers and to make available the department's lesson plans and training procedures.
- E. The Secretary has stated that he will review the plans for a facility. However, he has not had an opportunity to go into depth in reviewing those plans. The Secretary understands that Horton is modeling its facility after one in Cameron, Missouri. The Secretary has toured the Cameron facility and has advised the Horton representatives of problems he sees if that facility will be operated as a maximum security facility. Suggestions for change have been made but no changes have been demanded. Some changes which were suggested have been made in the plans for the Horton facility.
- F. At this time the Secretary has no jurisdiction with respect to the proposed Horton and Washington facilities. As such, the Secretary does not believe it to be appropriate to make demands upon either community.

otto

February 15, 1990

tial for escape, and the potential for violence, are always a part of being a prison town.

Communities seeking prisons should keep that in mind -- and weigh the economic benefits against the potential risk to residents.

-- Salina Journal

Thursday, January 25, 1990 The Holton Recorder

Concerns raised included the number of prisoners' families that may move into the area and overload the local welfare system, and law enforcement problems that may occur in the event of a breakout. While the prison will not be located in Jackson County, its presence may affect its residents, said Larry Thornton, who attended the meeting. Residents in the area were only asking that their concerns be heard, he said.

While the Jackson County Commission may have little weight to pull in the matter, any measure that can be taken will be, said Commissioner Henry Gerhardt. However, the residents' concerns may fall upon deaf ears when taken to the Brown County Commission, he said.

"The feeling I get is you're not going to get much sympathy from the Brown County Commissioners," Gerhardt said. In his conversation with commissioners from that county, he said that he got the impression that the commission believed the economic boost a prison would give the community would outweigh any negative factors.

Sunday, January 14, 1990 The Dallas Morning News
Counties rush into jail business
Risky forays are banking on overflow

Two dozen of these projects are for-profit enterprises, according to the Texas Commission on Jail Standards, and other counties say they are speeding up their building schedules in hopes of leasing out space.

But, with all that construction, even the industry's boosters admit the enterprise is risky.

"There's no question these counties are overbuilding," said Michael Graham, vice president of N-Group Securities Inc., a firm based in Houston that builds private prisons. "This is just pure speculative building."

The state has consistently refused to pay counties to house its prisoners. And last week a Texas Criminal Justice Board member, Allan Polunsky, warned that private prison-builders should not bank on renting beds to the state's overcrowded prison system, saying there is a "good possibility that these facilities will never be used by the state of Texas."

The biggest outside customer for Texas jail space has been Washington, D.C., which last year paid several Texas counties upwards of \$35 a day for each of 550 prisoners sent to the state.

But overall, jail entrepreneurs may find that the market for empty cells is soft, at least within Texas.

Officials in the urban counties most in need of extra cells express little interest in renting from other counties. "We're not real anxious to pay somebody else for prisoners who are someone else's problem," said Ron Bertel, a Tarrant County auditor.

Kansas State House
Local Government Committee
The Burning Question

Shall or will Kansas become a regional prison-for-profit state?

House Bill 2835 -- Opens wide the door, authorizing the acquisition, construction and operation of regional prison, correctional or detention facilities.

As authorized by House Bill 2835 -- A regional prison authority trying to pay its bills and make a profit would solicit, seek, advertise and beg for out-of-state prisoner customers from Washington, D.C., Chicago, New York, Los Angeles and more. And from the big city streets will come the drug pushers, the habitual and hardened criminal, the incorrigibles. They're unwanted, they will come. There will be sickness, injuries, riots, burning and escapes. This is to be expected and it will come. Who will put out the fire, quell the riot and pursue the escapee?

We oppose this localized prison for profit venture and we urge the Local Government Committee to report House Bill 2835 unfavorable for passage.

Betterment of Northeast
Kansas Committee

David Wood, President
Harold Molt, Vice President
Cathy Wenger, Secretary
Alma Knudson, Treasurer

Legislative Lobbyists
Jim and Sonia Yount

Attack. III
2-15-90
JP

Mr. Chairman and Members of the Committee:

My name is Jim Yount, my wife, Sonia, and I are legislative lobbyists for the "Betterment of Northeast Kansas Committee." This is a group of rural citizens from Brown, Jackson and Atchison Counties.

As we appear before you today in opposition to House Bill 2835, may I say we do not profess to be experts in the prison field, we are lay people who will present our position in good faith and to the best of our ability.

This act provides city and/or county commissioners or a combination thereof. They are by affirmative action the regional prison authority.

Section 2. -- The authority appoints a five or more member board of directors to four year terms each.

Section 2 states -- A regional prison authority shall be governed by a board of directors.

To emphasize the full portent of the word governed, we quote *Webster.*, -- "To exercise authority over, direct, control, rule, manage," end quote. Here we have a uation where the appointed rule the elected.

This is so unless the authority appoint themselves as board members.

Section 4. -- The prison authority, simply and briefly put, has the power of eminent domain, can buy land, build and maintain a prison, borrow money from private, state or federal sources, mortgage, pledge or otherwise encumber the assets of the authority as security therefore, and (2) issue bonds as provided in Sections 7 and 8 and amendments there to.

This bill speaks to and outlines the full power of the authority (the city and the county commissioners). Yet section 3 states -- "The authority will be governed by the board of directors. "And sub section C of page 3, line 11, states, -- "A majority of the board of directors shall constitute a quorum, the affirmative vote of which shall be necessary for any action taken by the regional prison authority."

In addition to their power to govern, Section 5 outlines other responsibilities of the board of directors such as plans for the prison buildings, facilities, the staffing and marketing.

Section 6. A -- The board prepares the annual budget (B) Rents, charges, inmate per diem rates, and administrative fees received by the regional prison authority, shall be used for the general expenses of the authority and to pay interest, amortization and retirement charges on money borrowed and reserves therefore, the board of directors *may pay* such surplus into the general fund of the political bdivisions creating and comprising the regional prison authority.

Note the word *may pay*, not shall, but may.

Section 8. (B) Poses this question. -- Can the regional prison authority as per the approval of the board of directors authorize bonds, notes or other evidence of indebtedness for prison use up to \$999,000.00? -- If so, how often?

Section 3. Any member of this proposed four-year term five-member or more board can be removed for misfeasance, nonfeasance or malfeasance in office by the appointing body.

Section 3. (B) Also states no director shall be removed except for cause.

Section 3. (D) Each member of the board of directors of a regional prison authority shall be entitled to receive from the regional prison authority reimbursement for necessary and actual expenses incurred in the performance of such director's duties.

May we make this observation, in good faith and zeal. An appointed board cut quite a swath, a disastrous swath and in no way be subject to recall.

Section 8. (6) Embraces and proposes a new concept in the petition and vote area of revenue bond propositions.

For example, the prison site is in Brown County and I live in either Jackson

or Atchison, portions of both are in the ten-mile site designation.

Brown County authorizes a fifty million dollar prison revenue bond proposition. Even though a non-voting resident of Brown County, I can petition and vote. My efforts in no way obligate me to share the Brown County tax payers obligation.

And the prison for profit business may be competitive as well as demanding. In this regard we submit the following excerpts from newspaper articles.

Sunday, September 24, 1989

THE WICHITA EAGLE

Horton may import inmates from D.C.

Goal is making jobs rather than profits

by Alissa Rubin

WASHINGTON -- As many as 1,000 criminals from the District of Columbia may be doing time in Horton if the northeast Kansas farm town is successful in negotiating a contract with the D.C. Department of Corrections.

Horton, which is building a 1,000-cell city-owned prison, is negotiating with the District of Columbia to help the nation's capital deal with its prison overcrowding problem which has been exacerbated lately by the city's crackdown on drug dealing.

The prospect of housing the District of Columbia's prisoners, the majority of whom are black, accustomed to life in a big city and serving time for drug-related crimes, presents difficulties for both the District's prisoners and Horton residents, said representatives of prisoner support groups and Horton natives.

For the prisoners it means moving more than 1,000 miles away from family and friends.

The long distance from home also makes it difficult for prisoners to make arrangements for jobs, education or counseling when they get out.

A hard road

It may not be so easy. District of Columbia prisoners, many of them unused to rural areas, have not always taken kindly to being resettled in different geographic regions from their families.

District of Columbia prisoners sent to the Spokane (Wash.) County jail in late 1988 set their towels on fire, threw their food trays on the floor and started fights, eventually causing so much trouble that Spokane officials canceled their contract with the District.

Horton officials are not troubled by the prospect of a repeat performance.

"You just deal with it," said Cox. "There are plenty of things corrections people do to control inmates. You lock them down, you feed them finger food."

Monday, August 7, 1989 The Topeka Capital-Journal

Prisons cost, too

Kansas communities that see prison construction as a path toward economic development should take note of these recent news items, which illustrate that the economic benefits of a prison are not without cost:

* In Norton, authorities spent two days . . . searching for the 17th prisoner to escape from the Norton Correctional Facility, which opened two years ago. He was recaptured.

* In Stockton . . . an April escapee from the Stockton Correctional Facility was bound over for trial on eight felony charges, including rape and kidnapping. He is accused of committing the crimes while on the lam. . . .

Some Kansas communities, looking for ways to bolster their economies, have been attracted to the dollars a prison would bring.

But prisons bring risk as well as money to their host communities. The poten-

Ladies and Gentlemen:

I am David E. Woods, President of BNEK, the Association for the Betterment of Northeast Kansas. I am representing 600 plus people who openly oppose the construction of the proposed private prison and who have signed petitions knowing their lives could be devastated if a private prison is built.

The location of this prison is legally complicated. The proposed site sits on the southern boundry of Brown Co. - $\frac{1}{4}$ of a mile from Jackson Co. and $\frac{1}{2}$ mile from Atchison Co. Also within $\frac{3}{4}$ of a mile from the proposed site there are 12 family homes. Because of the location of this prison we have a Jackson Co. commissioner's signature who is concerned with the health, welfare and safety of his community.

We have been told repeatedly that this would be just like any other business bringing money and employment to the area, but in what other business would close neighbors have to live in constant fear of rape, murder, theft and hostage situations by an escapee?

None of the families in the 3 county community want to carry the burden and disadvantages associated with the private prison. This is distrubing when it is realized that not Kansas prisons, but in particular Washington D.C. prisons will send their unmanageable, brutal inmates to Kansas private prisons. When you import from the #1 drug problem city in the United States, I am referring to Washington D.C., drugs could be as important an issue to Northeast Kansas as it is in more densly populated parts of this country.

"We are dealing in an industry where it is difficult to make a profit," said Jim Cox, project director for the Horton prison in the Sunday, September 24 issue of the Wichita Eagle. He adds, "That's why private prisons can run into trouble. Well, we're a not-for-profit. We're not trying to make a profit. The goal is to create jobs. If we break even that's great," Cox said.

What will the cost of these few jobs be? What tragedy will we realize before Horton realizes there are other ways to create jobs. Of the 428 employees of the proposed private prison, the children of 206 or 48% will qualify for free meals. 366 or 85% will qualify for free or reduced price meals in our already overburdened school system. (Please see attached sheet.)

We of Northeast Kansas hear economic impact. What we don't know is, will this be a positive or negative impact? The Attorney General emphasizes in a letter to Michael K. Schmitt, Horton City Attorney, that the extraterritorial impact on county and township residents living outside the city of Horton will be substantial. Specifically, there may be a perceived compromise of their personal security from the threat of inmates escaping from the prison. Further, inmates will be transported in and out of the city of Horton on county and local roads, and "friends" and "business associates" of convicted felons will converge on the area for visitation at the prison. Horton Inc., the group spearheading the prison plan, has decided to seek legislative action to short-circuit the Attorney General's opinion, according to the Hiawatha World.

Will Northeast Kansas also be short-circuited or literally shocked by the family and friends of out of state prisoners?

Will drug bosses set up business in Northeast Kansas?

Will an AIDS outbreak become a primary concern to Northeast Kansans?

Why are the promoters of the prison so confident that Northeast Kansas can handle what Washington D.C. can't? If private prisons are such a hot deal why is Washington D.C. so anxious to give them to us?

Recently we have had core drilling on private property adjoining the proposed prison site. Is this why eminent domain is in the bill submitted to this committee?

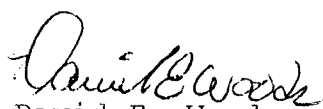
This bill will not protect the rights of farmers and land owners from cities and counties taking their land through eminent domain and using island annexation, which they have already done, as a convenient way to keep the prison away from the original city.

My concern over private prisons originated because my home borders the proposed site. After many hours researching prisoners sent to Washington, Nevada, Texas, Tennessee, and Virginia, I now feel there is no place in the state of Kansas for out of state prisoners and the problems associated with them.

I receive phone calls every day from friends, neighbors, and even people I'm not acquainted with wanting reassurance about the efforts of BNEK and information about private prisons, but please realize BNEK is made up of farmers, homemakers, and small businessmen who do not have legal and political resources readily available to investigate this venture thoroughly. What we have found out we do not like. We rely on your expertise and knowledge to properly govern on the issue presented to you if the health, welfare and safety of the community are to be considered and protected from the problems other states are currently dealing with.

We implore our Representatives not to support bill # 2835.

Thank you


David E. Woods
President, BNEK

SALARIES FOR PROPOSED HORTON PRISON

Salary Level	# of workers
\$10,000	19.25
\$12,000	3
\$15,000	3
\$16,000	180.75

Total under \$16,000 206.00 = 48%
 Less 25% for taxes -- the average take home pay
 for the average family of 4 would qualify for
 Free Meals.

\$18,000	20.5
\$20,000	133.75
\$22,000	6.
Total workers under \$22,000 =	366.25

Less 25% taxes, the average take home pay would
 enable 366.25 workers to receive Free Meals or
 Reduced Price Meals.

Estimated total workers --- 427.75
 - 366.25
 61.50 over \$22,000
 85% qualify for Free Meals or Reduced Meals.

\$25,000	32.5
\$26,000	1.
\$30,000	19.
	52.50
\$40,000	1
\$45,000	2
\$50,000	2.5
\$55,000	1
\$65,000	2.5
Workers over \$40,000	9

JONATHAN P. SMALL, CHARTERED
Attorney and Counselor at Law
Suite 304, Capitol Tower
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913/234-3686

BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE

TESTIMONY OF JONATHAN P. SMALL
RE: HOUSE BILL 2835
FEBRUARY 15, 1990

I am Jonathan Small and I represent Washington County Citizens for Sound Economic Progress (WC/CSEP) which is a non-profit association of several hundred citizens who oppose private prisons, especially any contemplated to be built and operated in Washington County, Kansas.

The members of WC/CSEP strongly oppose House Bill 2835 and urge this Committee not to consider it favorably. Our purpose today is to ask you to restore a sense of caution, to rein in the blind rush being made by municipalities who are willing to build and operate maximum/medium security prisons without first defining the duties, obligations and liabilities of the several governmental entities which will necessarily be involved in an incredibly complex infant industry. Let us cautiously approach this kind of endeavor to study the hundreds of questions which are presented.

Private prisons as a municipal industry for rural Kansas is not an idea whose time has come. Unlike state operated correctional facilities, private prisons are not a known, definable entity with carefully drawn lines of elaborate responsibility and liability. Who knows what to expect from the creation of such industries that will be starting from scratch in Kansas? In fact, these facilities will be the first in the nation. HB 2835 does little to answer these questions.

We have much to learn about an industry of which little is yet known. Give us and you time to study and evaluate the wisdom of allowing the birth of such an enterprise in Kansas.

Ira P. Robbins, a nationally respected authority on privatization of prisons, has provided the Senate Federal and State Affairs Committee with a well-researched and documented overview of the private prison issue nationwide. He opines directly upon the wisdom of SB 588 which places a hold on municipal, privately operated prison facilities. He states:

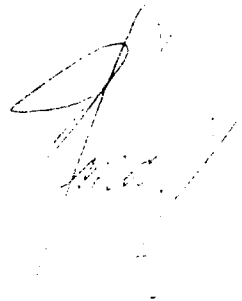
"After having studied the issues surrounding private incarceration for many years, I conclude that the concept is clearly unwise and arguably even unconstitutional. The issues -- including policy, legal, and symbolic issues -- are enormously complex. One well-considered position would be to bar private prisons and jails altogether. At the least, however, I believe that the Kansas Legislature should require a great deal of further study over time, such as by monitoring the experiences of those states that have allowed some degree of privatization."

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I have delivered his research paper to this committee with the hope that it will serve as a point of departure for studying critically this bill.

If the state of Kansas is to seriously consider permitting private prisons to operate as a municipal industry let us first know the answers to what the people are expected to live with. Let us carefully and wisely analyze the hundreds of questions which surround the issue to allow us all an opportunity to be informed on an issue of such importance. To err on the side of caution is prudent; to rush headlong into this incredibly complex issue without first seeking resolution of the concerns of many who will be affected is folly at best.

We urge you to put reason and good government back into the process and reject House Bill 2835.

A handwritten signature in dark ink, appearing to be "D. ...", is located on the right side of the page. The signature is somewhat stylized and partially obscured by a faint circular stamp or mark.

QS0215T1

Statement on Private Incarceration
(Senate Bill No. 588)
Presented to the
Members of the Federal and State Affairs Committee
of the Kansas Senate

February 14, 1990

Ira P. Robbins*

Preliminary Information

By way of background, I am a graduate of the University of Pennsylvania and the Harvard Law School. I have been on the faculties of the Georgetown University Law Center and the University of Kansas School of Law (from 1975 to 1979), and currently am a tenured professor of law at The American University, Washington College of Law, in Washington, D.C.** I have written many books and articles on prison law and corrections, including Prisoners' Rights Sourcebook: Theory, Litigation, Practice (Clark Boardman Co., Ltd., 1980), The Law and Processes of Post-Conviction Remedies (West Publishing Co., 1982), and Prisoners and the Law (Clark Boardman Co., Ltd., 1989).

I have studied privatization of corrections since its inception, and served as the Reporter for the American Bar Association's Study on Privatization of Prisons. I have testified widely on the subject of private incarceration, including presentations before the President's Commission on Privatization, the United States House of Representatives, and the Tennessee Legislature. My publications in this area include a book entitled The Legal Dimensions of Private Incarceration (American Bar Association, 1988), and numerous articles.

Because I cannot appear before this Committee on February 14, 1990, due to other commitments, I present this statement in support of Senate Bill No. 588, which "prohibit[s] cities and counties from authorizing, constructing, owning or operating any type of correctional facility for the placement or confinement of

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** I present this background information for identification purposes only. The points of view expressed in this Statement are my own, and should not necessarily be taken as the position of any of the institutions or organizations with which I am affiliated.

inmates from one or more state or federal agencies until such time as the legislature has reviewed and provided a public policy regarding such activity." My conclusion is that private incarceration is clearly unwise and arguably even unconstitutional. There are numerous complex, and possibly insurmountable, issues that must be addressed. I believe that Senate Bill No. 588, by requiring further study, takes a proper, cautious approach in dealing with the many difficult short- and long-term problems.

Finally, please note that I have no financial or interest, one way or the other, in the outcome of this debate. My interest is purely academic, from having studied and written about incarceration, including private incarceration, for many years.

Introduction

We have been witnessing throughout the country a great controversy concerning prison and jail inmates. Simultaneous with a public demand to lock up criminals is the overwhelming problem of what to do with the offenders. Prison and jail populations have doubled in a decade, and -- with preventive detention, mandatory minimum sentences, habitual-offender statutes, and the abolition of parole in some jurisdictions -- there is no relief in sight. Two-thirds of the states are under court order to correct unconstitutional prison and jail conditions. And it is costing the taxpayers more than \$20 million a day to operate the facilities. Several commentators have not so facetiously noted that we could finance college educations at less cost for all of the inmates in the country.

To reduce some of this stress on the system, a new concept has emerged: the privatization of incarceration, sometimes known as "punishment for profit" or even "dungeons for dollars." The idea is to remove the operation, and sometimes the ownership, of an institution from the local, state, or federal government, and turn it over to a private corporation. (There are currently about two dozen such facilities in the country -- but they are mostly juvenile, mental-health, or immigration facilities. There are presently no adult medium- or maximum-security facilities under private control.)

At the outset, it should be emphasized that private incarceration is different from the notion of private industries in prison, which, by giving inmates jobs, seeks to turn the inmates into productive members of society. They work at a decent wage and perform services or make products that can be sold in the marketplace. (In the process, the prisoners can also pay some of the costs of their incarceration and, we would hope, gain some self-esteem.) Privatization is also different from the situation in which some of the services of a facility -- such as medical, food, educational, or vocational services -- are operated by private industry.

Rather, the developing idea is to have the government contract with a private company to run the total institution. Private incarceration is more than a simple matter of cost and efficiency. My comments address some of the major issues that are raised by privatization of a correctional or detention facility -- in the categories of policy questions, legal questions, and moral (or symbolic) questions.

Policy Questions

There are three fundamental policy benefits that are commonly stated for privatization incarceration: first, that the private sector can build and operate facilities more cheaply than the public sector can, thereby reducing overcrowding; second, that the private sector can manage the facilities more efficiently; and, third, that privatization will reduce or eliminate governmental liability in suits that are brought by inmates and employees.

The critics respond on many fronts. First, regarding policy objections, they claim that it is inappropriate to operate prisons or jails with a profit motive, which provides no incentive to reduce overcrowding (especially if the company is paid on a per-prisoner basis), no incentive to consider alternatives to incarceration, and no incentive to deal with the broader problems of criminal justice. On the contrary, a fact of correctional life is that, if we build more prison and jail space, we will fill it. And this is not necessarily the best answer to our problems.

The critics further assert that cost-cutting measures will run rampant, at the expense of humane treatment. But questions concerning freedom should not be contracted out to the lowest bidder. One good example of this point is that the director of program development of the Triad Corporation, a multimillion-dollar Utah-based company that had been considering proposing a privately run county jail in Missoula, Montana, has stated the following: "We will hopefully make a buck at it. I am not going to kid any of you and say that we are in this for humanitarian reasons." [Deseret News, June 20-21, 1985, at B7.]

Privatization also raises policy concerns about the routine quasi-judicial decisions that affect the legal status and well-being of inmates. To what extent, for example, should a private-corporation employee be allowed to use force, perhaps serious or deadly force, against an inmate? Or, should a private-company employee be entitled to make recommendations to parole boards, or to bring charges against an inmate for an institutional violation, possibly resulting in the forfeiture of good-time credits toward the inmate's release? Decisions in the parole and good-time areas can certainly increase one's period of confinement.

Consider the prospects for accountability in the process when, for example, the employee who is in charge of reviewing disciplinary cases at a privately run Immigration and Naturaliza-

tion Service facility in Houston recently told a newspaper reporter, "I am the Supreme Court." [N.Y. Times, Feb. 19, 1985, at A15.] This concern can be especially sensitive, raising a possible conflict of interest, if the private company is paid on a per-inmate basis, or if the company's employees are given stock options as a fringe benefit. Both of these conditions now exist in some contracts.

Finally, critics claim that the financing arrangements for constructing private facilities improperly eliminate the public from the decisionmaking process. Traditionally, corrections facilities have been financed through tax-exempt general-obligation bonds that are backed by the tax revenues of the issuing governmental body. This debt requires voter approval. Privatization, however, abrogates this power of the people. In Jefferson County, Colorado, for example, the voters twice rejected a jail-bond issue before E.F. Hutton underwrote a \$30 million issue for private-jail construction.

The corporation can build the institution and the government can lease it. The cost of the facility then comes out of the government's appropriation, avoiding the politically difficult step of raising debt ceilings. Once the lease payments have fulfilled the debt, ownership of the facility shifts to the governmental body, thus completing an end run around the voters. The Supreme Court of New Mexico held last year that a similar arrangement violated the state constitutional requirement of voter approval before county indebtedness can be created for the erection of public buildings. [Montano v. Gabaldon, 108 N.M. 94, 766 P.2d 1328 (1989).]

One example of the possibly egregious effects of reducing accountability and regulation is a proposal by a private firm in Pennsylvania to build an interstate protective-custody facility on a toxic-waste site, which it had purchased for \$1. The spokesperson for the Pennsylvania Department of Corrections is reported to have said the following: "If it were a State facility, we would certainly be concerned about the grounds where the where the facility is located. As for a private prison, there is nothing which gives anyone authority on what to do about it." [Nat'l Pris. Proj. J., Fall 1985, at 10, 11.] (The aftermath of this episode is that, faced with a moratorium on private prisons in Pennsylvania, the company abandoned its plan in that state, attempted to sell the toxic-waste site for \$790,000, and was seeking to open the protective-custody facility in Idaho.)

Another example, in a slightly different context, was reported late last year by The Washington Post. It concerns a Reston, Virginia company that had been leasing prefabricated jail cells to the State of Massachusetts. The company has now threatened to repossess the buildings, which house about 360 inmates, because of long-unpaid bills.

These, I think, are telling examples of the potential for

major problems, including lack of accountability, in the private-incarceration industry.

Legal Questions

Turning to the legal questions (which, of course, overlap quite a bit with the policy questions), for present purposes they can be separated into constitutional and contractual issues.

There are two major constitutional issues concerning prison privatization: first, whether the acts of a private entity operating a correctional institution constitute "state action" under the Civil Rights Act (42 U.S.C. § 1983), thus allowing for liability for violation of an inmate's civil rights; and, second, whether, in any event, delegation of the corrections function to a private entity is itself constitutional.

On the state-action issue, there is no doubt whatsoever that state action will be held to be present in the full-scale privatization context, under any of the various tests that can be employed (including the public-function test, the close-nexus test, and the state-compulsion test). In West v. Atkins, [487 U.S. 42 (1988)], for example -- the closest United States Supreme Court case -- the Court decided unanimously in 1988 that state action was present when the State of North Carolina contracted out one facet of its prison operation (in this case, medical services). If state action is present when the state contracts out its obligation to perform one service, then state action is clearly present when the government contracts out the entire operation of a prison or jail facility.

Concerning the privately run Immigration and Naturalization Service facility in Houston, for example, a federal district court found what it termed "obvious state action." [Medina v. O'Neill, 589 F. Supp. 1028, 1038 (S.D. Tex. 1984).] The United States Supreme Court in 1982 stated, regarding privatization generally, that "the relevant question is not simply whether a private group is serving a 'public function,' but whether the function performed has been 'traditionally the exclusive prerogative of the state.'" [Blum v. Yaretsky, 457 U.S. 991, 1005 (1982).] Certainly this is true of the incarceration function.

As Justice Brennan has written in the non-incarceration context: "The government is free . . . to 'privatize' some functions [that] it would otherwise perform. But such privatization ought not automatically release those who perform government functions from constitutional obligations." [San Francisco Arts & Athletics, Inc. v. United States Olympic Comm., 107 S. Ct. 2791, 2993 (1987).] In short, if the private entity were not held responsible, the state could avoid its constitutional obligations simply by delegating governmental functions to private entities.

Thus, there will be no reduced liability on the part of the

government for violation of an inmate's constitutional rights. If there is any benefit to be derived from private incarceration, it will have to come in some other form.

The issue of whether the delegation of the incarceration function to a private body is itself unconstitutional is more problematic. A sufficiently broad delegation of a traditionally exclusive governmental function, such as incarceration, might well invoke the nondelegation doctrine of the Kansas and federal constitutions.

We have to make an important distinction here: We are not dealing the mere property interests of individuals; in such cases, delegations to private hands often are upheld. Rather, with incarceration, we are dealing with an individual's liberty. In such a case, new standards are likely to be applied. And other issues will undoubtedly arise under the Kansas Constitution.

To test the constitutionality of a delegation to private hands we also have to distinguish among different types of privatization. Privatization of airports, for example -- or mass transit, or firefighting services, or water-treatment services, or garbage-collection services -- involves the provision of services. Privatization of prisons and jails, on the other hand, involves more than the simple provision of services; it also provides the doing of justice. Just as it would almost certainly violate the state and federal constitutions to privatize our criminal courts, it may similarly be unconstitutional to privatize our prisons and jails.

There are, no doubt, those who would argue that, because private incarceration has not been declared unconstitutional in the approximately seven years that it has been around, it is therefore not going to be held unconstitutional in the future. I submit that such a view is wishful thinking and reflects a naive view of the legal process. Our state and federal judicial systems operate slowly and cautiously, reaching decisions only when there is a live case or controversy. The few legal tests of private incarceration across the country to date have been decided on other grounds.

If the constitutional hurdles are overcome, however, a great deal is going to come down to the contract itself between the government and the corporation. Consider some of the major questions that will have to be addressed, including the following:

- What standards will govern the operation of the institution?
- Who will monitor the implementation of the standards? (And how much will such monitoring cost?)
- What type of access to the facility will the public have?

- What recourse will members of the public have if they do not approve of how the institution is operated?
- Who will be responsible for maintaining security and using force at the institution?
- Who will be responsible for maintaining security and controlling the institution if the private personnel go on strike, or if the company goes bankrupt, or if the company simply goes out of business because there is not enough profit?
- Will the private corporation be able to refuse to accept certain inmates -- such as those who have contracted AIDS?
- What options will be available to the government if the company substantially raises its fees?
- What safeguards will prevent a private contractor from making a low initial bid to obtain a contract, then raising the price after the government is no longer able to assume the task of operating the facility -- for example, due to a lack of adequately trained personnel)?
- What safeguards will prevent private vendors, after gaining a foothold in the incarceration field, from lobbying for philosophical changes for their greater profit, such as by pandering to the public's fear of crime?

These are just a few of the many hundreds of questions that have to be addressed. But we should be aware that the constitutional questions and the contractual questions may well be inextricably intertwined. A delegation to private hands, for instance, may more likely violate the Constitution if it involves delegation of, say, the use of force or prisoner-classification questions, than if it does not. Thus, the issues may well come down to whether incarceration, or various features of incarceration, are proper nongovernmental functions, and whether the private company will remain accountable.

A separate question, of course, is whether privatization will actually save money. I don't think it will, for many reasons, two of which are the following: First, to operate a medium- or maximum-security adult institution, or an institution that contains such secure areas, will cost a great deal more than to operate any other type of institution. Security costs are enormous, and most of the prison-conditions litigation -- some of it successful and costly -- is filed by inmates in these types of institutions.

Second, prison privatization has many hidden costs, which

have not been calculated in many of the current accountings. These include, for example, the cost of monitoring compliance with the contract, the costs that are associated with increased liability resulting from the contractor's lack of immunity in situations in which the government would have been fully protected, and new layers of liability that arise from the privatization arrangement -- such as liability stemming from the government's failure to monitor a facility adequately or liability from third-party-beneficiary contract claims that will be available to inmates and the public.

Even if the costs of privatizing are not greater, however, should we privatize simply to get slightly lower costs? I think not. We should want either substantially reduced costs, or substantially better quality care at the same cost. Tennessee, for example, the home of Corrections Corporation of America (reported to be the largest private-incarceration provider), requires by statute that the private proposer's annual cost projection be "at least 5% less than the likely full cost to the state of providing the same services." [Tenn. Code Ann. § 41-24-104(c)(1)(E) (Cum. Supp. 1987).] Texas requires at least 10% cost savings from private facilities, which by statute must offer "a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates." [Tex. Rev. Civ. Stat. Ann. art 6166g-2, § 3(c)(4) (Vernon Supp. 1988).] Arizona permits the renewal of a private contract "only if the contractor is providing at least the same quality of services as [the] state at a lower cost or if the contractor is providing services superior in quality to those provided by [the] state at essentially the same cost." [Ariz. Rev. Stat. Ann. § 41-1609.01(L) (Supp. 1987).]

Moral (Symbolic) Questions

Finally, I shall address the moral questions of private incarceration -- what I call the hidden issue of symbolism -- which may be the most difficult issue of all for privatization of correctional and detention facilities.

In its 1985 policy statement on privatization, the American Correctional Association began: "Government has the ultimate authority and responsibility for corrections." [American Correctional Association, National Correctional Policy on Private Sector Involvement in Corrections (Jan. 1985).] This position should be undeniable. When it enters a judgment of conviction and imposes a sentence, a court exercises its authority, both actually and symbolically. Does it weaken that authority, however -- as well as the integrity of a system of justice -- when an inmate looks at his keeper's uniform and, instead of encountering an emblem that reads "Federal Bureau of Prisons" or "State Department of Corrections," he faces one that says "Acme Corrections Company"?

That is to say, apart from questions of cost, apart from

questions of efficiency, apart from question of liability, and assuming that inmates will retain no fewer rights and privileges than they had before the transfer to private management, the question is simply this: Who should operate our nation's prisons and jails? In an important sense, this is what the constitutional-delegation issue is really all about, in that it could be argued that virtually anything that is done in a total, secure institution by the government or its designee is an expression of government policy, and therefore should not be delegated. I cannot help but wonder what Dostoevsky -- who wrote that "the degree of civilization in a society can be judged by entering its prisons" [F. Dostoevsky, *The House of the Dead* 76 (C. Garnett trans. 1957)] -- would have thought about private incarceration.

Just as the inmate should perhaps be obliged to know -- day by day and minute by minute -- that he is in the custody of the state or county, perhaps too the state or county should be obliged to know -- also day by day and minute by minute -- that it is its brother's keeper, even with all of its flaws. To expect any less of the criminal-justice system may simply be misguided.

Conclusion

To conclude, it should be emphasized that the urgency of the need to correct the problems of corrections should not interfere with the caution that should accompany a decision to delegate to private companies one of government's most fundamental responsibilities.

We should not be misled by the brash claims of people who are currently running private facilities -- such as the claim by one private-facility operator who is reported to have said: "I offer to forfeit all of my contracts if the recidivism rate goes above 40 percent." [N.Y. Times, Feb. 11, 1985, at B6.] Nor should we be fooled by the "halo effect" -- that the first few major experiments will be temporarily attractive because the private administrators, being observed very closely, will be under great pressure to perform -- even to the extent, as The Wall Street Journal has reported [Wall St. J., Dec. 1, 1988], that the private companies may initially keep prices artificially low at the expense of their own profit. Finally, we should be wary that the purported benefits of prison privatization may thwart consideration of the broader problems of criminal justice.

In the words of a Princeton University professor: "We are most likely to improve our country's prisons and jails if we approach them not as a private enterprise to be administered in the pursuit of profit, but as a public trust to be administered on behalf of the community and in the name of civility and justice. The choice is between the uncertain promises of privatization and the unfulfilled duty to govern." [J. DiIulio, What's Wrong with Private Prisons, 92 Public Interest 66 (1988) (emphasis added).]

In short, and quite clearly, the private sector is in this for the money. By their very nature, private-incarceration companies are more interested in doing well than in doing good. Crime is a growth industry, and they want their share of it. In more than one respect, however, crime should not pay!

Understandably, because of legal difficulties in Kansas and elsewhere, state and local governments are considering dumping their prison and jail problems onto a private entrepreneur who promises to make the problems go away. Like you, I wish that the question were so simple. Transforming prison or jail management from the public to the private sector can only add to the scope of the problems, however, for the private contractor must make a profit if the operation is to survive. Perhaps the best that the concept of privatization can offer, therefore, is to provide an incentive to the government to perform its incarceration function better.

After having studied the issues surrounding private incarceration for many years, I conclude that the concept is clearly unwise and arguably even unconstitutional. The issues -- including policy, legal, and symbolic issues -- are enormously complex. One well-considered position would be to bar private prisons and jails altogether. At the least, however, I believe that the Kansas Legislature should require a great deal of further study over time, such as by monitoring the experiences of those states that have allowed some degree of privatization. Senate Bill No. 588 takes a cautious approach, allowing the Legislature to review the myriad issues before accepting privatization as a "quick fix" for difficult problems.

Thank you very much for your attention. Again, I regret that I was unable to appear to testify in person. Should you have any questions, however, please feel free to let me know.

Respectfully submitted,


Ira P. Robbins

Ira P. Robbins

15 February 1990

Good afternoon, Chair and Members of the House Local Government Committee. My name is Barbara Bosley and I am speaking to you on behalf of the American Civil Liberties Union.

We oppose the wording of this bill. Instead we favor a bill similar to that of Senate Bill No. 588. That particular bill prohibits any authorization, construction, or operation of any type of correctional facility "until such time as the legislature has reviewed and provided a public policy regarding such activity."

House Bill No. 2835 in its current state does not reflect consideration of many serious and complex issues which should be discussed before the legislature authorizes any formation of a regional prison authority. Indeed, the delegation of control and custody of prisoners to private entities raises serious constitutional and contractual concerns.

With the construction of a regional prison, correctional or detention facility in a Kansas community, a number of responsibilities will have to be assumed by the community and the state. Responsibilities that unfortunately, are not spelled out in the present bill.

One issue is the task of providing mandatory health care for inmates/prisoners who are relocated to Kansas. The prison authorities would have no prior knowledge of the mental and or physical condition of the transferred inmates, and the number who would require additional services could be proportionately high. The prison population would undoubtedly be composed of many terminally ill, mentally ill,

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drug-dependent or otherwise emotionally handicapped inmates.

Either the city where the prison is located or the state would be burdened with providing this additional health care, counseling programs, as well as substance abuse treatment centers. It would be a heavy price, in terms of liability, for failure to maintain the proper facilities. The federal government mandates that the state, rather than just the community or a private entity, be concerned with such issues.

Because the deprivation of physical freedom is one of the most severe interferences with liberty that the state can impose, and because of civil liberties concern created by private management, the power to deprive another of his/her freedom cannot be delegated to private entities. One of the ACLU's concerns is that it is likely that a private prison will not comply with all relevant health and safety standards.

A second issue: any Kansas community would also be at risk from the prison population. Inmates sent to Kansas to relieve overcrowding in other state prisons may very well be the most dangerous. States use interstate transfer of inmates as a means of avoiding their most difficult inmates - those who have a history of violence within the institutions where they come from. They are also likely to be mentally ill. And the most likely to kill or maim a guard inside the prison. It's a possibility that should be considered by any Kansas community.

Also at issue is providing support systems for the families of inmates who relocate to a city nearest the prison. These families will have children who will need to be enrolled in schools and be

provided with medical care. These families will need welfare assistance as well as adequate housing.

So in summary, Kansans should be aware that there is a high price to locate such a "new business" in one or more of our communities, and we must first understand the liabilities involved.

So while I would welcome your questions, I would also encourage each of you to reconsider the bill in light of the testimony you've heard today. It's important that you first weigh all the alternatives. Thank you.