

Approved:
Date
10-07-04

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Loyd at 1:30 p.m. on March 15, 2004 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Revisor of Statutes Office
Jerry Ann Donaldson, Legislative Research Department
Becky Krahl, Legislative Research Department
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Senator Derek Schmidt
Sheriff Currie Myers
Clويد Shuler, The GEO Group
Mike Jennings, KCDAA
Representative Candy Ruff
Andy Sanchez, KS Assoc. Of Public Employees
Kathy Guebara, KS CURE
Sister Therese Bangert, KS Catholic Conference
Chuck Sypher
Fank Smith, Peace & Social Justice Committee

Others attending:

See Attached List.

Sub for SB 275 – Allowing construction and operation of private prisons

Chairman Loyd opened the hearing on **Sub for SB 275**.

Senator Derek Schmidt, spoke in favor of the bill. This bill would authorize the construction and operation of one or more private prisons in our state. ([Attachment 1](#))

Sheriff Currie Myers, Johnson County, appeared in support of allowing private prisons in Kansas. ([Attachment 2](#))

Clويد Shuler, The Geo Group, spoke about some of the concerns he had with the bill and how his company has provided for other states in private corrections. ([Attachment 3](#))

Mike Jennings, Kansas County & District Attorneys Association, stated support for the bill and that it is an option only bill. There is no mandatory language in the bill that would require the State of Kansas to build a private prison. ([Attachment 4](#))

Dick Mills, GRW Corporation, submitted written testimony in support of the bill. ([Attachment 5](#))

Phill Kline, Attorney General submitted written testimony in support of the bill. ([Attachment 6](#))

Representative Candy Ruff appeared as an opponent to the bill and that this issue is not new idea to the legislature. ([Attachment 7](#))

Andy Sanchez, Kansas Association of Public Employees, offered opposition to the bill and that incarceration be a responsibility to be carried out by government. ([Attachment 8](#))

Kathy Guebara, KSCURE, appeared in opposition to the bill, building private prisons is not a solution to the problem. ([Attachment 9](#))

Peter Ninemire, Families against Mandatory Minimums, opposes the bill that allows private prisons to operate in Kansas. ([Attachment 10](#))

Sister Therese Bangert, Kansas Catholic Conference stated that Kansas had a dreadful experience of a private prison – a minimum-security facility in Topeka during the late 80's. She urged the committee not to repeat this bad experience. ([Attachment 11](#))

Chuck Sypher, appeared in opposition to the bill, he felt that the criteria KDOC uses to send inmates out of state is flawed and is strictly a decision based on money with no concern for individuals and their families. He asked that the practice of sending Kansans to private prisons be stopped. ([Attachment 12](#))

Frank Smith, opposes the bill and feels there are hidden costs and a high turn over in personnel in private prisons. ([Attachment 13](#))

Secretary Werholtz, DOC provided information and two minor additions to the bill. The first provides for a statutory requirement of at least a 10% savings in the cost of incarceration be achieved by use of a private facility by Kansas rather than requiring the proposed vendor to be able to provide services at that rate. Second, require that proposals for a private prison be in the best interests of the State rather than merely being beneficial to the management of the state correctional system. ([Attachment 14](#))

Chairman Loyd closed the hearing on **Sub for SB 275**.

The meeting was adjourned at 3:28 PM. The next meeting is March 16, 2004.

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
GUEST LIST

DATE 3-15-04

NAME	REPRESENTING
Michael White	KCDAA
Mike JENNINGS	"
SHELBY SMITH	SRW
Laura Milligan	AFSCME
Dorman, Dan	AFSCME
Tenaki, Adams	AFSCME
Lugoy & Whitefield	AFSCME
Frank Smith	So. CENTRAL KS PEACE & SOCIAL JUSTICE
Kathy Guevara	KSCURE
Peter Ninemire	FAMM
Chuck Sypher	Parent
Adrian Sypher	Parent
Dois Branham	AFSCME / LCF
Cathi Buhn	AFSCME
Brandee Keister	AFSCME.
Wilmae Dames	AFSCME
Gerald Melvin	AFSCME
Derick Sontag	KBAG
Scott Heidner	KS/Consulting Eng
Cecile Myer	Johnson County
Clويد L. Shuler	GEO Group
STEVE KEARNEY	GEO GROUP
Ryan Wessel	Legislative Intern
Patrick Husley	COA

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Senator Derek Schmidt
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Legislative Post Audit (Chairman)
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Testimony in Support of Senate Bill 275
“The Private Contract Prison Act”
Presented to the House Committee on Corrections and Juvenile Justice
By Senator Derek Schmidt

March 15, 2004

Chairman Loyd, members of the committee, thank you for conducting this hearing today and for allowing me to testify. You are focused on one of the most important and least glamorous issues we must deal with as state public officials – how to manage our prison space in the best interest of public safety and of taxpayers.

You know the statistics. We are out of space today for medium and maximum-security male inmates. We will reach overall capacity in 2007, according to the Kansas Sentencing Commission.

I am here to urge you to enact legislation such as Senate Bill 275 that would authorize the construction and operation of one or more private prisons in our state, under strict state regulation, as one part of the strategy to address our overcrowding problem. This common-sense approach to minimizing the costly burden of prison construction on taxpayers and to maximizing flexibility in our overall corrections system is long overdue. Private prisons operate effectively in more than half the states, including our neighbors of Colorado, Oklahoma and Missouri. They are authorized in Nebraska. But they are effectively prohibited in Kansas.

I Adding capacity is unavoidable

Further sentencing adjustments alone cannot solve our prison crowding problem. Despite at least two rounds of sentencing reductions in recent years aimed at easing the growth of our inmate population, Kansas prisons are full. Our actions in recent years to give priority to violent offenders are working – but one result is that our prisons are increasingly occupied by violent offenders. That sharply limits options for future rounds of sentencing reductions as a strategy for dealing with overcrowding.

The Sentencing Commission projects that our adult male inmate population will grow by 1,113 over the next decade even with no changes to current sentencing laws.

- 1,107 of those new beds will be occupied by the most serious offenders: 427 more beds (61.9% growth) needed for off-grid crimes (the most serious violent offenses); 436 more beds (62.1% growth) needed for Non-drug Level 1 crimes (the second most serious violent offenses); and 244 more beds needed (49.9% growth) for Drug Level 1 crimes (manufacturers).
- The net increase for all other categories of offenders over the next decade is six beds.

Unless we are prepared to release or ease sentences on violent offenders, we cannot solve our prison crowding problem through further sentencing adjustments alone. We will need to add capacity.

II. Expanding state-owned prisons will not alone solve overcrowding

The most likely option for expanding prison space in Kansas in the traditional manner is to construct a new “pod” at the El Dorado Correctional Facility. The current proposal would add 128 cells that could house up to 256 more medium-security male prisoners. The estimated construction cost exceeds \$7.1 million. But according to the Sentencing Commission, those 256 new beds would serve only to delay by two years – until 2009 instead of 2007 – the date by which Kansas prisons would be full.

To accommodate all of the expected growth in violent offender population over the next decade, Kansas taxpayers would have to undertake four similar-sized construction projects. Even the most conservative estimate puts that cost at more than \$30 million in construction costs alone. The actual cost likely would be much higher because we are approaching the limits of our ability to expand existing state facilities – and constructing new facilities is much more costly. I very much doubt that, given the competition for state resources and unmet demands in popular services such as education, social services, and transportation, the legislature is prepared to commit \$30 million to building new state-owned prison beds.

III. Construction of one or more private prisons should be part of the solution

Kansas already has turned – quietly – to private prisons as a key part of our strategy for managing our overcrowding problem. In recent years, Kansas has sent 100 inmates to a private facility in Colorado. Kansas currently has 96 inmates in a private facility in Texas. Our experience with both has been positive.

We also have allowed at least two private prisons to be built and operated in Kansas. Corrections Corporation of America (CCA) operates a large private prison in Leavenworth, and the experience with both has been positive. All of its prisoners are federal prisoners – from the U.S. Marshal’s Service and from the Immigration and Naturalization Service. GRW Corp. also operates the juvenile boot camp in Labette County.

But, although Kansas public policy allows private prisons to operate in our state and allows our state to contract with out-of-state private prisons to house Kansas offenders, our law effectively precludes private prisons from operating in Kansas to house state-level inmates. (K.S.A. 75-52,133). In effect, we now have the worst of all possible worlds – we experience whatever drawbacks private prisons may have, but we do not gain any benefit for Kansas taxpayers and we do not have control over those prisons’ operations. That makes no sense.

IV. My interest in this subject.

My interest in private prisons began as a constituent matter. I represent Woodson County, and community leaders there have worked for two decades – yes, two decades – to try to cause the construction of a private prison in that community as part of the local economic development strategy. My predecessor, Senator Talkington, was one of the proponents of this effort as was another of my predecessors, Senator Emert.

I was initially a skeptic. A strong skeptic.

But as I have studied this issue, I have become convinced that private prisons make sense from the standpoint of our state’s corrections system. They are one option we should allow as part of our overall strategy for maintaining a balanced, flexible corrections system that can handle the offender populations we anticipate well into the future.

Knowing of my interest in this subject, Attorney General Kline last summer appointed me chairman of that portion of his Task Force on Crime and Sentencing that was assigned to study alternative incarceration options. Our committee, on which Representative Goering served, conducted a day-long field hearing in Yates Center and heard testimony for supporters and opponents of authorizing a private prison in our state. The committee recommended enactment of Senate Bill 275 or similar legislation.

V. Advantages of private prisons

Private prisons are not a substitute for a state-run corrections system. But having one or more private facilities in Kansas as part of our state’s corrections system would offer several advantages:

Cost savings: We would mandate in the authorizing legislation that a private prison operating in Kansas would have to guarantee Kansas taxpayers savings compared with the cost of incarcerating an inmate in a state-owned facility.

Avoidance of Construction Costs: Because private investors would pay the cost of constructing the private prison, taxpayers would not have to finance up-front construction costs. That would free millions of dollars for use in other important state programs.

Flexibility: By giving Kansas “bumping rights” at an in-state private prison, our corrections system would obtain maximum flexibility. If we need 20 extra beds, that’s what we rent. If we need 400, that’s what we rent. We don’t pay for 400 when we only need 20.

Proximity: Kansas is now sending prisoners to out-of-state private prisons. Keeping those prisoners at a private facility in Kansas would save on transportation costs and would tend to promote inmate rehabilitation and reintegration by promoting visitation.

Economic Impact: Kansas today is sending tax dollars out-of-state to house Kansas prisoners in private facilities. If we had one or more private facilities in Kansas, our tax dollars would recycle here through property taxes paid, salaries, purchase of supplies, and similar activities.

VI. Key provisions in the legislation

Because the private prison industry is now mature, Kansas has the advantage of being able to learn from the experiences of other states. To that end, we have the ability to craft authorizing legislation that fully protects our state’s interests. Key elements of Senate Bill 275 include:

- **CONTROL:** The state would have direct control over the siting, operations and activities of any private prison operated here through a licensing procedure. The Department of Corrections would at all times monitor the operations of the private facility to ensure compliance with applicable standards. The contractor would pay the cost of monitoring. [Sec. 6(i)].
- **COST SAVINGS:** The state would NOT be a “captive customer” of an in-state private facility, and the Secretary would retain full discretion as to whether to contract with such a facility to house Kansas inmates. If the secretary does choose to house Kansas inmates at an in-state facility, the contract rate would have to be at least 10 percent less than the department’s average per capita operating cost for using state-owned facilities. [Sec. 5(d) and
- **CHERRY PICKING:** Senate Bill 275 specifically prohibits the private contractor from “cherry picking” and accepting only those Kansas inmates it wishes. The in-state private contractor would be required to house any inmates Kansas sends to

the facility [Sec. 6(j) and Sec. 7(a)], and Kansas would even have “bumping rights” to compel the private contractor to remove out-of-state prisoners from beds if Kansas wanted to place Kansas inmates therein [Sec. 6(j)].

- **CLASSIFICATION:** The Kansas classification system for inmates would apply in the private facility. The Department of Corrections would have complete authority to review the files of any out-of-state inmates proposed for incarceration in the private facility, to reclassify the same according to the Kansas system, and to reject any out-of-state inmate. [Sec. 6(m)].
- **LIABILITY:** The private contractor would be obligated to fully indemnify the state against any legal liability and must provide proof of adequate insurance to cover any claims. [Sec. 6(e)].
- **PROTECTION FOR SMALL HOST COMMUNITIES:** To avoid the problem of small, poor communities committing too many resources to lure private prisons to build in their area, Senate Bill 275 specifically disables most of the traditional economic development tools that can result in “bidding wars.” [Sec. 15(e)].
- **FLY-BY-NIGHT OPERATORS:** To avoid the problem of substandard private operators entering Kansas, Senate Bill 275 requires the Secretary to find that any applicant for a license is capable and reputable. [Sec. 5]. Any private contractor would have to at all times meet all applicable national correctional standards. [Sec. 6(f)].
- **DISTURBANCES/EMERGENCIES:** To avoid uncertainty in the wake of any emergency, Senate Bill 275 would require that before any facility can open the Secretary have approved a plan with the private contractor to address what happens in the event of emergency, financial insolvency, or other inability to meet the requirements of the Act. Each plan would have to provide for the financial protection of the state. [Sec. 9(a)(1-3)].

VII. Next steps

Finally, Mr. Chairman, let me thank the Department of Corrections and Secretary Werholz for his interest in this subject. I have met with him on several occasions. The Substitute bill before you incorporates the many changes that the Secretary requested to this legislation. We have endeavored to accommodate the Secretary in every way possible, and I believe we have accomplished that.

The Department of Corrections and its employees are understandably uneasy about this proposal. Change is always difficult and always involves uncertainty. I respect the Secretary and his able staff and their dedication to the duties we have entrusted to them.

But the bottom line is this: The department is responsible for managing our corrections system. We are responsible for structuring that system. As we do so, we must weigh considerations that the department need not be concerned with – such as the overall demands on state funding and the needs of many vital state programs, such as education, social services, and transportation.

I believe that as we move into those discussions over the next months and years, we should have the maximum possible flexibility. We need more options, not fewer. Senate Bill 275 does not mandate action. But it enables us to consider one more option as we decide how to deal with our prison crowding problem. By enacting Senate Bill 275, we put that option squarely on the table.

Thank you for allowing me to testify. I would be glad to stand for questions.

March 15, 2004

Chairman Lloyd and Committee on Corrections and Juvenile Justice,

My name is Sheriff Currie Myers of Johnson County and I am here today to testify in support of Senate Bill 275, an act relating to the allowance of private prisons in Kansas.

Repeat offenders have become a huge problem to law enforcement. There isn't a day that goes by that our staff as well as our city police departments arrest a person for a property crime that receives virtually no punishment from the legal system. This isn't because our prosecutors are willing to prosecute, quite frankly, we are fortunate here in Johnson County to have one of best prosecutors in Paul Morrison. Instead is because our hands are tied and the end result for the reason is no prison space. In my humble opinion, we have a prison space capacity problem and not overcrowding.

In Johnson County alone in 2003, criminals took nearly \$17 million in loss revenue from my fellow Johnson Countians with respect to property crimes. I want to make sure and note that this amount is direct costs associated with over 13,000 property crimes committed in our county (KBI reports, 2002). This loss does not include increase insurance costs, loss of economic activity, and the sheer despondence of becoming a victim.

Prison space, either via public or private or a partnership together is the answer. A primary focus of government is to protect its people. I ask that you join with me in answering the call for justice! Let's start sending people to prison for the crimes they commit against the public and end this revolving door of justice.

Lynn C. Myers
Sheriff of Johnson County, Kansas

Testimony prepared for the
House Corrections and Juvenile Justice Committee
Regarding Senate Substitute for Senate Bill No. 275
March 15, 2004

Presented by Cloid L. Shuler
Vice President of Business Development
The Geo Group, Inc.

Thank you, Mr. Chairman and members of the committee, for the opportunity to testify on the Senate Substitute for Senate Bill No. 275. My name is Cloid Shuler and I am Vice President of Business Development for The Geo Group, formerly known as Wackenhut Corrections Corporation. The Geo Group is the largest international provider of private correctional services and the second largest domestic provider. Geo has over 26 clients worldwide on four continents with over 33,000 beds under contract worldwide. We also have three regional offices that ensure quality and consistency in the delivery of services. Kansas is located in our central region, which is serviced out of our Texas regional office. Don Houston is the Regional Vice President and you will enjoy working with him and his staff.

I would like to address some of the concerns that I have heard expressed by individuals and organizations that relate to the private management of correctional facilities. The Kansas Department of Correction and the Geo Group have the same objectives, managing correctional facilities that ensure public safety and the safety of staff that work within the facility and the safety of inmates that reside in the facility. We achieve those objectives in a very similar way, by designing and constructing a facility that is secure and that can be safety managed, establishing a correctional system that screens and hires professional staff that are properly trained. We both establish policy, procedures and post orders that meet federal and state constitutional requirements, state statutes and American Correctional Association standards.

Private corrections, however, does some things differently. The Geo Group has a profit and loss statement that is reviewed at all levels of the company, both weekly and monthly. This results in a very careful control of cost. We are required to compete and that requires us to provide the best quality at the best price. As a result of competition, we are required to continuously explore ways that we can improve operations, often resulting in progressive changes by the state, as we share our processes and innovations. Private providers are required by contract to be performance based and required to meet the highest standards in our industry. If we fail to perform we can have our contract terminated. This is a very real incentive to build quality operations and have a sound audit system in place that ensures compliance.

The Geo Group manages a full range of correctional facilities from close custody to work release, and community residential programs. We also manage a "special needs" facility and have several residential drug treatment programs that provide excellent programs with very positive results. Sometimes private companies are accused of "cherry picking" or taking the very best of inmates. I can assure you as a former warden that we don't get

the very best inmates. For example, we have over 300 lifers at our South Bay, Florida facility and we were requested by the state to manage sexual violent predators. If any professional warden is given a properly designed facility and well trained staff, any inmate can be managed in a private or public facility.

There are some areas of concern in the Senate Substitute for Senate Bill No. 275 I would like to bring to your attention.

- The new language requires that a private contractor have a valid license and the secretary of corrections is authorized to license, monitor and regulate the private contract.
 1. This language seems to place the Department of Corrections in a regulatory role. The bill now tries to accomplish by statute what most states accomplish through contract.
 2. The Department of Corrections should be authorized to enter into a contract for services, and that contract should detail the level of services and performance outcomes that best meet the needs of the state. The contract can be amended or modified as the needs of the department changes.
 3. The Geo Group or any other private provider would comply with the Department of Correction's classification requirements and operate under the Department of Correction's inmate disciplinary rules and record keeping requirements.
- The substitute bill is also very restrictive concerning the role of local units of government. This bill not only requires the county commission to approve a project, but also requires that the county to place the project on a primary or general election ballot and requires the approval of a majority of qualified voters.
- The Senate substitute also requires that a private facility that is proposed on a site within one mile of the border of any other county, that adjoining county is also required to place the issue on the ballot for majority approval. The Geo Group believes that private providers should be held to the same standards that the Department of Corrections would be required to follow if that agency were attempting to locate a facility in a county.
- The substitute bill further restricts local units of government in that "no direct incentives" may be offered to the private vendor. The Geo Group believes that communities should also be able to compete for an industry to be brought to their community. Are similar requirements placed on other industries locating in Kansas?

It would be my pleasure to respond to any questions and we would like to invite you and the staff of the Department of Corrections to visit our facilities to see the quality of operations.

Gerald W. Woolwine, President
 Christine Kenney, Vice-President
 Thomas J. Drees, Secretary/Treasurer
 Steve Kearney, Executive Director
 John M. Settle, Past President



Edmond D. Brancart
 Douglas Witteman
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TO: Ward Loyd, Chair, and the Members of the House Committee on Corrections and Juvenile Justice

FROM: Mike Jennings, Legislative Chair, Kansas County and District Attorneys Association

RE: Private Prisons and Senate Bill 275

DATE: March 15, 2004

On behalf of the Kansas County and District Attorneys Association, thank you for this opportunity to state our support of S.B. 275, the private prison bill.

The need for additional bed space in our state prison system is clear. The Department of Corrections (DOC) has been at or near capacity for some time, particularly for higher security, long-term inmates. The Sentencing Commission projections indicate that the pressure for additional beds in these security categories will continue for several years.

The Sentencing Commission projections show that our prison population will rise from 9,018 to 10,131 by the year 2013. This is an increase of 1,113 inmates over the next ten years. What is even more compelling about this projected increase is that 1,107 of the inmates will be in the higher security categories. This means that 99.46 percent of the increase will be made up of murderers, rapists, drug manufacturers, child molesters and the like.

Having the ability to utilize bed space at a private facility is a promising solution to meeting, at least in part, the need for additional DOC bed space. Private prisons have been in use for many years. The Federal Bureau of Prisons and several states, including Kansas (Leavenworth), already have contracts utilizing privately owned and operated prisons. Indeed, the State of Kansas is housing a substantial number of inmates at private prisons in other states at this very moment. That should speak volumes as to the suitability, ethics, and other concerns raised by critics of private prisons. Calling these facilities private is correct in that the construction costs are not public expenses. But the facilities must comply with the requirements of the Kansas Department of Corrections and in this very important sense they are public.

The prison business, whether state owned or privately owned, has been perceived as a bad news business. All prisons whether public or private have had problems with assaults, staff morale and staff turnover. How safe does a public corrections officer feel when Kansas continues to run at or near capacity in all of their facilities? Public prison employee's morale and turnover is a critical issue that private prisons will help address.

Having a private prison facility in Kansas would mean easier visitation for family, easier reintegration for the inmate and lower transportation costs when compared to utilizing out-of-state private prisons. Senate Bill 275 also guarantees the state the ability to house inmates at a cost savings to the taxpayers of Kansas. As I mentioned, the State of Kansas is already using private facilities located in other states (Texas and Colorado).

Senate Bill 275 is an option-only bill. There is no mandatory language in the bill that would require the State of Kansas to build a private prison. Prior to constructing a private prison, the citizens of any county must first approve by election the site of any private prison in their county. It gives the DOC the flexibility to research, consult with, and approve any private prisons built in the state. Senate Bill 275 is good public policy that would help to relieve the capacity issues at the state prisons as well as address the ever increasing rise in crime in our communities. The private prison option would provide a cost-effective alternative that would allow our legislature to make sound policy decisions concerning what criminals should be behind bars instead of which criminals do we not have room for.



HOUSE CORRECTIONS AND JUVENILE JHUSTICE COMMITTEE

Date: 3/17/04

Testimony in support of Senate Bill 275

Mr. Chairman and members of the Committee, I would like to thank you for the opportunity to testify in favor of this proposed bill.

I am Dick Mills, V.P. of GRW Corporation. GRW is a private correctional management firm with the Corporate office located in Brentwood, TN and a regional office located here in Berryton, Kansas. GRW started operation in 1991.

It would be redundant for the Committee, for me to address the states fiscal problems and the need for additional space, now and in the future to house medium and maximum security male inmates. Senate Bill 275 provides the state with the options that could help solve some of the fiscal and capacity problems.

Private operations are successfully established in the US and are not new to Kansas. Currently, we have several private facility operations in the state; one in Leavenworth for federal prisoners operated by CCA, and two in Labette County. The facilities, male and female conservation camps are operated by GRW Corporation. The male camp was opened in 1991 and the female camp opened in 2000. There may be at least two or three more private operations in the state.

We encourage the Committee to look at the bill as an opportunity to provide the state with the necessary tools to form partnerships between government and the private, for funding and building correctional facilities. We would ask however, that when comparing cost between the state and the private that the comparison of cost be apples to apples. This would mean that all costs associated with the design, build and operation of a facility is included in the cost comparison, including facility debt retirement.

As a former Secretary of the Kansas Department of Corrections, I appreciate Secretary Werholtz's positive contribution on this legislation to protect the public safety, and fiscal interest of the State. We share these objectives.

Once again, we want to thank the committee for allowing this testimony and encourage the passage of this bill. This enabling legislation is a policy option that should be available to the State of Kansas.



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March 15, 2004

To: House Corrections and Juvenile Justice Committee
From: Attorney General Phill Kline

Re: House Sub for SB 275: Private Prisons

Chairman Loyd and Members of the Committee:

I want to thank you for the opportunity to address the committee on this important piece of legislation. I was very pleased to hear of the committee's interest in developing private prisons in Kansas. I'm sorry that I'm not available to appear in person. However, other demands on my job require my attention elsewhere today.

I would like to focus on some preliminary research I've conducted. This research has done nothing but firm up my strong support for passage of this bill. I firmly believe, that we need to adopt a philosophy of putting criminals behind bars by exploring alternative methods of incarceration.

Summaries of research I've conducted are below. It is my hope that it serves you well as you consider passage of this bill.

Summary of Harvard Law Review Article of May, 2002

Harvard Law Review reports in May of 2002, that private prisons demonstrate cost savings, greater accountability for constitutional violation of inmate rights, and generally greater quality. As of June, 2001, 13% of federal inmates and 6.5% of state inmates were housed in private prisons for a total of 94,948 inmates, up from 69,000 inmates in December of 1999.

Prisons do have a trade association, which can serve as a wealth of information. It is called the Association of Private Corrections and Treatment Organizations (APCTO). Nearby states, Texas and Oklahoma, lead the nation in the number of private prisons.

A Review of Constitutional Standards

House Corr & JJ
Attachment 6

3-15-04

The Supreme Court has held that private prison guards cannot claim qualified immunity in 1983 civil rights suits. *Richardson v. McKnight*, 521 US 399 (1997). Qualified immunity does attach to public prison guards providing immunity for discretionary conduct unless their actions violate clearly "established constitutional rights of which a reasonable person would have known". *Harlow v. Fitzgerald*, 457 US 800 (1982), at (815-19). *Richardson* held that private prison guards do not enjoy such immunity but may assert a good faith defense. Factors or corporations are held in the same light as public agencies and therefore are not subject to bivance as civil rights suites. See *Correctional Services Corp. v. Malesko* 122 S. Ct. 515 (2001).

Accordingly, private prisons arguably have greater accountability as it relates to protecting the civil rights of inmates. The article, of course, suggests that states require private prison management companies to carry the appropriate insurance, and possible to indemnify the state against any claims.

Prison Performance Studies

To date, 28 studies have been completed regarding the performance of private prisons. The authors of the Harvard Law Review article consider six of the studies to be rigorous and valid. All show cost savings for private prisons and most show better quality. None of the studies indicate less quality in private prisons.

A December 1996 study conducted at Louisiana University, compared one public and two private prisons in Louisiana. The private prison demonstrated a cost savings of 12 to 14% a year, \$22.93 per inmate per day to \$26.60. The study demonstrates a wash on quality assessments.

A 2000 Arizona Department of Corrections study, compared three private prisons with 15 public facilities. On average, the private prisons demonstrated a 13.6% cost savings in 1998, \$40.36 per inmate per day compared to \$46.72 at the public facility. The study demonstrated equal quality.

A review conducted by the state of Florida in 2000, compared one public facility with one private facility. The Florida contract required a demonstration of 7% cost savings. The study demonstrated that over a two year period the private prison saved 3.5% in costs in one year and 10.5% in the subsequent year. Construction costs were 24% lower and quality was improved in the private prison.

Private prisons generally save money on design and construction costs and experience lower labor costs due to lower wages and greater efficiency. Because private companies are not subject to civil service laws, they are able to utilize a greater flexibility in designing incentives for improving efficiency.

Thank you for your time. I appreciate your interest in this matter.

L. CANDY RUFF
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TOPEKA

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 REPRESENTATIVES

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 CULTURAL RESOURCES

Because I represent the largest state prison in Kansas, my testimony against SB 275 centers on slowing down this “hell bent” drive to allow privatized correctional facilities in our state. The issue is not new to our legislative discussions nor is the call to address prison overcrowding. I take exception to solving the later problem with the former solution.

My suggestion for this committee is this: slow down until the numbers are in. Several studies by the Kansas Department of Corrections are underway just now and those results could paint a far different story of inmate custody classifications. Using the indeterminate sentencing system then in place, the 1986 inmate classification system was the last time a proper and thorough review took place. Since the implementation of the 1993 sentencing guidelines, the inmate classification system does not reflect the determinate sentencing now in place.

KDOC is in the process of instituting a new classification system taking into consideration the 1993 sentencing guidelines. Those close to this process indicate more violent inmates are being held in higher levels of custody for longer times. However, the new system may point to inmates being misclassified at higher level of custody than needed for the nature of their crimes. That may push inmates down to medium and minimum levels.

Before any final decisions are made on allowing the construction of private prisons to meet inmate custody overflow, KDOC’s inmate classification update must be completed.

The Kansas Sentencing Commission’s tracking system in which it predicts inmate custody levels experienced a one-time glitch at the end of the last quarter, thus causing KDOC to utilize Texas corrections options. Beginning in October 2003, increases occurring above projected levels took place in the number of parole violators, new court commits and probation violations. At the same time, the number of releases from prisons did not occur as expected.

Because those four indicators experienced unexpected movements, KDOC was forced to farm out its overflow population to Texas. That glitch in the numbers, however, is not a hard and fast trend. Before we take it as such, let’s look at the Sentencing Commission’s odds on predicting the future. A look at February 2004 numbers indicate a trend downward in the first three categories.

Building a new correctional facility deserves a cost analysis that goes beyond new construction. Let’s first compare expansion at the El Dorado and Larned Facilities. By expanding to four new cell houses at the El Dorado facility, 512 maximum custody inmates could be housed or 1,025 medium custody level. The Larned Correctional Facility is capable of having a five-finger pod

constructed to handle 150 maximum level inmates. Remember, building onto existing facilities is always cheaper no matter how you slice it.

And what about Topeka's newly constructed maximum juvenile facility? Because it is obvious that Kansas does not have enough violent juvenile offenders to fill up the 250-bed facility, the state should re-evaluate how to better use that facility for adult offenders. Those juvenile offenders needing greater custody levels could be better served by retaining them in existing juvenile facilities where the custody and security arrangements have been enhanced.

As a matter of state policy that appears to already be in SB 275 is the use of county corrections facilities before going out of state. Because the VOI/TIS grants expire at the end of 2005, state general funds will be used to house all inmates outside the state corrections system. Those grants now pay for 90 percent of the costs. When its state taxpayers money, I should think lawmakers would first want local county governments to benefit before out-of-state private prison contractors. With KDOC in the process of evaluating all 105 county jail facilities to determine if their security matches the state's needs, legislators must wait until that study is completed. Preliminary indications, however, put the number at 250 beds in Kansas county facilities.

Finally, state lawmakers must avoid at all costs becoming a captive client to privatized prison corporations. KDOC has evaluated at least 19 studies on privatizations of corrections and those results must be thoroughly examined before a decision as important as this one is made. A sampling from some of those studies is listed below.

“Housing a higher proportion of minimum security inmates in relatively new facilities achieves comparatively modest cost savings. There is no evidence that private prisons have a dramatic effect on how prisons operate.”

Current Issues in Criminal Justice, November, 1999

“A significant issue in the privatization of prisons is whether they can be operated more cheaply than State prisons while still achieving comparable performance. Performance issues are difficult to address, since private corporations contract primarily for those inmates that are the easiest and therefore the cheapest to manage, i.e., minimum-medium security populations. Critics have issued warnings against the possibility of jurisdictions becoming “captive” to prison service vendors as a jurisdiction becomes overly dependent on a given corporation for services.”

Introduction to Prison Privatization: Issues for the 21st Century, Michael Hallett PhD, 2002

“The principal danger of privatized corrections is that the entrepreneurial nature of corporations and corporate actors will lead privatization providers to create demand for additional forms of social control as part of the corporate growth process.”

Entrepreneurs of Punishment: The Legacy of Privatization from Punishment & Security, 2002

“Private prisons have been seen to provide solid advantages and benefits while also posing some political and humanitarian risks, however, the risks grow as the motive of cost reduction becomes more predominate. Private prisons must meet state and community standards making the regulatory systems and accountability mechanisms that govern their operations imperative.”

Private Prisons from Crime and Justice: A Review of Research, 2001

“The research findings add significant evidence to a growing perception that a pattern of deficiencies in the way private prisons are being managed in the United States is providing them to be unsuitable for handling prisons above the lowest levels of security classification. These deficiencies include inadequate programming, unreliable classification methods, and insufficient numbers of experiences, well-trained personnel.”

*Comparing Private and Public Prison Services and Programs in Minnesota:
Findings from Prisoners Interviews from Current Issues in Criminal Justice, 1999*

“The report recommends that the Commission use performance-based program measures to evaluate the performance of the private prison vendors and to compare private prisons performance to that of state prisons.”

Florida Legislature Office of Program Policy Analysis and Government Accountability, 2000

“Private prison companies, acting aggressively to ensure their survival in the market, are likely to violate institutional legitimacy. This proof may take some time to become clear, but unless it precipitates a major change in the institutional environment, it will set off a cycle that drastically increases costs for the companies and the government.”

Prison Privatization: An Environmental Catch-22 from Justice Quarterly, 1999

“Many times private vendors will take only minimum-security and low-risk inmates, leaving the maximum-security and higher risk prisoners for the county to manage. A study by Harvard’s Kennedy School For Government found that when private facilities handle the same class of prisoners as government institutions, the difference in cost is minimal. Also a vendor may bid at a low cost and then after obtaining the contract and the county has gone out of the corrections business, raise costs dramatically. The private vendor’s awareness that they are not ultimately liable for violations of inmate rights can increase the number of severity of inmate lawsuits. Private corporations want to keep the contracts they have, to do this, it has been documented that they repeatedly give large political contributions and lucrative perks to officials who decide on the fate of their contracts. Underlying all of the problems with the privatization of corrections is the motivation for a private company’s management decisions and operations, i.e., profit.

Jails, Incorporated: Savings are a Hoax from Sheriff, 1996



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**Working Together,
We Make A Difference!**

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**Testimony on Sub. SB 275
Before the House
Corrections and Juvenile Justice Committee
March 15, 2004**

Presented by Andy Sanchez, Executive Director
Kansas Association of Public Employees

Thank you Mr. Chairman and members of the Committee. I appreciate the opportunity to appear before you today and offer our opposition to Substitute for SB 275. As most of you already know, KAPE represents state, city and county employees across the state. KAPE is the bargaining representative for all of the state correctional facilities except Lansing. Our position on this bill is fundamentally based on incarceration being a responsibility to be carried out by government. We support the claim for the following reasons: First and foremost, our claim is that such corporations create a risk to public safety in their pursuit of profits. Second, Kansans are being misled because additional expenses exist that are not considered in such proposals which reduce state savings. Third, private prisons target rural areas with empty promises of economic development. Last, that the legal responsibility, or the lack of indemnification is an inherent flaw of for-profit prisons.

Private prisons exist to make a profit and it is worth noting how a profit is accomplished by private prisons. It is done by cuts in the basic functions necessary to operate a prison, such as staff wages and benefits, staff levels, staff training, inmate programs and care. Medical care and food service are two examples of inmate care. A December 2003 "Grassroots Leadership" report (a corporate research project of Good Jobs First and Prison Privatization Report International) cites these very reasons as a recipe for disaster and adds staff turnover as another contributor. In a March 2000 report by the Federal Bureau of Prisons it found that almost half of the private prisons had a separation rate (turnover) of 50% or more. This report was mandated by the U.S. Congress because of the very issues and concerns we share with you today.

We believe private prisons continue to build a poor track record of violent outbreaks, riots and escapes (see Table 1). Also worth noting is that this occurs despite the private prisons preference to lower level security inmates (see Table 2). This is what is known as "cherry-picking" or selectively choosing inmates based on how they are classified.

The private prison industry has become adept at targeting rural areas with the promise of economic development. The hope is that the construction and operation of a facility will bring good paying jobs providing "linkages" to other aspects valuable to a local economy. That prison employees will buy local houses, purchase local products, and services and increase local tax revenue. The linkages would be a multiplier effect of new jobs to the community. But, there is no data to support such claims. In fact, just the opposite is more likely to occur. In a 2003 Iowa State University report by Terry Besser and Margaret Hanson they concluded there was no benefit to prison building to other small town businesses. In another report by the "Sentencing Project" titled Big Prisons, Small Towns: Prison Economics in Rural America, their analysis makes similar claims, no economic growth, no impact on unemployment rates and no impact on income. Here is why, the dynamics of the labor market are such that create these results. The construction of a facility requires specialty tradesman, requirements most local applicants do not meet. Once built, Correctional Officers that staff the facility reside in neighboring counties and not the host county. Local businesses may not stock the raw materials (nor the volume) for the construction of a prison facility to benefit on such an undertaking. Last, local residents may find themselves in competition with inmates as inmates are sometimes used in a joint venture of business a government.

The Sentencing Report also cites employees not living in the host county as a factor prohibiting economic development. KAPE decided to look at this claim and apply it to the host city of our prisons in Kansas. The majority of positions required for a prison are Correctional Officers. In Kansas a look at El Dorado, Ellsworth, Larned, and Winfield reveal that Correctional Officers drive an average of 23.5 miles to commute to work in these towns.

Last, the state cannot completely free itself from responsibility with the tightest of contracts. Thus, monitoring and negotiating contracts of private prison services will be more expensive than estimates. The state also cannot simply free itself from liability. And it is here, where unseen costs can add up quickly. Litigation because of an out break of violence or the mistreatment of inmates can be costly to the state.

These are just some of our concerns with Substitute for SB 275. We encourage long term solutions to our prison system and not a quick fix. If there are cumbersome laws that make our system inefficient lets fix them. If alternatives exist such as reclassifying older and disabled inmates let's consider doing that. But, let's not throw our hands up and say you (contractor) take care of it. This concludes my testimony. Thank You

**Private Prisons in the United States, 1999:
An Assessment of Growth, Performance, Custody
Standards, and Training Requirements**

Federal Bureau of Prisons
Office of Research and Evaluation
320 First Street, NW
400 Building, Room 3006
Washington, DC 20534

March 2000

Scott D. Camp, Ph.D.
Gerald G. Gaes, Ph.D.

Table 1. Serious Incidents at Private Prisons in 1999¹
Listed by Company and Date

Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
CCA	1/30/1999	South Central Correctional Facility, TN	Escape	Prison	An inmate, who confessed to first-degree murder in 1990, was able to escape with the cooperation of a staff member. A female prison officer dressed the inmate as an officer and helped him walk out of the prison.
CCA	3/19/1999	North Fork Correctional Facility, OK	Group disturbance	Prison	A dispute between a Wisconsin inmate and a correctional officer in the dining hall spread to other inmates, including inmates in a housing unit. Gas was used to control the inmates. All inmates in the facility are from WI.
CCA	5/20/1999	West Tennessee Correctional Facility, TN	Escape / Attempted Escape	Prison	Four Montana inmates being held in a TN prison attempted an escape. Two inmates were caught before they could climb the perimeter fence, but two inmates, one a convicted murderer, were able to complete the escape.
CCA	7/25/1999	In Transit, VA	Escape	Transport	Two maximum security inmates, both convicted murderers, who were being returned to a Virginia prison after a court appearance in TN, were able to escape from two CCA officers. The officers left the door to the van unlocked while at a restaurant, and the inmates were able to slip their leg irons and flee.
CCA	7/28/1999	Bent County Correctional Facility, CO	Escape	Prison	An inmate was able to escape from the prison, probably by stowing away in a trash truck. Another inmate had escaped from this prison two weeks earlier by hot-wiring a prison van while working at a regional recycling center.

Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
CCA	8/15/1999	Diamondback Correctional Facility, OK	Group disturbance	Prison	A disturbance started when correctional officers attempted to stop two inmates from climbing a fence separating two recreation areas. 25 inmates went on a rampage with \$400,000 in damage from fire, smoke, and water resulting from 12 separate fires.
CCA	8/16/1999	Hardeman County Correctional Facility, TN	Escape	Transport from Prison	While on a hospital visit, an inmate, convicted of robbery, was able to escape by overpowering a officer after the officer had released the inmate from handcuffs. The inmate took the officer's gun, a woman hostage, and a car stolen from the hostage to flee down an interstate highway.
CCA	8/17/1999	Torrance County Correctional Facility, NM	Group disturbance / Assault on staff	Prison	Two officers were seriously injured in a disturbance that involved about 290 inmates. One officer was in a coma for four days. As many as 75 inmates were involved in the disturbance, which may have been staged as a cover for an aborted escape attempt.
CCA	1/1999 through 9/1999	Kit Carson Correctional Facility, CO	Staff misconduct	Prison	Charges were made that up to 15 female officers and nurses had affairs with Colorado inmates during the first 9 months of operation of this private facility.
CCA	11/17/1999	Pamlico Correctional Facility, NC	Escape	Transport from Prison	A convicted killer in North Carolina escaped from officers who had escorted the inmate to a doctor's office in New Bern, NC.
CCA	11/30/1999	Whiteville Correctional Facility, TN	Group disturbance	Prison	A disturbance started in the dining hall shortly after the visiting Corrections Secretary of Wisconsin left the dining hall. The facility holds WI inmates. The inmates took 15 hostages, and 3 staff received minor injuries during the incident. Tear gas was used to end the disturbance.

Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
CCA	11/30/1999	Crossroads Correctional Center, MT	Group disturbance	Prison	A dispute over prison policies regarding televisions escalated into a riot involving 49 inmates. The incident was brought under control quickly with the use of tear gas. Damages were limited.
CSC	3/5/1999	Crowley County Correctional Facility, CO	Group disturbance	Prison	The disturbance started in the dining hall when a Washington state inmate hit a correctional officer with a tray. The disturbance spread to two housing units, where staff were able to control the disturbance with the use of OC spray. While the incident started with Washington state inmates, inmates from Wyoming and Colorado also became involved in the disturbance.
CSC	9/5/1999	McKinley County Detention Center, NM	Escape	Jail ²	Four inmates, including two murder suspects, were able to escape from the facility by crawling through an air vent. The sheriff was notified 1 hour and 15 minutes later. The jail inmates were sent to the facility to keep the inmate population at the Bernalillo County Jail under a court mandated population cap.
CSC	11/26/1999	McKinley County Detention Center, NM	Escape	Jail	Five inmates were able to escape from the facility by climbing through a skylight. CSC claimed that the facility is not structurally sound. As a result, the company returned inmates, including some penitentiary inmates from Montana, to their home jurisdictions.
MTC	4/4/1999	Promontory Prison, UT	Escape	Prison	Three inmates were able to escape from this minimum security prison by cutting a hole in a fence with a file. The facility functions as a pre-release center.

Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
TransCor	10/16/1999	In Transit, NM	Escape	Transport	A North Dakota inmate, convicted of murdering a child, escaped from a bus that was transporting him from ND to the super-maximum prison in Organ, NM. The inmate had concealed a cuff key on himself, unlocked his restraints, and escaped through a vent on top of the bus. The escape was not noted for 9 hours, and the NM police were not notified for another 2 hours.
WCC	1/13/1999	Lea County Correctional Facility, NM	Inmate death	Prison	An inmate was found stabbed to death at the prison. WCC said the stabbing appeared to be gang related. This was the eighth stabbing and second such death since the prison opened 6 months prior to this event.
WCC	4/6/1999	Lea County Correctional Facility, NM	Group disturbance	Prison	A group of 150 inmates rioted at this facility, producing minor injuries to 13 staff members. The incident started in the dining hall, but it spread to other parts of the facility. At issue, in part, were religious demands of Native American inmates.
WCC	6/18/1999	Lea County Correctional Facility, NM	Inmate death	Prison	An inmate was found stabbed to death in his cell. Two rival gang members were suspected of the crime. This was the third fatal stabbing at the facility.
WCC	8/11/1999	South Bay Correctional Facility, FL	Escape	Prison	Two inmates, one convicted of murder and the other of burglary and aggravated assault, were able to escape from this facility.
WCC	8/12/1999	Guadalupe County Correctional Facility, NM	Inmate death	Prison	An inmate was murdered with a laundry bag filled with rocks as he watched television.

Company	Date	Correctional Facility	Incident	Facility Type	Brief Description
WCC	9/1/1999	Guadalupe County Correctional Facility, NM	Group disturbance / Staff death / Inmate assault	Prison	There was a riot involving 290 inmates. A correctional officer was stabbed numerous times by up to 9 inmates. The riot was in response to efforts to lock down the institution following the stabbing of an inmate.
WCC	9/6/1999	Taft Correctional Institution, CA	Escape	Prison	A Federal inmate was able to escape the secure facility by altering his appearance and walking out of the institution with visitors following visitation.
WCC	9/7/1999	Travis County Community Justice Center, TX	Contract revocation	Prison	The state of Texas retook control of this prison. 11 former officers and a case manager were indicted on criminal sex charges. They are charged with felony charges of sexual assault and improper sexual activity as well as misdemeanor charges of sexual harassment. The state is also investigating fraud.
WCC	11/16/1999	Taft Correctional Institution, CA	Group disturbance	Prison	Federal inmates broke windows, televisions, and tables in a disturbance that started over issues with food services. Damage was estimated at between \$50,000 and \$60,000. The staff used gas, nonlethal bullets, and other nonlethal weapons to control about 1,000 inmates who had refused to return to their housing units.

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- Notes: 1. The incidents reported in this table are for the facilities listed in Appendix 1 only. Escapes and major incidents at jails, detention centers, and juvenile facilities operated by the respective private prison companies are not included in this table.
2. Jails that serve principally in that function are not included in this study. The McKinley County Detention Center, however, held 72 sentenced, medium-security inmates from Montana at the time the data were collected for this study (July 31, 1999).

Source: Published newspaper accounts.

Table 2. Private Prison Vendors Sorted by Number of Inmates

Company	Number of Facilities	Inmates					Total
		Maximum Security	Medium Security	Low Security	Minimum Security	None or Other	
Corrections Corporation of America	45	1,454 (4%)	21,580 (58%)	2,593 (7%)	10,632 (29%)	985 (3%)	37,244 (100%)
Wackenhut Corrections Corporation	26	1,143 (6%)	8,218 (43%)	2,345 (12%)	7,126 (38%)	169 (1%)	19,001 (100%)
Management & Training Corporation	8	29 (1%)	1,258 (24%)	295 (6%)	3,716 (70%)	0 (0%)	5,298 (100%)
Cornell Corrections, Inc.	4	0 (0%)	629 (18%)	2,282 (65%)	572 (16%)	22 (1%)	3,505 (100%)
Correctional Services Corporation ¹	5	98 (4%)	554 (24%)	157 (7%)	1,536 (65%)	0 (0%)	2,345 (100%)
McLoud Correctional Services, LLC	1	0 (0%)	599 (100%)	0 (0%)	0 (0%)	0 (0%)	599 (100%)
Marantha Production Company, LLC	1	0 (0%)	0 (0%)	256 (50%)	256 (50%)	0 (0%)	512 (100%)
Alternative Programs, Inc.	1	0 (0%)	0 (0%)	175 (50%)	176 (50%)	0 (0%)	351 (100%)
Dominion Management	1	0 (0%)	250 (100%)	0 (0%)	0 (0%)	0 (0%)	250 (100%)
CiviGenics, Inc.	2	48 (58%)	0 (0%)	0 (0%)	0 (0%)	35 (42%)	83 (100%)
Total	94	2,772 (4%)	33,088 (48%)	8,103 (12%)	24,014 (35%)	1,211 (2%)	69,188 (100%)

Notes: 1. Correctional Services Corporation operates a facility in addition to the five listed in this table, the Crowley County Correctional Facility. That facility is owned by Dominion Management. Inmates held in the Crowley facility that are under contract with CSC are listed in the inmate totals for CSC. Inmates held at the Crowley facility under contract with Dominion Management are listed in the Dominion Management row of the table.

Kathy
Guebara

Honorable Chairman Loyd and committee members: thank you for this opportunity to discuss the issue of for profit private prisons in the state Kansas with you today. This testimony from KSCURE represents 150 paying members, approximately half of which are incarcerated and another 350-400 Kansas community partners who share the believe that prisons serve a necessary function in our society but are not the only means to ensuring safe and healthy communities.

SB 275 is a hurried response to an issue that is the culmination of years of doing the same. Margaret Wheatley labels such action as "quick fixes that backfire" in her text *The New Science of Leadership*. The intent of SB 275 was initially to provide employment and income to residents of Yates Center, Woodson County Kansas. This quote is from communication with Bill Linde, a Woodson County Commissioner.

I do not advocate the state spending more money on the building of more castles to house prison inmates.

I have been to Texas and watched how inmates are put in work programs to prepare them to return to society.

I have not seen such activity as that in the Kansas Prisons.

Woodson County has no tax base and all the jobs in the world will not help unless we can lower the cost of property tax. I am 71 years old my property tax is more than \$1,000 per year. Water bill averages \$45. per month. Utility, Home and Merchant Property Owners shoulder the major portion of the County and City budget.

Wackenhut did not request for abatements and has included their portion of the tax burden in their bid.

Due to the recent move of 96 inmates to a Texas private prison, the intent has publicly changed to address the temporary prison crowding issue in Kansas. As we understand it today, there are now approximately 60 of those 96 beds open in Kansas. The overcrowding issue was temporary, not chronic and as such does not require building more prisons. The solution to the prison crowding problem in Kansas is utilizing Kansas resources effectively. This can be achieved by addressing:

Classifications: The prison crowding crunch for medium and minimum inmates is created by the self-imposed classification system. This system has not been revised since 1986 and is overdue based on the passing of 18 years and implementation of the 1993 sentencing guidelines.

Parole Violations: Many inmates in custody have not committed a new crime. 51% of parole revocations are due to technical violations. According to KDOC stats, those inmates released on SB 323 have not returned to the prisons in any greater number than those who are released under supervision. This data clearly indicates the costs of our current process of parole system are not efficient use of tax dollars. One suggestion that has been offered by a variety of people in the community and facilities is removing the parole revocation differences between pre-1993 and post-1993. Parolees, who are returned for the same offense, serve significantly MORE parole violation time in the facility, based on when they were originally sentenced NOT in relation to a threat to public safety. The community is not the only group of Kansas citizens reviewing this process: HB 2338 pages 5&6 addresses the parole revocation crisis in Kansas, recommending 120 call back for parole violators and others. HB 2046 addresses future bed space crowding by addressing the manner in which juvenile records are used in scoring "security risks". Reducing the 51% technical violation recidivism rate will free adequate beds in Kansas prisons. As of this date, KS CURE has been unable to get a clear response on the state's obligation to utilize 15% versus 30% good time credits to allow for release of inmates who have exhibited appropriate behavior while incarcerated. The percentage of time was altered for compliance to receive VOI/TIS funds. According to Representative Tiarht's office the department has several million dollars to spend within 2 years of the funding cycle closing, somewhere in 2005.

Long Term Planning: According to Rep. Tiarht's office, Congress appropriated \$27.2 million for FY 96 to FY 01. Through FY 03, Kansas had spent \$19.9; anticipated spending in HY 04 is \$3.3 million and for FY 05 \$4.0 million. VOI/TIS funding can be used to return inmates who have served long terms and low risk offenders to the community with appropriate structures in place to prevent technical returns. A portion of

these funds have been earmarked for day reporting centers. These funds are also used to send well behaved, compliant inmates out of state to private prisons. KDOC has to send the best of the population out because the private prisons pick and choose who they receive. Thoughtful spending of the remaining VOI/TIS funds can reduce the long term burden on the Kansas budget.

Immediate Alternatives and Summary: The department is to house people who have broken the laws of Kansas. KDOC makes money renting bed space in the women's facility to the BOP as the need for space for the female population is less than the bed space available. According to KDOC the projected number of female bed space in the state will continue to decline. There are alternatives within the state that make sending inmates out of state or using private prison space avoidable. Buildings are available at Beloit, a female juvenile correctional facility. The school, vocational and work programs are already in place. There are two buildings at Atchison juvenile correctional facility that are closed. Moving juveniles from TJCF to fill these two buildings would go far in reducing the current TJCF population, allowing the completed, but unstaffed, facility at TJCF to house young -ages 17-22 - KDOC inmates. If and when Kansas has adequate bed space to meet the need of the state, profiting from bed space may be an appropriate endeavor. It can not be when Kansans are sent to Texas for even short term placement. SB 123 was implemented 11-03, retroactive to those charged 7-03. The pace of new offenders coming in will predictably slow down. By default it is the length of sentences and parole revocations contributing to the current prison crowding crisis. Just as the prison crisis did not occur spontaneously; updating the current classification system, improving the parole system and aligning pre/post 1993 parole violation timeframe will not happen overnight. While these important and critical issues are addressed through the legislative process, there are resources within Kansas to meet the need in Kansas. SB 275 does not serve the fiscal issues or safety concerns of state. Your vote against this bill is encouraged and supported. Thank You, Kansas CURE

Those who attended last week's National Forum on Prisoner Reentry, Housing and Homelessness will recall that Cheri Nolan from the Department of Justice announced new regulations providing significantly greater flexibility in the expenditure of funds under VOI/TIS (Violent Offender Incarceration/Truth in Sentencing) program.

The primary purpose of the VOI/TIS program is to build or expand long term medium to maximum security correctional facilities. However, VOI/TIS funds can also be used for the following:

1. Community based correctional options that free up secure institutional bed space. These can either be early release options or direct sentencing options. Examples include but are not limited to:

- > a) half-way houses;
- > b) home detention programs;
- > c) bracelet programs;
- > d) day-reporting centers;
- > e) work-release programs
- > f) community based treatment programs (substance abuse, mental health, sex offender
- > g) family reunification programs (centers or facilities where parent and children are allowed to live on a trial basis under intensive supervision).

2. Parole Centers, these can either be pre-release or revocation centers but they keep this population out of the more secure, general population beds.

3. Reception and diagnostic centers, these must be long-term placements that free up secure beds.

4. Geriatric facilities, as the prison population ages, these would provide for more suitable correctional settings and free up secure beds.

5. Infirmaries, again these must be long-term housing options.

6. Leasing of Space, VOI/TIS funds can also be used for the short or long-term leasing of space from private or non-profit providers. These facilities can be either operated by the private firm or the state.

7. Juvenile Correctional facilities, these can be all of the projects listed above plus straight housing of non-violent juveniles. This purpose is capped at 10% unless the state declares exigent circumstances and then all of the grant funds can be used on juvenile programs.

8. Jail-based programs, this purpose is capped at 15% but allows for renovation and maintenance cost of local jail or detention facilities which cannot be funded elsewhere.

9. Drug testing, treatment and interventions, of the money received since FY 1999, 10% percent may be used for this purpose. Projects funded under this purpose can include but are not limited to:

- > a) treatment programs and/or treatment staff;
- > b) testing equipment and supplies;
- > c) K-9 units or other detection programs;
- > d) staff overtime for contraband searches, prevention activities, treatment, etc;
- > e) aftercare services such as community-based treatment, housing, job placement, educational services, etc...

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Kathy Guebara MS MPA

Mam:

In response to your inquiry as to the nature of our seeking construction of a private correctional facility in Yates Center, I wish to set the record straight. This is not a decision that the people of our county have gone into without close investigation into all the aspects of a local penal facility.

Woodson County has housed one of these release centers you speak of for over 50 years. The Toronto Honor Camp was constructed near Toronto to assist in the upkeep and maintenance of the Kansas State Crosstimbers Park at Toronto Lake and Fall River State Park. Some 24 families reside and earn a living supporting the needs of this facility.

The Wackenhut Correctional Corporation came to our community some ten years back and took a group of our governmental citizens to Lockhart Texas to tour their Facilities at Ellis and Lockhart. Every governmental official would learn a meaningful lesson by touring one of their facilities. Very impressive. Each inmate receives a basic educational course and is placed in a line of work, within the confines of the facility, and given a pay to aide in funding for his incarceration and providing some sort of repayment for their crimes.

At that time the Kansas Department of Correction annual budget was in the neighborhood of 179 million dollars and their prisoners totaled a fraction under 8800. Their occupied bedspace now is over 9,000 and their annual budget is 230 million dollars. This not for profit keeping of the Kansas Department of Correction is really getting expensive for a not for profit group.

I believe that Texas is currently housing some of the overflow for the Kansas Corrections. I believe their cost is under 40 dollars a day. This compares to 54.00 dollar quote that we received when last our committee visited the Kansas Secretary of Corrections.

I want to thank you inquiring as to why we wish to offer a home to a private prison in Kansas at Yates Center. Our parks and many of our historic buildings are a much nicer place to visit because of the efforts of our inmates and their overseers. You must come and visit us sometimes and see for yourself the many wonders of our county.

We are proud of their accomplishments and like to think that we have helped ourselves in pointing these misguided individuals down the right path. I myself have written many letters of recommendations for these inmates as they return to society.

My web page spells out a lot that we stand for. <http://lindekansas.com>

Very Reskpectfully
 William W. Linde
 Woodson County Commissioner
 Yates Center, Kansas 66783
 Woodson County
 Silver Haired Legislator
 Chief Petty Officer
 United States Navy Retired.

WOODSON COUNTY NEEDS TAX REVENUE AND JOBS:

What they sale you....

The Wackenhut Correctional Corporation came to our community some ten years back and took a group of our governmental citizens to Lockhart Texas to tour their Facilities at Ellis and Lockhart. Every governmental official would learn a meaningful lesson by touring one of their facilities. Very impressive. Each inmate receives a basic educational course and is place in a line of work, within the confines of the facility, and given a pay to aide in funding for his incarceration and providing some sort of repayall for their crimes – Bill Linde Woodson County Commissioner

IS THIS THE WORK YOU WANT FOR YOUR RELATIVE ?

Isn't what you get.....

The majority of the Correctional workers were all newbies so to speak, and had come from very poor paying jobs, or no jobs, and areas far from this facility because they were under the impression that they could get full time work. They were given to understand from newspaper reports from top managers that came from various facilities in the States, that there would be company bonuses, profit sharing, and the like. The promise of full time work, meant no more starving their families on part time work, and low paying jobs.

To the contrary what has happened, has left many displeased with a poor management style. There was no company input, nor the ability to work with management on various areas of concern. There was an extreme staff turnover, many previous government employees recognized right from the get go, that the managers were not willing to listen to the employees. There was a heavy toll on the employees personal lives, too much overtime, lack of staffing, numerous meal complaints, Medical complaints.

After two and 1/2 years of operation, we are still very unorganized, we have had a riot that left our institution severely damaged, with one pod out of commission for about 4 months, and a bill for repairs, in the range of \$750,000.00 (CDN), several deaths, which are still under investigation and staff complaining of lack of training.

What I have described to you is not the voice of one or two malcontents, but a majority of the entire work force. Three groups totaling 250 employees forming 3 different unions. **The question that has to be asked why did this happen, who and why was someone not listening?** The better working conditions are not necessarily centered on better benefits, but more on the health and safety concerns of the workers here. Not providing proper breaks and lunch periods, payment of overtime, long hours, will have or take its toll on the staff. If you have not properly screened your employees, then yes you will have problems, but add to that, the discontent from taking things from the employees, and failing to recognize that these persons are your first line of defense, your people who keep the trouble down, inmates happy and the like.

These officers do not have the ability to be **correctional with input to the wayward inmate**. We function only as the eyes. The warehousing of these inmates does not help anyone. Problems, yes we have a "**sorry the word isn't a few**" but many complaints, issues that are not being solved. The many complaints from the staff, lack of training, turnover, conditions unsafe for the staff are amongst some of the issues.

If you listen only to the lobbyists, managers, and or the spin doctors then good luck, you will have nothing but trouble.

I must tell you that, I too came with the thought that I could work in a private environment. My experience, well let me say this, I am already retired, after working 35 yrs in a policing capacity. I understand the principle of listening to people, hearing the other side of things, Inmates included.

Private may work, but you strip the employee of his benefits, or wages or whatever, then you will have the inconsistency, and the problems, I guarantee it. Dwight Stoneman President OPSEU Local 369

March 11, 2003

KS CURE
PO Box 172210
Kansas City, KS 66117-1210
ATTN: Kathy

Dear Kathy:

I am a member of Kansas Cure and I have read, with great interest, your March issue. I was particularly interested to read how the Kansas Department of Corrections has recently transferred Kansas inmates to Texas. I believe the number was 30? I thought you and the public might be interested to know that the KDOC (specifically the Topeka Women's Correctional Facility) is currently housing between 25 and 30 federal inmates. I am one of those federal inmates and have been here since the inception of the contractual agreement between KDOC and the Federal Bureau of Prison (BOP) in May of 2002. KDOC receives approximately \$80,000.00 per MONTH for the "feds." I know this for a fact because I work in the Business Office of this institution and see the paperwork that comes through this office in that regard. That is a significant "chunk of change," in my opinion.

It's amazing that KDOC is so overcrowded that they have to send their own inmates to Texas. Yet, they are not so overcrowded as to make room for that same amount of federal inmates. Oh, of course, it's all about the "mighty dollar!" How silly of me!

It's obviously irrelevant that Kansas inmates want to stay closer to their families, and that the federal inmates do NOT want to be here, even if it does mean being closer to our families. And there are viable reasons for that.

We cannot benefit from many of the same things the state inmates benefit from such as better good time credits, work release programs, favorable legislation affecting inmates, etc. What makes matters even worse is the fact that we are not provided with any resources to learn of federal legislation that may affect our horrendous sentences; any changes within the Bureau of Prisons regarding half-way house requirements, the RDAP program, or any other changes that WE ARE SUBJECT TO (but kept in the dark about), according to this contract. We are not even provided with the Federal Register, which along with the Criminal Law Reporter and the Code of Federal Regulations (part 43 to end), are "mandatory" in Federal Prison Law Libraries. I know that these few items are mandatory for federal inmates to be deemed to have "adequate access to the courts" because I worked in the Law Library in the Federal Correctional Institution in Tallahassee, Florida in 1998, and in the FCI in Ft. Worth, Carswell, Texas from 1998 through 2001. I did the yearly inventory in that position, to make sure all items required were on hand.

We have asked for these items over and over again; not only from the administration here, but also from our "Federal Representative," who visits here once a year. We are told by the administration here that it is our Federal Reps.' responsibility to provide these items to us and we are told by them that the law library is "adequate." We ask, BY WHAT/WHOSE STANDARDS???

I am currently in the process of having to fight the administration here and our own federal representative, to obtain the bare minimum to have "equal access to the courts." The majority of the



Families Against Mandatory Minimums

F O U N D A T I O N

RE: Opposition to Private Prisons: SB 275

Dear Representative and Committee Member:

My name is Peter Ninemire. I live in Wichita, and am the Midwest Regional Trainer/Organizer for Families Against Mandatory Minimums, whom I am here on behalf of today. FAMM is a national sentencing reform organization headquartered in Washington, D.C. On the national level, our focus is on restoring judicial discretion in sentencing. (Perhaps you saw "More Than They Deserve", the lead story we assisted 60 Minutes with last month) FAMM does not believe that crime should go unpunished, but rather that the punishment should fit the crime.

On the state level, we work with Sentencing Commissions and others in finding more efficient and effective use of our limited state resources, while at the same time keeping public safety as a top priority. One of our main focuses is on alternatives to the long-term incarceration of low-level, non-violent drug offenders. (In relation to that, the sentencing project recently found that three fourths of the 5 billion dollars spent incarcerating 251,000 state drug-offenders, went toward confining people who never committed a violent crime. These were mostly drug offenders, 58% of whom had no history of either violence or high-level drug dealing.) The truth is, **The Truth in Sentencing and Get Tough on Crime Policies** of the late 80's and early 90's have created a **200 billion dollar in revenue shortfall** that states have really began to feel in the new millennium.

As states grapple with their third straight year of fiscal misery, policymakers in 25 states have implemented smarter, less costly sentencing and correctional reforms, according to a new report commissioned by Families Against Mandatory Minimums (FAMM) and authored by Judith A. Greene, our senior research associate who has 20 years of expertise in on private prisons, sentencing, and corrections policy. You have been provided with a copy of this report today.

Many states across the country have asked us to come help them grapple with their rising and expanding prison populations. We have done so in a variety of ways. Much of this has to do with lending input and drafting thoughtful legislation that includes alternatives to incarceration and length of sentences for select offenders who meet specific criteria. To further assist with this endeavor, FAMM recently launched "**Smart on Crime**", a companion website of www.famm.org, as a way for legislators and policy makers to review successful sentencing reforms and alternatives from across the country. In 2003 alone, according to the Vera Institute of Justice, seven states adopted legislation reducing sentences and repealing mandatory minimums. Six states created alternatives to incarceration. Nine eased truth in sentencing laws and expedited release. Six fostered drug courts in order to emphasize treatment. Five altered the way they deal with technical violations of parole rules so that fewer offenders are forced back into long prison terms. (About one-third fall into this category) Seven states expanded transition programs to help released offenders reenter their communities in ways that reduce chances of their committing new crimes.

As a tax-paying citizen of Kansas considering both public safety and most efficient and effective use of our limited resources, **I am opposed to SB 275**, which allows private prisons to operate in Kansas. As a sentencing reform organization, FAMM is principally opposed to private prisons because they reduce the incentive for such. They in fact, appear to be an obvious proponent of incarceration. We suggest managing prison populations through thoughtful reform in a myriad of ways listed in your "**Smart on Crime**" reports. We need to focus more on long-term solutions. Bringing private prisons to Kansas does nothing for the

House Corr & JJ
Attachment 10

rate of growth and expansion we are currently undergoing in Kansas. Last year there were 34,000 people either incarcerated, or on parole or probation in our state. This was **up 4.9 percent from the previous year**. This growth appears to be unsustainable.

Probation is often a sensible alternative to incarceration for non-violent offenders, but the system for managing these mounting numbers of probationers and parolees is under severe stress. Kansas, like the rest of the nation, has undergone a historic ill-conceived shift from rehabilitation to a greater emphasis on retribution. As a result, we are imprisoning people who should be making restitution to society in different, less expensive ways. As they do that, they should get the help they need to become more productive members of society. In too many states, including Kansas, there are no funds left after incarceration to prepare them with life skills, drug treatment, employment and educational opportunities, and other rehabilitative tools that would give them a reasonable chance to succeed once they are released.

Proponents of SB 275 often use the language of criminal and punishment as a way to deal with everyone who commits a crime, but I suggest to you that many of these people are principally drug addicts who are being mis-diagnosed and placed. Texas for example, recently passed a drug treatment alternative law and saw its prison population remain virtually unchanged from 2001 to 20002. (Perhaps Kansas legislators should consider retroactivity with SB 123, similar legislation that they passed last year). Ohio, which revised its sentencing and parole guidelines in the late 1990's, saw its prison and jail population rise just 0.8 percent last year compared to 1.9 percent for the Midwest as a whole.

I believe that mandatory sentencing laws, coupled with drug abusers who often need treatment more than they need imprisonment (where they too often adopt criminal attitudes and behaviors), are adding to the expensive pressure on prisons and parole systems. Kansas lawmakers must pay attention to these disturbing statistics and begin to create a criminal justice system that makes much more sense.

I do not believe that bringing private prisons to Kansas makes sense, or is any type of long-term solution to our current capacity problems in Kansas. I would concur with Committee Chairman's Lloyd's comments in relation to taking a look at the classification levels, and possibly moving some of the nearly 70% of medium and high security prisoners in Kansas to minimum security prisons where beds are available. It has been often noted that Kansas has an antiquated classification system. I believe that we have one much expertise on the Kansas Sentencing Commission and that they are most qualified to study classification and recommend areas of where reform is possible, and could save us millions of dollars.

I believe greater use of Community Corrections would also be prudent. We need to revamp our parole system that sets too many up for failure by monitoring their every move, instead of mainstream supervision focused on assisting with broader reintegration efforts. We should also look at areas where good time might be a viable and prudent alternative to further incarceration of a specific number of inmates who meet strict criteria as New Hampshire is currently doing. I believe you will find much related information to draw from in the article relating their reforms that I have attached to this testimony. There are a myriad of more effective and efficient alternatives than bringing private prisons to Kansas. Thoughtful sentencing reforms are a much better and longer term solution than private prisons. This is not about being soft or tough on crime. It is about being **"Smart on Crime."**

As a personal note: (Please see personal notes on following page)

Some of you may recall my background and testimony in favor of SB 123, which I appreciate your support of. I spent 10 years in federal prison before former President Clinton commuted the remaining 15 years I had left on my federal mandatory minimum sentence. Because of that, today I not only work for FAMM, but have a Kansas Certified Drug and Alcohol Counselor Certification and am responsible for four other counselors at a youth drug and alcohol counseling center in Wichita. I am also a statewide facilitator for the American Lung Association here in Topeka, as I train institutions and agencies on the implementation of their "Tobacco Free Teens" and adult "Freedom From Smoking" cessation programs.

I am also currently taking 19 hours of college at WSU in pursuit of my goal of an MSW. But today, I felt it important enough to make arrangements to be here, because of the ominous nature of what I see happening in Kansas. To be blunt, I see similarities between the federal mandatory minimum sentences and this legislation. There was no research or long term study into the effects of the laws that over 90% of federal judges, and the majority of Supreme court judges,(two of whom have recently publicly decried them), now oppose. Many of the legislators that passed them now call them the laws of unintended consequences. This reminds me of a personal experience that changed my skewed opinion of politicians a few years ago. Not long after I was released from prison I attended NASC.

The mandatory minimum sentencing laws deny thousands who deserve the same chance at accomplishing their dreams that I have today because they have long since made the changes incarceration was make. In relation to not only looking at the classification, but possibly also the length of time imposed on many of the drug sentences. Perhaps we would have better results and be better served if some concrete rehabilitation took half the time and dollars we are now investing with incarceration.

During past legislative session bills have been introduced to improve the laws, policies, and practices that shape the sentencing of non-violent drug and property offenders, the parole release decisions for these types of offenders, and the handling of purely technical violations by offenders placed under community supervision for probation and parole. I think that we need to make greater use of Community Corrections in this state. Recent experience with sentencing reforms across the country have demonstrated that if correctional cost savings are the goal, carefully-crafted sentencing and parole reform measures provide the most effective, direct route to substantial savings of tax-payer dollars.

I guess what this comes down to is that we are going to do something in haste that will be very tough to undue. As far as I'm concerned, the most poignant words to these hearings were delivered by SOC of Corrections Werholtz in a neutral position in front of the Senate Ways and Means Committee when he said, "One things for sure, if we bring private prisons to Kansas, they will be here long after we're gone. I would implore you all to give this statement in conjunction with my testimony serious consideration, and vote against SB 275.

Sincerely,



Peter Ninemire

Midwest Regional Trainer/Organizer

Families Against Mandatory Minimums

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A few years ago an empirical study was sponsored University of Minnesota Law School Institute on Criminal Justice. The main purpose of the study was to compare cost savings of private prisons, as well as correctional services. The comparisons were made between three Minnesota DOC ran prisons, and Appleton, now ran by CCA. The administrations and programs at all facilities were well established. (The parameters of the study are contained in the full report I have copies of for those of you who may be interested today.) A survey was designed for select prisoners who would be transferred by DOC case managers and was designed to explore their perceptions about all aspects of prison operations.

Except in one area where the private prison provide inmate employment with the private sector, private prisons did not compare. There were important differences between how prisoners perceived the requirements placed upon them by private and public systems that indicated the public system maintained a significantly higher degree over the daily activities of prisoners than was the case at the private prison. Two-thirds of the DOC prisoners agreed that they were kept busy all day, compared with only 9% of those in the private prison. And while 85% of the prisoners in the DOC agreed that they must work, study or be in treatment, only a tiny fraction, (9%) of those in the private facility agreed. We should therefore not find it surprising that there were much higher rates of drug use among inmates at the private facility.

I don't believe I have to tell you that no structure and work related assignments leads to chaos. This is evident by the rate of assaults by inmates on staff, which is 45% higher, and 65% higher on other inmates in privately ran facilities. Part of this can be attributed to turnover rate of staff that has a 52 to 16 % differential.

But just as startling to me is that in relation to reintegration efforts, 35 % of the prisoners at the DOC prison reported that planning for release was a required activity, compared to only 6% at the private prison. I see the lack of some of this type of impersonal, or non-existent case management, in lines 25 - 36 of this bill. There is little to no input sought into their overall progress, or day to day activities while in prison. They are not allowed to make comments to parole boards, or determine inmate eligibility for any form of release from corrections. This has the very purely warehousing effect to me.

Taken together, the findings from the Minnesota study provide strong empirical evidence supporting that privatization significantly lowers the level of correctional effectiveness, facility security, and public safety to what is being provided by the public system. The comparative deficiencies in the CCA prison in Minnesota can be traced to the company's efforts to control costs. The bulk of these have to do with staff compensation and training, which I believe are of paramount importance. All in all, I have serious concerns about providing human services of this nature with a profit incentive that is directed by the bottom line. I feel much safer if that is done by the state.

State may let well-behaved inmates out early

CONCORD, N.H. (AP) -- Legislators are reviewing whether the state's "truth-in-sentencing" law should be revised to allow well-behaved inmates to be released early.

Since the law requiring inmates to serve their minimum sentences went into effect 20 years ago, the prison population has increased from 331 in 1982 to more than 2,500 today.

A bill before the Legislature would bring back "good time," as the old system was called. The measure would allow well-behaved prisoners to cut up to one-third of the time from their minimum sentences.

The Department of Corrections estimates the change would cut the number of inmates by 475, enough to empty the new prison in Berlin. The department also estimates it would save the state \$3.3 million annually, even though more probation officers would be needed to monitor those released.

Opponents of truth-in-sentencing have failed in at least three attempts to reverse the law. But the current bill's sponsors hope this year will be different, because the state is in the midst of a budget crisis.

Gov. Craig Benson's efficiency commission recommended bringing back good time, following a national trend.

"There are a lot of people sitting in jails who probably ought to be out," Republican Rep. Ted Leach of Hancock, a sponsor, told the Concord Sunday Monitor. "Young kids get caught in a drug deal.... Seven years later we turn out the perfect criminal."

The bill would apply to all prisoners except those sentenced to life in prison without parole, such as those convicted of first-degree murder. Lawmakers are also considering exempting rape and some other violent crimes. The bill also would apply retroactively.

The Monitor reported Sunday that the nonpartisan New Hampshire Center for Public Policy Studies, in a report to be released later this month, estimates it could save as much as \$11.2 million a year.

Rep. David Welch, R-Kingston, chairman of the Criminal Justice and Public Safety Committee, voted against a similar proposal three years ago. This time Welch views it more favorably, but he isn't enthusiastic.

The prison already has a waiting list for its three halfway houses, where prisoners work in the community and save money to ease the transition back to freedom, Welch said.

"People should be able to earn their way out of the system," Welch said. "But they don't have any place to go, so I don't see how it's going to work."

The point of truth-in-sentencing was to make sure that inmates served the full sentences they were given, according to former Rep. Donna Sytek, who led the fight for the law in the House.

Legislators thought judges would make adjustments when imposing sentences, but the judges didn't, Sytek said.

Others say that legislation requiring long, mandatory minimum sentences for certain crimes tied the judges' hands, contributing to the problem.

"Our intent wasn't to have more people doing more time, but that was the result," Sytek said.

Sytek said she still plans to testify against repealing the law. Instead of bringing back good time, Sytek would like to see judges sentence more inmates to the Academy, an alternative program where offenders live at home and must participate in drug and alcohol treatment and other programs.

She also wants the state to send those who violate parole on a technicality to the Academy, instead of returning them to prison.

New Hampshire was among the first states to strengthen its sentencing laws. Other states followed, but in the last two or three years, about half the states have reconsidered laws passed in the 1980s and 1990s that made prison sentences longer.

"The No. 1 reason is that prisons are very expensive," Jeremy Travis, a senior fellow at the Urban Institute in Washington, D.C. told the Monitor. "In a time of severe fiscal restraints, rather than just deciding wholesale who should be released, the states are returning discretion to judges, to parole boards, to corrections agencies to make individual decisions."

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6301 ANTIOCH • MERRIAM, KANSAS 66202 • PHONE/FAX 913-722-6633 • WWW.KSCATHCONF.ORG
Corrections and Juvenile Justice Committee

Testimony on Sub. HB275

March 15, 2004

Kansas Catholic Conference - Sister Therese Bangert

In December 2000, the United States Conference of Catholic Bishops (USCCB) released a statement titled **Responsibility, Rehabilitation and Restoration - A Catholic Perspective on Crime and Criminal Justice**. It is a thoughtful and pastoral document noting that response to crime in the United States is a moral test for our nation and a challenge for our Church. With this document in mind and heart, the Kansas Catholic Conference asks you to oppose Sub. HB 275.

The Bishops note how the locked doors of our Churches, microphone equipment locked away and funerals for homicide victims stand as signs of the impact of criminal behavior in our local church communities. They acknowledge the need for society to be safe and victims to have resources for healing. They acknowledge, too, the complexities of the issues around responsibility, rehabilitation and restoration.

Additionally, the Bishops question if increased incarceration is the answer. They point out that in 1998, the imprisonment rate in America was six to twelve times higher than the rate of other Western countries. The Sentencing Project, a nationally recognized source of criminal justice policy analysis, reported that in 2002 the population of state and federal prisons combined with local jails was over 2 million (www.sentencingproject.org).

“We bishops question whether private, for-profit corporations can effectively run prisons. The profit motive may lead to reduced efforts to change behaviors, treat substance abuse, and offer skills necessary for reintegration into the community.” Making a profit on incarcerating men and women is troubling especially in light of the prevailing characteristics of persons who populate our prisons: those who are poor, illiterate, addicted and mentally ill. Furthermore there is no denying that the racism and discrimination that continue to haunt our nation are reflected in similar ways in the criminal justice system.

Kansas has had a dreadful experience of a private prison - a minimum security facility in Topeka during the late 80's. Let's not repeat this experience.

MOST REVEREND GEORGE K. FITZSIMONS, D.D.
DIOCESE OF SALINA

MOST REVEREND JAMES P. KELEHER, S.T.D.
Chairman of Board
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MOST REVEREND THOMAS J. OLMSTED, J.C.D., D.D.
DIOCESE OF WICHITA

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.
DIOCESE OF DODGE CITY

MOST REVEREND EUGENE J. GERBER, S.T.L., D.D.
RETIRED

MOST REVEREND MARION F. FORST, D.D.
RETIRED

MICHAEL P. FARMER
Executive Director

MOST REVEREND IGNATIUS J. STRECKER S.T.D.
RET
House Corr & JJ
Attachment 11

3-15-04

Parent's Perspective on Privatization of Prisons

Mr. Chairman and honorable members of the Juvenile Justice and Corrections committee of the House of Representatives and of the Great State of Kansas and members in the audience. I feel honored to have the opportunity to stand before you today and express our concerns from a parent's perspective over the privatization of prisons in Kansas. We like most citizens of the State of Kansas did not keep ourselves informed of the severity level of "drug problems" and the extreme overcrowding of our prison systems. The reality of the problem came crashing down on us on April 1, 2003. Our oldest son was arrested and charged with manufacturing meth. It suddenly became apparent to us just how serious this offense was when we learned that he could be facing a 12-year prison sentence. He was lucky, according to the prosecuting attorneys by accepting a 72-month plea bargain. The matter of his guilt is not in question. This was an extremely devastating experience for our immediate family and a large extended family and friends that love him very much. He was ready for change in his life, accepted his responsibility, checked himself into the Intensive outpatient treatment program at his expense, via personal insurance and began working the 12-step program while out on bail. His U.A.s were clean and he made every appointment without fail. He appeared at sentencing and was shortly transferred to Eldorado. After serving approximately two months in Eldorado he was transferred to the Ellsworth Correctional Facility. He began reading his Bible on a daily basis, enrolled in a Bible correspondence course and had visited with IFI staff regarding Chuck Colson's program. He obtained a job in the cafeteria and was lifting weights on a daily basis. His first 120-day review was excellent in all areas. He was doing everything according to plan, a plan that prison authorities wanted to see. Due to his good performance he was selected for transfer to Limestone County Detention Center in Groesbeck, Texas because he met KDOC criteria for the Limestone County Detention Center. Our son began reporting the extremely poor living arrangements, 8 men in a cell with one toilet and one shower, unsanitary conditions in the cell, 23-hour a day lockdown, and undercooked and cold food. When we heard these reports, we were very naïve, and began communication with officials in the KDOC. We were informed that there was nothing we could do about the transfer. Attempts to establish a face-to-face meeting with the Secretary of Corrections resulted in a letter from Mr. Charles Simmons indicating that the conditions were not as we had been told. Although not told directly it was apparent that a personal meeting was not going to occur. At that point, at the suggestion of friends in Topeka we were encouraged to contact Rep. Bill Feuerborn, Rep. Joe Humerickhouse and Senator Anthony Hensley. A meeting was arranged and Mr. Roger Werholtz and Mr. Charles Simmons attended also. The meeting was unproductive in terms of requesting our son's return to Ellsworth. Our claims were refuted and we were told that all prisoners have an agenda and that they exaggerate. We visited with our son that night and the following evening and then blocks were placed on our telephone lines. Our minister contacted the Chaplain at Limestone and was able to visit with our son. At least we knew he was ok. The same evening our son was able to call from the Captain's office and talk for three minutes. He informed us in this conversation that he had been called to the Captain's office and questioned regarding the meeting my wife and I had in Topeka. They wanted to know the content of the discussion and why he reported these conditions to his father. That is the last communication we have had with him. Our line remains blocked even though Mr. Simmons stated his would take reasonable efforts to re-establish communication. I received a telephone call from another inmates' relative last night. This person is worried about her brother; he hasn't called in days and has not written. He was in the process of making a list of the conditions in their cell and the quality of food. Out going letters cannot be sealed by the inmates. She has not received that letter. Another parent shared information by phone, but would not get involved for fear of retaliation against their son. We are greatly concerned over these developments. This is a through back to the 1960's. All of these men are a long way from home and basically cut off from family ties. KDOC states they will monitor the situation every 4 to 6 weeks. A lot can happen in 4 to 6 weeks.

This Detention Center has been investigated before for 8th Amendment violations, Oklahoma and Missouri both dissolved their contract with the private vendor that managed the facility prior to

Civigenics that is currently the contractor. We are concerned that many of the guards that have been there for years are still working for Civigenics. Normally, when a new management firm signs on they do not bring a caravan of highly trained, highly skills guards and support people with them. The local community would be outraged if their people lost their jobs.

We are also concerned that four levels of bureaucracy are involved with this project. First you have the Limestone County Commissioners that are supporting the Limestone County Detention Center because it brings revenue into their county. They own the facility and collect rent or lease payments from Civigenics for the use of the facilities. Their local citizens benefit from the jobs that are created and on going. Everyone there is certainly benefiting. Next you have Civigenics that is contracting with State agencies, pretty solid contract right? Next you have the State of Kansas that is saving 90% of the cost to house these inmates because the fourth entity is the Federal government that is supplying federal funds through a grant that is available to The State of Kansas. Furthermore the KDOC has the responsibility of monitoring the contract with Civigenics and reporting back to the legislature. I wonder which one of these four agencies are interested in hearing complaints from prisoners? To a parent, this is a FIRE BREATHING DRAGON OF MONSTROUS PERPORTIONS! Kansas has 96 inmates in Limestone County Detention Center with more slated to go, according to Mr. Simmons. Almost all of these men are non-violent, low-level drug users with an addiction. They were transferred from much better conditions and basically locked down as if in maximum security. Those that are trying to turn their lives around have been dealt a serious blow! Although we do not believe that the officials at KDOC sent these men to Limestone as punishment, it is punishment to these men. They have been placed in a far away place, without support and cut off from the ones that love them. It appears to us that the criteria KDOC used is definitely flawed and does not take into consideration the inmate rights to rehabilitation or family support. This is strictly a decision of money, with no concern for individuals and their families. Please stop this practice of sending Kansans to private prisons. This is simply bad business. Private vendors must cut corners to operate efficiently. Where might this vendor cut corners? Will it be in the area of food service, Will it be in the area of clothing? Will it be in hiring minimum skilled staff for lower wage? Will it be continual lockdown so they can hire fewer guards? Will it be in the area of cleaning supplies? Will it be in medical treatment or dental care? Will it be in the area of exercise equipment? Will it be in programs? Private vendors are in the business to make money and they are probably pretty good at it. I served for 12 years on the Board of Directors for Superior School Supplies. I know a great deal about profit margins and what it takes to maintain a healthy bottom line. In this situation, the weakest and most vulnerable members of our society suffer the consequences with little or no right to complain. Don't create more fire breathing dragons! Please don't sacrifice human dignity and self-worth for money. Thank you for your time, we sincerely appreciate the opportunity to speak with you this afternoon.

Sincerely,

Chuck Sypher
Chuck Sypher

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Meanwhile, Oklahoma prison officials have given the FBI another videotape depicting possible mistreatment of inmates in April at the Limestone County facility.

David Miller, chief of operations for the Oklahoma state Corrections Department, said he decided the FBI needed to see the tape for its investigation of possible civil rights violations at the Brazoria County Detention Center, southwest of Houston.

Miller told The Daily Oklahoman that he couldn't remember specifics of the tape. "But it didn't rise to criminal charges as far as I could see," he said.

Oklahoma had canceled its contract with the Limestone County jail before problems at the other jail became public, but the incident taped in April was a factor, Miller said. The final 75 Oklahoma inmates at Limestone County were being moved Tuesday.

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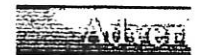
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Limestone County Commissioners' agenda

Posted on: 3/9 at 2:11pm CST

GROESBECK - The Limestone County Commissioners will meet at 9 a.m., Monday, March 10, in the county courtroom at the Limestone County Courthouse.

The agenda for the meeting is as follows:

1. Call to order and proof of posting of notice
2. Verification of quorum
3. Approve minutes
4. Approve payment of bills
5. Approve payroll and comp time reports
6. Approve bonds submitted to county employees and officials
7. Discuss matters relating to Limestone County Detention Center
 - A. Approve payment schedule
 - B. Approve contracts
 - C. Discuss and/or approve capital improvements
8. Approve securities pledged by county depository
9. Approve investment or recall of funds
10. Approve reports from officials
11. Safety report - Commissioner Stone
12. Discuss and/or take action on new juvenile detention center
 - A. Compensation of architect
 - B. Contractor's draw
 - C. Change order
13. Executive session - Limestone County Detention Center; Limestone County Jail; Limestone County Juvenile Detention Center construction project; legal advice relating to the construction and

design of facilities, regarding legal obligations under contracts relating to the construction of the juvenile detention center and operation of Limestone County Detention Center

14. Open session - Discussion and action on the following matters concerning inmate telephone services for Limestone County Detention Center/Limestone County Jail

A. Awarding contract for license agreement for inmate telephones

15. Executive session - Personnel

A. Road and Bridge Department

16. Discuss and/or take action on Limestone County personnel

A. Road and Bridge Department

17. Discuss and/or approve interlocal agreement with City of Thornton

18. Discuss and/or take action on utility line agreement

A. Post Oak Water Supply Corp. - LCR 170, Precinct 2

B. XTO Energy, Inc. - LCR 862, Precinct 4

C. XTO Energy, Inc. - LCR 882, Precinct 4

19. Discuss and/or take action on vehicle damages

20. Discuss and/or take action on design and construction specifications for Limestone County roads

21. Discuss and/or take action on a resolution supporting the continuation of the Texas Juvenile Probation Commission and its partnership with the county juvenile board and commissioners' court
- Gary Koester

22. Discuss and/or take action on the Custom Telephone Systems, Inc., proposal to install phone system in the new juvenile detention center

23. Discuss and/or take action on Serenity Farms property

24. Discuss and/or take action on purchase agreements of the following properties - City of Mexia

A. Lot 7, Block 7, Division S (523 West Bowie Street)

B. Lot 6, Block 10, Division S (525 West Bowie Street)

C. Lots 11 and 12, Block 2, Division O (513 South Denton Street)

25. For record only: Approve new deputy

26. For record only: Receiving documents in accordance with the Texas Racial Profiling Law

27. Open and consider Bid #020203 (OSSF Wastewater Treatment System for Old Fort Parker)

28. Comments and summaries by commissioners

29. Adjournment

PUBLIC SAFETY & JUSTICE CAMPAIGN

e-Watch

e-Watch is compiled by Ken Kopczynski of the Florida PBA

Prisons May Not Help Economies

By GINA HOLLAND, The Associated Press

Politicians have invested heavily in private prisons, but their communities are not necessarily seeing an economic payoff, a new report shows. The Institute on Taxation and Economic Policy, a Washington-based research center, is urging leaders to end subsidies for prisons.

Over the past 15 years privately run prisons have popped up around the country, as officials looked for alternatives to crowded government facilities. The institute's Good Jobs First project found that most of the prisons were built with incentive packages that included things like property tax breaks, government financing, training grants and construction help. "Given the relatively low wages paid by the industry and its limited ripple effect on the larger economy, subsidizing private prisons may not provide much bang for the buck," said the report, which is being released Monday.

About three-quarters of the large private prisons had government subsidies, the report found. The study involved 60 private prisons with 500 beds or more, located in 19 states. Subsidies were given in 17 of the 19 states.

The institute said \$628 million in tax-free bonds and other government-issued securities financed some of those private prisons. Voters should have been allowed to decide whether to allow those bonds - and should be consulted about any future financial help, the institute said.

In the Mississippi Delta, state Sen. David Jordan said a subsidized, 1,000-bed state prison has created jobs and brought inmate labor for community projects. "We had to fight like the devil to get those facilities. We needed the jobs, desperately needed them," Jordan said.

Philip Mattera, an author of the study, said poor communities were frequently chosen for prison sites. "It's not as if they had a choice between a prison and a factory or a Wal-Mart distribution center. Their only choice may have been a prison or a toxic waste dump and a prison looked pretty good," he said.

The study focused on incentives, but when the institute contacted officials in most of the areas with private prisons, none had data that showed a prison helped the area's economy, Mattera said. "A lot of small struggling communities have spent a significant amount of money to bring these prisons into existence," he said. "There's no evidence there's been any payoff for them." Mattera said 78 percent of the facilities built by Corrections Corporation of America and 69 percent constructed by Wackenhut Corrections Corporation were subsidized.

The same companies that got government assistance on the front end are now being paid by states and the federal government for housing inmates. Many of the financing packages came from state and local governments. But federal agencies like the Commerce Department, Agriculture Department and Department of Housing and Urban Development gave help for some projects, the report said.

Pullout of Missouri prisoners devastates small Texas town

URL: <http://www.mapinc.org/drugnews/v97/n354/a03.html>

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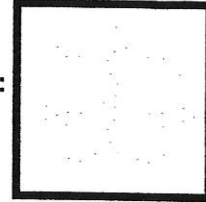
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Headline:Pullout of Missouri prisoners devastates small Texas town

PRISON:A videotape of inmates forced to crawl on the floor,shocked with electric prods,bitten by police dogs causes outcries.

By MATTHEW SCHOFIELD KnightRidder Newspapers

GROESBECK,TexasIn the next few days,165 Missourians will leave a

long,red wedge of a metal building surrounded by Texas prairie and coils of razor wire to return to a prison in their home state.

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Wednesday, October 1, 1997

DA says actions during prison mini-riot don't warrant criminal charges

WACO, Texas (AP) - The Limestone County district attorney disagrees with a state official's description of the actions of guards videotaped quelling a mini-riot at a private prison in Groesbeck last year and won't be filing criminal charges.

"I went through more my first day in the Marine Corps than what (the inmates) went through," district attorney Don Cantrell said, referring to actions during the May 1996 disturbance of Oklahoma inmates at the Limestone County Detention Center.

"There were no dogs, no prods. All (the guards) were doing was making them get on the floor when they cuffed them and they shot gas canisters in their cells to gain control."

The videotape resurfaced last month in light of a widely-publicized videotape showing alleged inmate abuse at a private prison in Brazoria County, which is also operated by Capital Correctional Resources Inc.

Last week during a meeting of the Texas Commission on Jail Standards, executive director Jack Crump described the Limestone County tape as showing guards kicking inmates and pulling them by their hair.

Cantrell said that description was an exaggeration.

"They put their foot in the small of the inmates' back and said, 'I said get down.' Hardly a criminal offense, I'd say," Cantrell said.

Crump said the commission has no control over how the legal system handles the matter.

"We all get a slightly different impression when we see something. I guess my position is, I referred it to the legal authority able to take action. That's all I can do about it," he said.

Cantrell said he reviewed the videotape shortly after the riot and again after the Brazoria County incident. Oklahoma prison officials also reviewed the videotape in 1996 and did not protest the inmates' treatment, Cantrell said.

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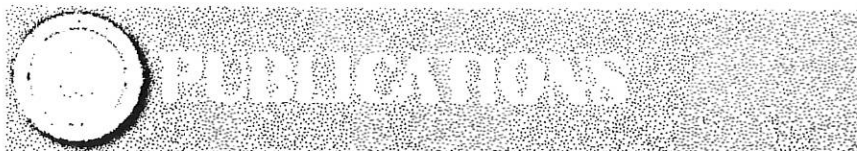
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Video Sparks National Outrage and Questioning

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Exasperation and outrage. There can be few other reactions to the video "training" tape of Missouri prisoners being pounded and kicked by private COs and attacked by dogs in September 1996 at the Brazoria County Detention Center in Texas.

The video surfaced in August 1997 as a result of a \$100,000 civil rights lawsuit brought by one of the inmates against the Brazoria County sheriff. The county owned the facility, but hired Capital Correctional Resources Inc. (CCRI) to operate it. Images from the tape were soon splashed across the nightly news and the front pages of newspapers across the country.

Certainly such images do not help the public perception of COs. But much of the coverage focused on the fact that these events had taken place in privately managed facilities.

The state of Missouri responded almost immediately by canceling its contract with Brazoria County and repatriating all 415 of its inmates who had been housed there. Soon afterward, it canceled \$12 million in contracts with three other Texas counties, all of which had facilities being managed by CCRI. Missouri officials said the contracts were canceled because CCRI was trying to defend the actions taken by its employees in the video.

Brazoria County is also having second thoughts about its relationship with CCRI. County Commissioner Jack Patterson stated that he favored canceling the contract with CCRI in part because he wondered if the liability insurance CCRI was required to purchase to cover the county would be adequate for any judgments that might be issued. This comes in the wake of a recent Supreme Court ruling that "qualified immunity" from lawsuits applies only to public COs — not to private COs.

In any case, the Brazoria County Sheriff's Department will have to face tough questions about its dealings with CCRI, including its approval of CCRI's hiring of two former Texas prison system officers who had been previously convicted of brutality charges in the beating of a state inmate. More civil rights lawsuits are expected on behalf of Missouri inmates housed in Brazoria County.

This video is just the latest piece of evidence in a series of allegations about mistreatment at private facilities in general, and CCRI facilities in particular. Recently, Oklahoma officials began repatriating the state's inmates from the CCRI-managed Limestone County Detention Facility in Groesbeck, Texas, because they were concerned about the frequency with which prisoners were being controlled with pepper spray.

We haven't heard the last of this tape. It has sparked an FBI inquiry into possible civil rights violations. It has also provoked discussion in Geneva, Switzerland, where the United Nations 149th Subcommittee on Human Rights met to discuss inmate mistreatment in Brazoria County and other privately operated prisons in the United States. The United States houses over 90 percent of the world's private prison inmate population.

Commissioners Court to make up about \$1.5 million in revenue for the coming budget year, said County Auditor Connie Garner.

Brazoria County received \$12.77 each day for each prisoner it kept in the jail. When Missouri canceled the contract Friday, 415 inmates from the state were in the detention center. About 200 left on buses Monday and the rest are expected to leave by the end of the week.

Under the contract between Missouri and Brazoria, either side could cancel the agreement with 60 days notice.

County Judge John Willy said he is open to accepting prisoners from another state to generate money from unused portions of the massive jail complex, even though importing out-of-state prisoners has been opposed by Commissioners Jack Patterson and Jim Clawson.

"It's a good deal for the county to take space that's not being used and converting it to revenue," the county judge said.

Willy said a tax rate increase is one option county commissioners have in making up the revenue lost to the canceled contract. Budget cuts are another option, he said, while simply making up the lost revenue through the county's reserve funds is another option.

"The conditions in Brazoria County, from what I hear, were appalling," Gov. George W. Bush said. "The law will rule. Let's get the facts on the table."

He said the state would cooperate with federal investigators.

The videotape of the Brazoria County jail incident has evoked response nationwide.

But the impact of the tape is particularly acute in Brazoria County.

Richwood's Patton said he declined an invitation from NBC to appear on a panel discussion of police brutality.

While not condoning the jail incidents seen on the videotape, Patton said the public is receiving the wrong picture about law enforcement in general.

"It's portraying us as bad guys and we're not," he said.

Across Texas, about 5,000 inmates from 11 other states are incarcerated in private, county and city jails, according to the Texas Commission on Jail Standards.

While Missouri withdrew the 415 prisoners from the Brazoria County Jail, it still has 655 inmates housed in four other county lock-ups around the state.

A few months ago, Oklahoma officials -- concerned about the frequency with which its prisoners were being controlled with pepper spray at the Limestone County Detention Facility in Groesbeck -- began gradually bringing home the 560 inmates it had there.

The Limestone County facility is operated by the same company that operates part of the Brazoria County Jail.

Oklahoma still has 250 to 300 prisoners in Limestone County but plans to phase out its presence there once sufficient space becomes available in a private prison in Oklahoma.

"We were sensitive to the use of chemical gasses," said Oklahoma Department of Corrections spokesman Jerry Massie.

Once Oklahoma officials expressed their concerns to CCRI, Massie said, the company responded.

Chronicle reporter Kathy Walt contributed to this story.

9:39 PM 8/19/1997

Videotaped guard was convicted in '83 beating of inmate

By STEVE OLAFSON
Copyright 1997 Houston Chronicle

ANGLETON -- One of the private jail guards seen manhandling a Missouri prisoner on a videotape was once convicted and sentenced for beating a state prison inmate.

The guard, Wilton David Wallace, was a major in the Texas prison system before he pleaded guilty to a federal misdemeanor for beating a prisoner at the Darrington Unit with a riot stick in 1983. Wallace was sentenced to five months in jail.

Prison officials tried to cover up the incident in which 15 to 20 guards participated, according to federal court testimony.

Wallace, who played a key role in the 1983 beating, is prominently seen on a videotape of a September 1996 jail disturbance at the Brazoria County Detention Center in which Missouri prison inmates are prodded by stun guns, kicked by guards and bitten by police dogs.

Wallace is shown pushing an inmate on the floor with his foot.

Private guards including Wallace and sheriff's emergency response team officers clad in riot gear were involved in the incident, which sheriff's officials have said was sparked when some prisoners tossed food trays and guards smelled marijuana burning.

The handling of the disturbance, which was taped for later use as a training video, has led to an FBI investigation and cancellation of Missouri's contract to house its prisoners in Brazoria County.

FBI spokesman Rolando Moss acknowledged Tuesday that the agency is investigating the incident for possible civil rights violations, but refused to elaborate. The FBI will give its findings to the U.S. attorney's office, he said.

The security director for Capital Correctional Resources Inc. (CCRI), the private company that leased the portion of the jail in which Missouri inmates were housed, said the sheriff's department made the final decision to hire Wallace and all other personnel employed as guards by CCRI.

"We screen and get applicants. The final approval is up to the sheriff's office," said Dennis Walker, CCRI's security director.

He was unsure why Wallace was hired.

"I asked the same question. I was down there Thursday and Friday and was unaware of that (Wallace's past history in the Texas penal system)," Walker said from CCRI's corporate headquarters in Groesbeck in Central Texas.

Walker also said CCRI executives were unaware that a videotape of the incident existed until last week.

No one with the Brazoria County Sheriff's Department responded to questions about Wallace's hiring. Wallace, an Angleton resident, did not return telephone calls from the Chronicle.

Glenn Patton, the police chief of Richwood, said Brazoria County Chief Deputy Charles Wagner identified Wallace during a playing of the videotape at the Brazosport Facts newspaper, which asked community leaders to watch the tape and offer comments.

While voicing support for the sheriff's department, Patton said he wasn't sure why the sheriff's department would approve the hiring of a former state prison major who had pleaded guilty to brutalizing an inmate.

The cancellation by Missouri of the contract to house its prisoners at the county detention center will force Brazoria County

9:48 PM 9/14/1997

State billing private prisons for hunting escapees, riot aid

AUSTIN (AP) -- A year ago, the Texas Department of Criminal Justice got tired of being called out to chase down escapees and quell riots at private prisons -- all free of charge to the institutions.

So the agency has decided to charge for the service.

So far, it has collected \$15,553 from three firms and is still owed \$6,344 by two others.

Prison officials said Dove Development Corp., the former operator of the Frio County Detention Center in Pearsall, owes \$4,794 for state help in quelling an uprising in September 1996 and apprehending an escapee the following month.

Officials said they have been told the company is no longer in business. There was no listing for Dove in the Greenville telephone directory.

Wackenhut Corrections Corp. reimbursed the state \$10,872 for guards, horses and tracking dogs from two prisons to hunt an escapee over two days in January from the Lockhart Correctional Facility. Lockhart is a private contract prison for federal prisoners.

Capitol Corrections Co. paid \$1,939 for help in capturing an April escapee from the Limestone County Detention Center in Groesbeck.

Bobby Ross Group paid \$2,741 for state help in catching two separate escapees from the Karnes County Correctional Facility in Karnes City and was just billed \$1,550 for state help in an August escape from the Newton County Detention Center in Newton.

Frank Smith

13

The Myth of Prison Privatization Cost Savings

On June 20, 2002, Mr. Thomas Kane, Assistant Director for Information, Policy and Public Affairs for the U.S. Department of Justice Federal Bureau of Prisons responded to an inquiry from Oklahoma Senator Don Nickles concerning the Bureau's experience with private prisons. Senator Nickles had received a request from Corrections USA President Richard Loud asking for the inquiry. Senator Nickles forwarded that request on to the FBOP. Here is some of what Assistant Director Kane of the FBOP had to say about private prisons and federal inmates:

"Over the years, the private sector has had significant problems with the incarceration and management of medium-security and high security offenders. In particular, the private sector has not demonstrated the ability to manage high security sentenced inmates for long-term confinement, though they have held such offenders as short-term detention cases."

"With regard to cost efficiencies, a recently completed comparison of the cost of the privately operated prison in Taft, California with similar Bureau facilities found that the BOP institutions were somewhat less costly than the private facility."

1) U.S. General Accounting Office, *Private and Public Prisons – Studies Comparing Operational Costs and/or Quality of Service*. (Washington, DC: Report to the Subcommittee on Crime, Committee on the Judiciary, House of Representatives, August 1996).

"We could not conclude from these studies that privatization of correctional facilities will not save money. However, these studies do not offer substantial evidence that savings have occurred."

"While the five studies varied in terms of methodological rigor, they do, to differing degrees, offer some indication of comparative operational costs and/or quality of service in the specific settings they assessed. However, regarding operational costs, because the studies reported little difference and/or mixed results in comparing private and public facilities, we could not conclude whether privatization saved money."

2) Office of Program Policy Analysis and Government Accountability, *Review of Bay Correctional Facility and Moore Haven Correctional Facility*. Report to the Florida Legislature, No. 97-68, April 1998.

"Although vendor performance during 1996-97 fiscal year was satisfactory, the private prisons are not providing the state with the level of overall cost savings initially projected by the commission" (page i) "The department (Florida Department of Corrections) disagrees with our methodology, arguing that if we had used multiple public prisons as a basis for comparison, we would have found that public prisons were at least 11% less costly than private prisons." (page iii)

Total Adjusted Per Diem (page 38)

Bay CF (private) \$46.08

Moore Haven (private) \$44.18

Lawtey (public) \$45.98

"The Bay and Moore Haven contracts have not provided the required cost savings to the state." Secretary Harry K. Singletary, Jr. Florida Department of Corrections letter to OPPAGA, 3/20/98 (pg. 54)

3) Dennis Cunningham, Private Prison Administrator, Oklahoma Department of Corrections, *Public Strategies for Private Prison*, January 4, 1999, presented at the Institute on Criminal Justice, University of Minnesota Law School January 30, 1999. "As you can see from the above, the department's proposed 1,000 bed facility cost of \$42.77 per day is lower than all contracted beds in Oklahoma. The department's current average cost of all medium beds of \$41.01 is lower

than all private prisons, but the department's existing facilities have no debt service other than three housing units at Lexington Assessment and Reception Center, Joseph Harp Correctional Center and Oklahoma Reformatory, a new prison would require debt service for the state." (p. 60)

Per Diem Public Prisons in Oklahoma \$41.01

Proposed New Public Prison \$42.77 (includes state debt service)

Private Lawton CF, Lawton, OK \$42.97 Wackenhut

North Fork CF, Sayre, OK \$44.02 Wackenhut

Davis CF, Holdenville, OK \$46.31 Corrections Corporation of America

Central CF, McCloud, OK \$46.92 Correctional Services Corp. (now Dominion)

Cimarron CF, Cushing, OK \$46.96 Corrections Corporation of America

Great Plains, CF, Hinton, OK \$47.65 Cornell Corrections

4) *Private Prisons in the United States: An Assessment of Current Practice*, Abt Associates Inc., Douglas McDonald, Ph.D., 7/16/98, Cambridge, MA Report to the Attorney General of the United States, page 38.

"The FRC (Tennessee Fiscal Review Committee) is a model cost comparison. It allocated "line item" cost data to specific management functions. (administration, security, etc.)... After such adjustments the FRC found that the daily operating cost during FY 1994, exclusive of any costs allocated to central office, averaged \$31.95 in the two public facilities, compared to \$33.78 in the CCA (Correction Corporation of America) facility. By this measure, the private facility was 5.7% more costly than the two public facilities, on average. (Both public facilities were less costly: \$30.91 at NECC and \$33.06 at NWCC.) When adjustments were made for the differences in the size of the facilities to equalize the comparison (more specifically, in the average numbers of prisoners under custody in each one), the cost difference diminished to one percent. Adding in an allocated share of the Department of Correction's central office costs to the three facilities changed estimates slightly. The CCA facility was then found to be one percent less costly, on average, than the public facilities."

5) *Comparing Public and Private Prison Costs*, Julianne Nelson, Ph.D., N.W. Partners, May 15, 1998 Washington, DC:, page 16. "This survey of recent cost studies does not resolve the question of whether privately-managed prisons are cheaper than publicly managed ones. The evidence is mixed, with more detailed studies indicating the smallest cost savings from privatization."

6) State of Washington Legislative Budget Committee *Department of Corrections Feasibility Study*, January 1, 1996 Olympia, WA, page 25. "General Conclusions: Would privatization of a prison or prisons result in cost savings to Washington? Not necessarily. Much would depend on the care that was taken in estimating the state's costs, and in designing an RFP, choosing a contractor, and executing and monitoring the contract.... Ultimately, even if a private facility can operate for less, the state would not necessarily capture any of these savings for itself unless it received responsive bids with per diem costs lower than its own."

7) National Institute of Corrections, U.S. Department of Justice *Taft Prison Facility: Cost Scenario*, Julianne Nelson, Ph.D., November 9, 1999 page 3.

"More formally, the cost comparisons developed in this study indicate that the cost to the BOP (Federal Bureau of Prisons) of the current Wackenhut contract exceeds the expected cost to the BOP of operating a Federal facility comparable to Taft – provided that BOP uses current BOP staffing practices at this facility (rather than the staffing patterns chosen by Wackenhut). It follows that expected payments to Wackenhut exceed expected cost savings from privatization if the conditions that prevailed in FY 1998 continue for the life of the contract (with appropriate adjustments for changes in inmate populations). In other words, FY 1998 data indicate that the Taft privatization experiment will not save taxpayers dollars."

8) *Growth and Quality of U.S. Private Prisons: Evidence from a National Survey* Scott D. Camp, Ph.D., Senior Social Science Research Analyst, Gerald Gates, Ph.D. Director, Office of Research and Evaluation, Federal Bureau of Prisons, October 23, 2001, Washington, DC.

“Special attention is focused in this report on staff issues. The hiring and training of supervisory and line staff is probably the single most important factor distinguishing the daily operations of private and public sector prisons. Labor expenses represent between 60 and 80 percent of costs of operating a prison. To the extent that private prisons can operate more cheaply than their private sector counterparts (a claim that has been questioned, c.f. Austin & Coventry, 2001; General Accounting Office, 1996; McDonald, Fournier, Russell-Einhorn, & Crawford, 1998) the savings most likely come from lower wages and/or benefits, fewer staff, or both. (page 2) “Advocates of prison privatization have argued that private prisons can pay workers less, offer fewer benefits, and still deliver a product that is as good or better than that provided by the public sector. The evidence to date contradicts such an encompassing assertion”. (page 16) “The data presented here indicate that less costly workers in private prisons have not produced an acceptable level of public safety or inmate care to date.” (page 18)

9) *A Study of Private Prisons, The Benefits and Drawbacks, Related Considerations A Summary of Findings*, Judith A. Greene, Senior Fellow, Institute on Criminal Justice, University of Minnesota Law School, March 1999, Minneapolis, Minnesota “Differences in costs reported in the studies which found cost savings were often due to the methods used to allocate government overhead costs, and thus, the identified cost savings were not actually saved”. Page 4. “The true cost of a new prison is found in the added cost to the Department’s overall budget—not in the operating budget of a new prison. By far, the greatest cost in operating a prison is expenditures for personnel. The personnel costs to the state is the funding required to fill new positions and replace vacancies created when existing, higher paid personnel are transferred from existing facilities to the new facility – not in the bottom-line cost of personnel who end up being employed at the new facility.” Page 7.

10) *Emerging Issues on Privatized Prisons* Monograph: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, James Austin, Ph.D., Garry Coventry, Ph.D., National Council on Crime and Delinquency, NCJ181249 February 2001, Washington, DC. (page 29) “In summary, the cost benefits of privatization have not materialized to the extent promised by the private sector. Although there are examples of cost savings, there are other examples in which such benefits have not been realized. Moreover, it is probably too early to determine if the initial cost savings can be sustained over a long time period. It only takes one major disturbance for such costs to greatly accelerate”.

Hidden Costs

All of the studies cited reference hidden costs that were not included in cost pre diem comparisons. These costs can devastate a community. Such is the case in Delta Junction, Alaska where a \$1.1 million lawsuit against the community by Cornell Corrections has left the city in default. (Mike Chambers, The Associated Press, 6/29/02). A similar situation in Utah has resulted in a 12 million-dollar settlement against the state. \$1.57 million of that going to a private prison contractor for a prison that was never built. (Dennis Romboy, Deseret News Staff Writer, 6/21/02) In 1984 the Hamilton County Tennessee Penal Farm shifted from public to private management. The Hamilton County auditor recognized the impacts hidden costs could have on

prison privatization. He estimated the hidden costs could be as high as 20-30% above the estimated per diem costs. (ibid. *Emerging Issues...* page 23).

As these studies all report, private prisons make their profits from lower wages and benefits, under staffing and decreased training. "If a private sector firm were to pay low wages and provide inadequate health care coverage, coverage containing a high employee contribution, or no coverage at all, the employee, and ultimately the state, bear the costs."

A Michigan Privatization Analysis; Legal Ramifications of Prison Privatization Eileen Nowikowski, Esq., Sachs, Waldman, O'Hare, Helveston, Hodges & Barnes, P.C. Michigan Corrections Organization, Detroit, MI 1994 page 16

Assaults

According to James Austin, Ph.D. George Washington University and Executive Director of the National Council on Crime and Delinquency, inmate-on-inmate assaults are 66% higher in private prisons and inmate-on-staff assaults are 49% higher. These assault rates lead to the need for much greater involvement of local law enforcement agencies in responding to these problems. The cost of investigation, prosecution, court fees, appointed attorneys, appeals, and future incarceration are all the responsibility of the jurisdiction in which the assault took place. The man-hours required to address these high rates of assaults can have dramatic effects on local communities, law enforcement and court systems. The human costs in terms of medical costs, hospitalization, and ambulance response are also not calculated as part of the per diem rates. Nor are the costs of workers compensation for the employees assaulted.

In England insurrections at private prisons have led to insurance companies refusing to offer coverage for private prisons. "Plans to open two new private prisons have been delayed after nervous insurance companies refused to provide coverage". "... the fire at Yarl's Wood asylum detention centre in Bedfordshire in February that caused L38 million of damage have made it impossible for the United Kingdom Detention Services to find insurance cover, the paper said". "The government maybe forced to provide cover itself, or agree with the industry to accept part of the risk." (Press Association News, Home News, Nick Mead July 7, 2002.)

Qualified Immunity In *Richardson v. McKnight*, No. 96-318 Slip Op. (June 27, 1997) the United States Supreme declined to apply the doctrine of qualified immunity to private prison guards who are not governmental employees.

The doctrine of qualified immunity is essential in protecting employees of a correctional facility from unjustified inmate lawsuits. Absent these protection's, guards (the citizens of jurisdictions hired by private firms), will be at the mercy of a litigious inmate population. The costs of defending against such actions will be borne solely by the private guard and can be astronomical.

Turn-Over Rates

At a tour of the Community Alternatives of Casper facility in Wyoming, the Joint Judiciary Interim Committee of Wyoming was told of a 17-year problem to retain security staff at this facility. Indeed a joke was made about a 22 minute career (July 9, 2002). According to the *Corrections Yearbook 2000* the turn-over rate for private prisons is 52%. In public facilities the rate is 14%. When prison security staff turns over at such an alarming rate the safety of the community, the staff and the inmates are at stake. It is one of the primary reasons noted for the higher assault rates, once again contributing to hidden costs.

Escapes

The cost of escapes is also not reported as a part of the per diem comparisons. Because private prison guards are not law enforcement officers they have no legal authority to search for, capture or detain escapees. The private prison industry houses approximately 122,871 inmates in what are considered to be secure housing institutions, (institutions where inmates simply cannot walk off the grounds like they can in most halfway houses and many minimum security facilities). The California Department of Correction (CDC) houses approximately 160,606 inmates in such facilities. The California Correctional Peace Officer Association studied escapes from the private prison industry and the CDC over a six year period, 1995 – 2000 and found the following.

inmates Escapes 1995-00

Escapes per inmates

CDC: 160,606 prisoners 11 escapes Ratio escapes per prisoner 1:14,601


Privateers: 122,871 prisoners 200 escapes Ratio 1:614

The privateers are also very active in the inmate transportation business. According to Mother Jones magazine May 2000 a comparison between private and public inmate transport reveals the following: (Note: the US Marshals transported TWICE the number of inmates during this period.)

Escapes 1994- 2000

Private Sector: 37

US Marshals: 0

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Big House Inc.

Think more private prisons would be good for Arizona? Think again, sucker.

BY ROBERT NELSON

Arizona is a tough-on-crime state.

Between 1977 and 2003, the number of Arizona prison inmates increased nearly 1,000 percent, from 3,229 to 30,083.

But as legislators and policy leaders toughened sentencing requirements, they failed to provide enough money for housing these prisoners.

As of February 2003, the Arizona Department of Corrections had 3,733 more inmates than its facilities could handle.

The overcrowding crisis has powered a new movement in the state Legislature - prison privatization.

The idea: Let private companies build lots more prisons. Let private companies manage the prisons. Let private companies staff the prisons.

Or, pay a private prison in another state to house inmates from Arizona.

All these ideas have either been implemented or are on the table here. And several legislators are pushing for further privatization to help alleviate the state's \$1.3 billion budget shortfall.

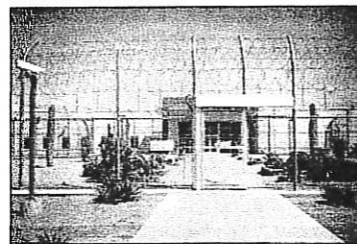
Prison privatization is a brain child of free-market economists. Businesses run more efficiently than governments. Competition is good. Competition will drive down the price of prisons while at least maintaining the quality of service.

But while privatization of government services has been successful in some areas, it's proven disastrous when correctional facilities are involved. In place of savings and quality of service, a *New Times* investigation shows, states that privatize are often confronted with profiteering, inmate and guard assault and abuse, sub-poverty wages for employees and political scandals.

In Arizona, it's no different.

One of the most troubled private prison companies in the United States, Correctional Services Corporation, already houses 636 Arizona inmates in a facility in Newton, Texas. CSC also operates a minimum-security prison in Arizona for the DOC and has bids out to house thousands more inmates.

Jackie Mercandetti



CCA's Florence, Arizona, jail.

Bruce Bennett/Palm Beach Post



Inmates stand near razor wire at Pahokee Youth Development Center in Florida.

Last month, CSC was fined a record \$300,000 by the New York (state) Lobbying Commission for failing to report free transportation, meals and other gifts it had given to legislators in an effort to keep more than \$22 million in contracts.

In Arizona, CSC gave legislators \$5,849, making it by far the largest campaign contributor among private prison corporations. Other prison companies combined for only \$550 in contributions.

CSC has one full-time lobbyist in Arizona, and several key legislators have received campaign contributions from the company. CSC's president James Slattery and his wife gave \$4,404 to legislators before the 2002 Arizona election. Together, they rank fifth in the amount of money given by any general business interest.

Besides a history of heavy-handed lobbying, the company has attracted the attention of government regulators for providing substandard services.

For example, in Florida, besides a litany of guard abuse and inmate escapes, investigators discovered CSC was holding inmates past their release dates so the company could collect more per diem dollars from the state.

Closer to home, CSC guards – just a month after Arizona sent its first group of inmates to an out-of-state private prison – failed to control a riot of 84 Arizona prisoners in January at the company's Texas facility.

When Hawaii investigators came to Florence, Arizona, to investigate severe problems with the housing of Hawaiian inmates at the jail operated by another large firm, Corrections Corporation of America, company officials told female investigators they could not enter the facility because guards, according to a report, "could not ensure their safety."

Still, the privatization idea and the influence of Correctional Services Corporation and companies like it grow in Arizona. Private prisons have already housed more than half a million inmates in the state, and proponents are rabid for more privatization.

Senate Bill 1126, introduced by senators Robert Burns and Robert Blendu, calls for the sale of all Arizona medium-security prisons to the highest bidder. That bill probably will die in committee, but proponents have said the idea is sure to appear later in other legislative budget proposals.

According to campaign finance reports, Burns received \$774 from private corrections companies, \$514 of that from CSC. The Slatterys together were Burns' largest contributor other than his own election committee.

Another bill proposing the state build a private prison in Mexico to house Mexican nationals convicted of crimes in Arizona also was narrowly defeated.

But the state is in the process of finding a private prison corporation to build and manage a 1,400-bed prison for Arizona's minimum-security inmates, as well as a 3,200-bed prison to house female inmates of all classification levels. If built, that women's facility would be the largest prison in Arizona.

And some legislators want more.



State Senator Bob Burns is pushing privatization, and prison firms are supporting him.



Senator James Weiers is one of the strongest pro-privatization voices in Arizona.

"I can see us going private with all the medium security," says state Representative Russell Pearce, chairman of the House Appropriations Committee and a longtime proponent of prison privatization. "Look, competition is good. And private companies have proven they can do it cheaper while meeting our standards. Why not move forward?"

Apparently, campaign contributions are also good. Pearce received \$812 from CSC alone in 2002, including \$220 from the company's senior vice president, Russell Rau.

"Of course we would love to serve the state of Arizona in any capacity we could," Rau, who oversees the company's operations in the western United States, tells *New Times*. "We could save the taxpayers of Arizona a lot of money."

Nothing could be further from the truth, opponents say. The director of a national clearinghouse on privatization claims both Pearce and Rau are ignoring the facts.

"They're so full of crap," claims Brian Dawe of Corrections USA. "This is all about companies making a buck to the detriment of public safety. [Prison privatization has] proven itself time and time again to be a horrible idea."

In the early 1980s, President Ronald Reagan promised to "get tough on crime."

At the same time, Reagan promised to "get government off our backs and out of our pockets."

And so the private prison industry was born.

Executives in the fledgling field promised to revolutionize corrections. Tom Beasley, one of the founders of CCA, which operates the large facility in Florence, promised that all aspects of prison management would be improved. He vowed there would be higher wages for guards and improved programs and better living conditions for inmates. He said tight security and safety for inmates and guards would be given the highest priorities.

All this, he promised, could be accomplished at a savings to taxpayers.

Into the 1990s, research seemed to show that the experiment was working. While anecdotal evidence mounted that private prisons were more dangerous than public institutions – and just as expensive – a University of Florida professor was able to keep privatization on the front burner.

Charles Thomas, the only researcher who had extensively studied the issue at the time, claimed that private prisons were saving Americans between 10 percent and 20 percent over public ones.

In 1996, however, a report by the U.S. General Accounting Office concluded there was no clear evidence of cost savings.

That same year, Thomas was brought in by Arizona officials to analyze the cost-effectiveness of Management and Training Corporation's Marana facility, a private prison that handles minimum-security DUI inmates for the state



Representative Russell Pearce is another of the state's champions for privatization.

Jackie Mercandetti



Lobbyist Matt Knowles says private prisons are a danger to Arizonans.

Jackie Mercandetti



CSC's Phoenix West DUI facility.

Department of Corrections.

Thomas had the "credibility the state sought," one official recalls.

Thomas studied the private Marana facility and found that it was saving 13.8 percent to 16.6 percent over what a public prison would cost.

State government leaders cited the report as proof that privatization was the bright future for Arizona prisons.

Then, just two months after Thomas submitted his report to the state, the Florida Ethics Commission filed its first complaint against the professor.

It was later discovered that, among other indiscretions, Thomas had attended an MTC board meeting in Hawaii at the company's expense – which apparently was small potatoes for him.

On October 21, 1999, Thomas was forced to pay the Florida Ethics Commission \$20,000 because of his unsavory relationship with the private prison industry. State officials forced him to shut down his university research institute.

By 1999, it had become known that Thomas had received more than \$3 million in consulting fees from private prison corporations, including several – like MTC and CCA – that operated in Arizona.

Thomas denied that he had done anything unethical.

With Thomas' research tainted, several independent researchers began taking a closer look at the private prison industry.

They soon came to vastly different conclusions than Thomas'.

Indeed – with data collected by the U.S. Justice Department, as well as studies conducted by university criminal justice researchers, such as Judith A. Greene, James Austin, Ira Robbins and Frank Smith – the truth came out:

- Private prisons, on average, operate only 1 percent more cheaply than public prisons, according to a Justice Department study. Most of the cost savings come from reduced salaries.
- In the United States, 49 percent more assaults on staff members occur in private prisons than in public ones.
- Inmate-on-inmate assaults are 66 percent higher in private prisons versus public prisons.
- The employee turnover rate in private prisons is 53 percent each year, compared to 16 percent for public prisons. This means that, on average, a private prison will have completely new staff every two years.
- Fifty-seven percent of all inmates in a private prison are released into the community where the prison is located rather than sent back to the jurisdiction they came from.
- From 1994 to 2000, 37 prisoners escaped from private transport companies. In the same time, the U.S. Marshal's Office transported twice the number of inmates without a single escape.
- From 1995 to 2000, at least 251 of the 122,871 inmates held in private prisons across America escaped. California houses about the same number of inmates as private prisons hold nationally. Of the 160,606 inmates housed in secure California prisons during the same period, 11 escaped. That's one escape per 489 inmates in private prisons compared to one escape per 14,601 inmates in public facilities.

- According to the 2000 *Corrections Yearbook*, a yearly publication of corrections statistics from the Criminal Justice Institute in Maryland, private prison guards receive 35 percent fewer pre-service training hours than public corrections cops.

What's more, none of these numbers begin to touch on the fraud, political payoffs and scandals involving some of the nation's private prison companies.

Correctional Services corporation was one of the fastest-growing private prison outfits in America through the 1990s.

When the company went public in 1994, its stock traded at \$7.50 a share. But investors soon became hot for private prisons. By 1996, CSC stock had tripled to \$20.50.

Then came a rash of scandals and continued operating losses, and a pall was cast over CSC. Its stock hit an all-time low last year at \$1.50 a share.

But hope was on the horizon. The company began to restructure by selling off losing assets, including its 600-bed prison in Florence, which the state is continuing to allow it to manage.

CSC now operates 37 detention centers nationwide that house up to 8,100 inmates, and its Youth Services international subsidiary operates 25 facilities with 3,600 juvenile prisoners. CSC's stock has rebounded a little to above \$2 a share.

The company's western operations have helped fuel the resurgence. In addition to its contract to house the more than 600 Arizona prisoners in Texas, CSC has been approved to build a prison in Washington state. The company has several bids out for more contracts, including one to house 1,400 inmates in northern Arizona.

Arizona began transferring inmates to the CSC facility in Texas in December of last year.

Two months later, the company was pounded with the \$300,000 fine by New York state – the largest ever by that state's Lobbying Commission.

In New York, gifts to state lawmakers of more than \$75 must be reported to the commission. But former CSC vice president Franklin Chris Jackson apparently ignored that law.

Jackson was found to have violated the statute on at least six occasions, giving plane tickets to one lawmaker, a \$113 fruit basket to another and treating several lawmakers to fine wines and extravagant dinners.

In addition to the fine, district attorneys in Albany and Manhattan are criminally investigating CSC's activities, and the state's ethics committee and elections board are probing the company's business practices.

As might be expected, CSC's executives are distancing themselves from Jackson's activities.

"I like to call that a case of one bad apple in the Big Apple," CSC western operations director Rau says. "That is absolutely not how CSC conducts business in [the western United States]. The New York case is an isolated case."

Pearce, Arizona's House appropriations chair, maintains that, to his knowledge, CSC and other private prison corporations aren't engaged in unethical lobbying practices in Arizona. Though beside the point in a discussion of prison privatization, Pearce contends that the most aggressive lobbying efforts in Arizona are by lobbyists representing state agencies.

"I haven't seen anything like what you're talking about in New York," he says.

Interestingly, though, when first asked if he had received campaign contributions from private prison corporations or executives, Pearce said, "Not that I know of."

Asked if he had heard of Correctional Services Corporation, he said, "I get their names mixed up. I don't remember that name specifically."

When told that, in fact, his campaign finance records show contributions from five different CSC officials, he asked that the names be read off to him:

CSC president Slattery; Bernard Wagner, its business development head; John Mentzer, its chief financial officer; and Russell and Diane Rau are listed in the records. Rau provided Pearce with his fourth-largest contribution before the 2002 election.

"I know Mr. Rau," Pearce finally admitted. "He came to my office. Nice gentleman."

"But that doesn't mean I've been courted anywhere. They don't need to court me. I've been supportive of private prisons for longer than most of these companies have existed. And as you can see, I don't favor one over the other."

Senators Burns and Weiers, the pro-privatization legislators who also received large campaign contributions from prison corporations, did not return telephone calls from *New Times*.

Other state lawmakers who have received campaign contributions from prison corporations are House Speaker Jake Flake (R-Snowflake) and Senator Carolyn Allen (R-Scottsdale).

According to data from the National Institute on Money in State Politics, a nonprofit campaign contribution watchdog organization based in Montana, CSC was by far the largest contributor in the state among for-profit corrections companies.

"All we're doing in Arizona is standing on the sideline trying to provide information to legislators," Rau says. "We are not trying to push and pry. That just isn't our style."

"Private prisons really do provide a quality product," Representative Pearce insists. He says Arizona only works with corrections companies with a history of providing said "quality product."

In sizing up CSC, Pearce must have failed to check out the company's track record in Florida, where it has done business for many years.

Its most troubled facility in that state is the Pahokee Youth Development Center, which a Florida juvenile court judge compared to a "Third World country that is controlled by . . . some type of evil power."

In 1998, a consultant for the Florida Department of Juvenile Justice reported that CSC had kept 10 juveniles "beyond their release dates for the sole purpose of making more money." According to the consultant, CSC officials had issued a memorandum telling staff to hold teenagers so they would be counted on the quarterly head count that determines how much education and juvenile-justice money the company receives from the state.

As of late 1999, state officials had confirmed 15 cases of abuse of inmates by staff at the facility.

CSC fought accountability in the case, refusing to release prison documents to ACLU attorneys. CSC lawyer Debra

Dawn argued that the records weren't public documents because CSC is a private corporation, forcing the ACLU to file suit to win access.

In 1999, the Pahoee Center scored an abysmal 37 on a scale of 100 on its yearly state inspection. The facility, investigators pointed out, hired counselors with no experience, paid \$16,000-a-year salaries (about \$10,000 less than at public facilities) and offered little training. Inspectors also found scant supervision of employees and limited supervision of inmates.

Later in 1999, CSC sold the facility.

It, however, continued to run the Polk Youth Development Center.

In 2001, an employee of the Polk center won a \$14,000 verdict in a whistle-blower lawsuit against the company. The employee and six others claimed they were fired after telling state officials their supervisors had instructed them to falsify documents. The other six didn't receive money because a Florida judge ruled that they had followed orders to falsify records. The workers said they were told to forge signatures and back-date reports so the company wouldn't lose its \$31.3 million contract with the state.

In 2001, the state of Maryland forced CSC to repay \$600,000 for services it had promised but never delivered. The payment came after state officials audited the Victor Cullen Center, where they found chronic understaffing, a failing education system, inadequate mental-health services and far too many incidences of staff abuses of inmates.

In Nevada in 2001, a CSC subsidiary, Youth Services International, was fined \$41,500 for having too few employees on duty to meet required staffing levels. Annual salaries at the facility were \$9,000 lower than at state-run institutions, which had caused more than 80 percent of the original staff to leave. On June 1, 2001, 50 inmates of the Summit View Youth Correctional Center run by CSC escaped to the roof and pelted guards below with debris.

One of Summit's employees was a former probation officer who, at the time of his hiring, was awaiting trial on six felony counts of having sex with a juvenile he was supervising.

In 2001, CSC decided to end its contract with the state of Nevada two years early. A Reno city councilwoman had called conditions at the CSC Summit View facility "absolutely appalling."

In Louisiana, where guards were paid \$6 an hour by CSC, 18 guards staged a walkout in 1999. Late that year, an assistant U.S. attorney found that in a span of two months, there had been 104 inmate injuries at the firm's 276-bed Jena location.

"These [CSC] guys are charming," Brian Dawe of Corrections USA says sarcastically. "They are a civil attorney's dream come true."

Arizona law dictates that private prisons must operate at a standard nearly identical to that of Department of Corrections facilities. The DOC has three inspectors in each private facility to ensure compliance with state standards.

"Arizona is one of the stricter states on private prisons," Rau says. "So we have to find other ways to save."

Opponents admit that Arizona is fairly strict on private prisons wanting to come into the state. But once a company gets a foothold, they say, the firms find ways to get around regulations.

Indeed, Pearce already says he would like to reduce the number of state inspectors overseeing the private prisons.

"Yes, three inspectors is too much," he says. "It's too much government. I'm not sure what the right number is, but [private prison industry officials] have proven they can be trusted more than that."

Rau says, "There are ways we could bring even more cost savings to the taxpayers of Arizona."

CSC's lobbyist in New York had been pushing lawmakers to loosen regulations before the company was fined \$300,000 for its lobbying efforts there. CSC and CCA, the companies with the strongest presence in Arizona, both have well-documented histories of pushing local and state authorities to lessen government oversight of their operations. Like Rau, the company's other lobbyists have argued that less regulation means more savings to taxpayers.

But once regulations are diminished, national statistics show, the real trouble for local and state governments begins.

In states such as Florida, Maryland, Oklahoma, Texas, Tennessee and Louisiana, the negative effects of entrenched and underregulated private prisons become clear.

It costs state and local governments millions to clean up the mess when a prison doesn't run properly. For example, state and local law enforcement dealt with the 251 escapes reported between 1995 and 2000 (240 more than in the same-sized California prison system). Manhunts of dangerous felons typically cost local police agencies about \$10,000 a day.

In several cases, the escaped inmates committed additional crimes. In a late 2001 incident, CiviGenics officials took four hours to alert police that convicted felon Sherman Lamont Fields had escaped from the company's facility. Meanwhile, authorities discovered, Fields had proceeded to his former girlfriend's house and shot her to death.

When inmates at the CCA facility in Florence rioted in 2000, CCA guards actually called 911 for help from local police. The Tactical Support Unit of the state Department of Corrections was finally called in to quell the uprising. In 2001, the CCA facility's warden was replaced after complaints by Hawaiian officials that the facility was unsafe for that state's inmates housed there. Besides the riot, the Florence prison had been plagued with numerous inmate beatings, as well as the April 2001 drug-overdose death of an inmate.

In 1998, four convicted killers escaped from CCA's prison in Youngstown, Ohio. Investigators later discovered that the CCA facility, which was supposed to be handling only medium-security inmates, was in fact holding more than 100 prisoners that should have been in a maximum-security prison. The dangerous inmates were then moved to a non-CCA facility.

"Everybody else pays for the private prison's problems," says Joe Masella, president of the Arizona Correctional Peace Officers Association, which represents more than 1,500 corrections officers in the state.

"In some cases, they've paid with their lives," Dawe says.

But escapes and assaults don't seem to cut into a private prison's profits. In fact, Dawe points out, the company usually benefits because years are added onto the sentences of inmates who attempt and succeed at escapes, which means more money for the corrections firm.

Of course, all these extra assaults and escapes cause extra lawsuits. And unlike in public prisons, guards in private facilities are not protected to some degree from litigation under state and federal law. This means that the costs of the suits are passed on to governments.

"Private prison companies have promised states that they will reduce or eliminate government liability," says Ira Robbins, an American University law professor and author of *The Legal Dimensions of Private Incarceration*. "But it's absolutely clear [under federal and state laws] that the states cannot divest themselves. If companies make that promise, it's an absolutely false promise."

New Times asked Robbins to critique the Senate bill supported by Burns and Pearce that would order the sale of several public prisons to private companies.

"Some of the things in this bill are incredible," Robbins says. "It appears to me that, through SB 1126, the state is throwing up its hands and saying, 'Bail us out.' But clearly the law does not allow the state to sell off its liability in this manner."

Joe Masella and the members of his organization are vehemently opposed to privatization of the state's prisons.

Masella says that wholesale prison privatization in the state would, over time, become a financial disaster rivaling the Legislature's alternative-fuels debacle.

"Except this will also take down public safety in the state," he warns.

"Simply put, all privatizing prisons would do is put the people of Arizona in greater danger," agrees Matt Knowles, a lobbyist to the state Legislature for Arizona's police and corrections officers.

Pearce says Masella and Knowles are wrong. He says that "like anyone, I think a lot of corrections people are just fearful of change."

As might be expected, Masella and other state corrections officers are worried about salaries, because of the lower pay that correction officers in private prisons get both locally and nationally.

In 2000, the last year in which U.S. private prisons were willing to report salary information to the publishers of *Corrections Yearbook*, beginning employees at private firms made 23.4 percent less than those at public institutions, and employees at the top of the pay scale at private companies made 39.4 percent less than their public counterparts.

The average starting rate at private prisons was \$8.48 an hour. Public prisons offered \$11.05. The average maximum hourly pay for private prisons was \$10.59. Public prisons offered \$17.47.

Rau admits that CSC pays its employees less than public institutions. In Arizona, though, he says salaries are "nearly comparable." He says CSC and other companies in this state have good reason to keep pay near the levels of those at public facilities.

"If we're too much less," he says, "we just become a training ground for the public institutions. People would just leave when they got a chance to work at the DOC."

"And if our salaries were higher, we'd start pulling staff directly away from the client we're supposed to be serving."

Indeed, salaries in Arizona for private prison guards are closer to state corrections officers' salaries than in most states.

Private prison executives like to note the situation in Florence, 40 miles southeast of Phoenix. Florence is home to several private *and* public prisons. Surrounded by facilities draped in razor wire, the town is known as the Arizona

Gulag.

Frank Smith, a Kansas-based criminal justice scholar who studied Arizona while writing about national corrections issues, says companies like CCA must offer competitive wages in that town to compete with the state for workers.

CCA can still make a profit in Florence for one reason -- it is housing the most highly subsidized prisoners in the country from Hawaii and Alaska.

Those states pay \$58 per inmate per day. Comparatively, Arizona pays \$38 per inmate per day to house its prisoners in Texas.

"Private companies might point to that as an example of quality wages, [but] it is far from the norm," Smith says.

What usually happens is that private prison companies, such as CCA or CSC, come in promising nearly comparable wages. But as time goes by, employees get minimal raises. While the maximum salary for an experienced officer at a public facility averages \$36,328, the maximum salary for an experienced officer at a private firm averages \$22,028, according to 2000 statistics from the Criminal Justice Institute.

So once a private prison takes over a public institution, experienced corrections officers leave for better jobs. On average, a private prison in America will turn over 90 percent of its staff every two years.

Which leaves prisons with guards too inexperienced to properly do their jobs.

Also, CSC and CCA, the two major operators in Arizona, have been known nationally to understaff their facilities. CSC, for example, has lost contracts in Florida, Maryland and Texas partly because the company did not meet staffing requirements set by the states.

Instead of cutting staff, some private prison companies overcrowd their prisons.

CSC appears to have tried to play this game at its Phoenix West DUI facility.

Phoenix West can house 445 inmates in eight dormitories, with 55 inmates in each dorm. Each dorm contains three toilets and three showers.

Last year, the prison's warden proposed increasing the inmate population of each dorm by 16 people. The warden did not seek legislative approval for the increase, which is required under Arizona law. Recently, inmates at the facility sent a letter to Governor Janet Napolitano protesting the attempts to add inmates to an already overloaded facility.

Rau, the CSC executive, denies his company cuts staff to dangerous levels or overcrowds facilities. And it is not true, he says, that his company makes its profits solely by undercutting wages and slicing staff.

Private prisons are able to turn a profit -- and save taxpayers money -- because they don't have to get bogged down in state regulations when purchasing buildings and equipment, Rau says.

But national data show that any savings generally aren't passed on to states.

Further privatizing prisons "is the worst idea to come along in a long, long time," Masella says. "I don't think Arizonans can completely fathom yet what troubles would follow."

Like Pearce, Rau says such are the concerns of people afraid of change. He insists that companies such as CSC, not public prisons, are Arizona's future.

Rau ends on a high note:

"I love your great state!"

If many state legislators have their way, he may soon love it even more.

Prison operator makes corrections to expand

By Stephen Pounds, Palm Beach Post Staff Writer
Sunday, August 24, 2003

BOCA RATON -- Don't ask Mississippi Gov. Ronnie Musgrove about Wackenhut Corrections Corp.

You might get a growl.

In the past two years, Musgrove has locked horns with private prison operators, Wackenhut and rival Corrections Corp. of America over the financing of "ghost inmates" at Mississippi's private prisons. Both times he lost.

In the first go-around in 2001 when the state was in a budget crisis, he vetoed Mississippi's corrections budget to give more money to schools. The following day, the legislature trumped his veto -- but not before two key senators, Bunky Huggins and Jack Gordon, were wined and dined by Wackenhut President Wayne Calabrese and folksy, silver-haired lobbyist Al Sage.

Last year, Musgrove vetoed \$54 million for the two prison companies because a legal provision locked in money for private prisons "whether (or not) there are sufficient inmates" to fill them. Again he got spanked.

"They have some effective lobbyists," one sardonic governor's staffer said.

Financial fisticuffs with politicians like Musgrove are just one of the hazards of running private prisons. Even worse are prison riots and misconduct charges against correctional officers.

Wackenhut Corrections has weathered them all. And after separating last month from its parent company, The Wackenhut Corp., and mopping up a spate of missteps two years ago, its stock has risen from \$9 a share in April to more than \$19 a share in July. In the private prison business, Wackenhut Corrections is one the nation's three major players. It manages 49 prisons in 13 states, including Moore Haven and South Bay in South Florida. Overseas, it runs prisons in Australia, South Africa, New Zealand, and Canada.

"Five years ago, the company was a shadow of what it is today," analyst Jim Macdonald of First Analysis Securities in Chicago said.

Corrections started as a subsidiary of security-guard giant Wackenhut Corp. in 1984. Ten years later, it began trading stock separately although it remained part of the parent company, Wackenhut. But Corrections' biggest move came last month when it bought back 57 percent of its stock from Group 4 Falck, the Danish security giant and owner of the Wackenhut corporation.

Until July, Chairman and Chief Executive George Zoley ran Corrections as part of Wackenhut. It was 19 years ago that he floated the idea for Wackenhut to manage prisons with company founder George Wackenhut. Zoley closed the company's first deal to build a detention center in 1986 for the U.S. Immigration and Naturalization Service. The founder, Wackenhut, allowed a \$17 million initial offering of Corrections stock in 1994 to feed expansion of the prison management business. But he retained majority ownership of the stock.

Corrections benefitted from a trend in the early-to mid-1990s toward privatizing prisons. The company's strategy has been to guarantee a lower cost operation than state or federal prisons. It then contributes to political campaigns and dangles jobs and tax money in front of local politicians to get behind a prison project.

Fla. candidates got \$65,200

A study by the National Institute on Money in State Politics found that Wackenhut Corrections gave \$237,750 to candidates in six Southern states in 2000, including \$65,200 in Florida.

"As if to put an exclamation point on its effort to influence the legislature, Wackenhut Corrections wrote 25 checks of \$500 each totaling \$12,500 on Nov. 1 and 2, just hours before the midnight Nov. 2 contribution deadline," according to the study.

In these states, when legislation came up on private prisons, the votes often went Wackenhut's way. In Mississippi, Musgrove found out with the override of his veto. In North Carolina, legislators approved an expensive expansion of private prisons. In Georgia and Florida, measures to limit private prisons or industry influence died in committee.

In Florida, Wackenhut even bought a temporary-staffing company from state House Majority Leader Jim King in 1997 for \$11.5 million in stock and cash.

"They contributed early in a campaign, giving to incumbents before there was a campaign, or at the end when there was a sure winner," said Ed Bender, who led the study on political contributions. "And they hire top-flight lobbyists."

That's a problem when for-profit prisons can sway legislators to boost spending for more prison beds over spending on drug treatment and other programs for inmates. It is especially acute when a budget crunch forces a state to decide between dollars for education or human services and money for private prisons, said Judy Greene, a fellow at the Open Society Institute in N.Y. who studies prison privatization.

Ken Kopczynski, a lobbyist for the Florida Police Benevolent Association which has opposed private prisons, remembers when Florida began to privatize prisons. The state Department of Corrections was given the go-ahead in the late 1980s to look into privatization as a option to relieve crowding. But after foot-dragging by the department,

the legislature created a separate commission in 1993 to oversee private prisons under the Department of Management Services.

"Florida is the only state in the union with two departments of correction," Kopczynski said. "It didn't hurt that the lobbyist for the DMS was the wife of the lobbyist for Wackenhut."

As a state consultant, University of Florida Professor Charles Thomas wrote the law creating the privatization commission and often championed private prisons. As director of the Private Corrections Project at the university, he was considered an expert.

In 1997 and '98, ethics complaints were filed against Thomas over his close ties to the private corrections industry. Zoley even complained to the commission about his "shock" at learning of Thomas' board seat on a rival's real estate investment trust. But Thomas' project was financed by several prison companies, including Wackenhut. He was fined \$20,000 and forced to resign.

"He knows Charley is a (disciple) for the industry but Zoley only questions his ethics when he joins a competitor," Kopczynski said.

During the state's last legislative session, the Corrections Department requested 4,100 new beds for Florida's public prisons. Instead, the legislature cut back the total in favor of a 1,086-bed expansion at private prisons. The state hasn't said which companies will get those beds but Privatization Commission Director Alan Duffee has recommended Wackenhut's South Bay prison in Palm Beach County for part of the expansion.

Zoley, who is involved in local politics as chairman of Florida Atlantic University's Board of Trustees, says Wackenhut's political dealings are part of a business in which government is the sole client.

Even without political contributions and powerful lobbyists, private prisons can make a strong sell. They bring jobs to an area. They pay property taxes and public prisons don't. They spend money in the community. And they push state-run prisons to spend less.

Communities want the jobs

"We don't want to be somewhere where we're not wanted," Zoley said. "But in these hard times, there are communities that want the employment opportunities."

Take Pueblo, Colo., population of 98,300.

This year, the company approached the city about building a pre-release center on the west side of town where convicts could be socialized to reenter the community.

To smooth the way, Zoley and Calabrese flew in for a cake-and-punch, meet-and-greet with townspeople in May. Wackenhut Corrections would employ 160 people and would

spend \$60 million to build the center, much of it going to local construction firms. The company also would pay \$700,000 in sales taxes for materials to build the center.

After residents from an adjacent neighborhood balked, the city council rejected the site.

"There was a tremendous knee-jerk reaction when you said the word 'prison,' " Pueblo City Manager Lee Evett said.

Wackenhut countered with a second site, this one in an industrial park on the east side of Pueblo. In negotiations, the firm agreed to pay almost \$80,000 an acre more than the appraised value, and \$40,000 a year for city services and road maintenance.

It also flew Pueblo officials to Florida to tour the South Bay prison "and probably played a little golf," Evett said. When the second site came to a vote in July, the city council approved it.

Being a good neighbor

"They were pretty upfront," Evett said of Wackenhut "It's going to have towers and barbed wires.... But they were also saying, 'We're going to be a good neighbor.' "

Five years ago, the company learned the hard way how public opinion can turn against it.

In December 1998, the first of three inmate slayings occurred at its prison in Hobbs, N.M. In August the following year, a guard was killed at the Santa Rosa, N.M. prison, and two days of rioting followed.

Around the same time, the company made headlines in Texas in a sex scandal at a state prison in Austin involving its guards and female inmates. Twelve Wackenhut Corrections employees were indicted on charges ranging from rape to sexual harassment.

Then in March of 2000, a Louisiana judge toured the Jena juvenile prison after reports alleging physical abuse and mismanagement. Afterwards, the judge removed seven youths for their own protection.

Texas later took over management of its prison; Louisiana closed its prison.

Zoley, who was paid \$2 million last year, blames the problems on growing too fast. In response, he has opened three regional headquarters for closer control of Wackenhut Corrections' prisons. Now the federal government is looking at the Jena location for a detention center and Wackenhut has managed to retain one-third of the private prison beds in Texas.

"Operationally, we've cleaned up our act," Zoley said.

Over the past year, Zoley has focused his attention on buying out Group 4, which bought The Wackenhut Corp. in May 2002 for its guard service not its corrections unit. It immediately said it would sell Corrections and put the price tag at \$170 million.

In the deal completed in July, Zoley spent only \$132 million to buy back Group 4's 12 million shares of Corrections. By killing those shares, Corrections added 70 cents a share to its bottom line. It also sold its 50 percent stake in a prison venture in the United Kingdom, bringing in \$52 million after taxes.

The good news is that Corrections has \$100 million in cash. The bad news is it's \$250 million in debt.

"They plan to acquire something," Macdonald said. "We know they want to go back to the UK."

Macdonald projects \$1.14 a share in 2003 on \$602 million in revenue. But that doesn't account for the drop in outstanding shares and the sale of its UK unit, which will boost earnings by about \$2 a share, the company said.

"They could earn as much as the \$1.70-range if they put their money to work," Macdonald said.

Prisons crowded again

Macdonald said the private corrections industry faces a market where states aren't building many new prisons. Some are expanding the prison capacity they have, paving the way for some growth. But some are releasing prisoners.

"Prisons are becoming slightly overcrowded again," Macdonald said.

More encouraging, at least for private-prison companies, the federal government is adding 7,000 detention-center beds, giving the industry its widest avenue to growth -- at least until states start a new prison-building boom.

"Because of homeland security, all the agencies are expanding," Zoley said.

As part of the Group 4 deal, Zoley will have to come up with a new name other than Wackenhut within a year. Still, losing the Wackenhut name shouldn't hurt Zoley; he has a reputation as a disciplined manager and early innovator in the private prison industry. But with independence, Zoley cuts a tether that has helped Corrections around the world. In April, the company moved away from the parent company's home office in Palm Beach Gardens to Boca Raton.

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14



KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on Substitute for SB 275
to
The House Committee on Corrections and Juvenile Justice

By Roger Werholtz
Secretary
Kansas Department of Corrections
March 15, 2004

I would like to express my appreciation to Senator Schmidt for addressing the issues and concerns identified by the department regarding the licensing, operation, and monitoring of private correctional facilities by the Department of Corrections in Substitute for SB 275. My purpose in appearing as a conferee on this Bill is to share with the Committee the issues that the department believes arise in regard to a private correctional facility that should be addressed when a state embarks upon the licensing, monitoring, or utilization of those facilities. I also recommend two amendments to Substitute SB 275. The first provides for a statutory requirement of at least a 10% savings in the cost of incarceration be achieved by use of a private facility by Kansas rather than merely requiring the proposed vender to be able to provide services at that rate. Second, require that proposals for a private prison be in the best interests of the State rather than merely being beneficial to the management of the state correctional system. Amendment balloons incorporating these recommendations are attached.

I would like to preface my comments regarding the detailed issues that arise in regard to private correctional facilities with my opinion that it is preferable for a state to operate its own correctional facilities whenever possible simply due to the State's ability to change the mission or operation of a facility owned and operated by the State without having to take into consideration the property and contract rights of a private entity. Secondly, the excess capacity of a state's correctional facilities may be leased to other jurisdictions. The department currently incarcerates female inmates for the Federal Bureau of Prisons at the Topeka Correctional Facility. The attractiveness of states using the facilities of other states should increase as the federal subsidy for the per diem cost charged by private facilities through the Violent Offender Incarceration/Truth In Sentencing (VOI/TIS) program ends.

Substitute SB 275 provides statutory authority for the construction and operation of private prisons in Kansas. While the Kansas Department of Corrections on its own as well as in conjunction with Labette County has joined with private entities for the construction and operation of correctional facilities for conservation camps and the department uses private vendors for day reporting centers, the use of those facilities has been limited to offenders convicted of felony crimes committed in Kansas. Substitute SB 275 would permit use of privately constructed and operated correctional facilities for the incarceration of offenders from other states, thus providing an exception to K.S.A. 75-52,133.

In the past, the Department of Corrections has successfully utilized a private correctional facility located in Colorado for the housing of offenders sentenced to the department's custody. The department's experience was favorable and was due in no small part to the role of the Colorado Department of Corrections in providing oversight of private prisons in that state. Currently, the department has placed 96 medium custody inmates at the privately operated Limestone County Detention Center in Groesbeck, Texas. That facility is operated by CiviGenics. Likewise, various levels of Texas government have oversight responsibilities in the housing of out of state prisoners in Texas by private entities. However, the department is also aware of instances nationwide where the operation of private correctional facilities was detrimental to the safety of the public, staff, and inmates. The department's experience in using private correctional facilities and its observations of the experience of other states cause me to bring to the attention of the Committee issues for consideration in your deliberations on Substitute SB 275. Additionally, I would like to take this opportunity to point out that one of the significant factors for the use of private prisons for the incarceration of Kansas offenders is the State's ability to use Violent Offender Incarceration/Truth In Sentencing (VOI/TIS) federal grant funds to pay for 90% of the cost of the confinement of offenders in private facilities. However, the last Congressional appropriation for VOI/TIS grants was in 2001 and it is anticipated that Kansas will have spent its VOI/TIS grant by the end of FY 2005.

Issues for Consideration

Substitute for SB 275 addresses the issues the department considers critical for the licensing and operation of a private correctional facility. However, the department recommends two amendments to Substitute SB 275. The department believes that 90% of KDOC's average per capita operating costs for the previous fiscal year would represent a balance between the savings intended to be achieved as well as the intangible costs that any community might incur due to the location of a correctional facility. The department recommends that this provision be a mandatory statutory condition as proposed by the attached balloon amendment. Additionally, the department recommends that the interest to be achieved by private correctional facilities should consistently be the State's best interests and not be limited solely to the interests of the department. The department has prepared a balloon amendment making that clarification.

Role of the Kansas Department of Corrections

1. State as Regulator

- **Criteria for Permitting Private Prisons.** Substitute SB 275 provides certain statutory restrictions on the issuance of a license to construct or operate a private prison. Substitute SB 275 provides distinct requirements applicable when a private facility is used for the incarceration of Kansas offenders as opposed to situations when Kansas offenders are not housed at the private facility. A related question is whether the legislature wishes to require that any private facility constructed and operated in a Kansas community be designed and operated in a manner that would meet the capacity needs of KDOC, particularly in regard to the custody level of the proposed facility.
- **Screening Inmates for Placement and Monitoring Operations.** The department believes that it is critical to the successful operation of a private for profit prison that the State both monitor the operation of the facility as well as screen inmates proposed for transfer to the private facility by other jurisdictions. Substitute SB 275 provides that KDOC is to monitor private prisons and that the cost of such monitoring is to be borne by the vendor. [Section 6(i)]. The department believes that the custody classification of inmates proposed to be transferred to a private facility should be determined pursuant to the department's custody classification system and that all inmate records concerning classification, including conduct records; and the inmate's medical and mental health records, be reviewed by KDOC prior to transfer of the inmate and that the transfer be subject to the approval of KDOC. The department recommends that contractors also bear the cost of screening proposed inmates. These concerns are addressed at Section 5(m).
- **Rates and Services.** A comparison of the per diem costs charged to the State and the programs provided by a private facility to Kansas inmates should be required. However, the department has no objection to private facilities charging other jurisdictions a higher rate, particularly if such a practice resulted in the facility being able to extend more favorable terms to KDOC. Additionally, the rehabilitation programs provided by correctional facilities are dependent upon the needs of the offenders incarcerated at the facility. It is the department's experience that inmates proposed for transfer to a private facility must be evaluated relative to their program needs and those offered by the facility. The department has no objection to private prisons having flexibility in determining the program services provided depending upon market demand. The department as a consumer of private facility capacity can contract for the services necessary for the population considered for placement. These considerations are addressed in sections 5(d) and 6 (h).
- **Custody of Offenders.** Substitute SB 275 addresses the department's recommendation that inmates from other jurisdictions are not to be considered as being in the legal custody of the Kansas Department of Corrections. Otherwise, such a provision would provide a significantly more expansive role and liability to KDOC and the State than merely regulating and licensing the private facility. The department believes that the unique relationship and constitutional obligation created by exercising legal custody over an individual should be limited to those offenders sentenced to KDOC custody.

- **Discipline Rules and Procedures.** Substitute SB 275 address the department's concerns regarding disciplinary rules and procedures utilized by a vendor regarding Kansas offenders and offenders from other jurisdictions. In its role as regulating and licensing private facilities, the department believes that requiring a private facility to only adopt disciplinary rules and procedures utilized by KDOC unduly limits the private vendor. The department believes the vendor should be free to utilize the disciplinary rules and processes that may have been adopted by the states which contract with the vendor for the incarceration of that state's prisoners as long as the rules and procedures used by the vendor meet constitutional muster and are reviewed and approved by KDOC. This is accomplished through Section 7(b) of the bill.
- **Use of Inmate Labor.** Substitute SB 275 prohibits private contractors from benefiting financially from the labor of inmate while recognizing that certain maintenance and public service work projects should be allowed. [Section 6(k)]. Substitute SB 275 addresses the department's concern regarding private industry programs at private correctional facilities which could negatively impact the availability of private correctional industry programs at state facilities. Substitute SB 275 limits inmate employment to the exclusion of private industry employment. KDOC inmates employed by private industries pay 25% of their wages to the state for room and board.
- **Best Interests of the State.** Substitute SB 275 provides for review by the department of any proposal for a private prison subject to a standard of the best interests of the State. However, Section 16 creates some ambiguity relative to this standard due to its reference to the beneficial management of the state's correctional system. The department recommends that the interest to be achieved should consistently be the State's best interests and not be limited solely to the interests of the department. The department has prepared a balloon amendment making that clarification.

2. KDOC as a Consumer

- **Availability.** The department's recommendation that it should have the right of first refusal for any capacity provided by a private facility is addressed in Substitute SB 275. [Section 6(j)].
- **Limitation on Cost.** The cost chargeable to the State should be statutorily capped. The Department believes that 90% of KDOC's average per capita operating costs for the previous fiscal year would represent a balance between the savings intended to be achieved as well as the intangible costs that any community might incur due to the location of a correctional facility. The department recommends that this provision be a mandatory statutory condition as proposed by the attached balloon amendment.
- **No Requirement to Utilize.** The department's recommendation that the State not be required to utilize a private facility is provided for by Substitute SB 275. Section 8(c).

The Department appreciates the Committee's consideration of these issues.

Substitute for SENATE BILL No. 275

By Committee on Ways and Means

2-20

10 AN ACT concerning correctional facilities; relating to construction by
11 private companies[; **amending K.S.A. 2003 Supp. 75-52,129 and**
12 **repealing the existing section**].

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 [New] Section 1. This act may be referred to as the private contract
16 prison act.

17 [New] Sec. 2. Definitions. As used in the private contract prison act:

18 (a) "Private contract prison" means a correctional facility situated in
19 this state that is not owned by the state of Kansas or any subdivision
20 thereof or by the federal government or any subdivision thereof.

21 (b) "Private owner" means any corporation, partnership, limited lia-
22 bility company, trust, person or other legal entity that engages in, or
23 proposes to engage in, the construction or ownership or both of a private
24 contract prison in this state.

25 (c) "Private operator" means any corporation, partnership, limited
26 liability company, person or other legal entity that engages in, or proposes
27 to engage in, the operation of a private contract prison in this state.

28 (d) "Private contractor" means a private owner or a private operator
29 or both.

30 (e) "Secretary" means the secretary of corrections.

31 (f) "Department" means the department of corrections.

32 (g) "Applicant" means a private contractor making application to the
33 department of corrections for a license as provided by this act.

34 (h) "Licensee" means a private contractor to which a valid license has
35 been issued by the department of corrections as provided by this act.

36 (i) "Private correctional officer" means a correctional officer as de-
37 fined by subsection (f) of K.S.A. 75-5202, and amendments thereto, ex-
38 cept that such officer is not an employee of the state of Kansas or any
39 subdivision thereof.

40 (j) "Non-Kansas inmate" means any inmate in the custody of any
jurisdiction other than the state of Kansas or any of its political
4 subdivisions.

43 (k) "Kansas inmate" means any inmate in the custody of the secretary

14-5

1 of corrections.

2 [New] Sec. 3. Except as authorized by K.S.A. 75-52,127 or 75-
3 52,133, and amendments thereto, no private contractor shall authorize,
4 construct, own or operate any private contract prison in this state for the
5 placement or confinement of inmates unless such private contractor pos-
6 sses a valid license as provided by this act.

7 [New] Sec. 4. The secretary is hereby authorized to license, monitor
8 and regulate one or more private contractors meeting the requirements
9 of this act to construct, own or operate one or more private contract
10 prisons in this state.

11 [New] Sec. 5. The secretary shall not approve any application for a
12 license pursuant to this act unless the secretary has, after due diligence,
13 made the following findings:

14 (a) The applicant has the qualifications, experience and management
15 personnel necessary to design, construct, own or operate a private con-
16 tract prison in a manner that satisfies the requirements of this act;

17 (b) the applicant has the ability, if circumstances warrant, to expedite
18 the siting, design and construction of a private contract prison;

19 (c) the applicant has the ability to comply with applicable laws, court
20 orders and state and national correctional standards; and

21 (d) if Kansas inmates are being housed in the private contract prison,
22 the private operator ~~has the ability to~~ provide correctional services to the
23 state of Kansas at a cost that is no more than 90% of the department's
24 average per capita operating cost for the previous fiscal year for compa-
25 rable state correctional facilities and services.

26 [New] Sec. 6. Any license issued pursuant to this act shall require
27 as conditions of such license all of the following:

28 (a) All private correctional officers employed by the licensee must be
29 certified, at the licensee's expense, as having met the minimum qualifi-
30 cations and training requirements established for correctional officers by
31 the secretary;

32 (b) the design for any private contract prison constructed, owned or
33 operated by the licensee shall meet or exceed all requirements of the
34 association responsible for adopting national correctional standards as de-
35 termined by the secretary;

36 (c) the design for any private contract prison, including but not lim-
37 ited to siting, shall meet or exceed any standard established by the
38 secretary;

39 (d) the licensee shall at all times consult the secretary during the
40 design and construction of the private contract prison;

41 (e) the licensee shall indemnify the state and the secretary, including
42 their subdivisions, officials and agents, against any and all liability includ-
43 ing, but not limited to, any civil rights claims. The secretary shall require

shall

1 proof of satisfactory insurance, the amount to be determined by the
2 secretary;

3 (f) the licensee shall seek, obtain and maintain accreditation by the
4 association responsible for adopting national correctional standards. In
5 addition, the licensee shall comply with the association's amendments to
6 the accreditation standards upon approval of such amendments by the
7 secretary;

8 (g) the licensee shall agree to abide by operations standards for cor-
9 rectional facilities adopted by the secretary;

10 (h) if Kansas inmates are being housed in the private contract prison,
11 the licensee shall be responsible for the range of dental, medical and
12 psychological services and diet, education and work programs at least
13 equal to those services and programs provided by the secretary at com-
14 parable state correctional facilities. The work and education programs
15 shall be designed to reduce recidivism;

16 (i) the secretary shall monitor all private contract prisons and the
17 secretary shall have unrestricted access to all private contract prisons for
18 that purpose. The licensee shall bear the costs of monitoring the facility;

19 (j) if the department contracts to house Kansas inmates at the li-
20 censee's private contract prison, the licensee shall incarcerate all inmates
21 assigned to the private contract prison by the department and as specified
22 by the contract and may not reject inmates assigned to it by the depart-
23 ment. The department shall have the right of first refusal to any space in
24 the licensee's private contract prison, whether or not such space is oc-
25 cupied by non-Kansas inmates. The department may not exceed the max-
26 imum occupancy designated in the contract for the private contract
27 prison;

28 (k) the licensee may not benefit financially from the labor of inmates
29 except that inmates housed in any private contract prison operated by the
30 licensee in this state may be given job assignments that assist in the op-
31 eration and maintenance of the facility, including but not limited to jan-
32 itorial or food service, or constitute work crews for the state or nearby
33 communities if the inmates have the appropriate custody designation;

34 (l) if the licensee enters into a contract to house non-Kansas inmates,
35 the licensee must require as a condition of that contract that each such
36 inmate to be released from custody must be released in the sending state;

37 (m) whenever any non-Kansas inmate is proposed to be brought into
38 this state for the purpose of being incarcerated at a private contract
39 prison, all records regarding each such inmate, including but not limited
40 to custody records, facility history records, disciplinary records, and med-
41 ical and mental health records, shall be reviewed by the department prior
42 to such inmate being transported into this state. The cost of such review
43 shall be borne by the licensee. The department shall determine custody

1 classification levels for each such non-Kansas inmate pursuant to the de-
2 partment's custody classification system. The secretary shall have author-
3 ity to refuse to allow any non-Kansas inmate to be transported to or
4 incarcerated in any private contract prison;

5 (n) the licensee shall be subject to review by the legislative division
6 of post audit; and

7 (o) any other provision the secretary considers necessary and appro-
8 priate for carrying out the purpose of this act.

9 **[New]** Sec. 7. No license issued pursuant to this act shall be con-
10 strued as authorizing, allowing or delegating authority to the licensee to:

11 (a) With regard to Kansas inmates being housed at a private contract
12 prison, reject any inmate appropriately classified by the Kansas custody
13 classification system for the custody level or levels of the private facility;

14 (b) with regard to Kansas inmates who are being housed at a private
15 contract prison, develop or adopt disciplinary rules or penalties that differ
16 from the disciplinary rules and penalties that apply to inmates housed in
17 correctional facilities operated by the secretary. With regard to non-Kan-
18 sas inmates, the licensee may develop or adopt disciplinary rules or pen-
19 alties consistent with the requirements of the sending entity provided that
20 the secretary shall retain authority to approve or reject any such rules or
21 penalties;

22 (c) make a final determination on a disciplinary action that affects the
23 liberty of an inmate. The licensee may remove an inmate from the general
24 prison population during an emergency, before final resolution of a dis-
25 ciplinary hearing in response to an inmate's request for assigned housing
26 in protective custody or when otherwise necessary to maintain order and
27 security of the private contract prison;

28 (d) make a decision that affects the sentence imposed upon or the
29 time served by an inmate, including a decision to award, deny or forfeit
30 earned time;

31 (e) make recommendations to the Kansas parole board with respect
32 to the denial or granting of parole or release except the licensee may
33 submit written reports to the Kansas parole board and shall respond to
34 any written request for information by the Kansas parole board;

35 (f) develop and implement requirements that inmates engage in any
36 type of work not previously authorized in this act, except to the extent
37 that those requirements are accepted by the department; and

38 (g) determine inmate eligibility for any form of release from a cor-
39 rectional facility including any private contract prison.

40 **[New]** Sec. 8. (a) No private contract prison shall house inmates
41 until:

42 (1) The private operator has submitted to the secretary, and the sec-
43 retary has approved, a plan for the secretary to assume temporary control

1 and operation of the private contract prison in the event the private op-
2 erator becomes unable to meet the requirements of this act;

3 (2) each private contractor, whether a private owner or a private op-
4 erator, or both, involved in the private contract prison has submitted to
5 the secretary, and the secretary has approved, a plan for the temporary
6 assumption of operations and purchase of the private contract prison by
7 the secretary in the event of bankruptcy or the financial insolvency of any
8 such private contractor; and

9 (3) the private operator has submitted to the secretary, and the sec-
10 retary has approved, a plan to address emergencies including, but not
11 limited to, inmate disturbances, employee work stoppages, employee
12 strikes, escapes, natural disaster threats, bomb threats, riots, hunger
13 strikes, taking of hostages, fires, explosions, evacuations, hazardous ma-
14 terial spills or other serious events. The plan shall comply with applicable
15 national correctional standards. The plan shall identify how the state shall
16 recover its costs for such assumptions of operation or other interventions.

17 (b) The secretary may from time to time require the private contrac-
18 tor to review, revise or update any plan required by this section. The
19 private contractor shall comply promptly with any request by the secretary
20 pursuant to this subsection, and failure by any private contractor to do so
21 within a reasonable period of time shall constitute cause for suspension
22 of such private contractor's license.

23 (c) Nothing in this section shall be construed to require the state to
24 purchase or lease any private contract prison or to assume responsibility
25 for the operation of any private contract prison or to assume costs asso-
26 ciated with events described in this section.

27 *[New]* Sec. 9. The secretary may suspend or revoke a license for
28 cause, including, but not limited to, failure to obtain or maintain facility
29 accreditation or failure to comply with any requirement of this act, after
30 written notice of material deficiencies and after 60 workdays have been
31 provided to the contractor to correct the material deficiencies.

32 *[New]* Sec. 10. If, as determined by the secretary, an emergency
33 occurs involving the noncompliance with or violation of the requirements
34 of this act and presents a serious threat to the safety, health or security
35 of the inmates, employees or the public, the secretary may, without prior
36 notice, temporarily assume operation and control of the private contract
37 prison. Nothing in this section shall be construed to require the state to
38 assume responsibility for the operation of private contract prisons or for
39 costs associated with events described in this section. If the state chooses,
40 it may assume responsibility upon approval by the legislature through the
41 enactment of legislation.

42 *[New]* Sec. 11. If a private owner intends to sell, convey, transfer,
43 donate, trade, barter or otherwise alienate title to a private contract

1 prison, the private owner shall first give notice of such intent to the sec-
2 retary. The state shall have the right of first refusal to lease or purchase
3 such private contract prison at fair market value, although the state shall
4 not be required to do so. Except as provided in this section, a private
5 contract prison may be transferred only to an entity that is licensed as
6 required by this act.

7 [New] Sec. 12. Each private operator shall require applicants for
8 employment at a private contract prison to submit a set of fingerprints to
9 the Kansas bureau of investigation for a criminal background check. The
10 Kansas bureau of investigation may accept fingerprints of individuals who
11 apply for employment at a private contract prison and who shall be subject
12 to background checks. For the purpose of conducting background checks,
13 to the extent provided for by federal law, the Kansas bureau of investi-
14 gation may exchange with the secretary criminal history records, whether
15 state, multi-state or federal, of individuals who apply for employment at
16 a private contract prison.

17 [New] Sec. 13. This act shall not apply to the contracts between
18 cities and counties and the secretary under which the city or county agrees
19 to house the backlog of inmates as provided by K.S.A. 75-52,128 and 75-
20 52,129, and amendments thereto, which contracts shall be governed by
21 such.

22 [New] Sec. 14. Any private operator licensed under this act shall
23 collect and maintain data with respect to all Kansas and non-Kansas in-
24 mates housed by the private contractor, in a fashion compatible with
25 Kansas department of corrections practices and procedures for inmate
26 data collection and maintenance, as specified by the secretary.

27 [New] Sec. 15. (a) Any county that meets the requirements of this
28 section may contract with a private contractor to develop and construct,
29 own or operate a private contract prison in such county.

30 (b) No private contract prison shall be constructed, owned or oper-
31 ated pursuant to this act in any county unless the county commission, by
32 resolution, has first placed on a primary or general election ballot the
33 question in subsection (c) and such question has been approved by a
34 majority of qualified voters who cast ballots in such election.

35 (c) The form of the question described in subsection (b) shall be:
36 "Shall construction and operation of a private contract prison, pursuant
37 to the Private Contract Prison Act, be allowed in _____ County?"

38 (d) If the proposed site for the private contract prison is within one
39 mile of the border of any county that adjoins the county in which the
40 private contract prison would be situated, then such private contract
41 prison shall not be constructed, owned or operated pursuant to this act
42 unless such adjoining county has conducted an election meeting the
43 requirements of subsections (b) and (c).

1 (e) Except for land donation, no direct incentives, such as property
2 tax abatement, industrial revenue bonds, tax increment financing or utility
3 cost reductions, shall be offered by the county to the private contractor
4 wishing to construct, own or operate a private contract prison in such
5 county.

6 (f) At the discretion of the parties, the contract may allow for the
7 leasing of the private contract prison by the private owner to the county
8 or to the state.

9 [New] Sec. 16. No contract for site construction between the county
10 and the private contractor authorized by this act shall enter into force
11 until reviewed and approved by the attorney general, as to form and legal
12 sufficiency, and the secretary, as to determination of the best interests of
13 the state of Kansas. In determining whether to approve or disapprove any
14 such contract, the secretary shall consider whether the addition of the
15 proposed prison space, including the proposed custody designations for
16 the proposed private contract prison, would be beneficial to the manage-
17 ~~ment of the state corrections system.~~

18 [New] Sec. 17. A contract entered into under this act does not ac-
19 cord third-party beneficiary status to any inmate or to any member of the
20 general public.

21 [New] Sec. 18. In the event any provision of any contract authorized
22 by this act conflicts with any provision of any license issued pursuant to
23 this act, the provision of the license shall supersede the provision of the
24 contract. In the event any provision of any contract authorized by this act
25 conflicts with any provision of this act, the provision of this act shall su-
26 perse the provision of the contract.

27 [New] Sec. 19. Nothing in this act shall be construed as requiring
28 the department of corrections to place Kansas inmates in any private
29 facility constructed, owned or operated pursuant to this act. Placement
30 of Kansas inmates in such private facility shall be at the discretion of the
31 secretary based on department needs and the best interest of the state
32 and shall only be pursuant to contract between the secretary and the
33 private operator.

34 [New] Sec. 20. Not later than December 1 of each year, beginning
35 with the 2004 fiscal year, the secretary shall submit a report to the speaker
36 of the house of representatives and the president of the senate concerning
37 the status of contracts in effect and licenses issued, and with respect to
38 completed prisons, the effectiveness of each private contract prison op-
39 erated pursuant to this act.

40 [New] Sec. 21. There is hereby created in the state treasury the cor-
41 rections licensing fee fund. All moneys collected by the secretary from
42 licensing application fees shall be remitted to the state treasurer in ac-
43 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.

in the best interest of the State

1 Upon receipt of each such remittance, the state treasurer shall deposit
2 the entire amount in the state treasury to the credit of the corrections
3 licensing fee fund. All the moneys collected and deposited pursuant to
4 this subsection shall be used solely for payment of inspection costs asso-
5 ciated with licensing. The secretary shall establish rules and regulations
6 to set license fees, not to exceed \$150,000 per applicant.

7 [Sec. 22. K.S.A. 2003 Supp. 75-52,129 is hereby amended to
8 read as follows: 75-52,129. (a) The secretary of corrections is
9 hereby authorized to negotiate and enter into contracts with Kansas
10 cities and counties for the placement of inmates, who are classified
11 as medium custody or any higher custody or security classification,
12 in facilities owned and operated by the cities and counties. If the
13 secretary of corrections proposes to place any inmates classified as
14 medium custody or any higher custody classification for confine-
15 ment in facilities other than correctional or other institutions or
16 facilities owned and operated by the department of corrections or
17 any other state agency, the secretary of corrections shall give first
18 consideration to entering into contracts with Kansas cities and
19 counties under this section before attempting to place any such in-
20 mate for confinement at any private contract prison, as defined in sec-
21 tion 2, and amendments thereto, or any location outside the state of
22 Kansas if the facilities to be provided under such contracts are sub-
23 stantially equal to private contract prisons or facilities at locations
24 outside the state of Kansas and if arrangements can be made in a
25 timely manner. Except as provided in subsection (b), the provisions
26 of this section and any contract or preliminary letter of commitment
27 entered into pursuant to this section shall not apply to any minimum
28 custody or community custody status inmates, or any other custody
29 or security classification lower than medium custody, or to any in-
30 mate who may be placed in a work release or prerelease program,
31 center or facility by the secretary of corrections, who is eligible for
32 parole or who is placed pursuant to the interstate corrections com-
33 pact. Contracts entered into pursuant to this section shall not be
34 subject to competitive bid requirements under K.S.A. 75-3739 and
35 amendments thereto.

36 [(b) The secretary shall not enter into any contract as provided
37 in subsection (a) with any city or county of this state for the place-
38 ment of inmates that does not provide that such city or county shall
39 provide and maintain appropriate and recognized standards of
40 safety, health and security.]

41 [Sec. 23. K.S.A. 2003 Supp. 75-52,129 is hereby repealed.]
42 Sec. ~~22~~ [24]. This act shall take effect and be in force from and after
43 its publication in the statute book.

Per Capita Operating Costs: KDOC Facilities (based on Governor's budget recommendations)

FY 2004	Facility	ADP	Total Expenditures	Annual Per Capita	Daily Per Capita
	Lansing Correctional Facility	2,463	\$31,862,253	\$12,936	\$35.34
	Hutchinson Correctional Facility	1,800	24,116,669	13,398	36.61
	El Dorado Correctional Facility	1,434	20,506,995	14,301	39.07
	Topeka Correctional Facility	611	11,329,049	18,542	50.66
	Norton Correctional Facility	797	12,240,397	15,358	41.96
	Ellsworth Correctional Facility	820	10,420,328	12,708	34.72
	Winfield Correctional Facility	745	9,961,801	13,372	36.54
	Larned Correctional Mental Health Facility	340	7,913,608	23,275	63.59
	Subtotal	9,010	\$128,351,100	\$14,245	\$38.92
	Inmate Medical and Mental Health Care	9,010	26,113,007	2,898	7.92
	Inmate Programs	9,010	5,268,065	585	1.60
	Food Service	9,010	12,304,146	1,366	3.73
	Total Expenditures	9,010	\$172,036,318	\$19,094	\$52.17

FY 2005	Facility	ADP	Total Expenditures	Annual Per Capita	Daily Per Capita
	Lansing Correctional Facility	2,464	\$33,034,706	\$13,407	\$36.73
	Hutchinson Correctional Facility	1,800	25,085,661	13,936	38.18
	El Dorado Correctional Facility	1,453	21,300,282	14,660	40.16
	Topeka Correctional Facility	620	11,774,313	18,991	52.03
	Norton Correctional Facility	790	12,676,676	16,046	43.96
	Ellsworth Correctional Facility	825	10,845,707	13,146	36.02
	Winfield Correctional Facility	740	10,274,243	13,884	38.04
	Larned Correctional Mental Health Facility	333	8,312,635	24,963	68.39
	Subtotal	9,025	\$133,304,223	\$14,771	\$40.47
	Inmate Medical and Mental Health Care	9,025	26,934,607	2,984	8.18
	Inmate Programs	9,025	5,295,760*	587	1.61
	Food Service	9,025	12,929,540	1,433	3.93
	Total Expenditures	9,025	\$178,464,130	\$19,775	\$54.19

Systemwide annual per capita operating costs were computed by dividing the recommended expenditures for facility operations, health care, inmate programs, and food service by the systemwide average daily population (ADP) housed in KDOC facilities. Daily per capita operating costs were computed by dividing the annual cost by 366 days in FY 04 and 365 days in FY 05. Per capita costs do not include costs associated with central office administration, correctional industries, debt service, and capital improvements.

*Inmate Programs amount in FY 05 is based upon preliminary breakdown of recommended amount for offender programs.

EXPANSION OPTIONS

Location	Beds Gained	Custody Level	Construction Cost	Operating Cost	Cost Per Day	FTE Required
El Dorado Correctional Facility						
2 - 128 Cell Housing Units	256	Maximum	\$15,111,984	\$5,180,000	\$55.44	92
	512	Medium		7,225,000	38.66	99
1 - 128 Cell Cellhouse	128	Maximum	7,417,896	3,194,000	68.36	64
	256	Medium		4,147,000	44.38	68

The EDCF operating cost estimates are the most recent ones available and will have to be adjusted upward to reflect cost applicable at the time the housing units would be occupied, I.e. base salary amounts, fringe benefits, health care and food service contracts, etc. These estimates exclude one-time start-up cost.

Hutchinson Correctional Facility-East

258 Bed Special Needs Unit	258	Medium	6,528,657	3,091,000	32.82	47
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The HC operating cost estimates is current dollars and will have to be adjusted upward to reflect cost applicable at the time the housing unit would be occupied, I.e. base salary amounts, fringe benefits, health care and food service contracts, etc.

This project was developed for HCF but could be relocated to another facility if operational advantages are identified.



Proposed Medium Security Offender Housing for the Kansas Department of Corrections

RFP #04839

Submitted by CiviGenics, Inc.

December 16, 2002

COST PROPOSAL
RFP #04839

# of Offenders	FY '03	FY '04	FY '05	FY '06	FY '07
125	\$38.50	\$38.50	\$39.27	\$40.00	\$40.80
150	\$38.50	\$38.50	\$39.27	\$40.00	\$40.80
175	\$38.00	\$38.00	\$38.76	\$39.54	\$40.33
200	\$38.00	\$38.00	\$38.76	\$39.54	\$40.33
225	\$38.00	\$38.00	\$38.76	\$39.54	\$40.33
250	\$37.50	\$37.50	\$38.25	\$39.00	\$39.78

includes limited medical coverage and limited programs.

* The amount to be filled in is the price per inmate bed per day.

Testing costs shall be included in per diem cost.

Tab Sheet - Kansas Division of Purchases

SUBJECT:		Medium Security Offender Housing						
INSTITUTION:		Kansas Department of Corrections						
PR NUMBER: 06962								
QUOTATION: 04839								
P.O. Number:								
MAIL DATE: 11/07/2002								
FILE CLOSED: 12/09/2002								
ORDER PLACED:		FRAN WELCH						
VENDORS		1	2	3	4	5	6	7
		Civigenics						
ITEMS	FY 03	FY 04	FY 05	FY 06	FY 07			
125 Offenders	\$ 38.50	\$ 38.50	\$ 39.27	\$ 40.00	\$ 40.80			
150 Offenders	\$ 38.50	\$ 38.50	\$ 39.27	\$ 40.00	\$ 40.80			
175 Offenders	\$ 38.00	\$ 38.00	\$ 38.76	\$ 39.54	\$ 40.33			
200 Offenders	\$ 38.00	\$ 38.00	\$ 38.76	\$ 39.54	\$ 40.33			
225 Offenders	\$ 38.00	\$ 38.00	\$ 38.76	\$ 39.54	\$ 40.33			
250 Offenders	\$ 37.50	\$ 37.50	\$ 38.25	\$ 39.00	\$ 39.78			

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MAIL DATE: 11/07/2002								
FILE CLOSED: 12/09/2002								
ORDER PLACED:		FRAN WELCH						
VENDORS		1 CSC	2	3	4	5	6	7
ITEMS		FY 03	FY 04	FY 05	FY 06	FY 07		
125 Offenders	\$	55.71	\$ 57.38	\$ 59.10	\$ 60.88	\$ 62.70		
150 Offenders	\$	49.26	\$ 50.74	\$ 52.26	\$ 53.83	\$ 55.44		
175 Offenders	\$	48.19	\$ 49.64	\$ 51.12	\$ 52.66	\$ 54.24		
200 Offenders	\$	47.76	\$ 49.19	\$ 50.67	\$ 52.19	\$ 53.75		
225 Offenders	\$	47.25	\$ 48.67	\$ 50.13	\$ 51.63	\$53.18		
250 Offenders	\$	47.00	\$ 48.41	\$ 49.86	\$ 51.36	\$ 52.90		

PRIVATE PRISON BEDS- February 2004

14-21

Company	Beds Available *	Cost **
Corrections Corporation of America (CCA) Jim Gillam (615) 263-3098	6,500	Depends on # of beds/location
Wackenhut (GEO Group Inc.)	526-650	Not Provided
Cornell Companies Inc. Fred Yoccum (713) 471.9870	"Plenty of beds available" Would not provide specifics w/o on-site visit	Not Provided
Management and Training Corporation Jim Hartwick (801) 693-2863	200 (may have additional 1,000 by March 1)	Not Provided
Correctional Services Corporation Tom Rapone 1-800-275-3766 Ext. 215	500	Not Provided
CiviGenics Peter Argeropulos 508-486-9300	400 (Site is the Bowie Co. Detention Facility)	\$38.50 (current contract)

The above vendors represent over 90% of all medium custody beds available from private vendors. Corrections Corporation of America has approximately 55% of all medium custody beds. GEO Group Inc. has approximately 25% of all medium custody beds.

* Several Vendors noted that there is a "lot of activity" at this time and bed availability is subject to change. For example, New Hampshire has submitted on RFP for 1,000 beds. Connecticut has submitted an RFP for 2,500 beds.

** Vendors were unable or unwilling to provide cost estimates, noting that the cost of beds is dependent upon the number of beds requested, programming provided, and geographic location. Beds in southern states are generally less expensive than those in the more northern states. I spoke with officials at the Oklahoma Department of Corrections and found that their private vendor per diem rates range from \$39-\$45. CCA rates in Oklahoma range from \$42 to \$48. The department has negotiated rates of \$42 and \$38.50.

(10)

14-22

KANSAS JAIL CAPACITY SURVEY

August 2003

	Female Beds	Male Beds	Level	Anticipated Cost Per Day
Total	44-52	216-250	Medium	\$30 - \$60 (\$43.79 average)
	23	70	Maximum	

Estimated VOI/TIS Grant Status

Total Amount Awarded (FFY 96-01)	\$27,245,469
Project	VOI/TIS Amount
Completed Projects	
NCF housing unit - 200 medium security beds	\$ 4,190,379
Labette expansion - 100 conservation camp beds	718,889
LCF-East expansion - 100 minimum security beds	179,159
Programming for drug testing	133,747
Hair specimen testing	32,680
Lease of male beds - 100 medium security	695,300
ECF housing unit - 200 medium security beds	5,478,971
<i>Funds expended on completed projects</i>	\$ 11,429,125
Ongoing Projects and/or Projects Committed But Not Yet Complete	
Maximum security juvenile facility - 150 juvenile offender beds	\$ 5,500,000
Female conservation camp - 17 private facility beds (through FY 2003)	730,745
Day reporting centers (through FY 2003)	2,219,331
<i>Funds expended and/or committed</i>	\$ 8,450,076
Total Expended or Committed to Date	\$ 19,879,201
Planned Expenditures - FY 2004	
Day reporting centers	\$ 2,289,600
Lease of male beds	634,500
Female conservation camp	424,322
Amounts included in FY 04 budget	\$ 3,348,422
Planned Expenditures - FY 2005	
Day reporting centers	\$ 2,336,400
Lease of male beds	1,244,279
Female conservation camp	437,167
Amounts included in FY 05 budget	\$ 4,017,846
Total Expended, Committed & Planned	\$ 27,245,469