

ALASKA LEGISLATURE

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HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998

respectively, for the two public facilities. The two public facilities were relatively new (operational by mid-1991), while the study referred to the private facility as "older."

Using fiscal year 1991-1992 data, construction and operational cost comparisons of the private and the two public facilities revealed some differences. For example, the study found that the private facility's average annual costs per inmate (\$15,578) were higher than comparable costs for one of the government-run facilities (\$13,195) but were lower than such costs for the other government-run facility (\$16,627). Construction and operational costs, including overhead and capitalization costs, were calculated for the three facilities. Costs were based on contracts negotiated with the facilities and included capitalization, lease, renovation, program development, and liability insurance. Costs that were not included in the calculations were Parole Division overhead costs (for community correctional facilities), state monitoring, medical costs allocated to the California Department of Corrections, inmate clothing, inmate pay, miscellaneous contracts, interest payments, and possible tax breaks. Also, there were inexplicable inconsistencies in the cost data obtained from two agencies within the California Department of Corrections. These inconsistencies may have affected the reliability of the cost estimates.

Attempts to compare the costs of the three community correctional facilities and other state correctional facilities were not fully successful. The cost calculations for the other state facilities used different components than did the calculations for the community correctional facilities. The latter costs included construction costs; however, the data for the other state facilities did not. Therefore, these cost calculations were not directly comparable. Further, given the unique characteristics of community correctional facilities, the usefulness of comparing these facilities to all other correctional facilities in California—many of which are likely to be very different from the community-based facilities—is questionable.

To assess quality of service, inmate and staff surveys were conducted at the three community correctional facilities and at two state prisons. However, due to small, nonrandom samples, the results could not be generalized to the inmate or staff populations at any of the facilities.

The California study also attempted to compare the three community correctional facilities and the state's other correctional institutions in

reference to recidivism rates. The study reported that, of the three community correctional facilities, one of the publicly managed facilities was "most impressive" in performance based on recidivism rates. Sufficient data were not available to adequately complete the analysis comparing the inmates released from the community correctional facilities to inmates released from other correctional institutions in the state.

In summary, the California study's methodological limitations prohibit drawing any overall conclusions about quality of service. The study acknowledged that any future comparative studies in California should "incorporate more inclusive and better-selected survey samples."

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### Tennessee Study (1995)

The Tennessee state legislature conducted a two-part study. One part was a cost assessment, and the other was an assessment of quality. Overall, this effort was the most systematic attempt of all the studies we reviewed to assess both the costs and quality of service. Three multicustody (minimum- to maximum-security) prisons in Tennessee were compared—one privately managed prison (Corrections Corporation of America) and two state-run prisons.

The facilities were generally comparable. All three were new (e.g., operational by mid-1992), and all had been accredited by ACA also had met other applicable professional standards. The inmates were similar on all demographic characteristics mentioned, except race. No information was provided on capacity level, but the institutions housed approximately the same numbers of inmates—private (961) and state (929 and 1,029).<sup>7</sup> The study did not report any information regarding the inmate-to-staff ratios for the facilities.

Similar criteria were used to compare the operational costs of the facilities. The cost components and relevant adjustments—for direct and indirect costs—were agreed to by all parties (private and public) prior to data collection. Direct costs included salaries and fringe benefits, food, professional services, equipment, maintenance, travel, utilities, and supplies. Also, there was a cost provision for state employees to monitor the private prison. Costs for medical and mental health services were excluded. Indirect costs included salaries and expenses for corrections department administration and overhead, and interest on working capital.

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<sup>7</sup>These data reflect the second year of operation.

Appendix L  
Description of Studies Comparing Private  
and Public Prisons

Using data that covered July 1993 through June 1994, the study concluded that the costs of operating the private and both state facilities were virtually identical. Specifically, the comparison showed that the average daily operational costs per inmate for the private prison were \$35.39, versus \$34.90 and \$35.45, respectively, for the two public prisons.

The quality of service assessment consisted of three components—an audit (given a weight of 60 percent), a security and safety index (a weight of 25 percent), and a program and activity index (a weight of 15 percent). The study period for the quality of service assessment was March 1991 through September 1994.

An operational audit was conducted at each of the facilities by an inspection team, consisting of selected staff from the Tennessee Department of Corrections and the Corrections Corporation of America. The staff had varying degrees of expertise in major functional areas, such as administration, safety and physical plant, health services, treatment, and security. The team used a structured survey instrument to conduct a detailed review of records, observe operations and practices, and conduct interviews. By using the survey instrument, the team attempted to assess compliance with the various programs and practices within each of the functional areas. Examples of those programs and practices were administration (e.g., fiscal management and affirmative action); safety and physical plant (e.g., fire and occupational safety and sanitation); health services (e.g., dental care and pharmacy services); treatment (e.g., inmate orientation and social programs); and security (e.g., firearms and armory control).

The security and safety index considered many factors, including disciplinary reports, use-of-force incidents, assaults, deaths, injuries, and escapes. These reports were counted over a 15-month period (from July 1993 through September 1994) for each facility.

The program and activity index measured the percentage of inmates who were eligible for a work or program assignment but remained inactive and unassigned. The data used in this review were derived from monthly reports that measured actual numbers of prisoners assigned to the particular program or activity and the percent unassigned.

The results of the quality of service assessment stated that "all three facilities were operated at essentially the same level of performance." No differences were found among the facilities on the security and safety

index or on the program and activity index. All estimated variation across the facilities was due to differences in audit scores. The overall performance scores were 98.49 for the private facility and 97.17 and 98.34, respectively, for the two public facilities.

### Washington Study (1996)

When the Washington State Legislative Budget Committee conducted this study, the state had no privately run prisons but was considering the feasibility of such. Therefore, using pertinent information available in other states, this study made several intrastate and interstate comparisons of correctional facilities. For example, the study compared the operational costs of the three Tennessee facilities (mentioned above) as well as three multicustody male facilities in Louisiana. Of the three facilities in Louisiana, two were privately operated (Corrections Corporation of America and Wackenhut, respectively), and the other was state operated. All three Louisiana facilities were in full operation by the beginning of 1991.

Each of the Tennessee prisons had a rated capacity for 1,336 inmates, and each of the Louisiana prisons had a rated capacity for 1,474 inmates. The average daily inmate population at each of the Tennessee prisons was slightly over 1,300, compared with a range of over 1,300 to more than 1,400 at the Louisiana prisons. Also, within each state, there was little difference among the prisons' inmates with respect to demographics such as education, age, offense types, and sentence lengths.

Several cost comparisons were made between the private and public facilities. First, the operational costs of the one private and the two public prisons in Tennessee (actual data for July 1993 through June 1994) were compared, as were the operational costs of the two private prisons and the one public prison in Louisiana (estimated data for July 1995 through June 1996). The unadjusted operational costs of the three Tennessee facilities were similar. However, after adjustments to equalize the numbers of inmates, the private facility's average daily operational costs per inmate (\$33.61) were slightly lower than the comparable costs for the two public facilities (\$35.82 and \$35.28, respectively). For the Louisiana facilities, the average daily operational costs per inmate for the two private prisons were \$23.75 and \$23.34, respectively, versus \$23.55 for the public facility.

The Washington study also compared the operational costs of one Washington state prison with the operational costs of one Tennessee state prison and the operational costs of one Louisiana state prison. The three

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**Appendix II**  
**Description of Studies Comparing Private**  
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facilities were similar on some characteristics; however, adjustments were made to the costs and number of beds of the Tennessee and Louisiana facilities to further equalize the comparison. The study showed that the average daily operational costs per inmate for the Washington facility (\$44.52) were higher than the costs for the Tennessee (\$37.07) and the Louisiana (\$24.04) facilities.

The comparison of the Washington facility with the Tennessee and the Louisiana facilities was problematic. While the facilities were similar in capacity, there were differences in inmate demographics, such as race and offense type. Other factors (e.g., cost-of-living differences) served to complicate further the interstate comparisons. In any event, these interstate cost comparisons involved state-run facilities only and did not consider any private facilities.

Further, the Washington study looked at construction costs by comparing the estimated costs for Washington state to construct a planned multicustody public prison for males with a private company that was constructing a similar facility in Florida.<sup>8</sup> In making the interstate comparison, the study noted that it focused on the "major elements contributing to capital costs," which included amounts and types of facility space, actual construction costs, and ancillary construction costs such as design and administration.<sup>9</sup>

Although the Washington study noted that the facilities were comparable in terms of size and inmate mix (e.g., "large multicustody"), it made cost and space programming adjustments to the facilities to further equalize the comparison. For instance, land and site-related costs, taxes, and unique local costs were excluded from the comparison. For the Florida facility, the study made upward cost adjustments to account for differences between the two facilities in labor and material costs, the later completion (about 2 years of construction inflation) of the Washington facility, and state oversight of the construction. For the Washington facility, the study made downward cost adjustments to account for differences between the two facilities, such as budget reductions of 20 percent, and space reductions of 18 percent to account for differences in inmate security levels and other space allocations. In addition, the study made downward cost and space adjustments to reflect the Florida facility's lower mix of close custody beds.

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<sup>8</sup>When completed, the Florida facility is to be operated by Wackenhut.

<sup>9</sup>The private prisons in Tennessee and Louisiana could not be used for capital costs comparisons because the prisons were state built rather than privately built.

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The study indicated that there were other differences in the space programming between the two facilities, for which no adjustments were made. For example, the Washington facility assumed single cells for "Close Housing and Administrative Segregation," while the Florida facility assumed double cells for those beds. Also, the Washington facility's minimum-security beds had relatively high per-bed space allocations, reflecting the incorporation of service and program space in the housing calculation. The space allocations for the Florida facility, however, reflected medium-security beds with centralized program and service space.

The study showed that the adjusted estimated per-bed cost for the Washington state facility (\$60,400 per bed) was approximately double the estimated cost for the Florida facility (\$33,900 per bed). The cost difference was explained largely as due to different operating and programming approaches or philosophies between the two states.

The Washington study concluded that privatization per se would not result in cost savings to the state. Rather, the report noted that savings could be accomplished through privatization or through changes in the state's operational policies and practices. For example, savings directly related to privatization would be due primarily to a private company's flexibility to operate outside state rules and procedures, collective bargaining agreements, and the state's employee compensation system.

Finally, the Washington study comparatively assessed the quality of service at the selected private and public prisons in Tennessee and Louisiana and two multicustody male facilities in Washington. While this portion of the study was not as detailed or as comprehensive as the portion involving costs, the quality assessment included visiting the prisons and reviewing institutional records for several topics, such as escapes, major disturbances, and inmate infractions. The study concluded that the private and public prisons studied within the respective states (Tennessee and Louisiana) generally were similar in quality of service. However, the study noted that Washington's two state-run facilities had more counselors per inmate than the facilities in the other states.

# Factors That Could Affect Interstate Comparisons of Prison Costs And/or Quality of Service

Several factors could affect interstate comparisons of prison costs and/or quality of service. In addition to cost-of-living and other economic differences among the nation's geographic regions and states, these factors include the (1) extent of prison overcrowding, (2) history of court interventions, (3) status of ACA accreditation of facilities, (4) rate of incarceration (as an indicator of the punitiveness of the corrections system), and (5) rights of correctional employees to organize and bargain collectively.

Regarding the studies that we reviewed, the sponsoring states—Texas, New Mexico, California, Tennessee, and Washington—are located in the southern or western regions of the United States, the areas where most privatized facilities are located (see app. IV). Regional differences, such as cost of living, may affect comparisons with other states or regions. For example, the Washington state study adjusted Tennessee's operational costs upward by 20 percent to account for regional cost-of-living differences between the two states.

By definition, prison overcrowding<sup>1</sup> occurs when the number of inmates actually incarcerated exceeds the rated capacity<sup>2</sup> of the correctional facility. As table III.1 shows, the extent of overcrowding (if any) varied among the five states studied—at the time of initial privatization of selected correctional facilities within the respective state.<sup>3</sup> For example, on January 1, 1991, California's prisons held 94,050 inmates, which was 41,352 inmates (or 78.5 percent) above the total rated capacity (52,698). In comparison, at that time, the average state correctional system was operating at 12.6 percent above rated capacity.

Texas was not reporting overcrowding on January 1, 1989. However, most states, including Texas and the other states studied, have been involved, at some point, in litigation challenging various conditions of confinement, such as overcrowding, in their prisons. The following general descriptions are examples of prison litigation that have occurred in the states studied:

<sup>1</sup>Overcrowding, in and of itself, is not a violation of the Eighth Amendment's prohibition of cruel and unusual punishment unless specific effects flowing from that condition form the basis for a violation. See *Hoptowit v. Ray*, 683 F.2d 1237, 1249 (9th Cir. 1982).

<sup>2</sup>The term "rated capacity" refers to the maximum number of beds or inmates assigned by a rating official to institutions within the jurisdiction.

<sup>3</sup>At the time of its study, the state of Washington had no privatized prisons. Thus, for the purposes of table III.1, we present data for Louisiana rather than for Washington. The Washington study included a comparative evaluation of three multicustody prisons (two private and one state-run) in Louisiana, as discussed in appendix II.

**Appendix III  
Factors That Could Affect Interstate  
Comparisons of Prison Costs And/or Quality  
of Service**

- In Texas, the Ruiz v. Estelle<sup>4</sup> line of decisions includes a 1980 ruling, which found that various conditions (such as overcrowding and inadequate sanitation, recreational facilities, and health care) within the Texas Department of Corrections violated the U.S. Constitution. Thus, the court appointed special masters and monitors to supervise the implementation of and compliance with its decree.
- In New Mexico, the Duan v. Apodaca<sup>5</sup> line of cases includes a 1980 consent decree that contained mandatory and prohibitive injunctions relating to conditions and practices at the state's penitentiary. Among other subjects, the consent decree addressed living conditions, medical and mental health care, and inmate discipline.
- In California, various court decisions in the 1980s addressed segregation procedures, double-celling, and other conditions of confinement at several prisons located in northern areas of the state.
- In Tennessee, the 1982 Grubbs v. Bradley<sup>6</sup> decision found that certain practices and conditions of confinement at the state's adult penal institutions were unconstitutional.
- In Louisiana, in the 1977 Williams v. Edwards<sup>7</sup> decision, the court held that conditions at the state penitentiary at Angola violated the U.S. Constitution and certain state laws.

Another factor that could be considered in making interstate comparisons of correctional facilities is the extent of ACA accreditation. Obtaining ACA accreditation signifies that a facility has met minimum standards. ACA officials told us that, at the time of the respective state's initial privatization efforts, Texas and Louisiana had no ACA-accredited facilities; but New Mexico, California, and Tennessee had "some" accredited facilities. For these latter three states, the ACA officials were unable to specifically quantify the number of accredited facilities that existed when the respective state began its privatization efforts. However, the officials were able to tell us that, as of 1989, the state-run women's facility in New Mexico was not accredited by ACA.

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<sup>4</sup>503 F. Supp. 1265 (S.D. Tex. 1980), aff'd in part and vacated in part, 679 F.2d 1115, amended in part, 688 F.2d 266 (5th Cir. 1982), cert. denied, 460 U.S. 1042 (1983).

<sup>5</sup>C.A. No. 77-721-C (D.N.M. July 14, 1980).

<sup>6</sup>562 F. Supp. 1052 (M.D. Tenn. 1982).

<sup>7</sup>547 F.2d 1206 (5th Cir. 1977).

**Appendix III  
Factors That Could Affect Interstate  
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of Service**

The degree of punitiveness of a corrections system, as reflected, for example, by the system's incarceration rate,<sup>8</sup> may affect operating and programming approaches, and therefore, expectations of service. States with higher incarceration rates tend to be found in the west and south, although there is variation within regions. On December 31, 1988, Texas and New Mexico had incarceration rates of 240 and 180, respectively, while the national average rate for state institutions was 227. On December 31, 1990, the incarceration rates in California (311) and Louisiana (427) were higher than the national average rate for state institutions (227); Tennessee's incarceration rate, however, was lower (207). Furthermore, the Washington study found differences in programming (e.g., education and work programs) when comparing Washington with Tennessee and Louisiana.

Both opponents and proponents of privatization have suggested that active correctional employees' unions can affect whether a state decides to privatize corrections; for example, union agreements with the state may be a disincentive to privatization. According to the results of an April 1994 ACA survey of state adult correctional departments, the public employees of such organizations in the five states studied shown in table III.1 had the right to organize. However, the percentage of such correctional employees represented by unions in two of the states was 20 percent or below and one state did not provide data; in three states, the correctional employees could not bargain collectively; and in none of the states did the correctional employees have the right to strike.

**Table III.1: Factors That Could Affect Comparisons With States Studied**

Factors	States studied				
	Texas	New Mexico <sup>a</sup>	California	Tennessee	Louisiana
Year of initial operation of private facilities <sup>b</sup>	1989	1989	1991	1991	1991
Geographic region <sup>c</sup>	South	West	West	South	South
<b>All state facilities<sup>d</sup></b>					
Rated capacity	41,252	2,878	52,698	8,700	15,006
Inmate population	39,525	2,932	94,050	8,380	13,849
Under or (over) capacity	1,727	(54)	(41,352)	320	1,157

(continued)

<sup>8</sup>As defined earlier, the rate of incarceration is the number of sentenced prisoners (per 100,000 resident population) in correctional facilities.

**Appendix III  
Factors That Could Affect Interstate  
Comparisons of Prison Costs And/or Quality  
of Service**

Factors	States studied				
	Texas	New Mexico <sup>a</sup>	California	Tennessee	Louisiana
Status of ACA accreditation of state correctional facilities <sup>a</sup>	none accredited	some accredited	some accredited	some accredited	none accredited
Incarceration rate <sup>f</sup>	240	180	311	207	427
<b>Unions<sup>g</sup></b>					
Right to organize	yes	yes	yes	yes	yes
Right to bargain	no	yes	yes	no	no
Right to strike	no	no	no	no	no
Percent of correctional employees represented	not applicable	20 percent	83 percent	55 percent	12 percent

<sup>a</sup>The New Mexico data apply to all state facilities, while the New Mexico study (see app. II) focused on women's correctional facilities.

<sup>b</sup>The year that inmates were first sent to privatized facilities in the respective state.

<sup>c</sup>The Bureau of Justice Statistics groups all 50 states and the District of Columbia into four regions—northeast (CT, ME, MA, NH, NJ, NY, PA, RI, VT), midwest (IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WI), south (AL, AR, DE, D.C., FL, GA, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA, WV), and west (AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY).

<sup>d</sup>Texas and New Mexico data are for January 1, 1989. California, Tennessee, and Louisiana data are for January 1, 1991.

<sup>e</sup>ACA provided us information on the general accreditation status of state facilities in each state studied at the time of privatization; specific numbers were not available.

<sup>f</sup>Incarceration rates for Texas and New Mexico are for December 31, 1988. Incarceration rates for California, Tennessee, and Louisiana are for December 31, 1990.

<sup>g</sup>Responses shown are from an ACA-sponsored survey of state adult correctional departments (April 1994) and refer only to public, state-level employees. Regarding the percentage of correctional employees represented by unions in Texas, the term "not applicable" was not defined. The data refer only to adult correctional departments.

Source: Data on geographic region and incarceration rates are from Kathleen Maguire and Ann L. Pastore, eds., *Sourcebook of Criminal Justice Statistics, 1993*, Department of Justice, Bureau of Justice Statistics, 1994. Data on overcrowding are from the *Corrections Yearbook, 1989 and 1991*, Criminal Justice Institute, Inc., 1989 and 1991. Data on accreditation status and union rights and representation are from ACA.

# Use of Private Corrections in States

As table IV.1 shows, as of March 1996, a total of 47 private correctional facilities (secure facilities for adults) were being operated or being planned for operations by private companies in various states. These 47 private correctional facilities are located in 12 states. However, the most use (actual or planned) of privatized correctional facilities is in 3 states—Texas, with 21 facilities; Florida, with 7 facilities; and California, with 5 facilities.

**Table IV.1: Private Adult Secure Correctional Facilities Operating or Planned, as of March 1996**

State	Number of private facilities <sup>a</sup>	Security classification of facilities	Total rated capacity <sup>b</sup>
Arizona	2	minimum to medium	850
Colorado	1	medium	752
California	5	minimum	1,446
Florida	7	minimum/medium to medium	4,636
Kentucky	3	minimum	1,300
Louisiana	2	medium/maximum	2,948
Mississippi	2	medium	2,034
New Mexico	1 <sup>c</sup>	all security levels	322
Tennessee	1	medium	1,506
Texas	21	minimum to maximum	15,702
Utah	1	minimum/medium	400
Virginia	1	medium	1,500
<b>Total</b>	<b>47</b>		<b>33,396</b>

Note: According to the author of the data, the information presented is subject to change and represents the number of actual or planned facilities at a particular point in time only. We did not verify the accuracy or completeness of the information.

<sup>a</sup>The information presented includes only state-sponsored private facilities that primarily house inmates from the sponsoring state's correctional system.

<sup>b</sup>The term "rated capacity" refers to the maximum number of beds or inmates assigned by a rating official to institutions within the jurisdiction.

<sup>c</sup>This is an all-women's facility.

Source: Charles W. Thomas, Private Corrections Project, Center for Studies in Criminology and Law, University of Florida, Private Adult Correctional Facility Census, 9th ed. (Gainesville, FL: Mar. 1996).

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# A COMPARATIVE RECIDIVISM ANALYSIS OF RELEASEES FROM PRIVATE AND PUBLIC PRISONS IN FLORIDA\*

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## Introduction

Chapter 957 of the Florida Statutes provided for the creation of The Florida Correctional Privatization in 1993. The Commission is authorized to "enter into a contract or contracts for the designing, acquiring, financing, leasing, constructing, and operating" of prisons and is the only independent state agency in the United States which enjoys such broad statutory power that flows from Chapter 957.

The Florida legislation imposes multiple obligations on the Commission. First, § 957.04(1)(f) requires services and programs "at least equal to those provided by the department" and expressly mandates work and education programs designed to reduce recidivism. Second, § 957.07 requires evidence of at least a 7 percent cost savings based

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on cost estimates provided by the Auditor General for comparable facilities operated by the Department of Corrections as a precondition for contract awards by the Commission. Third, § 957.03(4)(c) requires the Commission to submit an annual report to the Speaker of the House of Representatives and the President of the Senate that includes "a comparison of recidivism rates for inmates of private correctional facilities to the recidivism rates for inmates of comparable facilities managed by the department."

This report addresses the obligation to conduct a recidivism comparison set out in § 957.03(4)(c). It examines the recidivism, measured in multiple ways, of each of 396 prison releasees over the 12 month period following their respective releasees from confinement.<sup>1</sup> Of the 396 releasees in the sample, 198 were released from prisons operated by the Department of Corrections and 198 were released from either the Bay Correctional Facility, which is operated by the Corrections Corporation of America, or the Moore Haven Correctional Facility, which is operated by the Wackenhut Corrections Corporation.<sup>2</sup> The analysis focuses on two critical questions:

*1) Is there a statistically significant and substantively meaningful difference between the recidivism rates of releasees from privately- and publicly-managed prisons in Florida?*

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<sup>1</sup> This evaluation is an initial effort, and it is limited to short-term recidivism. Although short-term recidivism patterns are often similar to long-term outcomes, some important differences can emerge (see Bishop et al., 1996 and Winner et al., 1997 ).

<sup>2</sup> One hundred and three of the releasees came from Bay Correctional Facility and 95 came from Moore Haven. Information from inmates at other privately-operated facilities was not included in this research. The 350-bed Lake City Correctional Facility, which is operated by the Corrections Corporation of America, and the 1,318-bed South Bay Correctional Facility, which is operated by the Wackenhut Corrections Corporation, did not open until 1997.

*2) Is there a statistically significant and substantively meaningful difference between the recidivism rates of releasees from private prisons in Florida who vary with respect to their participation in and completion of programs designed to reduce recidivism?*

### **Previous Recidivism Research in Florida**

Recidivism in Florida has been studied by both the Department of Corrections (e.g., Florida Department of Corrections, 1997) and independent researchers (e.g., Lanza-Kaduce et al., 1990; Office of Program Policy Analysis and Government Accountability, 1995). This prior research identifies factors which predict recidivism and which can be used to match private prison releasees with public releasees to obtain equivalent comparison groups. If the comparison groups are equivalent, then differences in recidivism between private and public prison releasees can be attributed to contrasting operations in privately- as opposed to publicly-operated facilities.

No single measure of recidivism has been consistently used in research on Florida prison releasees. For example, the Department of Corrections (1997) measured recidivism as a recommitment to the Department for a new offense. This measure ignored county-level sanctions for new offenses and technical violations of the terms of conditional release. The Office of Program Policy Analysis and Government Accountability (1995:1), on the other hand, measured recidivism in terms of reincarceration both because "reincarceration can be determined using the database of a single agency" [the Department of Corrections] and because "reincarceration focuses on those behaviors that place the greatest demand on state corrections resources." Consistent with this

definitional approach, the Office of Program Policy Analysis and Government Accountability included those who were reincarcerated for technical violations of the terms of conditional release, but it excluded offenders who were sentenced to probation or community control for new crimes.

Similarly, the follow-up periods deemed to be appropriate by those who have conducted earlier recidivism research in Florida have varied. For example, the recent research by the Department of Corrections (1997) followed releasees for a 24 months, but the Office of Program Policy Analysis and Government Accountability (1995) used a 36-month follow-up period.

We both concur and disagree with the approaches taken in prior recidivism research. Recidivism indicators based entirely on either new offenses or reincarceration are deficient on both conceptual and pragmatic grounds. Although reincarceration surely involves recidivism, it is equally clear that much recidivism may result in interventions that do not involve recommitment to a state prison (e.g., a fine, probation, a jail sentence served in a county jail, and so on). Reincarceration underestimates reoffending and costs associated with subsequent offenses. A disregard for reincarceration for technical violations, however, ignores the important social costs and resource demands of these cases. Thus, alternative measures were adopted for this research.

We concur with the authors of earlier studies about the desirability of lengthy follow-up periods. Even though recidivism research generally indicates that much if not most recidivism takes place within 12 to 18 months of release from confinement, relatively long

follow-up periods of three to five years are certainly preferable to relatively short follow-up periods. It was not possible, however, for this research to provide for a lengthy follow-up period. The Bay Correctional Facility and the Moore Haven Correctional Facility did not receive their first prisoners until mid-1995. Thus, the analysis is limited to a follow-up period of 12 months.<sup>3</sup>

### **Methodological Considerations**

#### ***The Sample***

Data were obtained from the official records of the Department of Corrections on all inmates released from the Bay and Moore Haven Correctional Facilities during 1996. Cases were deleted from this original pool of private prison releasees for one of four reasons. First, one releasee from a private prison had a custody security classification that was not medium or minimum. This atypical case was deleted. Second, 19 releasees from the private prisons lacked Department of Corrections identification numbers and were deleted. Third, because one aspect of the analysis focuses on the effect of program participation on recidivism, we excluded early transfers to the private prisons to assure that all programs at the prisons had a reasonable opportunity to achieve fully operational status. Moreover, to take advantage of new standardized data entry procedures, the program focus prompted us to start selecting releasees from Bay and Moore Haven who

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<sup>3</sup> So that every inmate in the study would have the same "at-risk" period, we measured recidivism for only 12 months after each inmate's date of release. Many of the inmates, however, were released early enough so that we could collect data about recidivism for longer than 12 months. For only 4 cases (2 released from publicly-operated facilities and 2 from privately-operated ones) did all of the indicators of recidivism fall beyond the 12-month period. Consequently, our overall indicator of recidivism probably captured most of the short-term recidivists.

were released on or after June 1, 1996.<sup>4</sup> This starting date for case selection was based on new computerized data entry procedures regarding program participation and completion implemented by the Department of Corrections in May of 1996 (Office of Program Policy Analysis and Government Accountability, 1997). Finally, to ensure a follow-up period of 12 months after release, inmates released after September 30, 1996 were omitted from the sample. The result was that only those prisoners released from the Bay Correctional Facility and the Moore Haven Correctional Facility between June 1, 1996 and September 30, 1996 were retained in the research sample.<sup>5</sup>

In order to obtain reasonably precise matches for the private prison releasees from the pool of prisoners released from public prisons, we began by obtaining data on all releasees in 1996 from the Department of Corrections. To maximize the likelihood of identifying precise matches for the sample of private releasees, a search was made of public inmates released between January 1, 1996 and September 30, 1996. However, some offense categories (second and third degree murder, various sexual battery offenses, home invasion, car jacking, racketeering, and a generic "other violence"

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<sup>4</sup> Site visits to Bay and Moore Haven and interviews with staff indicated that program implementation is ongoing. This complicates analysis because program changes and expansions can occur unevenly. Thus, the information obtained from the field altered the evaluation methodology employed. The window for selecting our sample needed to be narrowed so that the releasees from any facility will not have been exposed to markedly different operations. An alternative to narrowing the selection window would have been to control for differences in programs over time. Unfortunately, the standardized data collected by the Department of Corrections about program participation and completion prior to May 1996 are suspect because improvements in data entry and management were not instituted until then (see Office of Program Policy Analysis and Government Accountability, 1997).

<sup>5</sup> The researchers compared the list of releasees obtained from the Department of Corrections for one of the facilities with a list generated by the facility itself. One of the researchers is involved in an unrelated study using a different state-wide data base in which there is wide variance between the state data and local records. Fortunately, the correspondence between the state-wide corrections data and the facility's records is high—over 98%. Therefore, we can have confidence in the accuracy of the state data.

category) occurred only among releasees from public facilities and could be deleted. Further, some individuals were in the 1996 releasee data set more than once. When this occurred, only the first event was retained because a second release indicated some kind of recidivism had occurred subsequent to the first release in 1996. If inmates were transferred between public and private institutions during the year, the last institution at the time of release was used to determine whether the release was from a private or public facility. Further still, inmates in public institutions who had fluctuations in classification were deleted because the reclassification may signify some kind of adjustment problem which could increase the chance of recidivism (see Lanza-Kaduce et al., 1990).

### ***Precise Case Matching***

The study population consists of private prison releasees and their public prison matches. The 300 inmates released from Bay or Moore Haven from June 1 through September 30, 1996 had minimum or medium security classifications. So did their potential matches who were released from seven different publicly-operated prisons. In addition to classification, four factors predictive of recidivism were used to construct precise case-to-case matches.

The first matching criterion was offense category. The 53 categories used to code the primary offense at conviction for Department of Corrections inmates were used. Only two adjustments were made in these offense categories before matching. Aggravated battery was grouped with aggravated assault, and grand theft auto was grouped with other grand theft. Thus, this study uses more precise matching on offense category than most

previous research has employed (e.g., Bishop et al., 1996). Matching on offense is of significance because prior offense predicts recidivism. At least three studies of recidivism in Florida have indicated that property offenders are most likely to reoffend (see Lanza-Kaduce et al., 1990; Office of Program Policy Analysis and Government Accountability, 1995; Department of Corrections, 1997). Those studies have also indicated that sex offenders are less likely to reoffend (Office of Program Policy Analysis and Government Accountability, 1995; Department of Corrections, 1997), and two of the studies have found that violent offenders are less likely to reoffend (Lanza-Kaduce et al., 1990; Department of Corrections, 1997).

The second matching criterion was race. Two of the earlier recidivism studies found strong race effects (Lanza-Kaduce et al., 1990; Office of Program Policy Analysis and Government Accountability, 1995). Another study found the effect becoming weaker more recently (Department of Corrections, 1997). White releasees are less likely to reoffend. White private releasees were matched with white public releasees, and nonwhites were matched with nonwhites.

The third matching criterion was prior record. This can be measured either as prior arrests (e.g., Lanza-Kaduce et al., 1990) or as prior commitments or incarcerations (e.g., Lanza-Kaduce et al., 1990; Office of Program Policy Analysis and Government Accountability, 1995; Department of Corrections, 1997). The relationship between prior record and recidivism is a strong one. The matching for this study was based on the number of prior incarcerations (which could be 0, 1, or 2 or more). This approach

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corresponds to important differences in how the number of prior incarcerations relates to recidivism as reported by Lanza-Kaduce et al. (1990) and the Office of Program Policy Analysis and Government Accountability (1995).

The fourth matching criterion was age. All three studies found an important relationship between recidivism and age at time of release with older inmates reoffending less frequently (Lanza-Kaduce et al., 1990; Office of Program Policy Analysis and Government Accountability, 1995; Department of Corrections, 1997). The age categories used for matching were 25 years of age or less, 26-30 years of age, 31-35 years of age, 36-40 years of age, and 41 or older. These categories roughly correspond to those used in the Office of Program Policy Analysis and Government Accountability study (1995).

Ninety three private prison releasees could not be matched with a public prison counterpart so recidivism data were collected for 207 matched pairs. Nine of these pairs had one of the inmates released to a detainer and were deleted because an inmate may not have been "at risk" in the community for most of follow-up period. Perfect matches within each category for each of the matching criteria could be made for 149 cases. By relaxing the age criterion, another 30 cases could be matched using a younger public releasee, and another 19 cases could be matched using a older public releasee.<sup>6</sup> This yielded a total of 198 matched pairs for the comparative analysis.

In terms of programming, the data collection protocol required obtaining information of the admission date into the private prisons, program participation information, program

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<sup>6</sup> Removing pairs for which the age-matching was relaxed from the analyses would not alter any conclusions.

participation dates, program status, release date, and release status for each inmate included in the study. Of those 198 private releasees, we obtained data on participation in and completion of programs for 194. There were 186 inmates in the sample of releasees from the private facilities for whom adequate data about program completion were available. Of these, 68 were involved in programming that they did not complete prior to their transfer or release. These 68 cases were excluded from the analysis of the effect of program completion on recidivism.

### ***Measuring Recidivism and Programming***

Recidivism was operationalized in alternative ways. Department of Corrections records information about arrest histories, sentencing, and the movement of inmates in and out of prison was the data source. These data were used to develop five different indicators of recidivism.

First, each releasee's arrest record was examined to determine whether it indicated any rearrest during the 12 months following his release. If a rearrest occurred, the offense and date of the rearrest were recorded.

Second, each releasee's sentencing record was reviewed. If he was resentenced on a new offense within 12 months after release, the offense and date of disposition were recorded.

Third, each releasee's "external movement" record was reviewed. This record provided information on the date of release and whether the releasee had any legal

intervention within the 12 month "at-risk" period. If he was reincarcerated on a new commitment within 12 months of release, the date was recorded.

Fourth, the "external movement" information also indicated whether a releasee has been returned to serve the remainder of his sentence because of a technical violation of conditions of release. If this occurred within 12 months of the conditional release, the date of the issuance of the warrant and the date of re-entry into prison were recorded.

Fifth, a global measure of recidivism in any form was constructed from the previous four indicators. Because of the short follow-up period, some inmates who were rearrested had not yet been resentenced or reincarcerated. Among some inmates who were rearrested, the rearrest was used to revoke conditional release rather than to prosecute on a new offense and receive a new sentence. Consequently, any single indicator of recidivism underestimated the total number of inmates who experienced some form of criminal justice intervention after release. The global measure of recidivism merely determined whether any indication of legal intervention occurred during the 12 months after release.

The severity of recidivism was also measured. For those cases having an indication of legal intervention, the reason for the intervention is scaled: 0 = no recidivism, 1 = technical violation, 2 = misdemeanor offense, 3 = drug or weapon possession offense, 4 = property offense, or 5 = violent or personal offense.<sup>7</sup> For cases having more than one

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<sup>7</sup> The order was premised on the argument that victimizations by violent personal felonies (e.g., aggravated assault, robbery) are most serious followed by victimizations by property felonies (e.g., burglary, grand theft). Possessory felonies, like drug manufacturing or weapons charges, do not have direct victims in the same way that personal or property felonies do. Possessory felonies, however, are generally thought to be more serious than are misdemeanor offenses. Technical violations of the conditions of release are

reason, the most serious reason was counted.

Program participation was operationalized as any involvement in programs while housed at either the Bay Correctional Facility or the Moore Haven Correctional Facility. In order to determine program participation for each releasee in the study, we obtained information on the date of entry into the privately-operated prison as well as the inmate's release date and program status from the Department of Correction data records. These records were used to determine the number and type of programs for each releasee.<sup>8</sup> The kinds of programming varied at the two private facilities, so we obtained information on five general categories of programming: 1) educational (e.g., GED preparation, adult basic education); 2) vocational training (e.g., business software, carpentry); 3) substance abuse treatment (e.g., Alcoholic Anonymous, therapeutic community); 4) behavioral education (e.g., life skills, cognitive skills); and 5) pre-release counseling. Appendix A lists the programs available at the Bay and Moore Haven facilities.

In assessing the program participation patterns, we found that 96 percent of the releasees sampled participated in at least one program at a privately-operated facility, that 78 percent of the releasees participated in at least two programs, and that slightly more than 50 percent participated in three or more programs. Referring to Table 1, the vast majority (82 percent) of inmates participated in substance abuse programs, 60 percent

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generally least serious because they need not involve new crimes.

<sup>8</sup> It is important to note that programs varied a great deal at the two privately-operated facilities. For example, one finds little overlap in the types of vocational training offered at the Bay and Moore Haven Correctional Facilities. See Appendix A. The differences in programming could conceivably influence the patterns of program completion at the two privately-operated facilities.

were enrolled in behavioral education programs, and 53 percent of the releasees received pre-release counseling before their release date.

Program completion was operationalized as meeting the objectives and requirements of the program. Data on program completion were obtained from the Department of Corrections records. The distribution of program status for the sample of private releasees is presented in Table 2.

### **Research Findings**

Several statistical strategies can be employed when conducting comparative analyses (e.g., Bishop et al., 1996; and Winner et al., 1997). Because of the precision matching in this study, the recidivism percentages of the two groups can be examined directly at both the aggregate level and among the precisely matched pairs. Nonparametric statistical tests were used to make the direct comparisons. The seriousness of the reasons for recidivism was compared by examining the mean differences in seriousness between the private and public releasees. A t-test for dependent or matched samples was used to assess the statistical significance of the difference. A chi-square statistic was computed to measure the statistical significance of differences in recidivism for those releasees who successfully completed programming and those who failed to complete programming.

#### ***Recidivism in the Aggregate***

The results presented in Table 3 indicate that releasees from private prisons had lower recidivism than did their public prison matches for all indicators of recidivism except

technical violations.<sup>9</sup> In the 12 months following release, 10 percent of the private facility releasees were rearrested, while 19 percent of the public releasees were rearrested. Only 6 percent of the private releasees were resentenced for a new offense as compared to 10 percent of their public matches. In terms of reincarceration, 10 percent of the private prison releasees were reincarcerated within 12 months, but 14 percent of the public prison releasees were reincarcerated. The overall indicator also showed fewer recidivists among the releasees from private facilities. Seventeen percent of the private facility releasees had an indication of recidivism as compared with 24 percent of the public prison releasees.

We can standardize recidivism as a rate per 1,000 releasees and compare the rate for the releasees from private facilities with that for their matches from publicly-operated ones. To the extent that the matching procedure controlled for other factors that predict recidivism, direct comparisons between public and private releasees indicate the relative impact of privately-operated prisons on recidivism. Table 4 presents the aggregate rates per 1,000 releasees for each indicator of recidivism for the private and public releasees as well as the estimated rate difference between releasees in the private and public facilities.

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<sup>9</sup> At first glance, the recidivism rates for both groups seem low, but they are consistent with other information. The releasees in this sample are minimum and medium security inmates (who may be better risks). The follow-up period is only one year (instead of two or three). Moreover, the Department of Corrections (1997) has recently indicated a dramatic reduction in recidivism (as measured by a new offense within two years of release for which the offender is recommitted to Department supervision). In 1988-89 the recidivism rate over a two year follow-up period was nearly 40 percent, but it steadily dropped to 18 percent in 1993-94. Thus, the 14 percent reincarceration rate in one year for the public releasees in this sample is consistent with these reports.

With the exception of the technical violations category, releasees from private institutions had significantly lower rates of recidivism per 1,000 releasees. Specifically, the rate of any recidivism among the private releasees was 172 per 1,000 releasees as compared to 237 among the public releasees. In addition, the rates of rearrest and resentencing for the public releasees were twice those of the private releasees sampled (96 versus 192 for rearrest and 56 versus 101 for resentencing). When recidivism is measured via reincarceration, the results reveal that public releasees had substantially higher rates of reincarceration per 1,000 releasees than those from the private institutions (146 verses 101, respectively). On the other hand, the private releasees had higher technical violations per 1,000 releasees (86 for private prison releasees versus 76 for public prison releases). Clearly, therefore, with the exception of the modest but statistically insignificant difference favoring releasees from public prisons when the technical violation-based recidivism rate is considered, the substantially lower recidivism rates among the releasees from the private prisons is striking.

#### ***Recidivism in Matched Pairs***

The differences in recidivism were also apparent when comparisons were made "head-to-head" in each of the 198 matched pairs. Table 5 presents the pattern of recidivism found across the pairs. The first row indicates the number of pairs in which both the private and public releasees were rearrested, had a technical violation, were resentenced, were reincarcerated, or had any of those indicators of recidivism. The second row indicates the number of pairs for which each respective indicator of recidivism

was found for only the private releasee. The third row indicates the number of pairs for which recidivism was found for only the public releasee. The fourth row shows the number of pairs for which recidivism was found for neither releasee.

The information is displayed in Table 5 in two ways. First, the table compares matched pairs of private and public releasees for each of the various indicators of recidivism. The results are consistent with those reported in the overall comparisons above. Except for technical violations, private releasees have lower recidivism. For both rearrest and resentencing at least twice the number of pairs have the public releasee reoffending than have the private releasee reoffending (34 versus 15 for rearrest; 18 versus 9 for resentencing, respectively). For reincarceration and indication of any recidivism, the number of pairs in which only the public releasee reoffended is about a third greater than the number of pairs in which only the private releasees reoffended (23 versus 15 for reincarceration; 39 versus 26 for the any recidivism measure, respectively).

Second, Table 5 also presents the results of the nonparametric tests for statistical significance. These tests have been performed to see whether the differences in recidivism between the private and public releasees are statistically significant. Because of the large number of pairs with no indication of recidivism, the sign test has been employed. Sign tests are appropriate for matched samples and concentrate on the pairs that are different (e.g., where one reoffends and the other does not) (see, e.g., Bachman and Paternoster, 1997). When the sample size exceeds 25, the sampling distribution for

this statistic is approximately normally distributed and a z test can be used to determine probabilities.<sup>10</sup>

The results of the sign tests for each indicator of recidivism are reported at the bottom of Table 5. The lower recidivism among private releasees is statistically significant. Simply put, the lower recidivism is unlikely to have occurred by chance for rearrest ( $p < .01$ ), resentencing ( $p < .05$ ), reincarceration ( $p < .10$ ), or for any indication of recidivism ( $p < .10$ ). Only the difference regarding technical violations proves to be statistically insignificant.

### ***Seriousness of Recidivism***

Another way to consider the impact of recidivism is to examine the seriousness of the reoffending. Although no recidivism is desirable, society pays a different price for subsequent violent crimes than for technical violations. Table 6 presents the basic breakdown of recidivism seriousness for private and public releasees. The most serious reason for any subsequent legal intervention (not merely rearrest) within 12 months after release is used to construct this table.

The pattern indicates that private releasee recidivists were more likely to return on technical violations.<sup>11</sup> They were least likely to commit a violent offense in the 12 months

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<sup>10</sup> The recidivism scores (0 = no recidivism; 1 = recidivism) for each indicator were arrayed by matched pairs. For each pair, the score of the private releasee was subtracted from that of the public releasee which resulted in a 0 (no difference), a +1 (the public releasee reoffended but the private releasee did not), or a -1 (the private releasee reoffended but the public releasee did not). If the two groups or releasees are similar in recidivism, the number of positive and negative signs should balance out. The z score indicates how unlikely any difference in the number of positive or negative signs is.

<sup>11</sup> The greater likelihood of private releasees returning for technical violations is not a function of a more of them being released to probation/community control or on some conditional status. In fact, more public releasees (30%) were released conditionally than were private releasees (23%).

after release. Public releasees, however, were more likely to commit drug/weapon possession offenses, property offenses, or violent offenses in the year after release. Among the private releasees who reoffended, the mean level of seriousness was 2.32. Among the public releasees who reoffended, the mean level of seriousness was 3.43. In the aggregate, the recidivism of private releasees was less serious than that of public releasees.

To help interpret whether the difference in seriousness of recidivism between private and public releasees is important, a t test for differences in means for matched samples was calculated. This test concentrates on differences in seriousness within each of the matched pairs (e.g., Bachman and Paternoster, 1997). The result is reported at the bottom of Table 6. The public releasees in the matched pairs had a mean difference that was 1.11 points higher (or more severe) than their private counterparts. The greater seriousness of the recidivism among public releasees was unlikely to have occurred by chance ( $p < .01$ ).

#### ***Additional Recidivism Results on Unmatched Cases***

An inherent risk to the reliability and validity of any research which involves precision matching of cases is the potential loss of data if cases cannot be matched. Roughly one third ( $n=93$ ) of the private prison releasees between June 1, 1996 and September 30, 1996 could not be matched with a releasee from a public facility. Because they could not be matched, their recidivism could not be compared directly with that of similar releasees from public facilities. However, a separate analysis of the unmatched

cases was pursued using rearrest data. It was found that the rearrest rate of these unmatched private releasees (18 percent) was more similar to the public matches (19 percent) in the sample than to the private matches (10 percent). This could mean that the private releasees who could not be matched were unusual in some way.

This possibility did not alter our research conclusions for several reasons. First, even when the unmatched private releasees were grouped with the other private releasees to compute an aggregate recidivism rate, the private releasees had lower recidivism. For example, the rearrest rate for all private releasees (those that could be matched and those that could not be) was 14 percent. The rearrest rate for the private releasees (all of whom had been matched) was 19 percent.

Second, the private releasees who could not be matched tend to be the less typical inmates. Medium and minimum security inmates released from public facilities were over-sampled to guarantee a large enough pool for making matches. Although hundreds of extra cases from the public facilities were available, only 54 of them had an offense category that corresponded to that of the 93 unmatched private releasees. For example, 7 private releasees, but only 2 public releasees, had robbery with a weapon listed as their primary offense, so 5 of the private releasees were left unmatched. Another 5 private cases with a primary offense listed as "other" could not be matched. On the other hand, there were 128 extra public releasees who had been convicted of drug manufacturing left once matches were found for the private drug manufacturers in the sample.

Third, the severity of the recidivism for these unmatched private releasees was compared with that of the matched private releasees and their matched public counterparts. Only rearrest data were used. The private releasees who could not be matched had the lowest mean severity score for the rearrest offenses (3.18) followed by the matched private releasees (3.37) followed by the public matches (3.84). Thus, even if the private releasees who could not be matched had been included, their inclusion would not have accounted for the difference in recidivism and recidivism severity between private and public releasees.

#### ***The Effect of Program Completion on Recidivism***

A comparison of the differences between releasees who did and did not successfully complete programs was employed to explore the impact of programming on recidivism among the releasees from the privately-operated prisons. The results are presented in Table 7. Recidivism was more likely among those who failed, were dropped, refused to participate, or were removed from programs than among those who successfully completed a program. Specifically, 16 percent of the 103 private prison releasees who satisfactorily completed one or more programs were recidivists. However, 40 percent of the 15 inmates who failed, dropped out of, refused to participate, or were removed from programs were recidivists.

Our results reveal that recidivism among those who successfully completed one or more programs was substantially less than that among those who were not successful. Those who completed one or more programs were 25 percent less likely to reoffend or

violate conditional release. The higher recidivism among the group of releasees who did not complete programming is statistically significant ( $p < .02$ ). This finding suggests that program completion reduces recidivism among the private prison releasees.

These results should be interpreted with caution. The number of private prison releasees in the sample who did not complete programs was so small ( $n = 15$ ) that their percentages may be unstable and could fluctuate if more cases were examined. The small number should not be surprising, however. The contracts between the Correctional Privatization Commission and both the Corrections Corporation of America and the Wackenhut Corrections Corporation impose unusually demanding requirements which mandate access to programs aimed at reducing recidivism. This requirement is bolstered by § 957.04(1)(g), F.S., which requires continuous on-site contract compliance monitoring. The effect is that program participation by prisoners in the private facilities is strongly encouraged. This is made clear by the fact that of the 118 cases for which complete data were available, 103 or 87 percent completed one or more of the available programs.

### **Conclusions and Policy Implications**

This study was conducted pursuant to a statutory requirement that the Correctional Privatization Commission provide a report on the comparative differences in recidivism rates for inmates released from privately- and publicly-operated correctional facilities. Toward complying with that mandate, the research addressed two key issues.

First, the research offered a comparative analyses of the differences in short-term recidivism between releasees from public and private prisons in Florida. Although no two

Written testimony

prisons are alike, we located precision matches between public prison releasees and releasees from two private prisons. The precision matching was based on factors that earlier research had shown to be associated with recidivism: security classification, type of offense, age, race, and prior record. Because the matching criteria have all been linked to recidivism in prior research, we are confident in the meaningfulness of the matching procedure.<sup>12</sup> Indeed, few recidivism studies have matched so precisely on so many specific offense categories as did the present study.

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The results indicate that releasees from privately-operated prisons have significantly lower recidivism than do releasees from public prisons. The lower recidivism occurs in the aggregate across all pairs as well as when a more detailed comparative analyses of the matched pairs is pursued. Public releasees have a greater likelihood of reoffending within 12 months of release. They also are also significantly more likely to return to the attention of the authorities for more serious reasons than are the private prison releasees.

The importance of this research is most easily discerned when the recidivism is computed as a standardized rate per 1,000 releasees. For example, the rearrest rate per 1,000 releasees was 96 for releasees from the private prisons versus a much higher rearrest rate of 192 per 1,000 for releasees from public prisons. The reincarceration rate was 101 for releasees from private prisons versus 147 for releasees from public prisons.

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<sup>12</sup> The differences in age among the private and public releasees which was tolerated for 53 cases did not affect the conclusion that recidivism was lower among private releasees. In fact, analyses of only those cases where age is perfectly matched would, if anything, strengthen the conclusion.

The second research focus was on programming and recidivism. The results indicate that programming at the private facilities is reducing recidivism.<sup>13</sup> Those releasees who completed one or more programs prior to their release were significantly less likely to reoffend or violate conditions of release than those with records of program non-completion.

The policy implications of the research seem relatively clear. Financial data for the FY 1996-97 prepared by the Florida Department of Corrections suggest that, exclusive of all construction and major facility maintenance costs, Florida taxpayers expend approximately \$15,750 per prison inmate per year. Although many variables influence recidivism, any effort by either the private firms working under contract with the Correctional Privatization Commission or the Department of Corrections that demonstrably reduces rates of recidivism will yield consequential long-term financial benefits even as it enhances public safety.

The findings raise another consideration. Although programming was linked to lower recidivism, 37 percent of the private prison inmates in our sample were released prior to program completion. Some of them were released so soon after entry into the private facilities that completion would have been difficult or impossible to achieve. Others were present at the facility for lengthier periods before release but either did not gain timely entry into a program or did not progress through the program quickly. Any steps

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<sup>13</sup> We understand that this assertion requires some qualification. Although the evidence does imply a positive impact of program participation and completion, it is possible that other differences between private and public prisons are responsible. For example, differences in recidivism may be due to variations in inmate or staff cultures rather than to programming.

that the Florida Privatization Commission and/or the Department of Corrections can take to adopt transfer criteria or program selection procedures to improve the timing of entry into programming may alleviate this problem of release prior to completing programs. We understand that all prisoner transfer decisions are made by the Department and not by the Commission, but this recommendation is not offered as a criticism of the past practices of the Department. The Department cannot make appropriate transfer decisions unless its officials are thoroughly familiar with the private prison programs and the times required for program completion.

In summary, the research findings presented here provide unequivocal empirical evidence of reduced recidivism (and therefore heightened public safety and financial benefits) among releasees from private facilities. The Florida Correctional Privatization Commission and its independent contractors at Bay and Moore Haven deserve credit for this success.

Clearly, of course, more research must be done to verify whether the recidivism rates among releasees from private prisons will remain significantly lower than the recidivism rates among releasees from public prisons as the follow-up periods under consideration grow longer. Further, the diversity of the prisoner population for which the Commission is responsible already is increasing. A privately-operated facility at the 350-bed Lake City Correctional Facility houses youthful offenders. The 1,318-bed South Bay Correctional Facility is almost twice as large as either the Bay Correctional Facility or Moore Haven Correctional Facility and, perhaps more importantly, is housing prisoners

with higher security classifications. Subsequent research must take this diversity into account.

More research which evaluates the differential impact on recidivism of specific educational, treatment, and vocational training programs must be pursued. The Correctional Privatization Commission (and officials at both the Moore Haven and Bay facilities) have shown an appreciation for conducting comprehensive comparative analyses that examine potential differences in programs and program effectiveness within the growing prison system for which it is administratively accountable. We encourage them to continue seeking these evaluations.

The Legislature, the Commission, and the Department should be encouraged by the positive results reported in this analysis, and so, too, should the Corrections Corporation of America and the Wackenhut Corrections Corporation. Indeed, should these positive findings be replicated by the larger and more sophisticated analyses we hope to prepare in future years, attention will need to shift to devising means by which successful strategies and programs developed within one prison can be implemented within other prisons (whether privately or publicly operated).

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1995 "Policy Review of Reincarceration in Florida's Prisons." Report No. 95-06. Office of Program Policy Analysis and Government Accountability. Tallahassee, FL.
- Winner, Lawrence, Lon Lanza-Kaduce, Donna M. Bishop, and Charles E. Frazier  
1997 "The Transfer of Juveniles to Criminal Court: Re-examining Recidivism over the Long Term." *Crime & Delinquency* 43:548-563.

**Table 1****Program Participation Patterns Among Privately-Operated Prison Releasees,  
(N=194)**

	Number	Percentage
No Programming	8	4.0%
Educational Programs	82	42.3%
Vocational Programs	53	27.3%
Substance Abuse Programs	160	82.5%
Behavioral Educational Programs	117	60.0%
Pre-Release Counseling	103	53.0%

**Table 2****Program Completion Levels for Private Operated Prison Releasees (N=186)**

	Number	Percentage
Completed Program	103	55.0%
Non-Completion	2	1.0%
No Longer Housed/Released	68	37.0%
Refused Programming	2	1.0%
Removed from Programming	1	0.5%
Voluntary Withdrawal	2	1.0%
Dropped Programming	8	4.0%

Table 3

**Recidivism in the Aggregate Among Private Versus Public Releasees**

	Private Releasees (n=198)	Public Releasees (n=198)
Recidivism Indicator: Rearrest	10%	19%
Technical Violation	9%	8%
Resentencing	6%	10%
Reincarceration	10%	14%
Any Recidivism	17%	24%

Table 4

**Private Versus Public Rates of Recidivism per 1,000 Releasees**

	Private Releasees (n=198)	Public Releasees (n=198)
Recidivism Indicator: Rearrest	96	192
Technical Violation	86	76
Resentencing	56	101
Reincarceration	101	146
Any Recidivism	172	237

Table 5

**The Number of Matched Pairs of Private and Public Releasees  
with Various Combinations of Recidivism  
(198 Matched Pairs)**

	Rear- rest	Tech. Violation	Resen- tence	Reincar- ceration	Any Indicator
Who Reoffended:					
Both Private & Public	4	3	2	5	8
Private Only	15	14	9	15	26
Public Only	34	12	18	23	39
N. ther Private Nor Public	145	169	169	154	125
Sign Test:	z = -2.71 p = .004	z = -.39 p = .348	z = -1.73 p = .043	z = -1.30 p = .097	z = -1.61 p = .054

Table 6

**Seriousness of Recidivism for Private and Public Prison Releasees**

Seriousness:	Private Releasees (n=198)	Public Releasees (n=198)
	Number	Number
No Recidivism	164	151
Technical Violation	15	7
Misdemeanor	3	3
Drug/Weapons Possess.	8	10
Property Offense	6	17
Violent Offense	2	10

Mean Difference =1.11; t = 3.20; p < .01

Table 7

**Comparison Between Releasee's Program Completion and Non-Completion on Recidivism (N=118)**

	Completion	Non-Completion
No Recidivism	85% (87)	60% (9)
Recidivism	15% (16)	40% (6)

$X^2 = 5.17$ ; df = 1; p < .02

**APPENDIX A****List of Programs Sampled by Privately-Operated Facility**

B= Bay Correctional Facility  
M= Moore Haven Correctional Facility

**EDUCATIONAL PROGRAMS:**

- 1- Mandatory Literacy (B,M)
- 2- Adult Basic Education (B,M)
- 3- Adult Basic Education/ GED Academic (B,M)
- 4- GED Preparation (B,M)

**VOCATIONAL PROGRAMS:**

- 1- Business Software/ Data Entry (B,M)
- 2- Computers (M)
- 3- Desktop Publishing (M)
- 4- Culinary Arts/ Cooking (B)
- 5- Carpentry(M)
- 6- Nursery Operations (M)
- 7- Heating, Ventilation, Air Conditioning (B)
- 8- Maintenance---Floor and Wall Finishing (B)
- 9- Plumbing/ Pipe Fitting (B)

**Substance Abuse Programs**

- 1- Alcoholics Anonymous (B,M)
- 2- Substance Abuse (M)
- 3- Drug Treatment CT (B)
- 4- Substance Abuse---Tier I (B)
- 5- Therapeutic Community (B)

**Behavioral Education Programs**

- 1- Life Skills (B,M)
- 2- Cognitive Skills (B,M)
- 3- Modified Therapy Counseling (M)

**Pre-Release Counseling (B,M)**

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# CORRECTIONS CAPABILITY STATEMENT

MANAGEMENT & TRAINING CORPORATION



3293 Harrison Boulevard

P. O. Box 9935

Ogden, UT 84409

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# Corrections Capability Statement

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Management & Training Corporation

## A. Overview

To educate, to train, to open the way to success. This is why we began, and this is what we set out to do every day.

Management & Training Corporation (MTC) was organized under the laws of Delaware on December 11, 1980, to acquire the business of the Education and Training Division of the Thiokol Corporation. The company charter is to do the following:

- continue education and training programs
- conduct research
- provide technical and advisory management services to operate management and training programs
- advise persons, firms, corporations, and government entities

The transition was a success. Experienced personnel who formerly managed the Thiokol division still work for MTC. Proven training capabilities survived intact. MTC continues to expand and improve these capabilities.

Corrections and building management, which has grown to become a major division of our company, is one example of this effort. MTC operates a 424-bed correctional facility for California; a 450-bed substance abuse treatment facility for Arizona; a 400-bed pre-release and return-to-custody facility for Utah; a 1,700-bed state jail for Texas; and a 48-bed juvenile facility for Garza County. We also operate buildings for the General Services Administration in San Antonio, Seattle, Auburn, Spokane, Austin and Albuquerque.

Even with that growth MTC remains the leader in Job Corps, a federal program operated under the Department of Labor. MTC operates 24 Job Corps centers located throughout the United States, daily meeting the challenge of training disadvantaged youth in a 24-hour-a-day residential setting.

Our correctional facilities and Job Corps centers house more than 14,000 on any given day and employ more than 5,000 staff in facilities management, operations, maintenance, security, procurement, education, counseling, food services, health services, and others.

The map in Figure 1 shows the location of each MTC-operated contract, corporate headquarters, and regional offices.

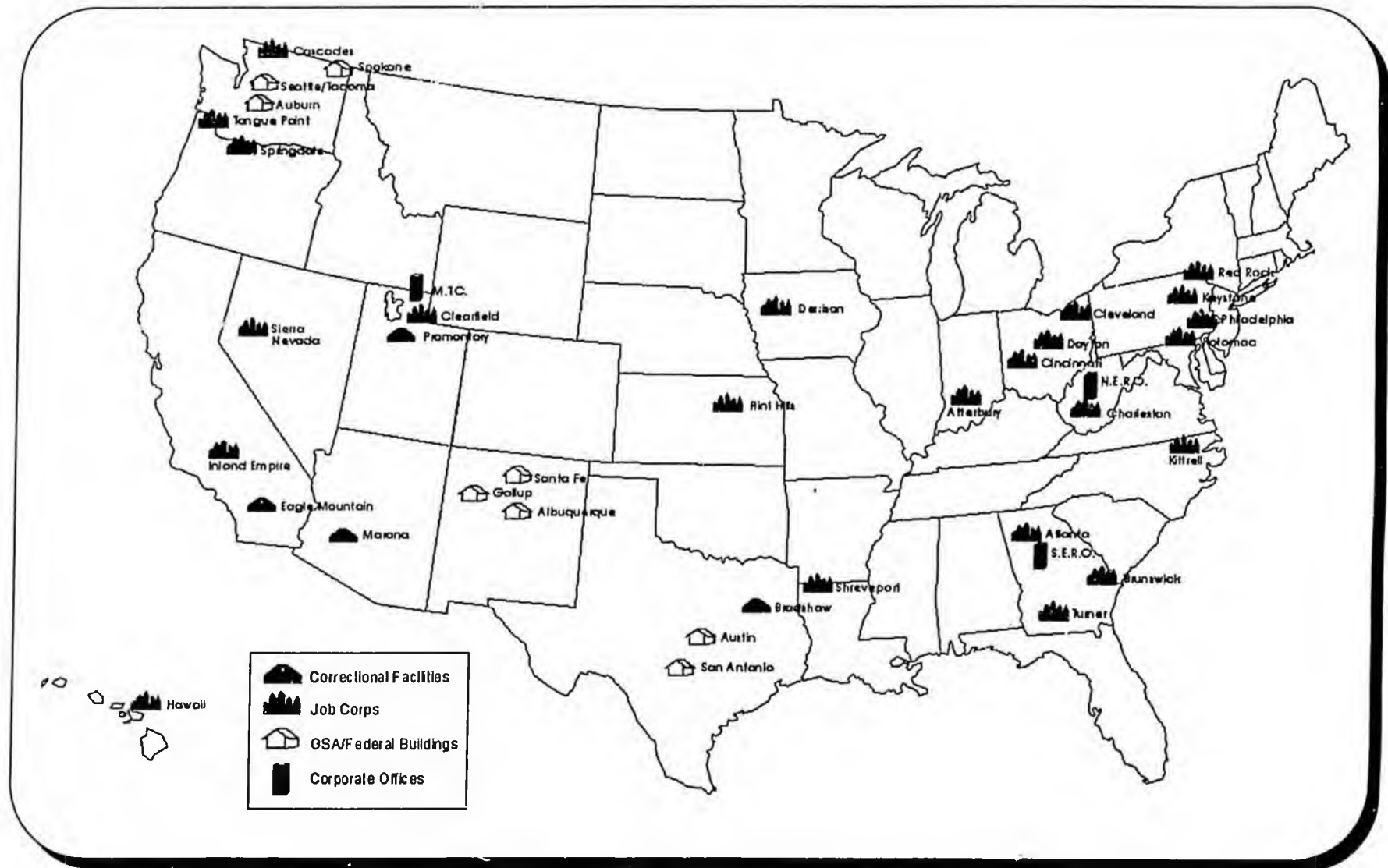


Figure 1. MTC-Operated Facilities



## Corrections Capability Statement

Management & Training Corporation

### **B. Corporate Management**

MTC has a long history of delivering superior value to its customers through its products and services. Our staff has operated and managed facilities since 1966. Supervisors from a large and diversified corporate staff are involved in each project, ensuring a level of quality performance that meets or exceeds the expectation of the customer.

Experience in the field makes MTC's corporate staff more effective. Specialists bring their expertise to contract sites to meet individual needs in training and operations. They also review performance to guarantee quality. Every position in MTC is goal-driven -- the company applies proven management systems to make sure everyone reaches their goals.

In addition to corporate staff, MTC has more than 5,000 employees throughout the country. They are closely connected to corporate headquarters which deals with each location every day. MTC also oversees a thorough training schedule, placing a high priority on employee self-development and performance. MTC monitors that performance in cooperation with the U.S. Department of Labor, the General Services Administration, and state and local agencies to make sure that all work meets the exacting standards attached to each contract.

#### ***Corporate Staff Resources Available to Project Management***

MTC's corporate experts remain on-call to assist sites immediately when the need arises. They bring technical expertise and contract knowledge, providing an important back-up service to employees in the field, but they are much more than an emergency service. They apply their talents each day to the more successful and efficient operation of the company. Following are just some of the areas of expertise represented by corporate staff:

- safety and security
- behavior management (discipline) procedures
- procurement and subcontracting
- staff training
- community and public relations
- health services
- food services
- commissary and canteen management
- substance abuse programs
- recreation and avocation programs and activities
- inter-group relations programs



## C. Overall Operation and Management Experience

To operate multiple facilities successfully takes expertise in many areas. These are just a few examples of what MTC takes responsibility for each day:

### *Facility Operations*

- Maintaining physical facilities through work such as janitorial, mechanical maintenance, landscaping, pest and weed control; repair and rehabilitation services for buildings, grounds, equipment, roads, lawns, and other real property; garbage and hazardous waste disposal, and snow removal.
- Designing and operating preventive maintenance systems for all types of equipment, systems, and facilities.
- Safeguarding facilities in urban, suburban, and rural locations
- Managing utilities to save energy, maintaining the operating budget, and accounting and paying for their use.
- Purchasing and accounting for all equipment, tools, materials, and services to support the operation of each facility according to authorized procurement procedures.
- Subcontracting services where it is most beneficial and cost-effective for the customer based on requirements and work to be performed.
- Maintaining inventories to support the facilities and operational requirements.
- Operating and maintaining fleets of Government- and corporate-owned vehicles.
- Operating sewage and potable water systems attached to private, Government, or community systems, and maintaining and repairing pipe and pumping systems.

### *System and Service Operations*

- Providing material, comprehensive services (security, basic education, vocational training, residential care, health care) and personnel to operate correctional facilities and Job Corps centers.
- Administering management systems that contain detailed planning and controls for all necessary functions, including continuous improvement and quality assurance through review and inspection.
- Preparing proper documenting and procedures, such as standard operating procedures, manuals (safety, fire and accident prevention, energy conservation), emergency and disaster control procedures; conducting facility utilization studies on all contract facilities.
- Performing administrative support as required under state and Federal Government contracts for financial and contract administration, budgeting, inventory control, and reporting.
- Maintaining records of all types required for operation under state and Government contracts.



### **D. Correctional Facility Management Experience**

MTC does more than just operate existing facilities. We've started 13 new operations over the years including all four correctional facilities and have developed a reputation for start-ups that meet or beat the target date.

In 1982, MTC decided to diversify. Much research and analysis went into the effort. As it turned out, our eventual involvement in corrections evolved from two decades of experience in education and training, specifically job-skills training. We believed our experience would translate well into the correctional field, and we were right. MTC is highly qualified to design and implement programs that help turn inmates into potentially productive citizens. Such programs are integral parts of each MTC-operated correctional facility.

In 1986, California awarded MTC with a contract to operate a 200-bed return-to-custody facility, in Desert Center. MTC had identified the site -- a former community for Kaiser Steel employees -- and renovated it to become the Eagle Mountain Correctional Facility. The effort involved 34,000 square feet of existing buildings and 35 abandoned houses. Eagle Mountain began receiving inmates in 1988 and expanded the operation in October 1989 to accommodate 400 inmates. In November 1991, Eagle Mountain was reclassified as a community correctional facility.

MTC's approach at Eagle Mountain set the standard for our later facilities by focusing on:

- education programs
- pre-release planning
- community service

In particular, programming strengths make MTC facilities stand out. Innovation and creativity are encouraged in the effort to make programs work. When inmates leave with a GED, counseling, skills, and a plan for success, they stand a much better chance of becoming an asset rather than a perpetual liability.

The education program at Eagle Mountain has become a model for other state facilities. It encompasses grade level assessment, self-paced academic upgrading, and GED preparation and testing. Eagle Mountain has been certified as an official GED test site. Inmates there consistently reach test scores that exceed the local average.

Our pre-release planning course is also self-paced and teaches such topics as job interviewing techniques, personal finances, income tax preparation, housing, transportation, and insurance. Inmates leave Eagle Mountain with an employment resume and referrals to social service agencies. Inmates also have an opportunity to clear their driving records and obtain a valid California driver's license before their release.



## Corrections Capability Statement

Management & Training Corporation

Inmates perform extensive community service and have played a key role in managing high-use recreation sites on public land. They have renovated and improved campgrounds and visitor areas. Inmates also assisted with a special project involving the endangered Desert Tortoise by building enclosure pens. Their work in Desert Center itself has helped restore the town; renovations of vacant houses not only provides new living space for residents, but also allows the inmates to earn money that goes into victim restitution funds.

Overall, the Eagle Mountain facility has made a positive impact and the local community has realized the following benefits:

- revitalized the Desert Center community
- increased employment for local residents
- increased local business revenue
- increased property values
- stabilized enrollment in the local school district
- improved local law enforcement and fire protection

MTC's correctional interests expanded to Arizona in 1993, when the state awarded it a contract to build, operate, and manage a 450-bed facility in a community correctional setting. The first inmates arrived in October 1994. At Marana inmates grow and benefit from a variety of opportunities. They participate in a treatment program for substance abuse and in a series of educational programs.

Treatment at Marana is based on a counseling model that emphasizes personal responsibility for behavioral choices and consequences. Inmates attend group therapy and private counseling and are active in Alcoholics Anonymous, Narcotics Anonymous, and Cocaine Anonymous. Education programs range from Basic Education, which raises their performance to at least a sixth-grade level, to a GED. In Life Skills, inmates learn practical strategies to successfully rejoin society. Components of Life Skills are effective resume writing, job interview techniques, and preparation for financial responsibilities for independent living.

Inmates at Marana also participate in community service projects -- work crews performance than 16,000 hours of service on community projects each year.

In Henderson, Texas, MTC is under contract with the Texas Department of Criminal Justice to operate and manage a 1,700-bed Mode II State Jail Facility. Facility operations are nearly identical to those required for the Eagle Mountain facility. Construction at Henderson was completed in 10 months, ahead of schedule, and the facility opened in July 1995 as the Bradshaw State Jail.

The community began to benefit economically even before the facility opened. More than \$500,000 was spent locally on furniture, supplies, and labor just to prepare for start-up. Annually the facility spends about \$1 million for food and \$1.5 million for utilities. Soon after Bradshaw opened, inmates participated in a pilot project of community service by painting



## Corrections Capability Statement

Management & Training Corporation

buildings at a local school, saving the school district more than \$10,000. Inmates also benefited quickly from the facility's educational program. Within months, more than 500 were enrolled in GED classes, and the first group to take their GED test passed at a 95 percent rate.

In July 1994, Utah took its first step into privatized corrections by awarding MTC with a contract to build and operate a 400-bed pre-release, probation, and parole violator center in Draper. The facility provides short-term programming in a secure setting for inmates who are serving the final 90 days of their sentence. Promontory gives the inmates educational programs including substance abuse treatment, literacy and life skills courses, family counseling, individual and group therapy, employment searches, and job skills assessment. Inmates showed a strong work ethic by landscaping the grounds at the facility's entrance. Their effort earned the 1995 Salt Lake Tribune Civic Beautification Award.

MTC began the operation of the Garza County Juvenile Detention Center in November 1997. The center holds up to 48 male and female juveniles, ages 10 to 17. MTC provides a full range of services, as well as programming and educational opportunities, for the youths placed in the center which meet or exceed the standards set by the State of Texas. The center provides transportation from the youth's county of detention or conviction to the center as well as transportation back to the county upon release.

### **E. Current Contracts**

Please see Figure 2 for contractual data for the operation of the Eagle Mountain, Marana, Bradshaw, and Promontory correctional facilities, Garza County Juvenile facility, as well as for Job Corps centers and GSA facilities.

**Comparing the Cost and Performance of  
Public and Private Prisons in Arizona**

*prepared by*

**Charles W. Thomas, Ph.D.  
Principal Investigator**

*for the*

**Arizona Department of Corrections**

**August 1, 1997**

# **Comparing the Cost and Performance of Public and Private Prisons in Arizona**

## **Executive Summary**

The Arizona Department of Corrections awarded a three-year contract to the Ogden, Utah-based Management and Training Corporation in 1993. The contract provided for the design, construction, operation, and private ownership of a 450-bed, dual gender, Level Two (i.e., minimum security) state prison now known as the Marana Community Correctional Treatment Facility. Marana first received prisoners on October 7, 1994. Under the statutory language in effect at the time of the contract award, the Department was precluded from approving any renewal of the Marana contract absent evidence of either (a) costs below those of comparable state-operated prisons with services of a quality equivalent to those of the state-operated prisons or (b) costs equal to those of comparable state-operated prisons with services of a quality superior to the state-operated prisons.

This report was prepared by Dr. Charles W. Thomas. He was chosen to be the Principal Investigator of the research project on the basis of his recognized expertise and the evaluation of his and other responses to a request for proposals that was issued by the Department in 1996. The primary goal of the research, which was based on qualitative and quantitative data made available by the Department and the Management and Training Corporation, was for properly documented conclusions to be reached regarding the comparative operating costs and performance of fifteen state-operated Level Two prisons and the Marana Community Correctional Treatment Facility.

The Department, the Management and Training Corporation, and Dr. Thomas were aware from the beginning of this study that policy decisions made by the Arizona Legislature and the Department prior to the commencement of delivery of services at Marana had negated the possibility of what is commonly referred to as an "apples-to-apples comparison." There are fundamental differences between the contractual obligations, the design, the prisoner population profile, and the programs of Marana and all state-operated Level Two prisons. At the same time, both as a

reflection of legal requirements then in place and as a consequence of a policy decision made by the Department, a comparative study was deemed to be necessary and proper.

The report, which is divided into six chapters, has three focal points: a detailed overview of the history, present status, and prior research pertaining to correctional privatization (see Chapters II and III); a detailed comparison of Marana operating costs for FY 1995-96 with the operating costs of the fifteen state-operated Level Two prisons (see Chapter IV); and a similarly detailed, multi-dimensional comparison of the quality of correctional services at Marana and the fifteen state-operated prisons (see Chapter V). Additionally, a comprehensive bibliography of publications on correctional privatization which is international in its scope is included in the report (see Appendix B).

As set forth in greater detail in Chapter VI of the report, the major conclusions of the comparative research are as follows.

*Conclusion #1: Beginning by the late 1980s, the appeal of the full-scale privatization by local, state, and federal agencies in the United States and subsequently by correctional agencies outside of the United States began to accelerate. The awards provide for the private management of facilities housing prisoners with all security classifications and range in size to prisons with rated capacities in excess of 2,000 beds.<sup>1</sup>*

*Conclusion #2: A growing body of research on the ability of correctional privatization to yield operating cost savings published by academic researchers and government agencies supports the hypothesis that operating cost savings in the range of 10-20 percent are common.<sup>2</sup>*

*Conclusion #3: Although performance audits have identified individual privatized facilities within which performance was deemed to have fallen below contractual requirements, the far more common finding has been that the performance of contract vendors has been equivalent or superior to that of government agencies.<sup>3</sup>*

*Conclusion #4: There is a high risk that operating cost and performance comparisons of the Marana Community Correctional Treatment Facility could yield misleading results because there is no state-operated prison in Arizona that, for example, houses a substantially similar prisoner population or has a substantially similar programmatic mission.<sup>4</sup>*

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<sup>1</sup> For additional detail, see Chapters II and III.

<sup>2</sup> For additional detail, see Chapter III.

<sup>3</sup> For additional detail, see Chapter III.

<sup>4</sup> For additional detail, see Chapters III and IV.

*Conclusion #5: During FY 1995-96 the average operating costs for state-operated Level Two prisons was \$15,766 per prisoner per year or \$43.08 per prisoner per day. The comparable figures for the Marana Community Correctional Treatment Facility, exclusive of any adjustment for payments by the Management and Training Corporation for ad valorem property taxes, were \$13,590 and \$37.13. This represents an operating cost savings of 13.80 percent.<sup>5</sup>*

*Conclusion #6: During FY 1995-96 the average operating costs for state-operated Level Two prisons was \$15,766 per prisoner per year or \$43.08 per prisoner per day. The comparable figures for the Marana Community Correctional Treatment Facility, inclusive of an adjustment for payments by the Management and Training Corporation for ad valorem property taxes, were \$13,140 and \$35.90. This represents an operating cost savings of 16.66 percent.*

*Conclusion #7: The performance comparison on the dimension of protecting the public safety interest as measured by the frequency of escapes, major disturbances, and injuries caused to visitors revealed that the record for the Marana Community Correctional Treatment Facility was superior to that of the state-operated Level Two prisons.<sup>6</sup>*

*Conclusion #8: The performance comparison on the dimension of protecting staff and prisoners from the risk of personal injury or death caused by homicide, battery, assault, and arson revealed that the record of the Marana Community Correctional Treatment Facility was superior to that of the state-operated Level Two prisons.<sup>7</sup>*

*Conclusion #9: The performance comparison on the dimension of educational, treatment, and work programs resulted in a best professional judgment that the dissimilarities between the programs offered at the Marana Community Correctional Treatment Facility and those found at the state-operated Level Two prisons were so great that no fair comparative conclusions could or should be reached.<sup>8</sup>*

*Conclusion #10: The performance comparison on the dimension of compliance with professional standards as measured by routine Department performance audits, litigation initiated by either prisoners or staff members, inmate grievances, and compliance with in-service training requirements for staff members revealed that the overall record of the Marana Community Correctional Treatment Facility was superior to that of the state-operated Level Two prisons.<sup>9</sup>*

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<sup>5</sup> For additional detail, see Chapter IV and Appendix A.

<sup>6</sup> For additional detail, see Chapter V and Appendix A.

<sup>7</sup> For additional detail, see Chapter V and Appendix A.

<sup>8</sup> For additional detail, see Chapter V and Appendix A.

<sup>9</sup> For additional detail, see Chapter V and Appendix A.

*Conclusion #11: A balanced consideration of the entire set of individual performance indicators revealed that the overall performance record of the Marana Community Correctional Treatment Facility was superior to that of the state-operated Level Two prisons.*

*Conclusion #12: Notwithstanding the conclusion that, when compared with all state-operated Level Two prisons, the operating cost savings associated with the Marana contract were no less than 13.80 percent and very probably somewhat greater than 16.66 percent, it was found that some state-operated prisons had achieved greater operating cost economies than had Marana when individual state-operated prison operating costs were compared with the aggregate operating costs of all state-operated Level Two prisons.<sup>10</sup>*

*Conclusion #13: Notwithstanding the conclusion that, when compared with all state-operated Level Two prisons, the quality of performance at Marana was superior to that of the state-operated prisons, it was found that one or more individual state-operated prisons had performance records that were equivalent or superior to that of Marana.<sup>11</sup>*

In summary, and notwithstanding detailed discussions of the limitations of this research that are fully discussed in the body of the report, the study concludes that, in comparison with the state-operated Level Two prisons now in operation in Arizona, the Department has achieved meaningful cost savings by the award of the Marana contract and has received correctional services equivalent or superior to those provided by state-operated Level Two prisons.

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<sup>10</sup> For additional detail, see Chapter IV and Appendix A.

<sup>11</sup> For additional detail, see Chapter V and Appendix A.

A M E N D M E N T

(1)

OFFERED IN THE HOUSE

TO: CSHB 53( ), Draft Version "T"

- 1 Page 2, following line 20:
- 2       Insert a new paragraph to read:
- 3               "(2) the agreement to lease must provide a fixed rate per bed each day,
- 4 adjusted annually during the term of the lease according to an appropriate price index as
- 5 specified in the lease; the fixed rate per bed each day for the first year must include all
- 6 capital and operating costs and may not exceed \$70 per bed each day;"
  
- 7 Renumber the following paragraph accordingly.

## Letter of Intent 2

It is the intent of the Legislature that the contract signed pursuant to the authority provided in HB 53 should require that:

1. The prison meet American Correctional Association standards;
2. Guards employed in the prison meet the same training standards that are required of prison guards in AS 18.65.130 - 18.65.290;
3. The contract between the City of Delta Junction and the prison operating entity should be for durations of no longer than five years. It may be renewable; and
4. The contract for operation of the facility provide for the removal of the contractor for non performance.

## Letter of Intent \

It is the intent of the Legislature that the contract signed pursuant to the authority provided in HB 53 should require that:

1. The prison meet American Correctional Association standards;
2. Guards employed in the prison meet the same training standards that are required of prison guards in AS 18.65.130 - 18.65.290;
3. The contract between the City of Delta Junction and its contractor be in two parts. One contract should be for the use of the prison facility and should be 20 years in duration. The other contract should be for operation of the prison and should be for durations of no longer than five years. It may be renewable; and
4. The contract for operation of the facility provide for the removal of the contractor for non performance.

0-LS0194\T  
Luckhaupt  
2/5/98

**CS FOR HOUSE BILL NO. 53( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE MULDER**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the power of municipalities to provide for the confinement**  
2 **and care of prisoners; relating to authorizing the Department of Corrections to**  
3 **enter into an agreement to lease facilities for the confinement and care of**  
4 **prisoners with the City of Delta Junction; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **\* Section 1. AS 29.35.010 is amended by adding a new paragraph to read:**

7 (15) provide facilities or services for the confinement and care of  
8 prisoners and enter into agreements with the state, another municipality, or any person  
9 relating to the confinement and care of prisoners.

10 **\* Sec. 2. AS 29.35.020(a) is amended to read:**

11 (a) To the extent a municipality is otherwise authorized by law to exercise the  
12 power necessary to provide the facility or service, the municipality may provide  
13 facilities for the confinement and care of prisoners, parks, playgrounds, cemeteries,  
14 emergency medical services, solid and septic waste disposal, utility services, airports,

1 streets (including ice roads), trails, transportation facilities, wharves, harbors and other  
2 marine facilities outside its boundaries and may regulate their use and operation to the  
3 extent that the jurisdiction in which they are located does not regulate them. A  
4 regulation adopted under this section must state that it applies outside the municipality.

5 \* **Sec. 3. AUTHORIZATION TO LEASE CORRECTIONAL FACILITY SPACE WITH**  
6 **THIRD-PARTY CONTRACTOR OPERATION.** (a) To relieve overcrowding of existing  
7 correctional facilities within the state and the extensive use of out-of-state correctional  
8 facilities to house Alaska inmates, the Department of Corrections may enter into an agreement  
9 with the City of Delta Junction to lease space within a correctional facility on the deactivated  
10 Fort Greely military reservation that will house persons who are committed to the custody of  
11 the commissioner of corrections. The agreement must provide that the state agrees to lease  
12 the space for a minimum of 20 years.

13 (b) The agreement to lease entered into under this section is predicated on and must  
14 provide for an agreement between the City of Delta Junction and a private third-party  
15 contractor under which the private third-party contractor operates the facility by providing for  
16 custody, care, and discipline services for persons held by the commissioner of corrections  
17 under authority of state law.

18 (c) The authorization given by (a) of this section is subject to the following  
19 conditions:

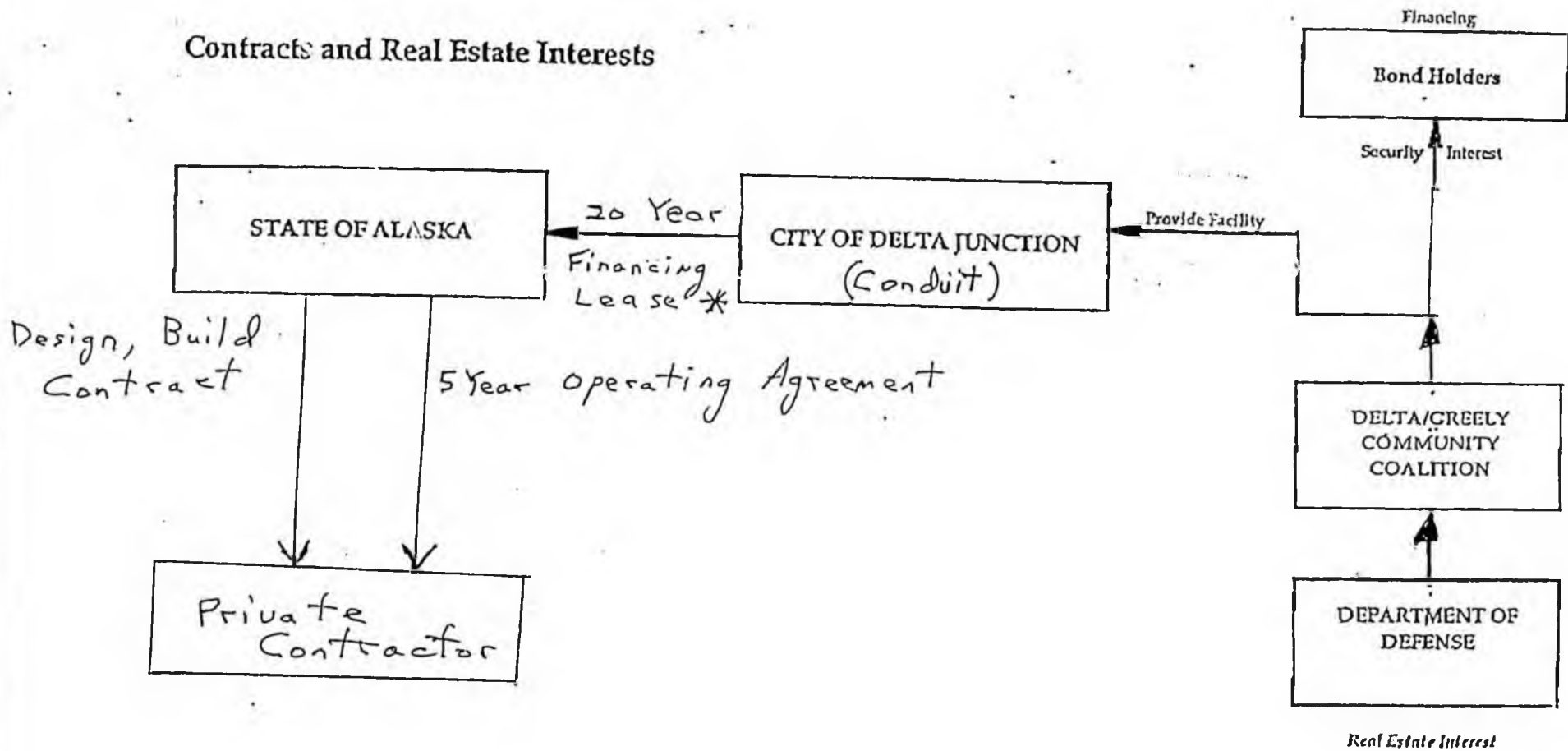
20 (1) the lease must provide a minimum of 800 prison beds;

21 (2) the agreement to lease must contain terms providing that the commissioner  
22 of corrections may terminate for cause a contract with a private third-party contractor  
23 operating the facility in accordance with the provisions of (b) of this section.

24 \* **Sec. 4. APPLICABILITY.** The provisions of AS 33.30.031(a) and (c) do not apply to  
25 an agreement to lease a correctional facility in accordance with the provisions of sec. 3 of this  
26 Act.

27 \* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

Contracts and Real Estate Interests



\*(The State will own the Facility at the end of 20 years, when the debt has been paid off.)



**Delta/Greely Community Coalition**

P.O. Box 780

Delta Junction, Alaska 99737

Delta Junction City Council  
Delta/Greely School District  
Delta Chamber of Commerce  
Delta Community Corporation  
Delta Chapter, Farm Bureau  
Retired Military/Civilian Representative  
Civil Service Representative



Jim Carlstrom, President  
Doris Fales, Vice-Pres.  
David Durham, Sec./Treas.  
Tel: 907-895-1081  
907-895-4091  
FAX: 907-895-4219

February 5, 1998

Senator Georgianna Lincoln  
State Capitol, Room 11  
Juneau, Alaska 99801-1182

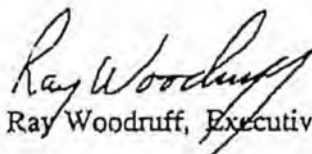
Dear Senator Lincoln,

Several issues have been raised that need clarification. On the attached document, I have outlined the correct information on the issues being raised.

I would appreciate your assistance in making sure the appropriate legislators have this information. I do have backup data and proof for each of the issues.

Thank you for your assistance on this matter.

Sincerely,

  
Ray Woodruff, Executive Director

## ISSUES RAISED AND CORRECT INFORMATION

**ISSUE 1:** The election that was being questioned was conducted in accordance with Alaska statutes as closely as possible. After the announcement at the public meeting on January 8 that a vote would be held, a flyer was sent by bulk mailing about the vote on January 12. On January 14, another flyer was sent which also contained the absentee ballot. The vote was held on January 17. The Delta Precinct Election Official, Mrs. Loretta Schooley, conducted the election in a way so that there could be no question of any wrongdoing. While some comments have been made about "being allowed to register and vote the same day" this was done in an attempt to be fair for everyone. There were 37 of these ballots and since this was a non binding opinion vote, this was appropriate.

A total of 1036 ballots were cast including absentee ballots. There were 910 people who voted in person, (218 from the Delta Junction Precinct and 910 from the Big Delta Precinct) and 139 absentee ballots cast. Of the absentee ballots cast, 13 were not counted. Two yes ballots were from people who submitted an absentee ballot and voted in person, one more who voted no but did not provide the information necessary to determine eligibility to vote and 10 who were not registered to vote. Of the 10 who were not registered 5 were yes, 4 were no and one had no vote.

In response to the issue of people did not have an opportunity to vote, this turnout exceeded all but the national/state elections. In the last two national/state elections, 1992 saw 1393 ballots cast (this included 152 military and others voting questioned ballots) and in 1996 there were 1260 ballots cast including 44 questioned ballots. This issue drew 1036 counted votes where the local elections in 1996 and 1997 drew only 440 and 318 votes respectively. This vote drew more people than both years combined. The voters have approved the project and it should go forward.

**ISSUE 2:** The contract is going too fast and no research is being done about finding other options. The search for reusers and reuses of Fort Greely began in May of 1995. We have contacted UAF, UAA, CTC, vocational schools, the Seventh Day Adventists, all federal and state agencies, Ford, Chrysler, General Motors and testing and research organizations. The effort was extensive and while some small users were identified, no user which could provide the synergism to pull all the smaller entities together was identified. In 1997, the Office of Economic Adjustment (OEA) said they would not approve the complete feasibility study and reuse planning project we had proposed. They did not feel, and not without some justification, that we had identified enough reuse to be viable. They agreed to the feasibility studies and agreed to make a decision when the feasibility studies were complete, about finishing the Reuse Plan and Implementation Plan. When provided with the proposal for a prison, in late December, they agreed that we have a reuse and will fund us through the Conveyance process. **Without an anchor tenant, such as this proposal provides, we would have not been able to continue and our funding would have ceased at the end of February.** This would have meant that the property would have been disposed of through the GSA. The community would have had no opportunity to use it unless it was purchased by some business for fair market value.

The lease agreement has been reviewed in detail by a committee of the Coalition and has not been fast tracked. The rewrite of the document is now being done by the Coalition's lawyer, who has also reviewed it, and the changes have been forwarded to Allvest's lawyer. This is moving quickly but surely and an agreement will be prepared for signature within a short time.

### Public Involvement in the Delta Area Economic Development Planning

1. The process began in March, 1995 with the announcement of the impending realignment of Fort Greely. We made a conscious effort from the beginning to involve and inform the public. At the outset, we had approximately 10 public meetings not counting regular Coalition meetings, to develop possibilities and visions for the future for the Delta area. These were announced in the local paper and by flyers. Participation at these meetings ranged up to 200.
2. We continued to try to get public involvement in the process from then on and had a public meeting approximately every quarter. Public involvement and interest diminished over the long term, however.
3. All Coalition meetings have been open to the public.
4. At least 46 articles were written for the local paper since we began and published asking for input, announcing meetings, asking for people to get involved and in general soliciting public input to the process. When considering that the local paper is only published twice a month, most of the time, significant effort has been made to keep the public informed and involved.
5. An announcement was put in the local paper about the meeting on December 16 at which our consultants were to brief the results of their work on the planning and which indicated the prison possibility was being reviewed.
6. A public meeting was held on January 8 to provide the public with information on the specific proposal made by Allvest at which approximately 300 people attended.
7. At the January 8 meeting, it was announced that there would be a vote on the issue and another meeting on January 15 would allow for public input to the Board on the proposal.
8. On January 12, an announcement of the vote was made by bulk mailing and on January 14 another announcement was made by bulk mailing which also contained the absentee ballot.
9. On January 17, the people of the Delta area voted overwhelmingly, 640 to 396, to support the prison proposal with Allvest. It should be noted that this is the highest voter turnout for any local issue except the State/National elections. In fact, the turnout was more than the combined total of local elections for the last two years which only drew 758 voters total. Now that the naysayers have gotten the vote they demanded and lost, they are not accepting what the community wants, and has voted for, and only want their way. That is not the democratic way. We have had the vote and the community has spoken.

AMERICAN FEDERATION OF GOVERNMENT  
EMPLOYEES  
AFL-CIO LOCAL 1949 FORT GREELY  
P.O. BOX 1307  
DELTA JUNCTION, AK 99737

.....

# AFGE Local # 1949

January 28, 1998

Honorable Tony Knowles  
Office of the Governor  
Third Floor State Capitol  
120 4<sup>th</sup> Street  
Juneau, Alaska 99811-0001

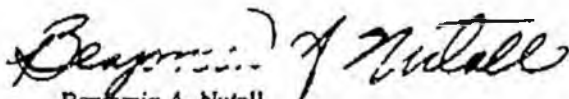
Governor Knowles,

Union Local 1949 wishes to make a "statement of position" regarding the reutilization of Ft. Greely.

It has come to our attention that the current Allvest proposal to build a prison at Ft. Greely would require an accelerated military draw-down and prematurely displace civilian employees at Ft. Greely. Based upon the accelerated schedule and impending early displacement of the civilian workforce we cannot support the Allvest proposal.

Union Local 1949 will support any reutilization plan as long as the stated BRAC timelines of July 2000 and July 2001 are not accelerated. Union Local 1949 wishes to reiterate that it does not support any proposal or plan that entails an early draw-down of military or civilian employees.

Sincerely,



Benjamin A. Nutall  
President, Local 1949  
Fort Greely, Alaska

.....

Local 1949, AFGE

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
AFL-CIO LOCAL 1949 FORT GREELY  
P.O. Box 1307  
Delta Junction, AK 99737  
(907) 873-3726 or 3727

January 20, 1998

Governor Tony Knowles  
Office of the Governor  
Third Floor, State Capitol  
120 4th Street  
Juneau, AK 99811-0001

Dear Governor Knowles,

As the President of AFGE Local 1949 the representative of Fort Greely employee bargaining units both union and nonunion employees. This letter is written in support of the Allvest Inc. proposal to have an operation correctional facility at Fort Greely by January 2000 as part of the reuse plan of Fort Greely.

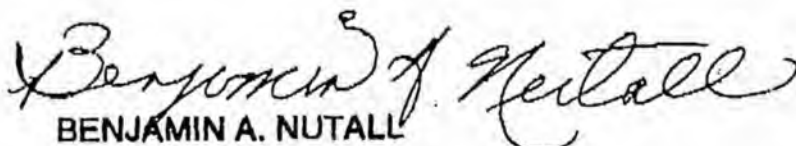
We support this proposal using the current BRAC timeline to downsize the workforce FY 2000 and 2001. The Allvest Inc. proposal would:

1. Help with the reuse of Fort Greely which would provide a better economic base and jobs to the Delta/Fort Greely community after the downsizing of the Fort Greely workforce.

2. The Allvest Inc. proposal would give another option to displaced employees who would like to remain in the Delta/Fort Greely area to live and not have to sell their homes and move to another location.

As a union local who is about to loose 75% of it's members and friends due to the BRAC downsizing I thank you for your support.

Sincerely,

  
BENJAMIN A. NUTALL

President

0-LS01'04R

Luckaupt

1/19/98

**CS FOR HOUSE BILL NO. 53( )****IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTIETH LEGISLATURE - SECOND SESSION****BY****Offered:****Referred:****Sponsor(s): REPRESENTATIVE MULDER****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to authorizing the Department of Corrections to enter into an  
2 agreement to lease facilities for the confinement and care of prisoners with the  
3 City of Delta Junction; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1. AUTHORIZATION TO LEASE CORRECTIONAL FACILITY SPACE**  
6 **WITH THIRD-PARTY CONTRACTOR OPERATION.** (a) To relieve overcrowding of  
7 existing correctional facilities within the state and the extensive use of out-of-state correctional  
8 facilities to house Alaska inmates, the Department of Corrections may enter into an agreement  
9 with the City of Delta Junction to lease space within a correctional facility on the deactivated  
10 Fort Greely military reservation that will house persons who are committed to the custody of  
11 the commissioner of corrections. The agreement must provide that the state agrees to lease  
12 the space for a minimum of 20 years.

13 (b) The agreement to lease entered into under this section is predicated on and must  
14 provide for an agreement between the City of Delta Junction and a private third-party

1 contractor under which the private third-party contractor operates the facility by providing for  
2 custody, care, and discipline services for persons held by the commissioner of corrections  
3 under authority of state law.

4 (c) The authorization given by (a) of this section is subject to the following condition:  
5 the lease must provide a minimum of 800 prison beds.

6 \* **Sec. 2. APPLICABILITY.** The provisions of AS 33.30.031(a) and (c) do not apply to  
7 an agreement to lease a correctional facility in accordance with the provisions of sec. 1 of this  
8 Act.

9 \* **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

# City of Delta Junction

Box 229

Delta Junction, Alaska 99737

907 - 895 - 4656

The North End of the Alaska Highway

November 13, 1997

Representative Eldon Mulder  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Mulder:

The City of Delta Junction and council members would like to show support for the construction of a private prison facility at the Fort Greely Army Post. This endeavor would be an asset to the community in many ways. Not only would the facility create permanent jobs that are needed to replace the jobs lost with the realignment of Fort Greely, but the domino effect on local businesses would help our community's growth.

This business opportunity is a clean environment business and that is certainly an asset to the area. Also, the youth of our area move away to find work as there is little employment opportunities presently here in Delta Junction. This facility would provide a needed diversity of jobs for many personnel from skilled to unskilled crafts. Not only would it generate permanent jobs, but the construction to transform the area to the prison would create even more needed work.

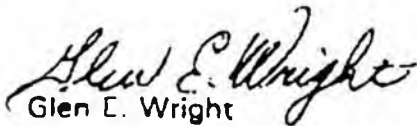
Certainly a plus in this facility is the promptness of the employment it would create. It is predicted that this time next year, the facility would be operational and growing each year to expand to nearly 350 jobs for the area. As you are aware, the Delta Junction area has been effected greatly by the realignment of Fort Greely and this proposal would be a boost for our area and residents.

Representative Eldon Mulder  
page 2

If there is anything I can do to help with the support of this facility, please call and let me know. I see this as a bright spot in Delta's future and would like to help you where I can.

Sincerely,

THE CITY OF DELTA JUNCTION

  
Glen E. Wright  
Mayor

cc: Delta Junction Chamber of Commerce



DEPT. OF DEFENSE  
ATTENTION OF:

DEPARTMENT OF THE ARMY

HEADQUARTERS, U.S. ARMY ALASKA  
601 2ND STREET #6008  
FORT GREELY, APO AP 96508-6008



February 3, 1998

Post Commander

Representative Eldon Mulder  
Alaska State Capitol  
Juneau, Alaska 99801

Dear Representative Mulder,

I am writing to you to stress the importance of having a legislative decision by 15 March 1998 on the proposed government to government agreement between the State of Alaska and Delta Junction, Alaska to reuse portions of Fort Greely, Alaska for a correction center.

Reuse of the surplus property generated as a result of the Base Realignment and Closure decision to realign Fort Greely is key to the economic recovery of the Delta Junction community. Additionally, the Army must plan and complete environmental remediation of the property based on the planned redevelopment. In order to complete the environmental remediation prior to the property transfer required in the correction center proposal, a redevelopment plan must be completed and approved on or about 15 March 1998. The Delta/Greely Community Coalition, as the Local Redevelopment Authority recognized by the Governor and the Office of Economic Adjustment, is the agency responsible for preparing a Redevelopment plan. The Delta/Greely Community has a deadline of 15 March 1998 to have a redevelopment plan completed and approved locally. The 15 March 1998 completion date is an extension of a 15 October 1997 requirement to complete the Fort Greely, Alaska redevelopment plan.

On or about 15 March 1998 the potential for reuse of Fort Greely will be evaluated by the Delta/Greely Community Coalition and the Office of Economic Adjustment. The Army will begin pursuing alternate methods of disposal if either organization determines that reuse of Fort Greely by the Delta/Greely Community Coalition is not feasible.

The Army is committed to the economic redevelopment of the Fort Greely/Delta Junction community. I look forward to our continued work together to bring about economic recovery to this area.

Yours truly,

David L. Anderson  
Lieutenant Colonel, U.S. Army  
Post Commander

# Alaska State Legislature



## House of Representatives House Judiciary Committee

State Capitol, Room 120  
Juneau, Alaska 99801-1182  
(907) 465-4990

Chairman: Representative Joe Green  
Vice-Chairman: Representative Con Bunde

Representative Ethan Berkowitz  
Representative Eric Croft  
Representative Jeannette James  
Representative Brian Porter  
Representative Norman Rokeberg

Date: April 3, 1997

To: Representatives Mark Hanley and Gene Therriault,  
Co-Chairs of the House Finance Committee

From: Representative Joseph Green,  
Chair, House Judiciary Committee

Yesterday the House Judiciary Committee passed HB53 out of committee with amendments. We considered many amendments including two, designated 0-LS0194\K.35 and 36, that concerned financial matters. However, the committee did not act on those two amendments because the House Judiciary members felt they were best addressed in the House Finance Committee.

Accordingly, I have attached those two amendments, and we strongly encourage the House Finance Committee to give them due consideration.

# A

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 53

1 Page 1, line 8:

2 Delete "and giving notice of"

3 Insert "giving notice of, authorizing,"

4 Page 1, line 10:

5 Delete ", construction, and"

6 Insert "and construction of a correctional facility, authorizing an agreement for  
7 the"

8 Page 1, line 11, following "operation":

9 Insert "; and amending the duties and responsibilities of the state bond committee  
10 in conjunction with lease-purchase agreements, use-purchase agreements, and other  
11 agreements to use a facility as those agreements relate to correctional facilities"

12 Page 2, line 9:

13 Delete "that"

14 Insert "for the operation of a correctional facility if the agency"

15 Page 3, following line 25:

16 Insert a new bill section to read:

17 **\*\* Sec. 3.** AS 37.15.140 is amended to read:

18 **Sec. 37.15.140. Duties of state bond committee.** The state bond committee  
19 shall

20 (1) adopt the resolution and prepare the documents necessary for the  
21 issuance, sale, and delivery of bonds;

1                                   **(2) manage the interim and long-term financing and refinancing**  
 2                                   **of correctional facilities acquired by the state through lease-purchase agreements;**  
 3                                   **exercise of authority under this paragraph shall be in accordance with lease-**  
 4                                   **purchase agreements authorized by law under AS 36.30.085."**

5    Renumber the following bill sections accordingly.

6    Page 4, line 27:

7           Delete "sec. 4"

8           Insert "sec. 5"

9    Page 5, line 3, following "facilities,":

10           Insert "the state, acting through"

11   Page 5, line 6, following "design":

12           Delete ", construction, and operation"

13           Insert "and construction"

14   Page 5, line 7, following "corrections":

15           Insert ", and, in conjunction with the design and construction of the correctional  
 16    facility, may enter into a separate agreement to operate the correctional facility. Under this  
 17    subsection, the Department of Administration may act as the lessee under the lease-purchase  
 18    agreement of the correctional facility and may represent the state in obtaining and entering  
 19    into the agreement to operate the correctional facility"

20   Page 5, line 8:

21           Delete "(b) - (e) and (g)"

22           Insert "(b) - (h)"

23   Page 5, line 12:

24           Delete "agreement"

25           Insert "lease-purchase agreement, use-purchase agreement, or other agreement to use

1 a facility"

2 Page 5, line 14:

3 Delete "Department of Corrections under the lease or use"

4 Insert "state under the"

5 Page 5, line 29:

6 Delete "lease-purchase or use-purchase agreement"

7 Insert "agreement to operate the correctional facility"

8 Page 5, line 31, through page 6, line 1:

9 Delete "designed, constructed, and"

10 Page 6, lines 2 - 4:

11 Delete "the agreement described in this subsection is made for the purpose of  
12 acquiring, improving, and maintaining the correctional facility structure under AS 36.30.085,  
13 and is exclusive of one or more agreements"

14 Insert "the agreement described in this paragraph is made for the purpose of operating  
15 and maintaining the correctional facility under AS 36.30.085 and may include provisions, or  
16 may be exclusive of one or more agreements, as authorized by (?) of this subsection,"

17 Page 6, line 6:

18 Delete "operating"

19 Page 6, lines 26 - 27:

20 Delete all material and insert:

21 "(f) With respect to a correctional facility, the design and construction of which is  
22 described in (a) of this section,

23 (1) the state shall make lease payments under the lease-purchase, use-  
24 purchase, or other agreement to use a facility only from currently appropriated funds, and all  
25 payments are subject to appropriation;

26 (2) notwithstanding AS 36.30.085(c)(1), the term of the agreement may not

1 exceed 30 years;

2 (3) the agreement may include other terms and conditions agreed upon by the  
3 parties;

4 (4) the state may enter into contracts for credit enhancement of the agreement  
5 in order to limit the recourse of the provider of credit enhancement solely to the security  
6 provided under the agreement;

7 (5) the state may grant a security interest in property acquired under the  
8 agreement; the security interest may be perfected as provided by AS 45.01 - AS 45.09 or as  
9 otherwise provided by law for perfecting liens on real estate;

10 (6) the agreement and contracts for credit enhancement entered into under the  
11 limitations set out in (4) and (5) of this subsection do not constitute a debt or the contracting  
12 of indebtedness under a statute limiting debt of the state or under art. IX, sec. 8, of the state  
13 constitution;

14 (7) the state bond committee

15 (A) may provide for the issuance of certificates of participation in  
16 financing the design and construction of the correctional facility authorized by this  
17 section; if the state bond committee authorizes issuance of certificates of participation  
18 and if payment is conditioned upon payment by the state under the agreement with  
19 respect to which the certificates relate, the certificates of participation in payments to  
20 be made under the agreement do not constitute a debt or the contracting of an  
21 indebtedness under a statute limiting the debt of the state or under art. IX, sec 8, of  
22 the state constitution;

23 (B) may give the state approval to enter into agreements with trustees  
24 relating to the agreement and the issuance of certificates of participation with respect  
25 to it.

26 (g) For the purposes of financing or refinancing a correctional facility described in  
27 this section, the lessor may assign all or a part of the lessor's interest in the lease-purchase,  
28 use-purchase, or other agreement to use a correctional facility described in this section. The  
29 lessor may assign the lessor's interest to an investor or to a trustee for the purpose of issuing  
30 certificates of participation. The assignment authorized by this subsection may be for the  
31 purpose of providing interim financing preparatory to long-term financing for the correctional  
32 facility or for long-term financing for the correctional facility. Under this subsection,

1 (1) the lessor may not make an assignment of the agreement unless the lessor  
2 first obtains the approval of the commissioner of administration; and

3 (2) when the lessor has made an assignment of the agreement,

4 (A) the lessee's obligation to pay rent is independent of any  
5 requirement of this section with respect to the design, construction, or operation of the  
6 correctional facility;

7 (B) the lessee's obligation is subject to failure by the state to  
8 appropriate money to make the payments required by the lease obligation;

9 (C) except as provided in (B) of this paragraph, the obligation of the  
10 lease is not subject to abatement, set-off, or reduction of any kind by reason of a  
11 requirement of this section or by reason of a breach, failure of performance, or  
12 another act or omission by the contractor, lessor, the state, or a state agency or officer;  
13 and

14 (D) the agreement may be modified for purposes of refunding it and  
15 any certificates of participation issued with respect to it."

16 Reletter the following subsection accordingly.

17 Page 6, line 30:

18 Delete "sec. 3"

19 Insert "sec. 4"

20 Page 7, following line 1:

21 Insert a new subsection to read:

22 "(i) Subsection (a) of this section constitutes the notice and approval required by  
23 AS 36.30.085."

24 Page 7, line 9:

25 Delete "sec. 4"

26 Insert "sec. 5"

#B

A M E N D M E N T

#7

OFFERED IN THE HOUSE

TO: HB 53

1 Page 5, line 8:

2 Delete "(b) - (e) and (g)"

3 Insert "(b) - (g)"

4 Page 6, lines 26 - 27:

5 Delete all material and insert:

6 "(f) With respect to the operation of a correctional facility constructed under a lease-  
7 purchase agreement, use-purchase agreement, or other agreement to use a facility approved  
8 under this section, the Department of Administration may not enter into a management  
9 contract or similar agreement containing a condition relating to the operation of the  
10 correctional facility that does not comply with 26 U.S.C. 145(a)(2)(B) and 26 CFR 1.145 -  
11 2, as set out in Rev. Proc. 97 - 13, 5 I.R.B. 18, setting out the conditions under which a  
12 management contract does not result in taxable private business use of the facility under  
13 26 U.S.C. 141(b)."

14 Page 7, following line 1:

15 Insert a new subsection to read:

16 "(h) Subsection (a) of this section constitutes the notice and approval required by  
17 AS 36.30.085."

#C

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 53

1 Page 1, line 8:

2 Delete "and giving notice of"

3 Insert "giving notice of, authorizing,"

4 Page 1, line 10:

5 Delete ", construction, and"

6 Insert "and construction of a correctional facility, authorizing an agreement for  
7 the"

8 Page 1, line 11, following "operation":

9 Insert "; and amending the duties and responsibilities of the state bond committee  
10 in conjunction with lease-purchase agreements, use-purchase agreements, and other  
11 agreements to use a facility as those agreements relate to correctional facilities"

12 Page 2, line 9:

13 Delete "that"

14 Insert "for the operation of a correctional facility if the agency"

15 Page 3, following line 25:

16 Insert a new bill section to read:

17 "\* Sec. 3. AS 37.15.140 is amended to read:

18 Sec. 37.15.140. Duties of state bond committee. The state bond committee  
19 shall

20 (1) adopt the resolution and prepare the documents necessary for the  
21 issuance, sale, and delivery of bonds;

1                                   **(2) manage the interim and long-term financing and refinancing**  
 2                                   **of correctional facilities acquired by the state through lease-purchase agreements;**  
 3                                   **exercise of authority under this paragraph shall be in accordance with lease-**  
 4                                   **purchase agreements authorized by law under AS 36.30.085."**

5    Renumber the following bill sections accordingly.

6    Page 4, line 27:

7           Delete "sec. 4"

8           Insert "sec. 5"

9    Page 5, line 3, following "facilities,":

10           Insert "the state, acting through"

11   Page 5, line 6, following "design":

12           Delete ", construction, and operation"

13           Insert "and construction"

14   Page 5, line 7, following "corrections":

15           Insert ", and, in conjunction with the design and construction of the correctional  
 16   facility, may enter into a separate agreement to operate the correctional facility. Under this  
 17   subsection, the Department of Administration may act as the lessee under the lease-purchase  
 18   agreement of the correctional facility and may represent the state in obtaining and entering  
 19   into the agreement to operate the correctional facility"

20   Page 5, line 8:

21           Delete "(b) - (e) and (g)"

22           Insert "(b) - (h)"

23   Page 5, line 12:

24           Delete "agreement"

25           Insert "lease-purchase agreement, use-purchase agreement, or other agreement to use"

1 a facility"

2 Page 5, line 14:

3 Delete "Department of Corrections under the lease or use"

4 Insert "state under the"

5 Page 5, line 29:

6 Delete "lease-purchase or use-purchase agreement"

7 Insert "agreement to operate the correctional facility"

8 Page 5, line 31, through page 6, line 1:

9 Delete "designed, constructed, and"

10 Page 6, lines 2 - 4:

11 Delete "the agreement described in this subsection is made for the purpose of  
12 acquiring, improving, and maintaining the correctional facility structure under AS 36.30.085,  
13 and is exclusive of one or more agreements"

14 Insert "the agreement described in this paragraph is made for the purpose of operating  
15 and maintaining the correctional facility under AS 36.30.085 and may include provisions, or  
16 may be exclusive of one or more agreements, as authorized by (2) of this subsection,"

17 Page 6, line 6:

18 Delete "operating"

19 Page 6, lines 26 - 27:

20 Delete all material and insert:

21 "(f) With respect to a correctional facility, the design and construction of which is  
22 described in (a) of this section,

23 (1) the state shall make lease payments under the lease-purchase, use-  
24 purchase, or other agreement to use a facility only from currently appropriated funds, and all  
25 payments are subject to appropriation;

26 (2) notwithstanding AS 36.30.085(c)(1), the term of the agreement may not

1 exceed 30 years:

2 (3) the agreement may include other terms and conditions agreed upon by the  
3 parties:

4 (4) the state may enter into contracts for credit enhancement of the agreement  
5 in order to limit the recourse of the provider of credit enhancement solely to the security  
6 provided under the agreement;

7 (5) the state may grant a security interest in property acquired under the  
8 agreement; the security interest may be perfected as provided by AS 45.01 - AS 45.09 or as  
9 otherwise provided by law for perfecting liens on real estate;

10 (6) the agreement and contracts for credit enhancement entered into under the  
11 limitations set out in (4) and (5) of this subsection do not constitute a debt or the contracting  
12 of indebtedness under a statute limiting debt of the state or under art. IX, sec. 8, of the state  
13 constitution;

14 (7) the state bond committee

15 (A) may provide for the issuance of certificates of participation in  
16 financing the design and construction of the correctional facility authorized by this  
17 section; if the state bond committee authorizes issuance of certificates of participation  
18 and if payment is conditioned upon payment by the state under the agreement with  
19 respect to which the certificates relate, the certificates of participation in payments to  
20 be made under the agreement do not constitute a debt or the contracting of an  
21 indebtedness under a statute limiting the debt of the state or under art. IX, sec 8, of  
22 the state constitution;

23 (B) may give the state approval to enter into agreements with trustees  
24 relating to the agreement and the issuance of certificates of participation with respect  
25 to it.

26 (g) For the purposes of financing or refinancing a correctional facility described in  
27 this section, the lessor may assign all or a part of the lessor's interest in the lease-purchase,  
28 use-purchase, or other agreement to use a correctional facility described in this section. The  
29 lessor may assign the lessor's interest to an investor or to a trustee for the purpose of issuing  
30 certificates of participation. The assignment authorized by this subsection may be for the  
31 purpose of providing interim financing preparatory to long-term financing for the correctional  
32 facility or for long-term financing for the correctional facility. Under this subsection,