


ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9174 HOUSE JUDICIARY

1 AGENCY UNABLE TO PROVIDE A DEGREE OF CUSTODY, CARE, AND  
 2 DISCIPLINE SIMILAR TO THAT REQUIRED BY THE LAWS OF THIS  
 3 STATE].

4 \* Sec. 2. AS 33.30 is amended by adding a new section to article 1 to read:

5 **Sec. 33.30.043. Lease of or agreement to use space within municipal**  
 6 **correctional facility.** (a) If the commissioner determines that it would be in the best  
 7 interest of the state, the commissioner may enter into an agreement with a municipality   
 8 of the state for the lease by the state of a correctional facility or a part of it or for the  
 9 use and operation of a correctional facility or a part of it for the benefit of the state.

10 (b) An agreement executed by the commissioner under (a) of this section must  
 11 provide that


12 (1) the state has the right to detain or confine a prisoner held under  
 13 authority of law in the correctional facility;

14 (2) the administrator of the correctional facility agrees to implement an  
 15 order concerning a prisoner issued by a court of the state;

16 (3) the administrator of the correctional facility shall comply with the  
 17 law and with regulations adopted by the commissioner relating to the custody, care,  
 18 and discipline of a prisoner detained or confined in the correctional facility; and

19 (4) the commissioner may inspect the correctional facility at any time  
 20 to determine the conditions under which a prisoner is detained or confined.

21 (c) The agreement executed by the commissioner under (a) of this section may  
 22 require the administrator of the correctional facility to comply with requirements that  
 23 the commissioner considers necessary for the protection of the public or for the quality  
 24 of care and programs for prisoners required by this chapter and regulations adopted by  
 25 the commissioner.

26 \* Sec. 3. **AUTHORIZATION TO LEASE, OR FOR USE OF, CORRECTIONAL**  
 27 **FACILITY SPACE WITH THIRD-PARTY CONTRACTOR OPERATION.** (a) To relieve  
 28 overcrowding of existing correctional facilities, the Department of Corrections may enter into   
 29 no more than one agreement to lease space or for use of space within a correctional facility  
 30 that will house persons who are committed to the custody of the commissioner of corrections.  
 31 The agreement to lease or for use entered into under this section is predicated upon and must

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

4 (b) The authorization given by (a) of this section is subject to the conditions of (c)  
5 - (e) of this section and to the further limitation that the total payments for the full term of  
6 the agreement to lease or for use may not exceed \$150,000,000 and the anticipated annual  
7 amount of the rental obligation to be paid by the Department of Corrections under the  
8 agreement to lease or for use must be reasonably commensurate with that total.

9 (c) A lease of space or agreement for use of space authorized by (a) of this section  
10 may not involve a correctional facility that

11 (1) contains a total population of less than 500 or more than 800 prisoners; or

12 (2) is to be operated by the state or a municipality except that the state or a  
13 municipality may operate the correctional facility temporarily if, in a correctional facility that  
14 is to be operated by a third-party contractor with whom the state or a municipality has entered  
15 into an agreement to operate the correctional facility, the private third-party contractor with  
16 whom the state or a municipality has entered into the agreement to operate the correctional  
17 facility defaults in performance under the contract and operation of the correctional facility  
18 by the state or the municipality is reasonably necessary to ensure the facility's continued  
19 operation.

20 (d) If required by the commissioner of corrections as a condition of the correctional  
21 facility's operation, in the award of a contract for the operation of the correctional facility to  
22 be operated under the authorization set out in (a) of this section, the Department of  
23 Corrections shall require that persons employed by the contractor as correctional officers in  
24 the facility meet the requirements of AS 18.65.130 - 18.65.290 that are applicable to  
25 correctional officers.

26 (e) The Department of Corrections may not, under this section, enter into an  
27 agreement to lease space or for the use of space in a correctional facility if, under sec. 4 of  
28 this Act, the Department of Administration, on behalf of the Department of Corrections, enters  
29 into a lease-purchase agreement, use-purchase agreement, or other agreement to use a facility  
30 that has a nominal purchase option.

31 \* Sec. 4. NOTICE AND APPROVAL OF LEASE-PURCHASE AGREEMENT OR

1 SIMILAR USE-PURCHASE AGREEMENT. (a) To provide for the design, construction, and  
 2 operation of a new correctional facility in order to relieve overcrowding of existing  
 3 correctional facilities, the Department of Administration, on behalf of the Department of  
 4 Corrections, may enter into an agreement under AS 33.30.031, in the form of a lease-purchase  
 5 agreement, use-purchase agreement, or other agreement to use a facility that has a nominal  
 6 purchase option, for the design, construction, and operation of a correctional facility that will  
 7 house persons who are committed to the custody of the commissioner of corrections. The  
 8 project approval given by this subsection is subject to the conditions of (b) - (e) and (g) of  
 9 this section and to the following limitations:

10 (1) the anticipated total construction, acquisition, and related costs of  
 11 establishing the correctional facility may not exceed \$90,000,000;

12 (2) the total lease or use payments for the full term of the agreement may not  
 13 exceed \$180,000,000 and the anticipated annual amount of the rental obligation to be paid by  
 14 the Department of Corrections under the lease or use agreement must be reasonably  
 15 commensurate with that total; and

16 (3) at the end of the term of the lease-purchase agreement or use-purchase  
 17 agreement, the state shall own the correctional facility.

18 (b) The correctional facility to be designed, constructed, and operated under the notice  
 19 and approval given in (a) of this section

20 (1) must be designed and constructed so as to house, in separate housing,  
 21 female prisoners and male prisoners;

22 (2) may not contain a total population of more than 1,000 prisoners, but must  
 23 be designed and constructed so as to allow expansion of the facility to a greater capacity; and

24 (3) may not be operated by the state except temporarily when

25 (A) the private third-party contractor with whom the state has entered  
 26 into an agreement to operate defaults in performance under the contract and state  
 27 operation is reasonably necessary to ensure the facility's continued operation; or

28 (B) the state is unable to contract with a private third-party contractor.

29 (c) The lease-purchase or use-purchase agreement entered into under this section must  
 30 provide for

31 (1) an agreement under which the correctional facility is designed, constructed,

1 and, except for services to prisoners described in (2) of this subsection, operated by a private  
2 third-party contractor; the agreement described in this subsection is made for the purpose of  
3 acquiring, improving, and maintaining the correctional facility structure under AS 36.30.085,  
4 and is exclusive of one or more agreements for the custody, care, and discipline of prisoners  
5 housed in the facility as may be authorized by AS 33.30.031(a)(1) and (3);

6 (2) an operating agreement, separate from the agreement described in (1) of  
7 this subsection, under which a private third-party contractor operates the facility by providing  
8 for custody, care, and discipline services for persons held by the commissioner of corrections  
9 under authority of state law; the operating agreement described in this paragraph shall

10 (A) for its initial period, not to exceed five years, be entered into with  
11 a private third-party contractor that is the same person as the third-party contractor  
12 described in (1) of this subsection; and

13 (B) for the duration of the period of the lease-purchase or use-purchase  
14 agreement, be rebid or reoffered at intervals of not more than five years and may be  
15 entered into with a private third-party contractor other than the person described in (A)  
16 of this paragraph.

17 (d) In the evaluation of a bid submitted to construct and operate the correctional  
18 facility described in this section, the Department of Administration may provide incentive to  
19 the maker of a bid that pledges to employ state residents as far as practicable.

20 (e) If required by the commissioner of corrections as a condition of the correctional  
21 facility's operation, in the award of a contract for the operation of the correctional facility to  
22 be designed, constructed, and operated under the notice and approval given in (a) of this  
23 section, the Department of Administration shall require that persons employed by the  
24 contractor as correctional officers in the facility meet the requirements of AS 18.65.130 -  
25 18.65.290 that are applicable to correctional officers.

26 (f) Subsection (a) of this section constitutes the notice and approval required by  
27 AS 36.30.085.

28 (g) The Department of Administration, on behalf of the Department of Corrections,  
29 may not, under this section, enter into a lease-purchase agreement, use-purchase agreement,  
30 or other agreement to use a facility that has a nominal purchase option if, under sec. 3 of this  
31 Act, the Department of Corrections enters into an agreement to lease space or for the use of

*bundling  
clause*

1 space in a correctional facility.

2 \* Sec. 5. CONSTRUCTION OF CORRECTIONAL FACILITY UNDER PROJECT  
3 LABOR AGREEMENT. (a) The purpose of this section is to enable the state to meet its  
4 obligation to improve the care and custody of the prisoners for which it is responsible at an  
5 early date through the completion of construction of a major correctional facility by structuring  
6 labor relations at the job site of the correctional facility in the interests of industrial harmony  
7 and in a way that makes optimal use of construction resources.

8 (b) Notwithstanding any restrictions that may be applicable under AS 36.30, the  
9 correctional facility described in sec. 4 of this Act may be constructed only under a public  
10 construction project labor agreement between the building construction contractor and one or  
11 more building trade unions; the labor agreement must provide

12 (1) a no-strike and no-slowdown pledge by the union or unions;

13 (2) a commitment on the part of the construction contractor to hire through  
14 local union hiring halls; and

15 (3) a provision allowing not more than 15 percent of the construction  
16 contractor's workforce on the public construction project to be composed of persons who are  
17 not members of the union or unions.

18 \* Sec. 6. 22 AAC 05.300(e) is annulled.

DRAFT

DRAFT

## ALASKA'S CORRECTIONS PLAN

<u>LOCATION</u>	<u>NEW BEDS</u>	<u>CONST. COSTS</u>	<u>OP. COSTS</u>
Anchorage (replace 6 <sup>th</sup> Ave. Jail)	260 (400 bed facility)	\$60,000	\$8,076
Palmer (medium security)	221	\$13,050	\$3,763
Hiland Mountain	0 (create women's unit)	\$1,000	0
Mat-Su Pre-Trial	64	\$6,000	\$1,107
Yukon-Kuskokwim (Bethel)	48	\$5,000	\$963
Fairbanks	80	\$10,250	\$2,266
North Slope Borough	50	??	??
Wildwood (Kenai)	149	\$29,200	\$2,111
Spring Creek (Seward)	166-250	\$25,000	\$7,380
Lemon Creek (Juneau)	64	\$9,000	\$1,931
Totals:	1102 - 1186	\$158,500	\$27,597

# ALASKA'S CORRECTIONS PLAN

Three components:

- Limit the number of prisoners going into the "hard bed" system (to the extent that this can be done in a manner that is consistent with public safety)
- Expand the number of "hard beds" to keep up with the growing numbers
- Get the prisoners out of "hard beds" quicker (to the extent that this can be done in a manner that is consistent with public safety)

Pursue expansion options that are:

- Safe
- Statewide (comprehensive)
- Meet regional needs
- Involve community participation (gov't to gov't)
- Cost effective

## MEMORANDUM

**Date:** March 11, 1997  
**To:** Joe Green  
**From:** Lisa Kirsch  
**Re:** **HB 53 --Amendments Revisited**

I have received this afternoon via fax two nearly identical memos from the **South Anchorage Coalition** and **Oceanview/Old Seward Community Council**.

Both organizations request amendments that require:

- 1) A **feasibility study**, including cost benefit analysis that examines various methods for reducing overcrowding;
- 2) **25% cost savings on construction** when compared to state construction of facilities;
- 3) **20% cost savings on operation** as compared with state operation of facilities;
- 4) **Housing of Alaska prisoners only**; and
- 5) a provision for **State operation of a facility** when
  - a) the operator defaults and state operation is necessary or,
  - b) the state is unable to contract with a private third party contractor or it is the best interest of the state to operate the facility.

The Seward group also included a provision designed to encourage competition that amends the section that gives corrections the ability to lease space in another facility to ease overcrowding. Their amendment allows corrections to enter into **more than one agreement** and to **lease space in smaller facilities** (as few as 100 total beds).

The **feasibility study** looks like something that will take a great deal of time and money and will result in an increase in

correction's fiscal note. The provisions as to overcrowding appear to create a problem in that the state would be required to revisit the overcrowding issue each time it considers a new contract. The provision that the private proposal must always outperform the state run facilities. The value of this provision may be reliant upon how you calculate the costs. Will the state cost include the potential liability to additional state employees, liability to subcontractors, maintenance cost overruns and other otherwise hidden costs incurred when you take on a project? Mulder testified that the contractor would be held to a contract for a number of years. If the bidder miscalculates his costs and they increase the bidder must continue to provide the service at the same cost to the state. The state run operations do not have this benefit.

**Cost savings requirements.** These two sections that require a savings of 25% on construction and 20% on operation appear to put the private sector at a great disadvantage. I think this amendment is dishonest in that it purports to protect state interests, but in fact appears to create an impossible hurdle for the private sector.

I guess the point that these groups are trying to make is that we should not bid the project out if there is not a big savings. This assumes that all other things being equal, we should choose public prisons. I think this issue turns on a policy question. Are private prisons ever a good idea? Do they in fact give us a cost savings on a necessary evil (imprisonment) and get market efficiency into an otherwise inefficient government system. Or do they, as Charles Cambell's letter suggests, incarcerate a burgeoning population in a facility run by people who are motivated, not to rehabilitate, but to ensure recidivism so that their large facility is always full and profit generating.

**Alaska prisoners only.** This section prevents private prisons from taking on other state's prisoners. This may assure that there is space for our inmates.

**State operation of a facility.** This section broadens the circumstances under which the state could take over operations. It allows the state to operate the prison indefinitely and allow the state to take over operations simply because it is in the state's best interest. This could make it very difficult to find a contractor who would agree to these terms. The way these sections read now seems to dovetail with typical contract law. If you amend it to say that the

state may intervene and essentially breach the contract with the operator even where the contractor has not breached first you may run into problems.

## MEMORANDUM

**Date:** March 11, 1997  
**To:** Jack Chenoweth, Legislative Legal  
**From:** Lisa Kirsch, House Judiciary Committee  
**Re:** Amendment to HB 53

---

In regard to amendment 0-LS0194\K.32;

Chairman Joe Green has asked me to get your opinion on some fine tuning to this amendment. He would like to know if it is possible for a majority of the voters affected by the prison to vote down a site choice. What we discussed was a situation where a municipality as a whole might vote in favor of a site, but a majority of the voters in the community near the site oppose that site. One suggestion I made was that we modify "municipality" with "or political subdivision of the state" and that we modify "voters" (line 13) with "within a two mile radius of the proposed site" or "affected by the proposed site" and delete "voting in the municipality affected."

Another concern about the use of the word "municipality" that was raised in testimony yesterday was that it narrowed the site selection to too small a group since there are very few municipalities in AK. Does "municipality" as used in the AS have a meaning that includes villages, boroughs, etc., or does it literally mean municipalities? I know in HB 22 we used language that Mike Ford suggested which I believe was "and political subdivisions of the state."

Could you please let me know whether you think these changes will have the desired effect? Chairman Green was particularly concerned whether or not the legislature could give a community the

power to override the municipality's decision to locate a prison at a particular site.

One final minor word change. Chairman Green thought that the use of the word "at" on lines 5 and 11(first appearance) of amendment 0-LS0194\K.32 was awkward since the "correctional facility" does not yet exist. He will defer to your drafting expertise if this is the only way to convey our intent.

Thanks for your help.

03/10/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

ITN1150

13:39:29

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:70378 SCHEDULED FOR:03/10/97 13:00 TO 15:00

FOR:ANC

PUBLIC HEARING

HOUSE JUDICIARY

LOCATION: ANCHORAGE

HB	NO.	NAME	LOCATION	STATUS
HB	65	THEDA	PITTMAN	TESTIFY
HB	65	PAULINE	UTTER	TESTIFY
HB	53	DOUG	PERKINS	TESTIFY
HB	53	STEVE	LARSON	TESTIFY
HB	53	BARBARA	WEINIG	TESTIFY
HB	53	JOHN	YARBOR	TESTIFY
HB	53	JULIE	OLSON	TESTIFY
HB	53	MR. B.K.	POWELL	TESTIFY
HB	53	ED	EARNHART	TESTIFY
HB	53	CHRALES	O'CONNELL	TESTIFY

*5th is*  
*not on list*  
*From Friday*  
*and I have*  
*told Anchorage*  
*Public Testimony*  
*is*  
*OCEANVIEW/OS CC*  
*closed on HB65*

Fair banks :

Mr. Craig Persson P. Safe. Emp. Assoc

Kenai: Ms. Joan Bennett-Schrader - CLUW

Matsus - Paul Sweet - didn't test.

Juneau :

Forest Browne  
Margo Kautz

HB 53

33.30.031(c) requires competitive bid procedure for contracts for confinement

36.30.100 - 170 Competitive sealed bids procedure

33.30.025 Siting of prison  
Amends  
→ when notify?

33.30.031(a)  
a degree of cust, care & discipline similar that req by the state

33.30.021 Comm to adopt reg.

22AAC 05.256

22AAC 05.195

\* 22AAC 05.300 Contract Facilities  
(F) "residential correctional facilities"  
subject to 22AAC 05.400 - 480 (Discipline §§)

# Municipality of Anchorage



P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4431  
Fax: (907) 343-4499  
<http://www.ci.anchorage.ak.us>

*Rick Mystrom, Mayor*

March 11, 1997

OFFICE OF THE MAYOR

MAR 11 1997

Members of the Anchorage Caucus  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

Dear Caucus Members:

Resolving the prisoner housing shortage in the State has been the topic of ongoing discussion for the past few years. In Anchorage, the shortage of jail and detention space has created several unsatisfactory situations:

- There are times when police officers have to wait for space in the jail to open up before they can drop off arrestees. This ties up the police and keeps them off the street.
- Sixth Avenue Jail is consistently over capacity by 35% or more. Other correctional facilities in the area are also regularly over capacity.
- Juvenile offenders are often released due to lack of adequate facilities.

We need to have a replacement for the aging Sixth Avenue Jail. We also need to expand the overcrowded McLaughlin Youth Center. Our objectives, in keeping with our goal of making Anchorage a safer city are:

- To obtain 400 jail beds in a modern, cost-effective correctional facility.
- To expand McLaughlin Youth Center, by adding at least 65 additional beds;
- To maintain approximately the same current cost structure for the housing of Municipal prisoners; and

As you consider the various options for solving the State's correctional problems, please keep in mind these needs and objectives. In accomplishing these objectives, it is essential that an appropriate public site selection process be completed before any new correctional facility is located in Anchorage.

I am hopeful a solution to this continuing problem can be found soon. If you would like to discuss this matter further, please contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Mystrom", written over a horizontal line.

Rick Mystrom  
Mayor

cc: Department of Corrections

*"City of Lights and Flowers"*

Q For Neil or drafter

Can a municipality provide a single Q ballot & require approval by a majority of voters.

Corrections Q

AS 36.30 Does State procurement code apply?

Why bd. of regents?

Jim Baldwin 2129  
municipal

Margo Q

Does bill § 1 33.30.031(a)(1) apply to all regs in AAC - stds of care etc.

How about 33.30.041 (b)(3) includes language: "admin shall comply @ the law & regs adopted by the commiss."

"political subdivision of the state"  
does this include everything?

→ site selection process  
Usap kill it for V100

[ If contracting with <sup>municipality</sup> Sewad for ex  
no need for competitive bid

[HB 53]

Sen Parnelli off wants to  
see amend

Jim Baldwin private mt. wants to  
nail down a site

private wants pick kinds of prisoners

4330 Mayo

Jim Baldwin

Dep of Law opinion

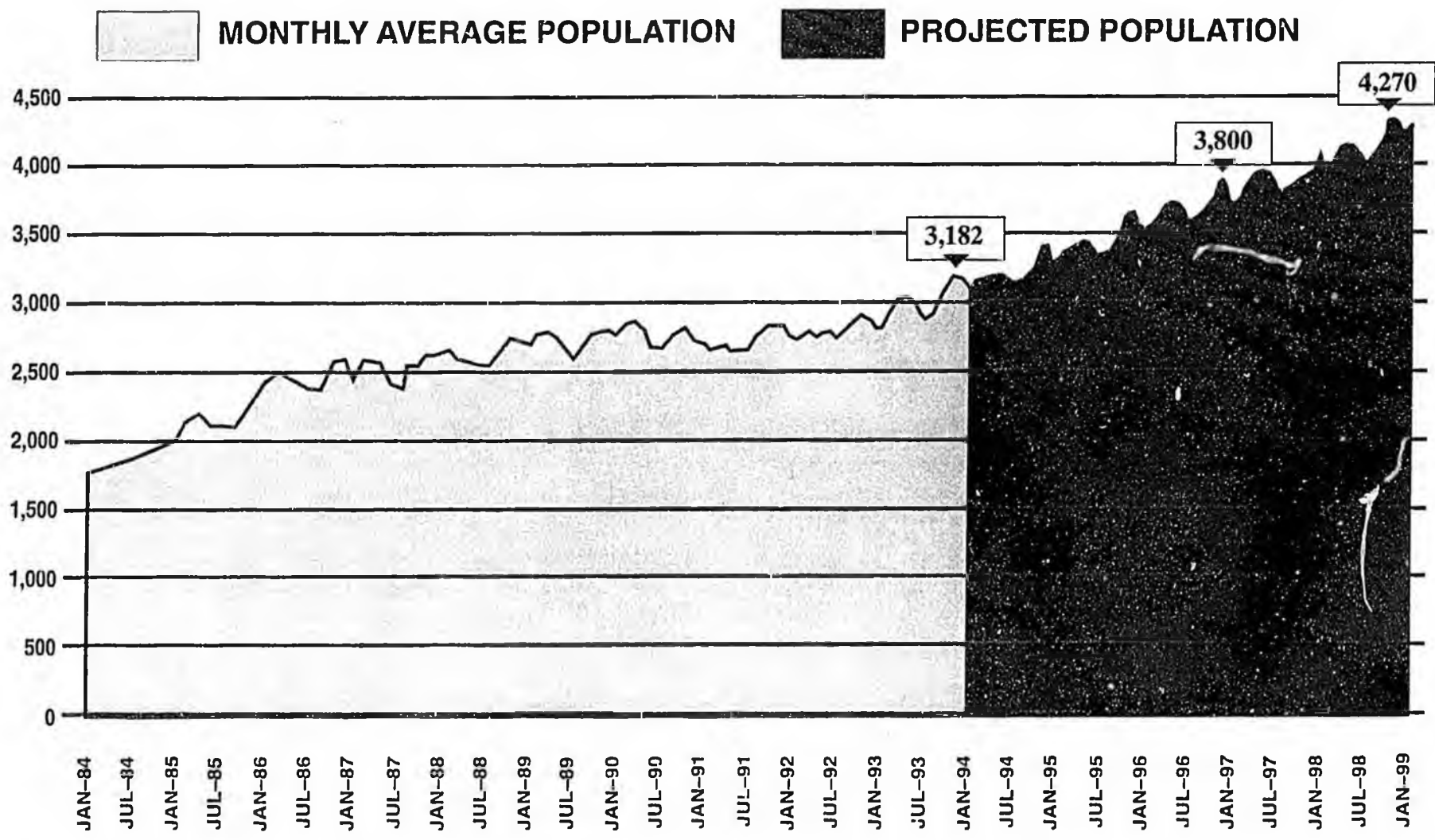
from Ross time

may not

veto

---

In 1994 the Dept. of Corrections appeared before the House Subcommittee on Corrections and presented the following graph.



The graph was compiled from corrections' official monthly count and reflects an annual average inmate population growth rate of 8.2% from January 1984 until January 1994. Department testimony projected that by January 1997 corrections' total inmate population (including out-of-state, CRC and treatment beds) would reach 3,800. By October 1996 corrections' population topped 3,800 with no prospect for decline. Ten and as many as 14 of corrections' fifteen facilities are now operating over emergency capacity and the system as a whole is operating between 250 and 300 prisoners over maximum capacity.

Projected growth does not account for any legislative crime initiatives passed in 1995 and 1996.

# Instate Inmate Count - Alaska Department of Corrections - June, 1995

	COOK INLET PRE-TRIAL		HIGHLAND MOUNTAIN CORRECTIONAL CENTER			MEADOW CREEK CORRECTIONAL CENTER				SIXTH AVENUE JAIL				YUKON CORRECTIONAL CENTER		Maximum Capacity		
	104	403	200	233	53	170	79	66	172	176	108	486	210	113	92	2665		
	102	397	189	225	47	164	76	62	165	176	104	466	204	112	88	2665	2577	
Day	AMCC	CIPT	FCC	HMCC	KCC	LCCC	MSPT	MCCC	PCC/MED	PCC/MIN	SIXTH	SCCC	WWCC	WWPT	YKCC	Emerg. Cap.	Total	%
1	82	402	170	230	46	148	76	58	174	176	108	446	204	69	92	2665	2555	95
2	82	402	177	230	46	150	76	60	170	175	104	452	204	87	88	2665	2569	96
3	85	402	181	231	47	152	76	60	172	172	108	452	204	82	92	2665	2569	96
4	81	402	181	230	51	154	76	60	167	175	108	452	203	81	92	2665	2573	97
5	78	402	180	230	49	151	76	60	167	174	108	452	204	84	92	2665	2554	96
6	78	402	183	230	52	149	76	58	166	172	108	452	204	83	92	2665	2578	97
7	78	402	167	230	51	148	76	62	164	174	108	452	204	98	92	2665	2558	96
8	79	402	172	232	48	148	75	59	164	176	108	450	204	94	92	2665	2574	97
9	79	395	164	232	49	147	78	61	169	174	108	450	204	97	92	2665	2530	95
10	79	390	176	231	49	145	73	60	166	174	108	450	204	97	92	2665	2529	95
11	81	393	167	230	50	144	73	60	164	175	108	449	204	95	92	2665	2518	94
12	79	395	162	230	50	142	73	60	163	175	108	448	204	94	92	2665	2516	94
13	76	396	169	228	48	145	78	57	159	175	101	446	204	80	92	2665	2479	93
14	77	394	158	228	50	137	78	57	159	172	105	446	204	80	92	2665	2468	93
15	80	389	156	227	48	139	78	55	154	175	98	444	204	91	92	2665	2456	92
16	79	395	148	228	50	141	78	55	153	173	103	444	204	94	92	2665	2465	92
17	92	387	154	228	49	141	76	56	155	175	108	450	204	94	92	2665	2483	93
18	89	386	158	228	50	145	76	56	154	174	108	450	204	91	92	2665	2496	94
19	90	385	157	228	50	146	76	56	154	174	108	450	204	94	92	2665	2497	94
20	88	395	159	228	49	143	76	56	159	173	108	450	204	88	92	2665	2486	93
21	84	395	164	230	47	146	77	63	157	171	108	450	204	85	92	2665	2497	94
22	88	402	162	231	50	148	70	61	159	168	108	449	204	84	92	2665	2498	94
23	84	402	161	228	50	144	77	60	158	169	108	447	204	86	92	2665	2503	94
24	84	394	169	228	52	147	77	59	162	173	108	447	204	87	92	2665	2493	94
25	84	396	177	227	51	143	77	57	163	170	108	447	204	86	92	2665	2502	94
26	85	399	169	226	50	144	77	58	163	170	108	447	204	82	92	2665	2500	94
27	88	394	165	224	50	144	77	64	162	170	108	447	204	80	92	2665	2491	93
28	88	387	162	229	52	143	77	64	159	175	108	447	200	80	92	2665	2488	93
29	85	390	163	229	50	143	77	64	166	174	91	447	200	81	92	2665	2488	93
30	84	395	160	229	50	141	77	65	166	174	100	447	200	81	92	2665	2483	93
31																2665	0	0
AVG	82.86	396.73	166.36	229.1	50.1333	145.267	80.7333	59.3667	162.333	173.2667	114.067	448.633	203.567	86.7667	113.667	2665	2512.9	94
10 day	0	0	0	0	1	0	6	0	0	0	0	0	0	0	396	2665		
30/90	0	42	0	2	27	0	56	0	62	0	77	0	0	0	90	2665		

# Instate Inmate Count – Alaska Department of Corrections – June, 1995

	COOK INLET PRE-TRIAL		HIGHLAND MOUNTAIN CORRECTIONAL CENTER			MEADOW CREEK CORRECTIONAL CENTER				SIXTH AVENUE JAIL				Emergency Capacity		2665		
	104	403	200	233	53	170	79	66	172	176	108	486	210	113	92	Maximum Capacity		2577
Day	AMCC	CIPT	FCC	HMCC	KCC	LCCC	MSPT	MCCC	PCC/MED	PCC/MIN	SIXTH	SCCC	WWCC	WWPT	YKCC	Emerg. Cap	Total	%
1	82	410	170	230	46	148	86	58	172	174	108	446	204	69	116	2665	2555	95
2	82	400	177	230	46	150	85	60	170	175	108	452	204	87	116	2665	2569	96
3	85	400	181	231	47	152	85	60	172	172	108	452	204	82	116	2665	2569	96
4	81	400	181	230	51	154	85	60	167	175	108	452	203	81	116	2665	2573	97
5	78	400	180	230	49	151	85	60	167	174	108	452	204	84	116	2665	2554	96
6	78	400	183	230	52	149	85	58	166	172	108	452	204	83	116	2665	2578	97
7	78	402	167	230	51	148	85	62	164	174	108	452	204	98	116	2665	2558	96
8	79	400	172	232	48	148	75	59	164	174	108	450	204	94	116	2665	2574	97
9	79	395	164	232	49	147	78	61	169	174	108	450	204	97	116	2665	2530	95
10	79	390	176	231	49	145	73	60	166	174	108	450	204	97	116	2665	2529	95
11	81	393	167	230	50	144	79	60	164	175	108	449	204	95	116	2665	2518	94
12	79	395	162	230	50	142	80	60	163	175	108	448	204	94	116	2665	2516	94
13	76	396	169	228	48	145	78	57	159	174	101	446	204	80	116	2665	2479	93
14	77	394	158	228	50	137	80	57	159	172	105	446	204	80	116	2665	2468	93
15	80	389	156	227	48	139	83	55	154	175	98	444	204	91	116	2665	2456	92
16	79	395	148	228	50	141	80	55	153	173	103	444	204	94	116	2665	2465	92
17	92	387	154	228	49	141	76	56	155	175	100	450	204	94	116	2665	2483	93
18	89	386	158	228	50	145	77	56	154	174	100	450	204	91	116	2665	2496	94
19	90	395	157	228	50	146	81	56	154	174	100	450	204	94	116	2665	2497	94
20	88	395	159	228	49	143	79	56	159	173	100	450	204	88	116	2665	2486	93
21	84	395	164	230	47	146	77	63	157	171	100	450	204	85	116	2665	2497	94
22	88	390	162	231	50	148	70	61	159	168	100	449	204	84	116	2665	2498	94
23	84	400	161	228	50	144	77	60	158	169	100	447	204	86	116	2665	2503	94
24	84	394	169	228	52	147	77	59	162	173	100	447	204	87	116	2665	2493	94
25	84	396	177	227	51	143	81	57	163	170	100	447	204	86	116	2665	2502	94
26	85	399	169	226	50	144	80	58	163	170	100	447	204	82	116	2665	2500	94
27	88	394	165	224	50	144	80	64	162	170	100	447	204	80	116	2665	2491	93
28	88	387	162	229	52	143	80	64	159	175	100	447	200	80	116	2665	2488	93
29	85	390	163	229	50	143	80	64	166	174	91	447	200	81	116	2665	2488	93
30	84	395	160	229	50	141	80	65	166	174	100	447	200	81	116	2665	2483	93
31																2665	0	0
AVG	82.86	396.73	166.36	229.1	50.1333	145.267	80.7333	59.3667	162.333	173.2667	114.067	448.633	203.567	86.7667	113.667	2665	2512.9	94
10 day	0	0	0	0	1	0	6	0	0	0	0	0	0	0	396	2665		
1090	0	42	0	2	27	0	56	0	62	0	77	0	0	0	90	2665		

# Instate Inmate Count - Alaska Department of Corrections - September, 1996

		COOK INLET PRE-TRIAL		HIGHLAND MOUNTAIN CORRECTIONAL CENTER			MEADOW CREEK CORRECTIONAL CENTER				SIXTH AVENUE JAIL								
		104	403	200	233	53	170	85	66	172	176	108	486	230	113	92	Emergency Capacity	2691	
		102	397	189	225	47	164	82	62	165	176	104	466	224	112	88	Maximum Capacity		2603
Day	AMCC	CIPT	FCC	HMCC	KCC	LCCC	MSPT	MCCC	PC/MED	PCC/MIN	SIXTH	SCCC	WWCC	WWPT	YKCC	Emerg. Cap.	Total	%	
1	95							64					225	107		2691	2895	108	
2	93							64					226	104		2691	2890	107	
3	92							64					226	104		2691	2895	108	
4	94							64				482	224	107		2691	2900	108	
5	92							64		175			224			2691	2904	108	
6	91							63					224			2691	2911	108	
7	93							64					224			2691	2917	108	
8	94							64					224			2691	2924	108	
9	94				52			63					224	112		2691	2928	109	
10	91							62						102		2691	2918	108	
11	96							62						105		2691	2910	108	
12	94							62						102		2691	2888	107	
13	94							62						98		2691	2911	108	
14	100							61								2690	2943	109	
15	100							63								2691	2933	109	
16	100							63								2691	2939	109	
17	100							67						112		2691	2941	109	
18	100							67								2691	2919	108	
19	102							67								2691	2934	109	
20	99							67								2691	2930	109	
21	102				50			60								2691	2919	108	
22	102				50			65								2691	2922	109	
23	102			232	50			65								2691	2925	109	
24	100				49			65		175				108		2691	2897	108	
25	101			221	49			64		175				105		2691	2865	106	
26	99			221	52			65						105		2691	2875	107	
27	101			220				65		175				108		2691	2874	107	
28	100			227				66		171				109		2691	2884	107	
29	97			224				65		174				108		2691	2883	107	
30	97			224	51			65		174				107		2691	2879	107	
31																2691	0	0	
AVG	98.07	428.00	232.23	233.07	55.37	203.43	99.47	64.27	240.30	175.57	137.20	495.60	231.03	110.13	104.63	2691	2908.37	108	
10 day	0	124	89	0	0	59	58	0	394	0	125	25	20	0	839				
30/90	10	90	89	36	58	90	79	13	90	0	90	89	29	15	90				

KEY  Prisons under capacity  Prisons at maximum capacity  Prisons over emergency capacity and accruing fines

# Instate Inmate Count - Alaska Department of Corrections - September, 1996

Day	INMATE COUNT BY FACILITY																Emergency Capacity		Total	%
	AMCC	CHP1	FCC	HMCC	KCC	LCCC	MSPI	MCCC	PC/MLD	PCC/MW	SIXTH	SCCC	WWCC	WWPI	YKCC	Emergency Cap	Total			
1	95	421	224	234	64	205	94	64	244	176	188	486	230	113	92	2691	2895	108		
2	93	425	222	233	61	203	100	64	240	176	185	490	226	104	109	2691	2890	107		
3	92	426	226	233	60	203	101	64	230	176	180	490	226	104	109	2691	2895	108		
4	94	435	226	230	62	204	101	64	249	176	188	482	224	107	100	2691	2900	108		
5	92	430	229	240	59	205	102	64	245	175	191	490	224	109	107	2691	2904	108		
6	91	427	220	240	59	206	101	63	234	176	184	492	224	117	107	2691	2911	108		
7	93	426	234	236	56	204	99	64	238	176	186	491	224	118	108	2691	2917	108		
8	94	432	234	236	54	205	101	64	238	176	185	492	224	116	113	2691	2924	108		
9	94	442	236	236	52	205	102	63	248	176	188	490	224	112	111	2691	2928	109		
10	91	431	231	238	50	205	101	62	250	176	184	497	223	102	111	2691	2918	108		
11	96	431	236	238	56	204	99	62	238	176	185	496	226	105	107	2691	2910	108		
12	94	438	230	236	54	204	97	62	242	176	187	486	223	102	105	2691	2888	107		
13	94	440	234	234	56	205	99	62	235	176	184	490	223	98	109	2691	2911	108		
14	100	424	232	238	60	204	100	61	244	176	183	495	224	116	103	2691	2943	109		
15	105	430	231	240	57	203	101	63	251	176	185	493	223	116	104	2691	2933	109		
16	105	432	227	237	58	202	102	63	249	176	186	494	220	113	107	2691	2939	109		
17	100	435	220	236	67	201	99	67	240	176	185	496	226	112	107	2691	2941	109		
18	105	420	228	235	56	199	98	67	247	176	184	495	224	116	109	2691	2919	108		
19	102	421	230	236	54	196	98	67	240	176	186	490	226	116	107	2691	2934	109		
20	99	420	226	236	53	203	102	67	238	176	180	498	224	113	113	2691	2930	109		
21	102	426	234	234	50	203	99	66	243	176	183	497	226	120	106	2691	2919	108		
22	102	426	238	233	50	205	100	65	242	176	184	497	224	116	106	2691	2922	109		
23	102	430	238	232	50	203	99	65	240	176	184	497	224	116	106	2691	2925	109		
24	104	427	231	235	49	201	100	65	243	175	191	497	224	108	104	2691	2892	108		
25	101	420	231	231	49	201	99	64	241	175	191	497	224	105	98	2691	2865	106		
26	99	431	232	231	52	202	97	65	234	176	182	492	224	105	98	2691	2875	107		
27	101	422	236	229	58	203	98	65	231	175	182	496	220	108	96	2691	2874	107		
28	100	413	246	227	55	203	102	66	232	171	184	506	224	109	96	2691	2884	107		
29	97	420	232	234	54	205	108	65	235	171	187	505	223	108	95	2691	2863	107		
30	97	426	244	224	51	205	98	65	222	174	184	508	223	107	97	2691	2879	107		
31																2691	0	0		
AVG	98.07	428.00	232.23	233.07	56.37	203.41	99.47	64.27	240.30	175.97	187.20	496.00	223.03	110.13	104.00	2691	2908.17	108		
10 day	0	124	89	0	0	59	98	0	34	0	125	25	20	0	109					
0090	10	80	89	36	58	90	79	13	90	0	90	89	29	15	90					

# Instate Inmate Count – Alaska Department of Corrections – February 1997

	104	403	200	233	53	170	85	66	172	176	108	486	230	113	92	2691		
	102	397	189	225	47	164	82	62	165	176	104	466	224	112	88	Maximum Capacity 2603		
Day	AMCC	CIPT	FCC	HMCC	KCC	LCCC	MSPT	MCCC	PC/MED	PCC/MIN	SXTH	SCCC	WWCC	WWPT	YKCC	Emerg. Cap.	Total	%
1				226												2691	2990	111
2				226						175				112		2691	3012	112
3				226										110		2691	3015	112
4				225						175				112		2691	3004	112
5				225						175						2691	3034	113
6				231												2691	3051	113
7				231										111		2691	3034	113
8				231												2691	3040	113
9				229												2691	3015	113
10				227												2691	3022	112
11				229												2691	3004	112
12																2691	3009	112
13										175						2691	2992	111
14				232						174						2691	3011	112
15								65								2691	3014	112
16								66								2691	3004	112
17				241				65								2691	3008	112
18				230				65								2691	3011	112
19				230				64								2691	3004	112
20								64								2691	3000	111
21								63		173						2691	3021	112
22								63		174						2691	3021	112
23								63		174						2691	3021	112
24								63						112		2691	3025	112
25								63		173				110		2691	3015	112
26														107		2691	3005	112
27				231												2691	3014	112
28				231												2691	2999	111
29																		
30																		
31																		
AVG	117.14	427.36	236.75	231.21	58.89	204.68	94.32	66.21	240.89	175.43	138.71	543.57	234.89	116.93	127.82	2691	3014.85	112
10 day	66	274	239	0	15	227	51	1	550	0	278	178	171	2	34			
30/90	67	90	90	17	49	90	83	27	90	0	90	90	90	33	87			

KEY  Prisons under capacity  Prisons at maximum capacity  Prisons over emergency capacity and accruing fines

# Instate Inmate Count - Alaska Department of Corrections - February 1997

	104	403	200	233	53	170	85	66	172	176	108	466	230	113	92	Emergency Capacity		2691
	102	397	189	225	47	164	82	62	165	176	104	466	224	112	88	Maximum Capacity		2603
Day	AMCC	CIPT	FCC	I:MCC	KCC	L:CCC	MSPT	MCCC	PC/MED	PCC/MIN	SIXTH	SCCC	WWCC	WWPT	YKCC	Emerg. Cap.	Total	%
1	116	425	220	226	59	200	100	70	238	176	147	534	234	115	123	2691	2990	111
2	114	409	237	226	61	201	103	79	239	175	149	534	236	112	126	2691	3012	112
3	114	430	241	226	62	200	103	69	241	176	144	534	231	110	124	2691	3015	112
4	114	433	243	225	56	197	97	69	247	175	143	540	234	112	122	2691	3004	112
5	118	437	241	226	54	199	96	63	242	175	152	540	234	114	128	2691	3034	113
6	117	420	239	231	64	199	109	58	242	176	154	548	234	116	125	2691	3051	113
7	118	418	237	231	64	205	99	68	247	176	145	549	234	111	131	2691	3034	113
8	117	428	242	231	61	200	84	61	238	176	151	548	238	114	140	2691	3040	113
9	118	424	239	229	57	188	95	67	238	176	154	548	236	121	137	2691	3035	113
10	114	411	242	227	55	200	90	67	236	176	156	548	234	119	138	2691	3022	112
11	115	416	241	229	56	194	96	67	233	176	149	542	238	120	133	2691	3004	112
12	114	420	243	234	58	199	94	87	240	176	138	541	234	119	127	2691	3009	112
13	113	423	237	237	59	198	82	67	240	175	139	541	234	119	128	2691	2992	111
14	117	423	238	232	56	201	94	66	243	174	141	540	238	121	133	2691	3011	112
15	119	418	243	231	56	201	89	65	245	176	124	540	238	128	137	2691	3014	112
16	119	418	240	233	58	203	87	65	243	176	122	548	238	126	135	2691	3004	112
17	117	428	241	231	69	207	91	65	235	176	129	540	238	121	134	2691	3008	112
18	116	424	236	230	63	207	71	65	236	176	132	539	237	125	135	2691	3011	112
19	116	461	237	230	58	206	51	64	241	176	131	539	236	125	133	2691	3004	112
20	113	440	240	237	54	206	21	64	238	176	131	539	235	118	135	2691	2980	111
21	119	437	224	237	57	210	30	63	240	173	143	540	235	117	130	2691	3021	112
22	120	435	230	236	57	220	92	63	243	174	128	548	235	119	121	2691	3021	112
23	120	432	227	235	58	215	85	63	242	174	132	550	235	117	136	2691	3021	112
24	120	435	235	236	60	214	91	63	239	176	131	554	234	112	122	2691	3026	112
25	121	426	235	238	60	214	81	63	242	173	128	552	233	110	124	2691	3015	112
26	122	428	233	234	62	210	99	65	237	176	130	551	234	107	135	2691	3006	112
27	118	437	238	231	62	217	97	66	247	176	125	551	234	115	135	2691	3014	112
28	116	427	235	231	63	213	97	68	244	176	128	546	234	114	131	2691	2999	111
29																		
30																		
31																		
AVG	117.34	427.36	236.75	231.21	58.89	204.68	94.32	66.21	240.89	175.43	140.71	544.57	244.89	116.91	127.02	2691	3014.02	112
10 day	96	274	239	0	15	277	51	1	50	0	270	170	171	2	34			
30/90	67	90	90	17	49	90	83	27	90	0	90	90	90	11	87			



# Oceanview/Old Seward Community Council

P.O. Box 110045  
Anchorage, AK 99511

March 11, 1997

Representative Joe Green  
House Judiciary Committee  
Alaska State Legislature  
Juneau AK

Dear Representative Green;

Thank you giving us the opportunity to testify at Monday's Judiciary Committee hearing on House Bill # 53. The Oceanview/Old Seward Community Council is appreciative of your efforts at ensuring that House Bill #53 will be modified in order to protect the public's interest. Our Council would like House Bill #53 amended to encourage DOC to evaluate all options in order to reduce the prison overcrowding problem and give DOC enough flexibility to be able to pick the best solution (or solutions) for the state.

In order to further these objectives, the Council requests that the following Amendments be added to House Bill #53:

*provisional discussion*

**In order to promote competition in providing services:**

Page 3, line 29

Change "no more than one agreement" to "one or more agreements"

Page 4, line 11

Change "500" to "100"

*5/16/97*

**To insure cost savings to the State and the best use of limited funds:**

Page 5, following line 19

Insert new paragraphs to read:

"(1) may not be constructed under the authority given in this Act unless

(A) before construction planning is begun, the commissioner of corrections first conducts a feasibility study, including a cost-benefit analysis, that examines various methods available to the state for relieving or eliminating the state's prison overcrowding; and

(B) the feasibility study conducted under (A) of this paragraph demonstrates that construction and operation of the correctional facility described in (a) of this section offers a positive cost/benefit ratio when

↑  
compared to comparable state correctional facilities and is otherwise feasible to relieve or eliminate overcrowding of existing correctional facilities;"

25% {  
"(2) may not be constructed under the authority in this Act unless, before construction planning is begun, the commissioner of corrections first conducts a study, and the study demonstrates that construction of the correctional facility described in (a) of this section will result in a saving to the state of at least 25% when compared to construction of the facility by the state using the usual and customary state construction practices;"

Renumber the following paragraphs accordingly

Page 5, line 23, following "capacity;"  
Insert a new paragraph to read:

20% {  
"(1) may not be constructed for operation by a contractor under the authority given in this Act unless, before construction planning is begun, the commissioner of corrections first conducts a study, and the study demonstrates that operation of the correctional facility described in (a) of this section will achieve saving to the state of at least 20% when compared to operation of the correctional facility by the Department of Corrections;"

Renumber the following paragraphs accordingly.

AK only {  
To insure that only Alaska's prisoners are housed in the facility:

Page 5, line 24, following "(3)"  
Insert "may not be used to house prisoners not convicted in a court of this state; and (4)"

To insure that the State has flexibility to deal with changing needs/circumstances:

Page 5, line 24:  
Delete "temporarily"

Page 5, line 28, following "contractor":

Insert ";or  
(C) the state determines that it is in the best interests of the state for the correctional facility to be operated by the state or by the political subdivision or public corporation of the state"

These Amendments will be discussed at our Community Council meeting and teleconference on March 12th. Thank you for your assistance.

Sincerely,

*Julie Oisen*

Julie Oisen  
President  
Oceanview/Old Seward Community Council  
345-6575 (hm.)  
786-5265 (wk.)

# South Anchorage Coalition

FAX

Page 1 of 2

Date: 3/11/97

TO: Rep. Joe Green

Fax # (907) 465-4316

FROM: B.K. Powell  
 Fax # (907) 345-5542  
 Tel (907) 345-4854  
 e-mail: amunra@alaska.net

RE: HB 53 AMENDENTS

*See Here are some new proposals. What do you think? MK*

**Message:**

After attending the public forum regarding HB 53, our group would like to submit additional suggested amendments to HB 53. They are as follows:

Page 5, following line 19:

Insert new paragraph to read:

- “(1) May not be constructed under the authority given in this Act unless
  - (A) before construction planning is begun, the commissioner of corrections first conducts a feasibility study, including a cost-benefit analysis, that examines various methods available to the state for relieving or eliminating the state’s prison overcrowding; and
  - (B) The feasibility study conducted under (A) of this paragraph demonstrates that construction and operation of the correctional facility described in (a) of this section.
    - (i) Offers a positive cost benefit ratio when compared to comparable state correctional facilities.
    - (ii) Is otherwise feasible to relieve or eliminate overcrowding of existing correctional facilities

Renumber the following paragraphs accordingly

Page 5, following line 19:

Insert a new paragraph to read:

25%

(1) May not be constructed under the authority given in this Act unless, before construction planning is begun, the commissioner of corrections first conducts a study, and the study demonstrates that construction of the correctional facility described in (a) of this section will result in a saving of a least 25 percent when compared to construction of the facility by the state using the usual and customary state construction practices"

Renumber the following paragraphs accordingly.

Page 5, line 23, following the word "capacity:"

Insert a new paragraph to read:

20%

"(3) May not be constructed for operation by a contractor under the authority given in the Act unless, before construction planning is begun, the commissioner of corrections first conducts a study and the study demonstrates that operation of the correctional facility described in (a) of this section will achieve a saving to the state of at least 20 percent when compared to operation of a correctional facility by the Department of Corrections;"

Renumber the following paragraph accordingly.

AK only

Page 5, line 23, following "(3)":

Insert "may not be used to house prisoners not convicted in a court of this state; and (4)"

Page 5, line 24:

Delete "temporarily"

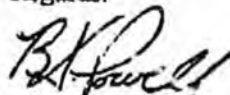
Page 5, line 28, following "contractor"

Insert " or

(C) The state determines that it is in the best interests of the state for the correctional facility to be operated by the state or by the political subdivision or public corporation of the state."

If you need further information or have questions, please do not hesitate to contact me.

Regards:



B.K. Powell  
South Anchorage Coalition

Representative Joe Green, Chair  
House Judiciary Committee  
House of Representatives  
State Capital  
Juneau, Alaska 99801

March 11, 1997

Re: House Bill 53

Dear Representative Green:

Because of a conflict I was unable to attend the hearing on HB 53 in House Judiciary yesterday Monday the 10<sup>th</sup>. My understanding is that the bill will again be taken up tomorrow, but that no further public testimony is scheduled. I am a past Director of Corrections in Alaska with forty-seven years involvement in the criminal justice field, but given the circumstances I will not count on being able to testify.

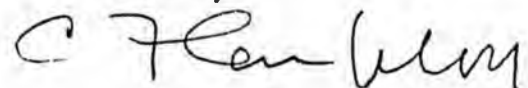
For this reason I write this letter to express my objection to HB 53 and to the whole notion of imprisonment for profit. It is certainly not a new idea; it remains a fundamentally cynical idea in the deepest sense.

Although HB 53 is technically improved from its predecessor, it proposes an idea that cannot be good for Alaska over the long term. The question of taxes now arises, which quite probably eliminates any significant financial advantage the idea of prison privatization might offer.

Last April former Commissioner Prewitt, who apparently had been engaged by the mercenary interests who want to get into the private prison business in Alaska, wrote a "My Turn" column that appeared in the *Juneau Empire*. I submitted a response to the *Empire*, but three weeks passed, as did the timeliness of my article- therefore I withdrew it. Although that piece was addressed to last year's private prison bill, the main points made are relevant to HB 53. I enclose a copy. Moreover, I will send copies of this letter and the article to other members of the committee and perhaps to other members of the Legislature.

Please let me know if I can be of any service to you.

Sincerely,



cc: Members, House Judiciary and Finance Committees  
Representative Elton  
Representative Hudson

## Relevant to House Bill 53

**Proposed My Turn column by Charles Campbell, submitted to the Juneau Empire in April of 1996, but withdrawn by the writer after demise of the privatization bill in the House.**

There is something deeply disturbing to me about mercenary interests stepping forward with such zeal to exploit the current tragedy of America's present overuse of imprisonment. Imprisonment for profit has become a nationwide phenomenon and it isn't a pretty sight. Multi-national corporations, like Bechtel, having smelled out the profits to be made, are gearing up to compete with Correctional Corporation of America and Wackenhut, current leaders in America's remarkable new growth industry. And now, there is a move afoot in the State Legislature to set up a private prison business here in Alaska, over the objections of the Department of Corrections.

Let it be acknowledged that crime is a cause for serious concern in America. It is not so serious, however, as to justify our having the highest incarceration rate on earth, a 150% increase in fifteen years. (Sad to say, Alaska's incarceration rate is among the highest in the nation.)

Over-imprisonment is not a solution. It takes many thousands of criminally inclined young men off the streets for a while, (the majority of them not convicted of violent offenses.) It does nothing toward making them better citizens; it does quite the opposite. Over reliance on imprisonment inevitably exacerbates the problem of crime.

A couple of weeks ago in this space, Frank Prewitt, a former Commissioner of Corrections and now a consultant to Wackenhut's private imprisonment effort, urged *privatization* as the best means of economically addressing the serious problem of overcrowding in Alaska's prisons. Should this advice be followed it would undoubtedly mean adoption of a bill in the Legislature that would require the State to enter into a lease-purchase agreement with a private corporation for construction and operation of a one thousand bed prison in Anchorage. Mr. Prewitt and the bill's sponsor, Representative Elden Mulder, tell us that the state would save money by this approach. Where short-term monetary costs are concerned, it probably would. But let's face it; in the end we usually get what we pay for, and when it comes to private prisons, we aren't likely to get a bargain. Throughout their long and dreary history, private prisons have never been a bargain.

It is a mistake to ignore the lessons of history, especially when they are so clear and applicable, as they are where imprisonment-for-profit is concerned. We need to remember the appalling results and tragic legacy of turning imprisonment over to profit-seeking interests at the end of the Civil War.

But let's talk about today, here in Alaska. I should think the last thing we would want to do is authorize construction of a thousand bed facility and then turn it over to a company whose profits would depend on keeping it filled up. The crucial fact to remember in this matter is that *recidivism* is a plus factor for the private imprisonment industry. Moreover, private corporations, which do business with the State, tend to have P.R. resources and high-paid lobbyists. It isn't likely these six-figure-per-year kinds of folks will be using their skills and influence toward advancing legislation that might reduce the incidence of crime in Alaska.

Margaret Pugh, Alaska's entirely competent Commissioner of Corrections, has developed a plan for addressing the very real and immediate problem of prison over-crowding. It is a reasonable plan. Under the circumstances, I favor it. But we will never be able to build our way

out of the problem of prison over-crowding. What's most needed is an arrangement to seek out the factors that are contributing to such rampant over-imprisonment. My belief is that we need to revamp the sentencing statues of the State, making sure dangerous offenders stay confined a long time, and that non-dangerous offenders spend less time in conventional institutions. We need to make expanded use of alternatives to imprisonment for offenders who are not dangerous. We need to give high-priority support to drug treatment and alcohol abuse programs, and other kinds of preventative measures. We need to do whatever it takes to have better schools and better resources in the community for young people, and we need to do everything we can to encourage better parenting for our children.

It has been said so often, and so often ignored, that it sounds like a hollow cliche. I will say it again. We need to make a major investment in addressing the root causes of crime.



CHAIR,  
LEGISLATIVE COUNCIL

CO-CHAIR,  
HOUSE SPECIAL COMMITTEE  
ON MILITARY AND  
VETERANS' AFFAIRS

CO-CHAIR,  
MILITARY AFFAIRS FOR  
ANCHORAGE CALCS

# ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

**REPRESENTATIVE ELDON MULDER**  
DISTRICT 23 MULDOON-Ft. RICHARDSON



Sponsor Statement

**House Bill 53**

by  
**Representative Eldon Mulder**

Republican, District 23  
Muldoon & Fort Richardson

Alaska prisons are overcrowded -- and the problem is growing. (See attached chart)

It is obvious that we need additional prison capacity in Alaska. The Department of Corrections reports that it is regularly exceeding maximum and emergency capacities under the Cleary Final Settlement Agreement by over 100 prisoners. Since February of 1995, Alaska has had over 200 prisoners in a private facility in Arizona. In FY98 we will enhance the Arizona economy by about \$5 million and employ Arizonans to guard Alaskan prisoners in a prison in Florence, Arizona.

State or federal courts have not taken over the Alaska prison system as they have in many other states. However, we are in contempt of the Court supervised Cleary Agreement. Fines have been assessed, although not yet paid. The potential jeopardy is the Court will direct the fines be paid to specific prisoner activities or will begin to mandate release of prisoners to solve the overcrowding. Neither option is acceptable.

We can solve this problem. While we solve it, we can:

- Improve Alaska's economy by \$5 million a year
- Provide construction jobs

February 6, 1997

- Provide good long-term correctional jobs
- Reduce per day cost of incarceration

The question is how to expand prison capacity efficiently, economically, and in the context of limited available state capital funds. We have a few options to resolve our prison capacity problem.

1. Expand our current system.
2. Continue to send prisoners outside.
3. Encourage the private sector to build a prison.

We could continue to add space to our small and inefficient prisons with daily costs averaging over \$105 per inmate day. That would increase the number of state employees and require significant state dollars for capital. State prisons must compete with schools, roads, harbors and deferred maintenance funding. This leaves preciously few state capital dollars available to build a new state prison.

Sending prisoners out of state is less costly. However, the solution is only temporary. The types of prisoners we can send outside are limited in number. Our Courts have frowned on exporting prisoners as a permanent solution to capacity problems. Out-of-state prisons bring transportation and management challenges greater than in state prisons and take \$5 million out of Alaska's economy.

A private facility provides many advantages to Alaska:

- Demonstrated ability to operate at or below the cost of comparative public facilities
- Ability to move quickly and economically on construction
- Efficiencies in operations through management innovations and competitive pressure
- A real opportunity to bring \$5 million in jobs and purchasing back to Alaska

The House Finance Sub-Committee on Corrections held interim hearings on the topic of prison privatization. It found over twenty-five states have entered into agreements with the private sector to construct and operate prisons. They have been successful in reducing the costs of incarceration and maintaining security for residents of the state.

The cost advantage of a private facility can be significant. Studies show that private prisons are less expensive to operate than state run facilities and are just as safe. A National Conference of State Legislatures study in January of 1996 reported private prisons in Texas saved 14% and in Louisiana saved 8%.

There is a strong possibility that the cost per inmate day of a private facility in Alaska will be closer to the cost of the Arizona facility than Alaska's average cost. The cost per inmate day at the Arizona facility is about \$70.00. Alaskan facilities average cost per inmate day is about \$105.00.

Bringing competition into the market place offers an opportunity to reduce operating costs in our Department of Corrections. Tennessee, a state with both public and private prisons, found that private prisons have a very positive effect on state facilities. The new, competitive market place forced the state system to improve or change many traditional management practices. The result has been healthy savings for the state.

A private prison resolves the problem of the state front-ending the costs of construction. The private contractor will finance the facility then lease it to the state as it is used. A private sector facility will avoid the 25% to 45% extra cost incurred in public construction projects. It will be operated more efficiently than our current prisons.

A private contractor can bring new ideas to our state corrections system. If the prison happens to end up part of a national chain, it will bring the experience gained in many facilities in other states. If a national chain teams up with local contractors, we will get the benefit of designs that work in prisons and construction techniques that fit Alaska's environment. A private sector contractor could begin serving prisoners as soon as 18 months after contract award and securing property for the facility.

HB 53 encourages the Department of Corrections to address the capacity and efficiency problems by acquiring one new prison by lease or lease/purchase from a private contractor or from a private contractor through a municipality.

A new private prison facility built under a lease/purchase agreement will:

1. Include a maximum of 1000 beds
2. Be designed to allow expansion
3. Not exceed a capital cost of \$90,000,000 and total payment of \$180,000,000
4. Be constructed under a project labor agreement (PLA) to help improve prospects of "Alaska hire"
5. Have correctional officers with the same training as state correctional officers

A new private prison facility acquired under a lease agreement:

1. Will include between 500 and 800 beds
2. May be leased through a municipality
3. Must be operated by a private contractor

Sponsor Statement

HB 53

Page 4

4. Cannot exceed a total lease cost of \$150,000,000
5. Will have correctional officers with the same training as state correctional officers

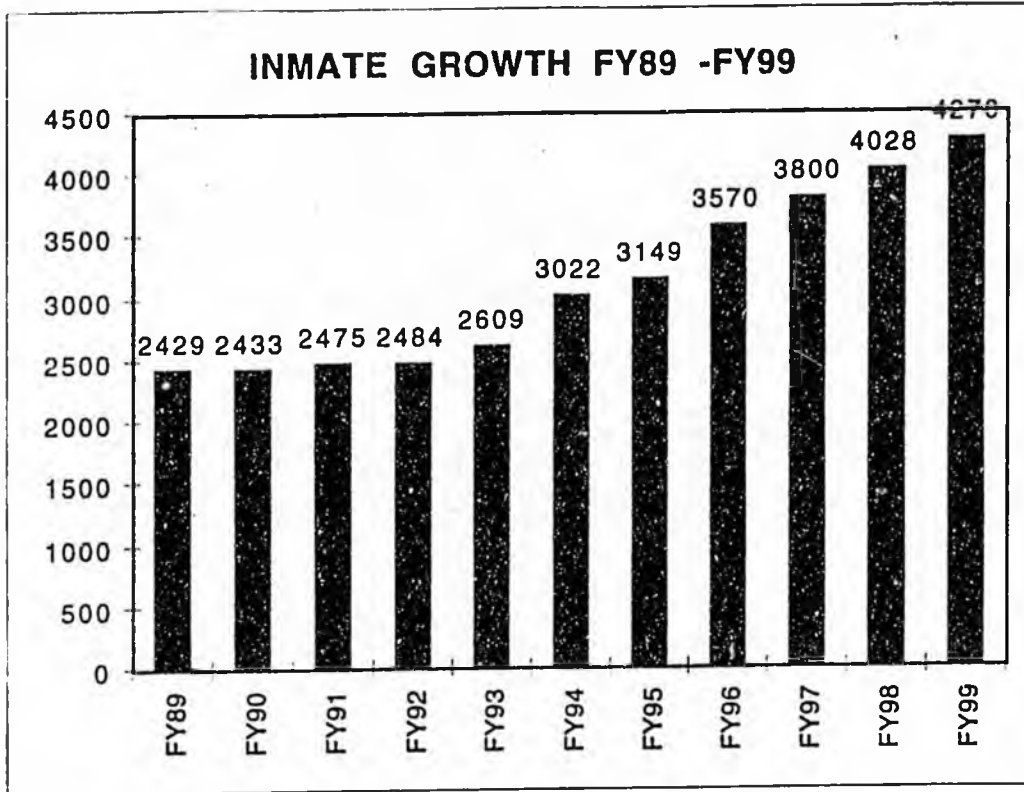
HB 53 responds to concerns raised by public employees at the interim hearings. It requires that the correctional officers in the private institution be trained to the same standards as state correction officers. We believe that this provision will protect the integrity of the prison system while taking advantage of lower costs and innovative management techniques.

The specific location of the new prison is left to the discretion of the Department of Corrections. We expect the Department will respect the planning and zoning requirements of local governments. There is precedent for this working relationship in the process the Department uses in acquiring new community residential centers. We expect the Department to consider efficiency of operation and community concerns before it makes a final decision on locating the new prison.

HB 53 also clarifies state law to make specific the implied power to contract for correctional services in and out of state and to contract with a municipality for prison services.

HB 53

- Allows the acquisition of only one new private prison
- Provides more prison capacity at a lower cost to the state, both in the operating and capital budgets
- Creates construction jobs in Alaska
- Creates on going prison jobs for Alaskans
- Keeps \$5 million of Alaskan money in Alaska
- Brings an innovative opportunity to address Alaska's needs
- Protects the public



The Chart reflects all inmates including state institutions, out-of-state prisons, CRCs, and treatment beds. The source for the data is the Department of Corrections and Legislative Finance

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

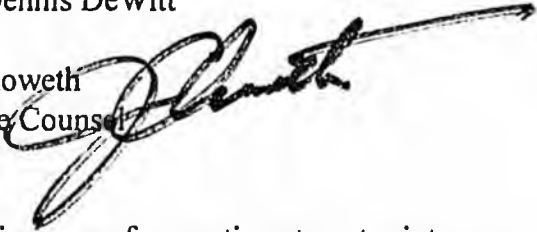
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

January 24, 1997

**SUBJECT:** House Bill 53, authorizing contracted operation of correctional facilities, and approving a lease or similar agreement to use or a lease-purchase or similar use-purchase agreement for construction and operation of a new correctional facility -- sectional analysis (Work Order No. 20-LS0194\K)

**TO:** Representative Eldon Mulder  
ATTN: Dennis DeWitt

**FROM:** Jack Chenoweth  
Legislative Counsel 

Current law authorizes the commissioner of corrections to enter into agreements with third parties to provide certain rehabilitative and treatment services in conjunction with the department's detention responsibilities. The bill contains provisions revising and expanding that authority and annuls an administrative regulation that limits the use of private third party contractors.

The measure also contains permanent law and uncodified provisions authorizing use of leases or similar agreements to use space within municipal correctional facilities, authorizes development of a new correctional facility through a lease-purchase agreement or similar mechanism, and sets limits and conditions on use of each of the two mechanisms.

### Revision and expansion of contracting authority:

**Bill section 1:** The language changes are to AS 33.30.031(a). The proposed changes necessitate a reformatting of material within the paragraph. Proposed paragraph (a)(1) carries forward a limitation of the last sentence of the subsection wherein the commissioner may contract with an agency for detention and confinement services if the degree of custody, care, and discipline to be provided meet standards required by state law. Proposed paragraphs (a)(2) and (3) eliminate the distinction in law as to use of a private or public agency as a contractor, eliminate a presumption that limits use of contracted facilities to those within the state, and generally authorizes use of facilities provided by an agency under contract, extending beyond rehabilitation and treatment to add detention and confinement, so long as the security of the facility is not inconsistent with prisoner custody classification requirements.

Representative Eldon Mulder

January 24, 1997

Page 2

**Bill section 6** annuls a regulation based on current law limiting the department's use of contract facilities to rehabilitation and treatment-related facilities and for incarceration for offenses punishable as misdemeanors.

**Space use arrangements and their financing:**

**Bill section 2:** Existing law, AS 33.30.041, spells out a relationship between the state, as lessor of space within a correctional facility, and a municipality, as the lessee. This section addresses the situation in which the parties stand in an opposite relationship. It proposes to add a new section, AS 33.30.043, under which the commissioner may lease, as the lessee, space within, arrange for the use of space within, or use and operate, a correctional facility within a municipality of the state. Subsections (b) and (c) set out particular provisions that must operate for the benefit of the department and the prisoners for which it is responsible within an agreement to lease.

**Bill section 3:** This uncodified provision supplements the permanent law change in which the state may agree to use space within a correctional facility operated by another. Subsection (a) of the bill section authorizes the state's entry into no more than one agreement for lease or use of space, in a facility operated by a third-party contractor, subject to the particular conditions and constraints set out in (b) - (d).

**Bill section 4:** AS 36.30.085 spells out specific requirements under which the state may use a lease-purchase or similar use-purchase agreement in order to finance a new facility to which the state eventually obtains title. Subsection (a) of this bill section, offered as uncodified law, gives the notice and approval necessary for a lease-purchase agreement to initiate the project and sets out, in general terms, parameters applicable to the project's financing. Subsection (b) sets out particulars applicable to other facets of the project including population housing perspectives and a prohibition on direct state operation of the correctional facility with specific exceptions. Subsection (c) permits a division of the lease-purchase or use-purchase agreement into segments, dividing the construction phase from the operating phase and including a requirement within the operating phase for periodic rebidding or reoffering of the agreement in five year blocks in order to meet federal tax code concerns. Subsection (d) concerns inclusion of a resident hire incentive as a part of bid evaluation. Subsection (e) describes the circumstances under which persons employed by the contractor as correctional officers may be required to meet the requirements of the Alaska Police Standards Council (AS 18.65) that are applicable to correctional officers employed by the state and its municipalities. Subsection (f) formally declares that the provision "constitutes the notice and approval required by AS 36.30.085" for lease-purchase agreements that are entered into by the state.

**Bill section 5:** The bill section imposes a requirement that, in any correctional facility to be constructed, the facility is to be constructed under a public construction project labor agreement setting out particular requirements to be incorporated into the agreement.

Representative Eldon Mulder

January 24, 1997

Page 3

\*

A choice of space use financing arrangements is required. Persons interested in the legislation should note that, as between **bill section 3** (specifically authorizing lease or use of space within the facility of another) and **bill section 4** (giving legislative approval of lease-purchase or similar use-purchase agreement), section 3(e) and section 4(g), taken together, authorize state involvement in just one correctional facility, and that the choice of the use of one method--lease or lease-purchase--bars the state's subsequent use of the other--lease-purchase or lease, respectively--to secure subsequent facilities under the uncodified provisions that are a part of this measure.

JBC:jdr

97-044.jdr

HB53

3/6/97

Corrections std  
Nation std

345-4854

" 5542

BK Powell

- ① → operation std. for corrections
- ② → competitive bidding process
- ③ → site selection committee  
refers to "municipalities" only

§ 3 Operation to  
3d party  
should be bidder  
RFP

How does State monitor  
no review after 5 years

"Public process"

33.30.041  
33.30.025

## FORUM / LETTERS

# Private prisons make good economic sense

By REP. ELDON MULDER

It's time to look at the economics of what we are doing as a state. We must be driven by what is cost-effective — what opportunities let us stretch scarce state dollars. Private prisons fit that description.

Private prisons are not a new idea to over 30 states. They have been very successful overall, with significant savings to the Mulder states while maintaining a high level of public safety. The National Conference of State Legislatures, the state of Tennessee and the Legislative Budget Committee of the state of Washington have published reports on private prisons in the past year. Each study found cost savings and quality services offered by private sector-operated prisons. Alaska's Department of Corrections is currently using a private-



ly owned prison in Arizona for 206 Alaska prisoners.

Assertions that private prisons do not save money are not supported by the facts. Assertions that private prisons are more dangerous to the public are simply untrue, as are assertions that private prisons treat their employees poorly.

• **COST:** The NCSL study reported Louisiana and Texas saved 8 percent and 14 percent respectively. A study in Tennessee showed the private prison 2 percent more expensive but safer than identical public facilities. The Washington state study suggested that keeping the private facility below capacity while keeping the public facility at capacity caused the difference in cost. Tennessee officials believe competition from the private sector had the effect of bringing costs down in public facilities.

• **SAFETY:** The Washington state study asked, "Are the private prisons as safe and secure as the public prisons?" The answer was yes.



• **EMPLOYEE TREATMENT:** Wages, benefits and conditions vary. Some private prison employees are paid higher than their public counterparts, some lower. Some private institutions are organized, some are not. Employees I spoke to at the private prisons seemed happier with their employment conditions than did employees in public prisons I have visited in Alaska.

The key issue is the opportunity to bring competition into a closed market. The Washington state study says that potential savings from privatization would be directly related to competition between private and public facilities within the same prison system. Many employees of the Alaska prison system tell me the same thing. They tell me that they can become more efficient. I believe that the competition will

encourage them to do so.

As we look at the opportunity for a private prison in Alaska, we need to consider several factors.

First, the Department of Corrections budget has grown 604 percent in the past 17 years, while population and inflation have grown only 155 percent. The Department of Corrections budget has grown from \$119,359,000 in FY 94 to a proposed \$138,17,300 for FY 97. That is an increase of \$19,058,300 — almost 16 percent in four short years!

I am committed to making our state government more efficient and effective. That is why I have been working for the passage of House Bill 428.

House Bill 428 encourages the Department of Corrections to move toward the use of private sector prisons. That will bring jobs back from Arizona into Alaska — a payroll of almost \$6 million. Building a private prison will also bring construction jobs to Alaska. Both of those

opportunities are good for Alaskans and our economy.

The other important opportunity offered by a private prison is reducing the cost of incarceration in our state. Today the average cost is \$107 per day per inmate. That's over \$39,000 a year per prisoner. Reducing the cost per prisoner day only \$1 will save \$1 million in the department's budget.

Every state that has begun use of private prisons has saved money in its corrections system. Ironically, Alaska spends over \$30 per day less to have its prisoners in a private prison in Arizona. That's an annual saving of more than \$11,000 per prisoner.

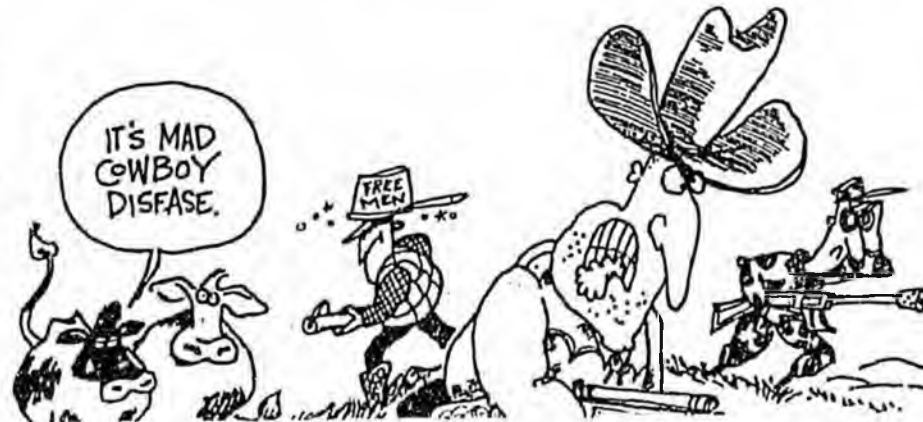
Our system is overcrowded. We are incurring fines every day we exceed our emergency caps, thus far over \$1 million. We need more capacity in our prisons.

□ Rep. Eldon Mulder represents District 23, the Muldoon-Fort Richardson area.

## Photo radar unduly criticized

I would like to politely enlighten Mr. Erik Heiker about his assertion that "photo radar is the brainchild of Mark Begich, a snollygoster who has tried everything possible to extract additional 'funds' from us." (letter, March 30).

Mr. Begich began investigating photo radar at the persistent requests of his constituents in the University Area Community Council. Over the years, university area residents had considered a variety of measures to alleviate the traffic problems in our area — stop signs, speed bumps, sidewalks, blocking off streets. Photo radar was one measure on which the council reached a consensus and, at the council's request, Mr. Begich pursued the photo radar issue.



## What are we teaching our kids?

If we put aside all the no-brainer activities of the mayor and Assembly when they decided to mass-monitor public traffic behavior in school zones, the question that everyone should ask is: Do we want our children to accept living under mass surveillance as normal?

— Robert Furnback  
Anchorage

## Turn off radar after school

I would like to thank the young man who stood on Northern Lights Boulevard near East High School with a sign warning motorists of the photo radar ahead. This happened on Wednesday, March 27, at 5:50 p.m., well after school hours.

## My Turn

## Why we should consider privatizing prisons

By FRANK PREWITT

I have been following, with concern, the rapid polarization between proponents of a large, privately operated prison in Anchorage, versus regional expansion of existing state facilities.

In truth, both are needed. In Southcentral Alaska, more than 700 new prison and jail beds are needed by the year 2000; more than 400 additional beds will soon be required to accommodate local demand in north, west, and Southeast Alaska.

This month, eight out of Alaska's 15 facilities are operating at 165 percent over emergency capacity. The "emergency capacity" of our jails and prisons is not an arbitrary number pulled out of the air by an overreaching court. Each prior administration and an

assortment of consultants have agreed that operating Alaska's correctional facilities over emergency capacity can result in riot, escape, destruction of public property and loss of life.

During the eighties, the preferred response to all categories of crime was to simply build and staff more state prisons and jails, driving the Department of Corrections' operating budget from \$22 million to more than \$100 million in less than 10 years. Feeling the birth pangs of the "fiscal gap," and faced with yet another round of prison expansion, the 1991 Legislature said "no" to Correction's capital expansion request. Instead, the department was urged to develop less costly alternatives for low-risk offenders. Translated, this means restricting "hard bed"

prison confinement to dangerous offenders and diverting misdemeanants, non-violent felons and low-custody prerelease prisoners to community work service, agricultural farms and other programs designed to compel personal accountability.

By 1993, most misdemeanants and over 12 percent of low-custody prerelease felons were incarcerated in structured community correctional centers run by private companies, at significant savings to the state. But by the fall of 1994, demand for conventional "hard beds" outstripped supply and the state was found in contempt of court for exceeding emergency capacity in most of its facilities.

The department's response was to seek immediate relief by purchasing 200 beds from a private

corrections company in Arizona, at half of the cost of the average state-operated bed. With an average annual growth rate of 200 prisoners, the private Arizona beds only provided temporary relief from prison overcrowding. Today, a year and a half later, the Department of Corrections is facing the worst overcrowding in state history and fines accrue at the rate of over \$3,000 per day.

So what is the answer? It depends on the question. Corrections cannot, nor should be expected to prevent crime; prevention is a much broader community responsibility.

But Corrections can be counted on to protect the public from people committed to its custody (most of the time), provide resources for individual reform and supervise

personal accountability to victims and dependents. As to supply and demand for correctional services, there is no question the latter grossly exceeds the former. The only real question is who will provide the future delivery of correctional services, government or the private sector?

When the State of Alaska builds a prison, the cost of construction is approximately \$175,000 per bed; the average operating cost is nearly \$107 per day, per bed. A 600-bed state-built and run prison in Anchorage would cost more than \$105 million in capital and roughly \$20 million per year to operate. Add the operating cost to the cost of amortized capital construction and the price to house one prison for one day rises to over \$150. The same privately funded and operated facility would require no state or municipal capital, and would operate at roughly \$85 per day.

Expanding private correctional services in Alaska does not have to threaten existing state jobs or diminish the distinguished record of the Department of Corrections; unfortunately, there are plenty of criminals to go around. What is needed is a recognition that prisoner should not consume the lion's share of the state operating budget, and a commitment to place the economic welfare of Alaska above self interest.

Frank Prewitt was legal counsel to the Department of Corrections under Gov. Sheffield, deputy commissioner under Gov. Cowper and commissioner under Gov. Mickel. He holds a master's degree in corrections from the University of Oregon and a Law Degree from Seattle University. He is currently in private practice and is a consultant to Wackenhut Corrections Corp.

## Letters

### School district isn't to blame for lost boys

After reading the article on the students lost at Eaglecrest, I must respond. First, I share feelings of great relief and thanksgiving that the boys were found and no one was injured. Next, I ask the "lost boys" to demonstrate honesty in taking responsibility for making the choice to leave the ski area boundary. I also support the school district's response. There was confusion and it's time to examine field trip procedures.

Finally, I urge the parents of these "lost boys" to demonstrate conflict resolution and problem solving skills. Juneau's youth needs to see adults "practice what we preach." If we want and expect less aggression and violence in our community, then we need to model conflict resolution.

I fear growing old in a society where litigation is the first response to a fearful and nervy situ-

### Banish ignorance on the last, or lost frontier

Charles Dickens wrote one hundred and fifty years ago, "This boy is IGNORANCE, this girl is WANT. Beware them both in all their degree, but most of all beware this boy, for on his brow I see that written which is doom unless the writing be erased. Slander it, deny those who tell it ye, admit for your factious purposes and make it worse, and bide the end!" Don't let Dickens' prophecy live 150 years later. Erase Ignorance.

Alaska will not be the last frontier, it will be the lost frontier. And it will be pitiful.

Do not eliminate the budgets for state arts council, public broadcasting and the library book acquisition fund.

Katherine H. Jensen

### Give me that old time

### Harborview rifle range issue isn't that complex

The continuing debate on reopening the Harborview School Rifle Range has been most educational. Over the last couple of years, various school officials and PTA members have admitted their inability to differentiate between the legitimate and illegitimate use of firearms, and to convey that difference to the students in their charge.

Doubtlessly, their admissions of incompetence will not be followed by their resignations, so we may only hope they will read and re-read the superb letter (March 25) from Kirk and Denise Radach on this issue.

I can't help but wonder, however, that if our "educators" do not understand right from wrong in the classroom, how do they deal with academic esoterica?

Nevin D. Holmberg

### Kids' safety is ultimately parents' responsibility

A note of concern about parents and the public school system regarding the article about the four boys lost at Eaglecrest last week.

It seems to me that the ultimate responsibility for a child's safety and education lies with the parent, not the school system.

A parent must teach his child to be responsible for his or her own choices.

Why would a child leave a group if he had been taught safety rules at home?

I hope the parents of these boys reconsider their thoughts of a lawsuit accusing negligence. This may destroy the chance for the rest of our children to enjoy an experience at Eaglecrest.

Assume responsibility for teaching your own child so the public school system will be more effective.

myself felt.

I care little about union involvement. I cannot envision myself waving a sign at a rally for a paltry pay raise that would barely buy a sack of groceries each month, but I was there. I resent the newspaper's implication that I was there demanding the Legislature fund a pay raise for me. I was there to remind overzealous legislators what the words "good faith" and "honor" mean. It is unfortunate that so many of them have forgotten that these are the premises upon which our country was founded.

Phyllis Bradner

### Grip of the 'Iron triangle' is finally released

Prior to the passage of the Tongass Timber Reform Act (TTRA), there existed an alliance between the Alaska...

### Timber contracts mean jobs to my father, myself

My father and I have a lot in common. He took his sons hunting and fishing as I do. He raised his family in Ketchikan as I would like to. We both own boats. (Actually, he owns a boat, I own a skiff.) We both bought houses in Ketchikan. We are both journeymen, he as a millwright and I as a industrial painter. We both work at the Ketchikan Pulp Mill.

If the timber contract does not go through we will have one more think in common. We both won't have a job. Please extend the timber contract.

Matthew Hemingway  
Ketchikan

I'm no 'enthusiast,' but am a trained gun user

# COST of PRISONERS PER DAY

12/5/96

**Dept. of Corrections  
Daily Cost Calculations  
Based on FY96 Actuals**

<b>Total Institutional Related Costs</b>	<b>\$106,611,517</b>
<b>Total Cost Reimbursements</b>	<b>\$ (500,101)</b>
<b>Net Cost of Institutions Operations</b>	<b>\$106,111,416</b>
<b>Daily Cost (Divided by 366)</b>	<b>\$ 289,922</b>
<b>Average Daily Population for FY'96</b>	<b>2,754</b>
<b>Daily Cost per Prisoner</b>	<b>\$ 105.27</b>
<b>Community Corrections</b>	<b>\$ 10,551,033</b>
<b>Daily Cost (Divided by 366)</b>	<b>\$ 28,828</b>
<b>CRC Capacity</b>	<b>422</b>
<b>Daily Cost Per Prisoner</b>	<b>\$ 68.31</b>
<b>Probation Costs</b>	<b>\$ 7,849,792</b>
<b>Daily Cost (Divided by 366)</b>	<b>21,448</b>
<b>Probationers Served</b>	<b>\$ 3,165</b>
<b>Daily Cost per Probationer</b>	<b>\$ 6.78</b>
<b>Out-of-State Contractual</b>	<b>\$ 5,982,322</b>
<b>Daily Cost (Divided by 366)</b>	<b>\$ 16,345</b>
<b>Out-of-State Capacity</b>	<b>253</b>
<b>Daily Cost Per Prisoner</b>	<b>\$ 64.61</b>
<b>Pt. MacKenzie Rehab Ctr.</b>	<b>\$ 1,980,438</b>
<b>Daily Cost (Divided by 366)</b>	<b>5,411</b>
<b>Pt. MacKenzie Capacity</b>	<b>\$ 72</b>
<b>Daily Cost per Prisoner</b>	<b>\$ 75.15</b>

← 206 Beds ARE ARIZONA PRIVATE Facility

**PRIVATIZATION OF STATE CORRECTIONS MANAGEMENT**

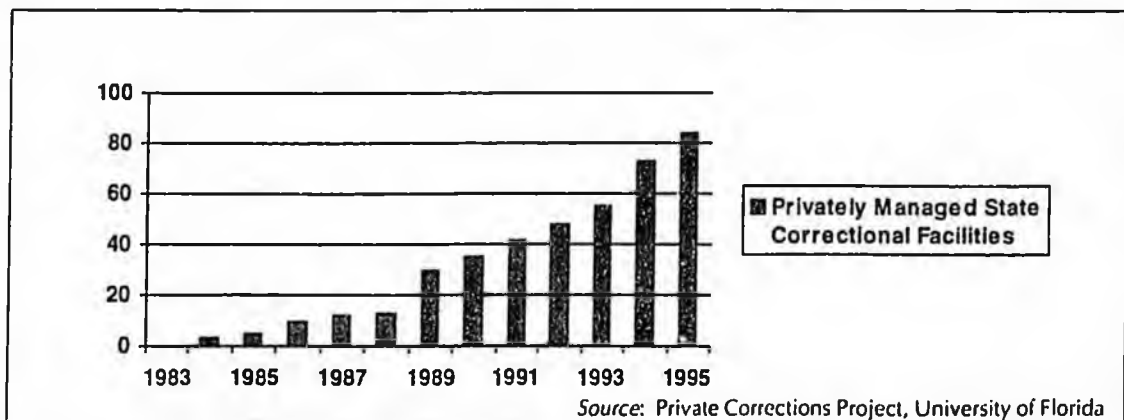
By Elizabeth Pearson and Donna Lyons

**Background**

Rising corrections expenditures have many state legislatures looking hard at privatization as a cost-savings way of building and operating prisons. Since 1985, the number of incarcerated adults has increased 43 percent. State corrections spending has followed this trend. In 1985, state per capita correction spending was \$38.71; in 1992 it was \$79.34—a 104 percent increase in seven years. Corrections spending became the fastest growing component of state budget appropriations in 1995, increasing 13.3 percent, on average, from 1994.

*Twenty-eight states can contract out for prison management.*

Motivated largely by fiscal pressure, 28 states now have legislation enabling their corrections departments to arrange for private management of correctional facilities, or to shift responsibility for management and operation of prison facilities to private prison management corporations. The first initiative was at the federal level, when, in 1984, President Reagan approved private holding cells for illegal aliens in TEXAS. Since then, 20 private prison firms have emerged, managing 84 state facilities in 1995, with a rated inmate capacity of 43,508.



**State Action**

The latest enabling legislation for prison privatization was passed in CONNECTICUT and OREGON in 1995. Also last year, ARIZONA, FLORIDA, NEW MEXICO and TENNESSEE expanded and clarified their contract requirements for private prison management firms. VIRGINIA passed legislation to privatize regional jail facilities. ILLINOIS remains the only state that specifically prohibits the Department of Corrections from entering into contracts with private companies to manage correctional facilities, although MISSOURI introduced similar legislation in 1995. Some states have enacted laws to regulate "spec" prisons, or private "rent-a-cell" facilities that house inmates from other states, localities or the federal government. States with such regulatory provisions include COLORADO, GEORGIA, KANSAS, OKLAHOMA and SOUTH DAKOTA.

A TENNESSEE evaluation in 1993 compared cost and quality in similar public and private correctional centers. Quality measurements included accreditation factors like health care, treatment, security and how inmates spend their time. The evaluation showed that while the accreditation rating was slightly higher (99.29 compared to 98.78 and 98.88) at the privately

run prison than at the publicly managed institution, the average daily operating cost per inmate was also higher for the privately run facility at \$33.78 compared to the average \$33.18 for the two publicly managed facilities.

Evaluations of private correctional facilities in LOUISIANA and TEXAS have had different results. A privately managed prison, Winnfield Correctional Center in Louisiana, has shown an 8 percent cost savings in its first three years of operation when compared to a publicly run, comparably sized counterpart, Cottonport in Avoyelles Parish. A Texas Sunset Advisory Commission study in 1991 determined whether the contracts entered into by the Texas Department of Criminal Justice resulted in the 10 percent cost savings mandated by Texas law. The evaluation showed a savings of \$6.16 per prisoner, per diem, for four 500 bed, privately run facilities—more than a 14 percent cost savings over comparable publicly run facilities.

### Pros and Cons

Proponents of privatization cite as advantages of private correctional facilities:

- Competitive forces of the private sector introduced into government monopolies will drive the "price" of services down, reducing state corrections expenditures.
- Innovative private sector management approaches and hiring capabilities allow private firms to offer different services, like creative education programs, expanding opportunities for rehabilitation and involvement to inmates.
- Private firms can offer special incentives to their employees, such as performance-based pay, shares of company stock and profit sharing.
- Private companies' financial stability and insurance policies lessen government liability from lawsuits due to indemnification clauses in their contracts.
- Private firms paying sales and property taxes offer a "hidden rebate" to state and local governments through additional revenue.

Those who oppose privatization initiatives contend:

- Private sector profit motives will encourage lower wages as a means for cost savings, resulting in reduced standards for hiring critical prison employees like corrections officers.
- The prison management "business" is a relatively small market, and lack of competition will become a transfer of power to the private sector.
- Privatization initiatives will result in a cost shifting, not a cost savings, by changing the state's role from one of operations management to administrative oversight.
- Food service and medical care may be compromised to control costs.
- Private prison management companies may become influential, affecting criminal justice policies and systems.
- Civil liability of government will not be removed by private contract; it will be extended to private contractors as well.

### Selected References

- National Conference of State Legislatures. *State Budget and Tax Action 1995: Preliminary Report*. Denver, Colo., July 1995.
- Thomas, Charles W., Ph.D. "Growth in Privatization Continues to Accelerate." *Corrections Compendium*, April 1994: pp. 5-6, 19.

### Contacts for More Information

Donna Lyons and Robert Frohling  
NCSL—Denver  
(303) 830-2200  
donna.lyons@ncsl.org  
robert.frohling@ncsl.org

*Privatization  
of  
correctional  
facilities  
remains  
controversial.*



# Corrections

## ALERT

Volume 2, Number 25

March 11, 1996

From:  
ALASKA LEGISLATIVE  
RESEARCH AGENCY

### Privatization emerging as feasible correctional tool

With the imminent release of the Private Adult Corrections Facility Census' ninth edition, the general direction of privatization is becoming increasingly clear: Full speed ahead.

In an exclusive interview with *Corrections Alert*, long-time census author and privatization expert Dr. Charlie Thomas says, "It's clear that this is a trend that is not about to stop."

Spurred by studies that continue to prove private firms can build prisons faster and operate them cheaper than public agencies, as well as other benefits of private facility construction, operation, and management, legislators across the nation are scrambling for seats at the privatization table.

When asked to comment on the prognosis for private sector prison management, Thomas points to two critical factors:

- **Legislative emphasis:** In 1995, corrections spending became the fastest growing component of state budget appropriations, increasing 13.3 percent, on average, from 1994. Add to that the 28 states that now have "enabling legislation" that permits their respective departments of correction to arrange for some degree of private prison management, and the environment is ripe for continued growth.
- **More prisoners = more prisons:** Thomas emphatically declares that the number of prisoners in private prisons will break the 100,000 barrier sometime in 1997 and exceed 200,000 by year end 2000. The accompanying graph illustrates Thomas' projections.

Although he cautions that there may be a gradual reduction in the annual percentage increases, which in the past have exceeded 80 percent, Thomas cites the explosive growth history as well as virtually-certain future prison population expansion to prove that private prison management is here to stay.

#### Exploding growth

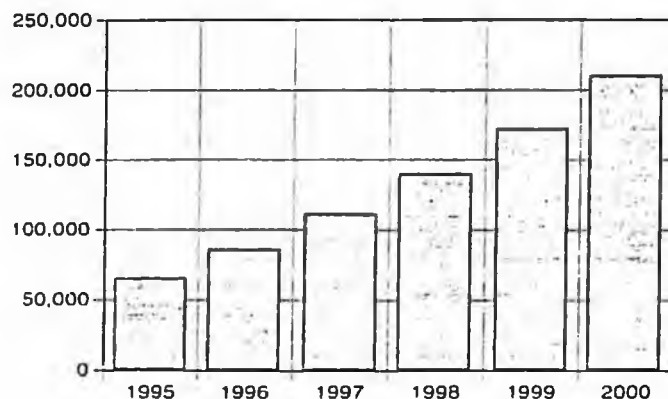
The incredible development of private sector prison management is rooted in relatively modest beginnings. As recently as the early 1980s, there were no state jurisdictions in the US that had the clear legal authority to

contract for the full scale private management of either local or state level correctional facilities. "The only entities having prisoner custody responsibilities which they believed permitted them to contract with the private sector were three federal agencies—the Bureau of Prisons, the Immigration and Naturalization Service, and the US Marshals Service," explains Thomas.

"At least largely because of that," he adds, "we saw no contracts awarded at the local level until 1984, when Hamilton County, Tenn., awarded a contract to Corrections Corporation

*Continued on page 2*

Projected private prison population growth



Note: Assume gradual year by year reduction in the annual percentage increases.

#### In this issue...



- Painful execution ..... 3
- Contracting crises rock systems ..... 6
- Are three-strikes laws racist? ..... 5
- Keeping you Current ..... 7

of America (CCA).” The first state award was not until 1985, when [state] awarded a contract for the management of a minimum-security state prison to United States Corrections Corporation (USCC). The first federal award of any consequence was not until 1984, when the INS awarded a contract to CCA for the operation of what is now known as the Houston Processing Center in Houston, Texas.

From these erstwhile beginnings, by year end 1995, Thomas' preliminary estimates show that there were 17 firms which had received 102 contract awards (90 in the US, six in Australia and six in the UK) with private facilities in operation or under construction in 19 states. "That's an increase of over 88 percent from year end 1994," observes Thomas.

The aggregate rated capacity of facilities in operation or under construction increased 29 percent from year end 1994 (49,154) to year end 1995 (63,306). According to Thomas, the average annual rate of growth in contract capacity for the last five years has been 34 percent.

### Why the appeal of privatization?

Motivated largely by fiscal pressure, states are turning to private companies to help them steer a safe and secure prison system while maintaining a tight grip on the financial reins.

Privatization is increasingly attractive to tough-on-crime politicians

who want to lock up more criminals but must do so in an environment that stresses fiscal responsibility and accountability. As politicians slice smaller pieces of the budget pie and serve the money to corrections, they are simultaneously pressing corrections administrators to ensure higher levels of quality, security, and management expertise.

Although "the core reasons for the growth in the appeal of privatization vary by jurisdiction," says Thomas, "on any list of the influences shaping the appeal one would find the speed with which the private sector has been able to move from contract execution to facility opening. A time lag of 12-18 months to open a facility is typical, compared to a time lag for public agencies that continues to be 36-48 months."

For jurisdictions facing restrictive consent decrees or court orders, Thomas notes, the swiftness with which the private sector can complete projects has a consequential, tangible value.

Another reason is that jurisdictions both in and outside of the US are finding that the funding pool for correctional purposes continues to evaporate. This, says Thomas, "raises the two most powerful influences shaping the appeal of privatization: One, that capital outlay requirements for privatized facilities are regularly 15 percent to 25 percent below comparable public agency requirements; and two, that everyday operating

costs for private companies are typically in the range of 10 percent to 15 percent lower than comparable public agencies."

As for ensuring a higher level of management expertise, Thomas mentions that private corrections management firms can enhance the professionalism of a smaller jurisdiction's correctional facility by providing highly trained, experienced personnel.

Thomas cites a series of projects initiated during 1995 in counties across the US, particularly in Md., Ind., Fla., Texas, and NM, as examples in which private corrections management firms helped smaller counties employ the most current and effective practices in correctional management and operations.

"Having the private companies come in brings a higher level of professional expertise to county-run facilities," explains Thomas. "Therefore, the smaller counties are able to have jails that are on par, operationally, with those in larger systems. Instead of being independent and isolated, they get the benefit of having the substantial operational and management experience of private companies."

A final, though no less important, influence is that in many systems, contracting with the private sector creates a buffer in the area of legal liability exposure. In the age of inmate lawsuits, this benefit is particularly attractive to corrections administrators. Notes Thomas, "The

To: Aspen Publishers, Inc. D1029  
 7201 McKinney Circle  
 Frederick, MD 21701  
 1-800-638-8437  
 Fax: 301-695-7931

Please start my subscription to:

Corrections Alert (CA) - 1 year \$195 enclosed  
 Corrections Cost Control and Revenue Report (CCR) - 1 year \$95 enclosed

Check  MC  Visa  AMEX

Card # \_\_\_\_\_ Exp \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

—Add \$6 for postage/handling—

## Corrections

**ALERT** (ISSN 1075-203X) is published bi-weekly by Aspen Publishers, Inc., 200 Orchard Ridge Drive, Gaithersburg, MD 20879. Phone: 301-417-7500 Editorial: 301-417-7576 Fax: 301-417-7550 or 301-417-7687

<p><b>Editor:</b> Bruce Mendelsohn  <b>Contributing Editor:</b> Michael Quinlan  <b>Legal Editor:</b> Stratton Shariel  <b>Managing Editor, Newsletters:</b> Dan Schwartz</p>	<p><b>Publisher:</b> Mike Brown  <b>Marketing Manager:</b> Robert S. Purzell  <b>Group Editor:</b> Elizabeth Goehning  <b>Production Editor:</b> Eric Myers</p>
---	---

Subscription: \$195 per year plus \$6 postage/handling. **To subscribe:** call 1-800-638-8437. For Customer Service call 1-800-234-1660 **Business and Circulation:** Fulfillment Operations, Aspen Publishers, Inc., 7201 McKinney Circle, Frederick, MD 21701 **POSTMASTER:** Send address changes to Aspen Publishers, Inc., 200 Orchard Ridge Drive, Gaithersburg, MD 20878 **Requests for permission** to reprint should be directed to Permission Department, Aspen Publishers, Inc., 200 Orchard Ridge Drive, Gaithersburg, MD 20878

©1996 Aspen Publishers Inc. All rights reserved. Reproduction prohibited without written permission of the publisher

independent contractor that you retain is obliged by contract condition or law or both to indemnify and hold harmless the contracting governmental entity against any and all sources of legal liability exposure, including civil rights exposure associated with the operation of the privatized facility."

### What's next for the industry?

The rapid growth in some of the larger private corrections management firms puts them in the position of operating corporate correctional systems that are now substantially larger than an overwhelming majority of the prison systems operated by individual systems in the US.

Companies like CCA—the largest of the firms—and the Wackenhut Corrections Corporation (CCA's primary competitor) rival the larger state systems in terms of overall prisoner

population. At the end of 1995, CCA had 42 secure adult facilities under contract with a contract capacity of 30,610 prisoners. Significantly, these 42 facilities are at the county, state, and federal levels, with an inmate mix that includes male and female prisoners at all classification levels.

"If we compare the size of CCA (including the capacity of facilities now under construction) with the prisoner populations of individual US states, at 30,610, CCAs in the top ten in terms of population," reflects Thomas.

The 1990s may in retrospect be viewed as the decade during which private corrections management firms broke out of the beachhead first established in the 1980s. "When the policy makers want to engage in comparison shopping for correctional purposes," declares Thomas, "they now have an increasingly long list of alternative providers. They are increasingly making a policy choice to select

private providers from that list."

As more and more legislatures turn to private providers, and "as the selection of private providers yields one or more of the benefits mentioned above, governments have greater confidence in the ability of the private sector to deliver competitive services on a cost effective basis," notes Thomas.

He adds that because this momentum may well spur continued growth through the decade and beyond, "there is every reason to believe that this growth is going to persist for the foreseeable future."

*[Ed. note: Already in 1996 there have been five contract awards (one federal to USCC, two state—one to Wackenhut, one to CCA—and two county level awards—one to CCA, and the other to RECOR.) Thomas estimates that the capacity of private facilities in operation or under construction by year end 1996 will be between 85,000 and 88,000 beds. For more information, contact Dr. Charles Thomas at 904-392-1025.]*

## LEGAL

### Painful execution declared unconstitutional

*Fierro v. Gomez*, (No. 94-16775, February 21, 1996). Calif.'s method of executing inmates by lethal gas constitutes cruel and unusual punishment in violation of the Eighth Amendment, according to a recent decision by the Ninth Circuit.

David Fierro, Alejandro Gilbert Ruiz, and Robert Alton Harris, Calif. inmates sentenced to death, filed suit in 1992 under 42 U.S.C. Section 1983 against the director of the Calif. Department of Corrections and the warden of San Quentin Prison, alleging that the state statute proscribing lethal gas as the method of execution violated the Eighth and Fourteenth Amendments.

The Ninth Circuit agreed and affirmed the lower court's injunction against lethal gas executions. The court found that extensive expert testimony as well as prison medical records documenting inmates' deaths by lethal gas showed that such inmates suffered extreme pain, sometimes for several minutes before their deaths.

### Restitution from outside funds constitutional

*Mahers v. Halford*, (No. 95-1516, February 21, 1996). Corrections officials may withhold court-ordered restitution deductions from funds inmates receive from outside sources without providing individualized pre-deprivation hearings, according to a recent Eighth Circuit opinion.

The Iowa Department of Corrections began automatically deducting 20 percent of all money received by inmates, including money received from outside sources, toward inmates' restitution obligations. No hearings are provided prior to the deductions.

Ronald Mahers, an Iowa inmate, brought suit against the corrections department, alleging that deductions from outside source donations without individualized hearings violated due process because inmates had no opportunity to show that the money was for an important purpose that should render it exempt from deductions.

The Eighth Circuit rejected the claim, holding that: (1) inmates' private interests in the money they receive from outside sources is subject

to limits; (2) the risk that restitution will be mistakenly deducted from an inmate's funds is minimal, largely because inmates receive procedural protections at the time restitution plans are set up; and (3) the restitution system serves the important state interests of compensating victims and teaching inmates responsibility.

### RFRA claim for kosher diet fails

*Prins v. Coughlin*, (No. 95-2458, February 20, 1996). The transfer of an inmate to a corrections facility which did not provide him with daily hot kosher meals did not substantially burden the exercise of his religion as a Jew in violation of RFRA, the Second Circuit recently held.

Brian Prins, an inmate in the NY State Department of Corrections, was transferred from the Green Haven Correctional Facility to the Clinton Correctional Facility in northern NY State. Clinton did not serve Prins hot kosher meals every day prepared in a kosher kitchen. He filed suit against corrections officials, claiming that his



State of Washington  
Legislative Budget Committee

506 16th Ave. S.E., PO Box 40910, Olympia, WA 98501-2323  
Phone: (206) 786-5171

---

# Department of Corrections Privatization Feasibility Study

---

This report is a working paper and is intended for discussion purposes only. Its contents are not necessarily endorsed by the Legislative Budget Committee and should not be interpreted as final committee recommendations.

January 1, 1996

*Upon request, this document is available in alternative formats  
for persons with disabilities.*

## Table of Contents

<b>Part</b>		<b>Page</b>
1	<b>Background and Introduction (Tab 1)</b>	1
2	<b>Legal Thresholds</b>	3
3	<b>Review of Cost Studies--Public vs. Private</b>	6
	Review of Published Sources	6
	Review of Privatization Experiences in Other States-- Choice of Case Studies	7
4	<b>Results of Louisiana and Tennessee Case Studies</b>	9
	Case Study Cost Comparisons	9
	Case Study Qualitative Comparisons	11
	Examples of How the Companies Have Reduced Costs	13
5	<b>Cost Savings Potential of Privatizing Corrections Institutions and Facilities</b>	17
	Interstate Operational Cost Comparison	17
	Interstate Capital Cost Comparison	21
	General Conclusion	25
6	<b>Best Practices for Requests for Proposals and Contracts</b>	26
7	<b>General Guidelines</b>	27

## PART 1: BACKGROUND AND INTRODUCTION

The state operating budget for the 1995-97 Biennium provided funds for the legislature to review and identify state programs or services that may be competitively contracted to produce cost savings or improvements in the quality or level of services without harm to the public good. The Legislative Budget Committee (LBC) was asked to do the part of this review relating to adult correctional institutions, and to have a preliminary report completed by January 1, 1996.

### *Study Objectives*

The LBC's study objectives were set out as follows.

- Work with the Attorney General (AG) to identify any potential legal constraints to implementing privatization, and, if applicable, any statutory changes needed to remove such constraints.
- Verify whether other states and jurisdictions have achieved cost savings through privatization without harm to the public good.
- If savings occur, identify the ways in which they are achieved (e.g., design/operational efficiencies, different levels of service, personnel compensation).
- Evaluate the feasibility and cost savings potential of privatizing Department of Corrections (DOC) institutions and facilities (e.g., specifically the new 1, 936 bed institution being planned).
- With the assistance of DOC and the Attorney General, evaluate best practices, and develop prototypes for Requests for Proposals (RFPs), contracts, and competitive procedures for privatization.

### *Study Results*

By addressing the study objectives, this report provides information to assist the legislature in its deliberations on privatization. Although the report makes no recommendation on the policy issue of whether to privatize adult correctional facilities, there are numerous issues and obstacles related to privatization that are addressed in the technical appendices. These technical appendices (particularly those concerning legal issues, RFPs and contracts, and estimating annual ownership costs) are designed to be used as guidelines to be followed in the event that privatization is pursued. Similarly, the report

also contains five general guidelines that could be followed for minimizing the risk to the state, while promoting cost savings without sacrificing quality.

### *Acknowledgments*

We appreciate the support given to this study by the Department of Corrections, the Office of the Attorney General, the Senate Ways and Means Committee, and the House Office of Program Research.

We are also indebted to the states and private companies that provided us information. In particular, the case studies and examples included in this study would not have been possible without extensive cooperation from the states of Louisiana, Tennessee and Florida, and from the Corrections Corporation of America and the Wackenhut Corporation.

This study was conducted by Bob Thomas, Kathy Gookin, Beth Keating and Valerie Whitener of the LBC staff, with technical assistance from the project consultants, Robert M. Williams and Richard Crane. Cheryle Broom was the project supervisor.

The legal analysis by the Office of the Attorney General was conducted by Richard Heath, Talis Abolins, Deborah Cade, Lee Johnson, Zachary Mosner, Mitch Sachs and Mike Lynch.

A panel that reviewed our consultant's work on RFPs and contracts consisted of: Linda Brownell (Senate Ways and Means); Karl Herzog (House Capital Budget Committee); Kristen Reiber (House Appropriations); Richard Heath and Talis Abolins (Office of the Attorney General); and Jim Blodgett, Bernie Warner, and Margaret Vonheeder (Department of Corrections).

## PART 2: LEGAL THRESHOLDS

The LBC was asked to work with the Office of the Attorney General (AG) to identify any potential legal constraints to implementing privatization, and if applicable, any statutory changes needed to remove such constraints.

In addition to answering the basic questions posed, the AG provided further commentary on a number of legal issues to be considered in the event that the state would pursue privatization. The full text of the AG's analysis is included in Appendix 1. The three basic threshold questions are presented and answered below.

- Is there a constitutional prohibition against contracting prison operations?

No. There is, however, a doctrine that would prevent the state from delegating away its ultimate responsibility to foster and support our prisons. There are no court decisions specifying what is necessary to avoid an unconstitutional delegation of corrections responsibility.

In Washington, a court would likely use a two-part test to determine whether the state's delegation of power is constitutional. Under this test,

1. the legislature must provide standards or guidelines which define in general terms what is to be done and the instrumentality or administrative body which is to accomplish it; and
2. procedural safeguards must exist to control arbitrary administrative action and any administrative abuse of discretion.

The first requirement would likely be met by adequate statutory standards for private prison operations, and by the detailed requirements of the state's request for proposal and contract.

The second requirement would likely be met by the state's retention of ultimate decision-making responsibility in the areas of classification, discipline, sentence-calculation, and release decisions. Other states have strived to accomplish this in a number of ways. The more control that is retained, the less risk of unconstitutional delegation. Conversely, too much

- Need to retain certain responsibilities

state involvement in facility decision-making may interfere with efficiencies that the private contractor proposes to achieve.

- Are there existing statutory or case law constraints to contracting out prison work?

Yes. Contracting for services that have been traditionally and historically performed by classified DOC prison employees would likely be found to violate existing civil service law as interpreted by the courts. A possible exception in RCW 41.06.380 for certain contracts originally entered into before April 23, 1979, would not apply, as our review discloses no such DOC contracts relating to prisons.

- Legislative authority needed

Legislative authority would have to be provided in order to contract for the operation of a prison without using state civil service employees. In order to remove any such question as to the authority given, the authorization should be in the form of an explicit direction in the statute to contract out the work involved. Repeal of RCW 41.06.380 is not necessary, since it is not that statute that prohibits contracting out in general.

Whatever language might be chosen for authorizing DOC to contract out, the language should be carefully drafted to ensure that the intent to contract out is clear.

- Are there provisions in the relevant collective bargaining agreement against contracting out?

Yes. Under the current collective bargaining agreement DOC has agreed not to contract services when such action would have the effect of terminating classified employees or when the services to be contracted would be the same as those historically provided by classified employees.

- Current agreement expires in June

The effect of existing collective bargaining agreement provisions on the ability of the legislature to direct contracting out is unsettled. State unions have taken the position in court that the legislature may not retroactively change an agency's agreement not to contract out. They have based their position on a state Constitutional prohibition against impairment of contracts. However, even if a challenge to a contracting out statute were to be successful on this ground, it would only bar application of the statute

during the existing term of the contract agreement. Therefore, the constitutional issue could be avoided by stating in the statute that contracting out would not occur until expiration of the current term of the agreement. The current agreement expires on June 25, 1996.

- Issue of removing DOC's discretion in bargaining

The statute and rules as currently written require an agency to bargain personnel matters over which management can lawfully exercise discretion. Therefore, elimination of the contracting out language from the new collective bargaining agreement would not be certain if discretion to contract out is given to management by the authorizing statute. Instead, the statute should direct DOC to contract out. The union could not then argue that contracting out is negotiable.

## PART 3: REVIEW OF COST STUDIES – PUBLIC VS. PRIVATE

One of the feasibility study questions was: *Have other states and jurisdictions achieved cost savings through privatization without harm to the public good?*

We approached answering this question by reviewing published sources and the experiences of other states that have experimented with the privatization of prisons.

### REVIEW OF PUBLISHED SOURCES

- There are surprisingly few studies, and they are of limited value.

We conducted a review of existing literature on privatization of prisons. Although there are numerous published sources that debate the pros and cons of privatization, there are only a few studies that have attempted to compare costs, and they have reached conflicting conclusions. We reviewed the methodologies and conclusions of these studies, recreating the analyses when possible. With the exception of some state-sponsored studies (more on these later) the studies we reviewed had significant limitations or methodological weaknesses. We did not find that we could use these studies to draw any general conclusions about the potential for cost savings through privatization.

See Appendix 2 for more comments on the cost studies we reviewed.

We also reviewed two studies available concerning the quality of operations of public-versus-private facilities. Indicators of quality included such factors as safety issues, availability of programming, satisfaction with food, and job satisfaction of staff. In each case, the studies found no significant differences in quality between the particular publicly and privately operated prisons being compared.<sup>1</sup>

---

<sup>1</sup> Charles H. Logan, *Well Kept: Comparing Quality of Confinement in a Public and a Private Prison*, National Institute of Justice, March 1, 1991; and Tennessee Select Oversight Committee on Corrections, *Comparative Evaluation of Privately-managed CCA Prison and State-managed Prototypical Prisons*, January 1995.

## REVIEW OF PRIVATIZATION EXPERIENCES IN OTHER STATES - CHOICE OF CASE STUDIES

### - Criteria for selecting states for case studies

Since one of our study questions involves the feasibility of privatizing a multi-custody prison in Washington, we sought case studies of privatization in other states that met the following criteria:

- The experience with privatization should involve a large, multi-custody facility.
- The state-run facilities to be compared to the privately run facilities should be of similar capacity, design and security levels.
- Preferably the comparable facilities would have been in operation for several years.
- The states having such facilities would be willing to provide all the information we would need in a timely manner so as to meet the deadline for this report.
- The private companies operating the prisons would be willing to provide information needed for this study.

### - Choice of Louisiana and Tennessee

We were fortunate in obtaining the cooperation of two states -- Louisiana and Tennessee -- that have facilities that are particularly well-suited for apples-to-apples comparisons of costs.

### - Both states allow for apples-to apples comparisons

Louisiana has three large, prototypical, multi-custody facilities that are exactly the same design and capacity. One is operated by the state, and the two others are operated under contract by the Wackenhut Corporation (Wackenhut) and the Corrections Corporation of America (CCA), the two largest private operators of prisons. Louisiana's three facilities were all in full operation by the beginning of 1991. At present, the capacity at each of the facilities is 1,474 inmates.

Tennessee also has three large comparable facilities, two of which are state-run, and one of which is operated by CCA. The three facilities were in full operation by mid 1992. The current capacity at each of Tennessee's prototypical facilities is 1336 inmates.

- Benchmark studies in other states

We also reviewed cost studies from other states. The most important of these have been recent attempts to set cost benchmarks for targeted savings from privatization. The way this works is that states either estimate what the public costs would be of operating a particular new facility, or they identify their current costs of operating similar prisons within their system. Through a Request for Proposals (RFP), private companies are asked to respond with proposals that would result in a minimum cost-savings percentage (e.g., seven to ten percent), compared to the benchmark.

If the benchmarks are accurately and appropriately estimated, and the state receives responsive bids, then the compensation provided for in the contracts, compared to the benchmark, should indicate an amount of savings to be expected from privatization.

- Why this study does not report on the recent experiences of states using benchmarks

Two years ago the LBC gained experience in estimating the costs of prison operations. In its report on *Department of Corrections Capacity Planning and Implementation* (January 27, 1994), the LBC identified facility operating costs, by security level, in order to determine if some of the most inefficient prison facilities should be replaced. The findings from the report led to legislative approval of several capital projects intended to achieve operational savings.

Based on our experience, and knowing the care that must go into establishing benchmarks, we would be reluctant to accept projected savings based on benchmarks at face value. The time frame for the present study did not allow for the extent of review that would enable us to say whether recent benchmarking efforts in other states are likely to result in savings.

## **PART 4: RESULTS OF LOUISIANA AND TENNESSEE CASE STUDIES**

This part of the feasibility study uses the case studies to answer two of the questions posed in the project scope and objectives:

1. Have other states and jurisdictions achieved cost savings through privatization without harm to the public good?
2. If savings have occurred, how have the private companies accomplished this?

In answer to the first question, we reviewed cost information and studies provided by the states and the private companies. For Tennessee, we reviewed and made adjustments to a cost comparison conducted by the state's Fiscal Review Committee for fiscal year 1993-1994. For Louisiana, we used state and company data for fiscal year 1995-1996. The results of our analysis were submitted to the states and the private companies for technical review and comment in November 1995. Details concerning the comparative costs and our methodology are included in Appendix 3. Summary comments about the results are included in this section.

The first question also contains a qualitative element related to the "public good." We endeavored to address this element by identifying any public safety differences between the public and private facilities (e.g., record of escapes and disturbances) and through examination of any other information that might suggest that there were substantive differences in prison operations and programs.

The second question concerns how private companies operate, and focuses on the issue of what the state might actually be purchasing in the event that it pursues privatization.

### **CASE STUDY COST COMPARISONS**

- Has Louisiana achieved cost savings through privatization?

Until recently, yes. Based on information for 1995-96, the state can expect to break even on its two contracts when all facilities are operating at full capacity. The CCA prison is costing about 1 percent more than the state facility, and the Wackenhut prison is costing about 1 percent less. Historical data suggest, however, that both private facilities previously cost the state less than the state-run

prison on a per diem basis. For example, in fiscal year 1993-94, the two privately run facilities were costing the state approximately 4 percent less, even though they were housing fewer inmates.

- Why costs have converged

One explanation for the convergence of costs over time may be the effect of competition. This is an argument made by the private companies that was also mentioned by some state correctional officials. Lean budget years may also have made a difference. For some years the inflationary increases built into the private contracts has been greater than the increases in the corrections budget. So while the per diem costs for the private has inflated, it has not inflated for the public facility.

- Has Tennessee achieved cost savings through privatization?

The best answer is probably yes. During the study period (fiscal year 1993-94), the effective per diem for the private facility was less than the weighted average per diem for the two state-run facilities (\$33.63 versus \$34.29), but actually higher than one state facility and lower than another.

This information is somewhat misleading, however, because during the study period, in which additional capacity was being added at all three facilities, both state-run facilities had higher average daily populations (ADPs) than the private facility. Since the marginal cost to the state of placing inmates in its own facilities was less than the per diem for the private facility, this resulted in a lower effective per diem at the state facilities.

- Estimate of longer-term outlook

In order to understand how costs might compare over the long-term, when ADPs would more closely match, the state's Fiscal Review Committee estimated what the costs would be if the ADPs were equalized. Taking the same approach, but with the adjustments explained in Appendix 3, we estimate an average per diem for the state-run facilities of \$35.55 (fiscal year 1993-94) when ADPs are equalized. With the private per diem at \$33.63, this represents a potential savings of approximately 5.5 percent. This may be viewed as the expected savings that will be achieved when all the facilities are operating at full capacity.

- The effects of competition

Tennessee officials were of the opinion that competition from the private facility had the effect of keeping costs down at the public facilities. As evidence of this, we observed during our site visits that the private facility's estimate of additional staff needed for a proposed capacity expansion of 170 beds was less than half of the estimate made by one of the state-run facilities. We were told that this difference was causing closer scrutiny of the state prison's request than might otherwise have occurred.

### CASE STUDY QUALITATIVE COMPARISONS

- Are the private prisons as safe and secure as the public prisons?

Yes, based on data at hand. We reviewed a year's worth of data from our study prisons regarding rates of escape, major disturbances, and inmate infractions. We also conducted site visits to observe prison environment and operations. A summary of our observations follows. (See Appendix 4 for more detailed information on both interstate and intrastate comparisons of inmate demographics and behavior).

- Escapes

There were no escapes at any of the Louisiana prisons. In Tennessee there was a total of three escapes from secure supervision in the two public prisons, and no escapes from the private prison. There was also a total of nine escapes from the two state run minimum security units, and only one escape from the privately run minimum security unit.

- Major disturbances

In Louisiana, each of the private prisons reported one major disturbance, while the public prison reported four. In Tennessee, one of the public prisons reported sixteen major disturbances, while the remaining public and private prisons each reported seven. Some of the difference in numbers may be due to reporting differences, as evidenced in the comparative evaluation completed in Tennessee in January, 1995. Although these numbers portray a large amount of major disturbances, none of the prisons experienced disturbances that required the use of outside assistance.

- Infractions

Inmate infractions are an important measure of safety and security, however, rates are dependent upon individual staff reports. In Louisiana, the Wackenhut prison issued .47 infractions per inmate, the CCA prison issued 1.3 per inmate, and the state prison issued 1.8 per inmate. In Tennessee, the infraction rates were more similar, with the private prison having issued slightly more infractions than the public prisons. During the study period of the Tennessee comparative evaluation, there were dramatically more injuries to staff and inmates reported at the privately run facility. However, the report indicated reporting differences, and weighted each of the Tennessee prisons the same in the areas of safety and security.

All of the prisons we visited were clean and appeared to be orderly.

- Do the private prisons offer the same quantity and quality of inmate programs as the public prisons?

Generally, yes. The private prisons in our study had similar inmate work requirements to the public prisons. Louisiana private and public prisons have a 100 percent inmate work program. In Tennessee, the private prison has an average of 84 percent of inmates either working or attending full time education programs.

- Rehabilitation

In Louisiana, 26 percent of the inmates at the state prison were enrolled in education programs, while only 20 and 16 percent were enrolled at each of the private prisons. Although the exact numbers were not provided, it was reported that programs are filled to capacity at each of the three prisons. Capacity and enrollment information was not available for other aspects of rehabilitation in Louisiana, but the emphasis in this state is clearly on work skill development and education in addition to a full-time work program.

In Tennessee, 23 percent of the inmates in the private prison participated in education programming, while 20 and 35 percent participated in education in the public prisons. A qualitative study conducted by Tennessee indicates similar programming availability and quality at each of the prisons.

- Limitation of comparisons

In order to make a complete comparison, further data would need to be gathered including the ratio of program completions to enrollments, length of programs and outcome indicators.

- Do the inmates from the private prisons have a higher or lower rate of recidivism than those from the public prisons?

This question cannot be answered within the context of this study. There have been no studies to address this question directly, or that measure recidivism from prison to prison. Although overall state recidivism rates appear in various publications, it is well known that most states define recidivism differently. For instance, the definition of recidivism may include re-arrest, technical violations or new convictions, or may only include actual returns to prison. States also measure recidivism over varying lengths of time, ranging from one year to five years.

- Problems with defining and measuring recidivism

The major links to recidivism appear to be in the areas of age and criminal history. Young offenders with an extensive arrest record for property crimes are more likely to re-offend than older, first-time offenders. A further problem with trying to assign a rate of recidivism to a particular prison is the fact that an inmate rarely spends his/her entire incarceration at only one prison. Given these problems, using available data about recidivism would not be valid.

## EXAMPLES OF HOW THE COMPANIES HAVE REDUCED COSTS

In Louisiana and Tennessee, both states designed, built and own their prototypical facilities, and pay all debt service. Therefore, these states do not provide an opportunity to evaluate the savings potential of privatization on capital projects (see discussion of capital costs in Part 5, below).

- What areas of the operational budget are likely candidates for cost savings?

Personnel and supplies comprise approximately 85 to 90 percent of operating costs in the state-run facilities we evaluated. These are the two areas where opportunities for savings are substantial. Personnel (including contracted professional services)

accounts for about 70 percent of operating costs, while supplies account for 15 to 20 percent. The remaining areas of the budget, including such things as utilities and insurance, are not likely to vary significantly due to whether the state or a private company is operating a facility.

- Do the private companies save on supplies?

From all accounts, the private companies do save on supplies, but we do not have information that would permit us to estimate a percentage.

State and company officials in both states agreed that the private companies save money by not having to follow the state procurement rules. They can buy supplies when needed, at the most competitive price, and keep a smaller inventory.

This cost advantage to the private companies is offset by the fact that in both states the private facilities pay sales taxes that the state facilities are exempt from paying. Although this adds to the cost of the contracts, the states may still realize the benefit of the lower procurement costs because the sales taxes are returned to the states as revenues.

- Do the private companies save on personnel costs?

Yes. For the three private facilities included in our case studies, we estimate that the number of staff ranged from 88 to 97 percent of state facilities staffing, and that the average salaries for those personnel range from 69 to 93 percent of state salaries.<sup>2</sup>

- Example of magnitude of possible savings

The magnitude of the potential for savings in the area of personnel can be shown in the following example. If a private facility can operate with 90 percent of state staffing, and at 85 percent of average state salaries, this translates into a personnel savings of 24 percent. Since personnel costs comprise about 70 percent of all operating costs, this results in

---

<sup>2</sup> The lower end of the salary range was based on comparing the mid-points of the salary ranges for corrections officers at the Avoyelles (state-run) and Allen (Wackenhut) facilities in Louisiana. Corrections officers comprise more than two-thirds of all staff at both facilities. The use of the mid-point for the private facility is a conservative approach (i.e., does not over-estimate) insofar as the private facility has a higher turnover rate than the state-run facility.

a savings to the total budget of approximately 16 percent.

- Are the savings passed on to the states?

Some of the savings are passed on to the state to the extent that the contracted per diems for the private facilities are less than the states' per diems. The example above shows, however, that personnel can be a major source of profit for the private companies.

- How do the private facilities manage operations with fewer staff?

From our site visits and reviews of staffing patterns, two general explanations emerged.

1. There is a greater tendency for staff to have responsibilities in more than one area, and for management staff to have responsibilities in several areas.
2. More flexibility in the use of staff, including corrections officers, results in fewer staff (and/or less overtime) needed to cover mandatory posts.

- Do the private companies also save on employee benefits?

Not necessarily. In Louisiana the state spends less on benefits for current employees than either of the private companies, primarily because state government does not participate in the federal social security system. The state does have a retirement system, but its employer contribution to the retirement system is less, as a percentage, than what the private companies pay for social security contributions.<sup>3</sup> Of the two private companies, CCA additionally makes a company stock contribution and has a stock purchase matching plan that can equal an employer contribution of up to 6 percent of salary per year.<sup>4</sup> In Louisiana, Wackenhut makes no employer contribution to retirement, other than social security.

---

<sup>3</sup> The amount that the state contributes that is needed to cover defined benefits for current employees is 5.357 percent, which compares to the social security employer contribution of 6.2 percent.

<sup>4</sup> During the first year of employment, CCA contributes 2 percent of salary, and 1 percent thereafter. It will match employee contributions up to 4 percent of salary.

We did not receive full benefit information for the privately run facility in Tennessee. In the area of retirement, the state contributes more than the maximum of 6 percent paid by CCA. It would be difficult to say, however, which retirement plan ultimately provides the most financial benefits to its members.

## PART 5: COST SAVINGS POTENTIAL OF PRIVATIZING CORRECTIONS INSTITUTIONS AND FACILITIES

Although the two case studies indicate that savings from privatization are possible, they do not provide good estimates of the range of potential savings in Washington for two reasons:

- The costs to the states to operate prisons in Louisiana and Tennessee are less than in Washington, even after adjusting for cost of living differences. This is true regardless of whether the prison is state-run or privately run.

When private companies indicate they could save Washington State large percentages in prison operating costs, it is likely they are referring, at least in part, to savings that would come from adopting an approach to operations more like one of these other states. Privatization would be one means of changing operations to realize savings, and might still have the potential for savings that are more directly related to privately run operations *per se* (e.g., through efficiencies in the procurement of supplies).

- Both states designed and built their prototype facilities, which means that the private companies were not in a position to achieve potential savings through lower development costs had they built the facilities, or through differences in design that might lower operating costs.

In order to provide decision-makers with more information about potential cost savings, we conducted operational cost comparisons between similar facilities in Washington, Louisiana, and Tennessee, and a capital cost comparison of facilities in Washington and Florida.

Florida offers a good example of a large, new, multi-custody facility that is designed, is being built, and will be operated, by a private company (Wackenhut).

### INTERSTATE OPERATIONAL COST COMPARISON

- Difficulties in making comparisons

From state to state, budgeting practices are different enough to make interstate comparisons of prison costs difficult. For example, in Washington, prisoners' medical costs are included in DOC's budget, but are not allocated proportionately to all the facilities that utilize the medical services. In Louisiana, chronic and major medical service costs are borne by charity hospitals. From our discussions

with Louisiana officials, it apparently would not be possible to allocate these costs to the state prisons.

- Study approach focuses on areas that can be compared

The approach we took in making the interstate comparisons was to focus on those areas of facility operations for which we were able to collect cost data and make direct comparisons. For Washington and the two other states, the per diem amounts shown in Exhibit 1 (below) represent approximately 85 percent of direct facility per diem costs excluding debt service. Indirect costs, such as headquarters overhead and general government overhead, are not included in direct facility costs and therefore are not reflected in these numbers.

- Choice of Airway Heights as Washington's facility

For the Washington facility, we chose the Airway Heights Corrections Center in Spokane. Among the two newest multi-custody prisons in Washington (McNeil Island is the other one), Airway Heights has the most efficient housing unit design, and it is the prototype for the new 1,936 bed facility planned for Grays Harbor.

We used Airway's costs at a capacity of 1,424 beds, and made adjustments to the budgets of the Louisiana and Tennessee facilities to show their costs at 1,424 capacities. Adjustments to Airway's budget resulted from assuming that all 256 bed housing units were medium security, and that the minimum security facility was located within the institution's secure perimeter.

- Conservative approach in comparing per diems

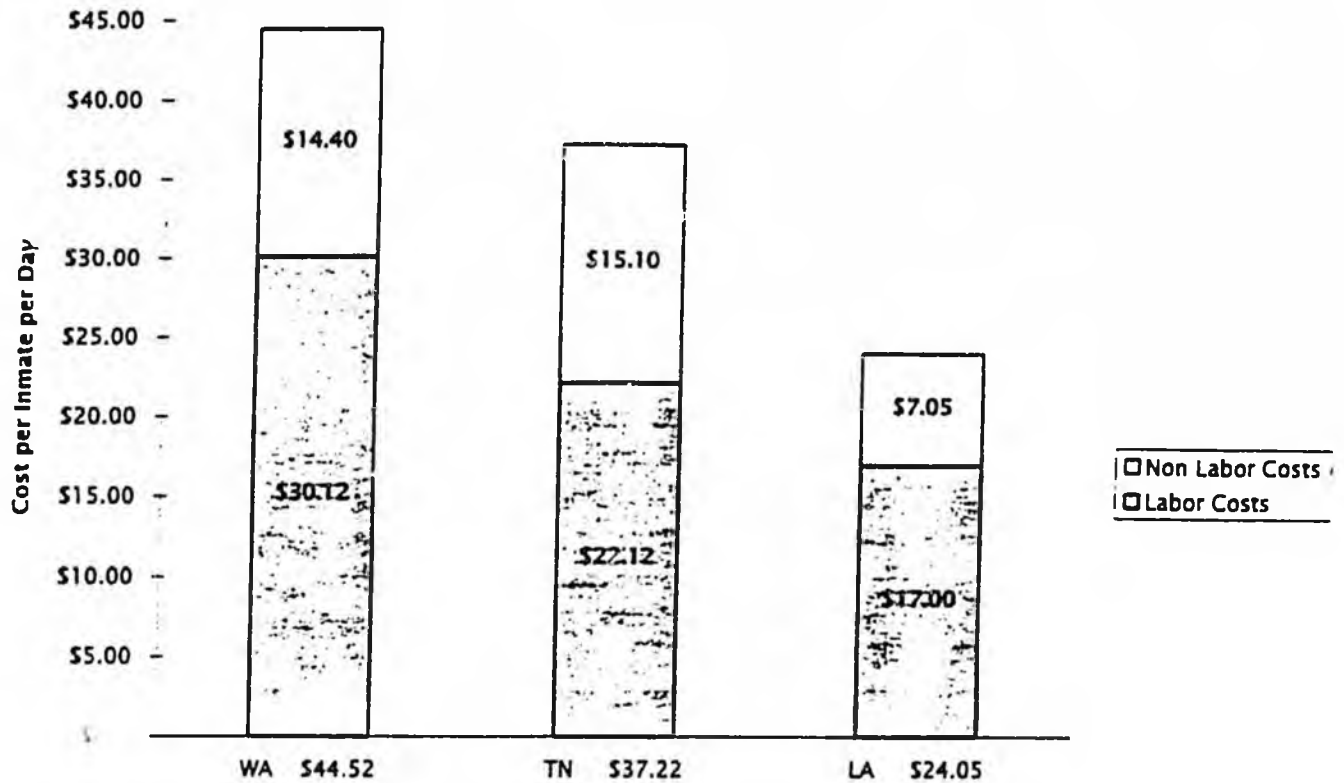
In several instances when we had to make judgment calls about assumptions to use in making adjustments, we chose the assumptions that favored Washington. We did this in order to keep the estimates of cost differences conservative. Thus the spread between Washington's per diem costs and those of the other states may be somewhat understated.<sup>5</sup>

---

<sup>5</sup> The major assumptions benefiting Washington were: (1) the inclusion of Seattle in our cost-of-living index increased differences in cost of living, because the cost of living in Seattle is significantly higher than the average for the rest of the state; (2) in adjusting capacities upward and downward to create budgets for 1424 bed facilities in Louisiana and Tennessee,

## Exhibit 1

### Comparable Per Diem Costs for a 1424 Bed Prison, FY1996 Dollars Adjusted for Cost of Living Differences



Source: LBC data, 1995

Excludes medical costs, overhead and debt service.

we used worst-case scenarios for cost impacts; and (3) we assumed that staffing at Airway Heights, that is beyond what is required for 1424 beds, would be absorbed with the 512 bed expansion (bringing the facility to 1936 beds), and therefore we did not assume that the current additional staffing would be permanent.

- What are the elements of Washington's higher labor costs?

In comparison to Louisiana's facility, the difference in Washington's cost is due to more FTEs, higher salaries, higher benefits, and employees with more longevity.

In comparison to Tennessee, the difference in Washington's cost is due mainly to higher salaries, higher benefits, and employees with more longevity.

- What are the differences in FTE totals?

The Washington facility has 389 FTEs compared to 343 for Louisiana and 387 for Tennessee. However, these are not perfect comparisons because some contracted personnel might not be counted as FTEs. One example where contracting skews the comparison is in the case of educational programs. Washington shows fewer staff for education (5 FTEs) than Tennessee (22 FTEs) because of the use of contractors.

- What areas of operations show major staffing differences?

Both Louisiana and Tennessee have more staff assigned to security than Washington. This is generally due to a more efficient housing unit design and security staffing plan at Airway Heights, and in the case of Louisiana, to the fact that Louisiana has more guard towers. Both Louisiana and Tennessee have more work assignments for inmates, which requires additional security posts.

Major areas where Washington has more staff are administration and maintenance (higher than both Louisiana and Tennessee), and Classification and Food Service (higher than Louisiana).

More details on cost differences, including the differences in non labor costs, are included in Appendix 5.

- Are the inmates in the three-state examples similar enough to allow for a fair comparison?

Yes. We looked at demographics, classification and behavior and did not find any documented differences that would effect costs of operations. In other words, if the types of inmates from either of the two comparison state facilities were housed at the Washington facility, no change in operations would be required. Likewise, the current operations at the

other states' facilities could accommodate Washington's inmates. See Appendix 4 for more information on both interstate and intrastate comparisons of inmate demographics and behavior.

## INTERSTATE CAPITAL COST COMPARISON

- Difficulties in making comparisons

Capital cost comparisons from facility to facility and state to state are difficult to develop. Contributing to the difficulty are: unique site conditions; differences in climate and in labor and materials prices; lack of similarity of space programming and inmate mix; lack of uniformity in cost reporting; and differences in timing of capital expenditures. Nevertheless, it is possible to make general comparisons and identify elements contributing to major cost differences.

- Study approach focuses on areas that can be compared

The approach we took in making the interstate comparison was to focus on the major elements contributing to capital cost: Amounts and types of space, unit construction costs, and ancillary construction costs such as design and administration. In developing the comparisons, we eliminated those items unique to the specific project including land, site development, taxes, and unique local costs (e.g., Washington State allocations for art).

- Choice of Grays Harbor as Washington's facility

For the Washington facility, we chose the Grays Harbor Correctional Center in Aberdeen. Site infrastructure and development work for this 1,936 bed facility is underway, and facility design is in the preliminary schematic phase. Site development work can be viewed as a separate project which can be completed independent of the method for procuring the construction of prison facilities.

- Choice of South Bay, Florida facility to be constructed by Wackenhut Corporation.

For the privatized facility, we chose the 1,318 bed South Bay Correctional Facility in Florida. Currently under development, this project provides sufficient similarities in size and inmate mix to allow for broad-level comparisons (i.e., size, cost per bed, unit construction costs). It also offers a financing and ownership model familiar to the State of Washington (i.e., Certificates of Participation with ultimate ownership by the State).

Costs for each facility were adjusted for comparative purposes. As examples, land and site-related costs, taxes, and unique fees were excluded. For the Florida facility, costs were increased by 20 percent to reflect estimated regional labor and material costs differences, by 10 percent to reflect higher costs associated with later construction of the Grays Harbor Facility, and by another 5 percent to provide an allowance for state oversight of the privatized construction. Additionally, reductions were made to the projected cost and size of the Grays Harbor facility to make it comparable to the Florida facility (budget reductions of \$29 million or 20 percent, and space reductions of 154,000 gross square feet or 18 percent, to account for differences in inmate security levels and the fact that Florida space does not include Correctional Industries). More detailed descriptions of all the adjustments made in the comparison are included in Appendix 6.

- How do the adjusted costs of the facilities compare...

...and what explains the difference?

- Different operating concepts explain significant differences in space

Grays Harbor's projected cost per bed, at \$60,400 after adjustments, was approximately double the adjusted cost of \$29,000 for the private facility. The two major explanatory factors for this difference are that the cost per square foot for Grays Harbor is approximately 37 percent higher, and the square footage per inmate (or per bed) is 53 percent higher.

Differences in space are largely explained by different operating and programming concepts. As examples:

- Grays Harbor assumes single cells for close security and segregation, whereas the private facility double-bunks these cells.
- Grays Harbor minimum security beds have relatively high per bed space allocations reflecting the incorporation of service and program space in the housing space, whereas in the private facility program and service space are centralized.
- Other examples of differences are in administration, physical plant (including warehousing), and

dining areas (Florida feeds inmates in housing areas; Grays Harbor provides inmate dining spaces).

- Differences in unit costs  
Unit construction costs, as adjusted, include actual construction costs as well as project management, design, permits and fees, and equipment. We did not evaluate the separate components of these costs. We did note that these unit cost differences were similar to total construction cost differences between state and privately developed office building projects reviewed in the LBC study of leasing versus ownership costs.<sup>6</sup>
  
- Did the approach taken by the state of Florida contribute to the relatively low cost of the private facility?  
Most likely, yes. Florida identified key expectations for the facility but did not mandate specifically how the bidders should meet them. For instance, the state identified the mix of inmates to be housed, specifying the ratio of cells to dormitory beds. The state also required that proposers meet all applicable facility and programming standards (e.g., ACA accreditation, building codes, energy analysis), provide minimum program availability (e.g., education) and services (e.g., medical and dental). The State required specification of facility layout, a staffing and operating plan, building finishes and materials, and detailed equipment lists.  
  
Wackenhut's operating and capital cost bid constituted 25 percent of overall scoring. Florida officials noted that Wackenhut had the highest cost proposal among bidders, but met the criterion for a combined capital and operating cost that was at least 7 percent below the calculated benchmark.
  
- Is the difference in cost between the Washington and Florida facilities explained by privatization?  
Not entirely. The private firm's operating philosophy and plan, as reflected in the facility design, contributed to the lower costs. However, there is nothing prohibiting a state government from adopting a similar plan. Privatization is a means by which to implement a different concept that can result in lower costs, but it is not the only means.

---

<sup>6</sup> LBC Performance Audit: *Capital Planning and Budgeting: Study of Leasing Versus Ownership Costs*, December 14, 1995.

The substantial difference in unit construction costs could be attributable to a private model that strongly focuses on controlling the total costs of ownership, operating and capital.

- How important are capital costs in the total cost of owning and operating a prison?

Our review of the Grays Harbor project indicates that capital costs, after the effects of financing, constitute approximately 18.5 percent of life-cycle costs. This does not include the costs of major repairs and replacements. A conservative estimate of these costs would raise the capital cost percentage to at least 20 percent.

An analysis conducted for the Department of Corrections calculated that the initial cost of the proposed Grays Harbor facility constituted approximately 12.7 percent of total costs. The 12.7 percent calculation underestimated the capital costs percentage because operating costs were overstated and miscalculated in the total cost model.

- Should capital and operating costs be combined in considering the cost savings potential of privatization?

For new facilities, yes. In the Florida example, bidders had to meet a 7 percent cost reduction target that was based on a calculation of what the state's total ownership costs would be. Theoretically, a private company might propose to build a facility that would have capital costs higher than the state's capital costs in order to achieve operational efficiencies through design innovations. These operational savings could outweigh the capital costs and result in overall savings.

For the Florida approach to work well, the full costs of state ownership on an annualized basis need to be accurately estimated and compared to bids that are estimated the same way. Appendix 7 contains an explanation and an example of an approach developed by the capital consultant for this study. It is the approach that we would suggest for Washington State in the event that the state would issue RFPs for design, construction and operation of a new prison.

## GENERAL CONCLUSION

- Would privatization of a prison or prisons result in cost savings to Washington?

Not necessarily. Much would depend on the care that was taken in estimating the state's costs, and in designing an RFP, choosing a contractor, and executing and monitoring the contract.

Based on the foregoing analysis, it appears that the greatest potential for savings for Washington State would not come from privatization per se, but from changes in operations (and related facility planning) that can be accomplished through privatization or through changes in state policy and practices.

Savings that would be directly related to privatization could come from two sources:

- the ability of a private company to operate outside of state rules and procedures, collective bargaining agreements and the employee compensation system; and
- from competition between private and public facilities within the same prison system.

The ability of a private company to operate a prison differently from a public facility would depend on the degree of flexibility allowed to the private firm under the contract. Ultimately, even if a private facility can operate for less, the state would not necessarily capture any of these savings for itself unless it received responsive bids with per diem costs lower than its own.

## **PART 6: BEST PRACTICES FOR REQUESTS FOR PROPOSALS AND CONTRACTS**

With assistance from the Department of Corrections and the Attorney General, the LBC was asked to evaluate best practices and to develop prototypes for Requests for Proposals (RFPs) and contracts for the privatization of prisons.

The LBC retained the services of a consultant who has extensive legal expertise in these areas. Since it is unknown what, if any, scenario the state might pursue in the area of prison privatization, we asked the consultant to provide comprehensive lists of elements to be addressed in RFPs and contracts. From these lists, the consultant identified the discretionary and essential elements, and offered commentary and analysis of the elements based on best practices, as appropriate.

It was our intent that the consultant's work would provide guidelines and a framework for developing specific RFPs and contracts. Based on the work that has already been completed, and given the legal and contractual expertise that currently exists within state government, we feel that most, if not all, of any additional work needed for actual RFPs and contracts could be accomplished by in-house resources.

We were assisted in this part of our study by a panel that reviewed and commented upon the consultant's draft report. The review panel consisted of staff from the LBC, the Department of Corrections, the AG, the Senate Ways and Means Committee and the House Office of Program Research. The consultant's final report is included in Appendix 8 (RFPs) and Appendix 9 (contracts).

## PART 7: GENERAL GUIDELINES

Our case studies of Louisiana and Tennessee suggest that these states have had positive experiences both in terms of quality of service and cost. However, there are other examples that could be cited of how privatization of correctional facilities has been a failure. Recently, an inmate riot and takeover of a privately run detention center in New Jersey has caused some to conclude that privatization does not work.<sup>7</sup> Our view is that other jurisdictions' experiences with privatization, either positive or negative, are not predictive of what Washington's experience would be. The outcome in this state would depend in large part on the care taken in designing an RFP, choosing a contractor, and in executing and monitoring the contract.

Although this report makes no recommendation on the policy issue of whether to privatize adult correctional facilities, there are numerous issues and obstacles related to privatization that are addressed in the technical appendices. These technical appendices (particularly those concerning legal issues, RFPs and contracts, and estimating annual ownership costs) are designed to be used as guidelines to be followed in the event that privatization is pursued. Similarly, there are five general guidelines that could be followed for minimizing the risk to the state, while promoting cost savings without sacrificing quality. They are:

1. Requests for proposals should set a minimum cost-saving target that must be met for proposals to be considered responsive. The amount of the target and the methodology for establishing it should be approved by the legislature.
2. Requests for proposals should set standards for programs, operations, and/or facility design and construction defined as *what* should be provided; and should allow respondents to be flexible and creative in *how* to meet those standards. The standards should be subject to approval by the legislature.
3. The state should develop a contingency plan for the smooth transition of operations from one private vendor to another, or to the state, in the event of contract expiration or termination.
4. The state should have an on-site monitor at the privately run facility to ensure that the state's responsibilities for inmates are being fulfilled, and that the contractor is in compliance with the contract.

---

<sup>7</sup> This was the conclusion of the Washington Public Employees Association in letter dated July 12, 1995 entitled "Prison Privatization Doesn't Work -- The Riot at Esmor Correctional Services INS Center, Elizabeth, NJ, June 18, 1995."

5. The state should design and set criteria for an evaluation of the costs and quality of programs and operations at the privately run facility in comparison to a similar state facility or to established benchmarks. This evaluation should take place after the private facility has had at least one year of operating at full capacity, and should be conducted by an independent party designated by the legislature.

**Comparative Evaluation  
of  
Privately-managed CCA Prison  
(South Central Correctional Center)  
and  
State-managed Prototypical Prisons  
(Northeast Correctional Center, Northwest Correctional Center)**

**Executive Summary**

**February 1, 1995**

value and weighting of indicators, and the process for conducting the evaluation. In October of 1992, the Oversight Committee adopted a resolution confirming the methodology endorsed by all parties.

- The first step in organizing the comparative evaluation was to identify the measures or indicators to be used. The object was to identify indicators that would reveal the most relevant information about the operational performance of the facilities being compared.
- The second step was to identify the source of those measures. Where would the data and information come from and how would it be collected.
- The third step was to define how the information would be validated or verified to be true and accurate.
- The fourth step was to define the value of each indicator or what the measure was worth.
- The fifth step was to define how the actual comparison would be made.

The specific indicators to determine the nature of inmates in each facility were:

Age  
Race  
Custody Level or Classification  
Medical Classification  
Education Level

#### Audit

An operational audit was conducted at each of the three facilities. This audit was very similar to the annual inspection process conducted by the TDOC Office of Compliance. The purpose was to conduct an inspection of programs and operations at the three facilities.

#### Security and Safety Index

The security and safety evaluation considered a wide variety of factors. Some of the factors considered included:

Disciplinary Reports  
The Use Of Force  
Assaults  
Deaths  
Injuries  
Escapes

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

**Comparative Evaluation  
of  
Privately-managed CCA Prison  
(South Central Correctional Center)  
and  
State-managed Prototypical Prisons  
(Northeast Correctional Center, Northwest Correctional Center)**

**Executive Summary**

**February 1, 1995**

## Executive Summary

This summary answers key questions about the Comparative Evaluation purpose, process and results. The question and answer format and numbers follow the major sections of the report. This summary provides the reader with an overview of the evaluation process, results and conclusions.

### 1. What is the Comparative Evaluation?

In 1991, because of the State's interest in improving the quality of prison operation and to learn, if possible, from the private sector, the State decided to enact legislation allowing a private company to operate one of its prototypical medium-security facilities. The objective was to compare public and private operation at basically the same type of physical plants. This legislation required a comparison of the performance and cost of the private operation to that of the State operation. This report is the performance comparison.

### 2. Why was a comparative evaluation conducted?

This evaluation was conducted and a report submitted in response to the requirements of TCA 41-24-105, which directs the Select Oversight Committee on Corrections to compare the quality of services provided by a private contractor to the quality of services provided by the State at prisons which are comparable in size, population, and physical plant. This statute also mandates that the Fiscal Review Committee conduct a comparison of the costs of the State and private operations at the three prototypical prisons. The law requires that contract renewal be based on the results of these two studies.

*TCA 41-24-105 (d) The contract may be renewed only if the contractor is providing at least the same quality of services as the state at a lower cost, or if the contractor is providing services superior in quality to those provided by the state at essentially the same cost.*

### 3. How was the comparative evaluation conducted?

As a means of satisfying the statutory requirement, the Select Oversight Committee on Corrections brought together leaders of the Department of Correction and executives of Corrections Corporation of America for the purpose of agreeing upon the method to be used for comparing the performance and quality of services provided by the three prisons. Department of Correction and CCA representatives met over five times with the Oversight Committee director and consultant as all parties joined together in developing a strategy to fairly compare all three prisons given the limited resources to undertake such a difficult task. A consensus was reached on the methodology as all parties agreed upon the measures or indicators to be used, the collection methods, the means of validation, the

value and weighting of indicators, and the process for conducting the evaluation. In October of 1992, the Oversight Committee adopted a resolution confirming the methodology endorsed by all parties.

- The first step in organizing the comparative evaluation was to identify the measures or indicators to be used. The object was to identify indicators that would reveal the most relevant information about the operational performance of the facilities being compared.
- The second step was to identify the source of those measures. Where would the data and information come from and how would it be collected.
- The third step was to define how the information would be validated or verified to be true and accurate.
- The fourth step was to define the value of each indicator or what the measure was worth.
- The fifth step was to define how the actual comparison would be made.

The specific indicators to determine the nature of inmates in each facility were:

Age  
Race  
Custody Level or Classification  
Medical Classification  
Education Level

#### Audit

An operational audit was conducted at each of the three facilities. This audit was very similar to the annual inspection process conducted by the TDOC Office of Compliance. The purpose was to conduct an inspection of programs and operations at the three facilities.

#### Security and Safety Index

The security and safety evaluation considered a wide variety of factors. Some of the factors considered included:

Disciplinary Reports  
The Use Of Force  
Assaults  
Deaths  
Injuries  
Escapes