

PRIVATIZATION WHITE PAPER

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Before a position can be established on what part private prisons can play in the Utah correctional system, important considerations must be discussed. The purpose of this paper is to open that discussion. This is an important public policy issue and as such, there are many individuals and organizations that play a role in the finalization of a decision.

Why Privatization?

The first question that must be addressed is "What problems are we trying to solve with the contracting of prisoners to a for-profit company"? The following are justifications used by private correctional companies to advance their argument for favorable consideration and inclusion in state correctional projects. The private prison industry has grown in market share through three claims, (1) they can build faster, (2) they can build prisons cheaper, and (3) they can run a better prison. The following is a very brief analysis of each point based on real life experience with privatization in Utah involving Management and Training Corporation (MTC), Cornell Correctional Services, Dove Development and years of studying the privatization issue.

Private Companies Can Construct Facilities More Quickly

Because they are not held to the same requirement to treat all vendors fairly in the award process the private companies can begin construction sooner.

Government has an obligation to ensure all parties are provided equal opportunity to bid on projects and that favoritism is not tainting the process. This necessarily increases the time it takes to award the projects and therefore also adds a minimal increase to the cost.

Private Companies Can Construct Facilities at a Cheaper Cost

The saving of time translates into a savings of dollars. Also, there are some oversight expenses that add a small amount to government projects. Some private companies have a standardized design that they use in all applications thus saving cost and time in the architectural phase.

If the construction requirements are the same and if you exclude the cost for "government", the facility construction cost will be the same for both government and private contracts.

An important point to keep in mind is that construction costs are only 5% to 8% of the total cost over the life of the facility. Also, the difference between a state build and a private build will only be 1%-2% of the total operational cost over the life of the facility. We should not make decisions that have a 50+ year impact based on this minor overall

expense. By cutting corners at this stage, we could greatly increase the long-term cost of operations that will multiply for the intended 50 year lifespan of the facility.

Private Companies Can Operate at a Cheaper Cost

The cost per day to operate a prison is determined by the services and treatment provided and by the personnel expense to provide those services. The ways to reduce these costs are; employ fewer people, pay them less, reduce food and maintenance costs, reduce medical costs and provide fewer services.

The quality of the correctional officer force is the most important and critical safety feature of any prison. Since the security and safety of the prison can be completely undermined by just a few unqualified employees, it is vital that only good people are hired into these positions. Currently, UDC will screen 4 people to hire 1 that meet our standards of employment. Our staff are some of the lowest paid in the market and in state government. The state benefit package and their commitment to the job and career is what keeps our prisons staffed, but still, recruitment and retention is a constant struggle. These standards can not be compromised.

Medical care and treatment for addictions, education, and mental health are areas that are mostly under funded in our state system. If there were more funds available we could treat more offenders. Private vendors can provide for these services but can only do so at a cost that will ensure their profit margin. The usual private provider contract will cap medical expense to prevent a loss of profit from single cases. If these typical state expenses are added to the cost per day for housing, the private vendors are in line with state costs or may be higher as was the case with the Cornell contract.

Private Providers Can Operate a Better Prison

In 1995 UDC contracted with a private company to operate a 400 bed pre-release facility. It was to assist inmates who were 90 days short of release to find a home, a job and connect with treatment once they paroled out. The unit quickly suffered multiple escapes and developed a reputation as a drug infested unit. Staffing levels were left short in order to save money, so services were not provided. Upgrades had to be done on the doors and locks because they were so inferior they would not operate. The fence was so inadequate that inmates only had to lift it up and crawl under to escape. The result was that the facility never fully accomplished its mission.

In some areas of the country it is common knowledge that there are major problems in the correctional systems of their states. If the pay is too low to attract a qualified work force, or if the work force does not possess the work ethic like we have in Utah, there will be problems in the prison. We do not have that situation here. We are proud to say we have the best staff in the country and we believe we have the best run prisons in the country for the cost. Simply put, no one can run a better prison.

Private prisons have now been operating since the early 1980's. Several meta-analysis studies have been completed looking at the differences and savings provided by the private vendors. The results of these latest studies (for the past 10 years) show that there is no advantage in cost or operation by using a private contractor.

OTHER CONSIDERATIONS

Is it Morally and Ethically Right for Private Business to Profit From Incarcerating Citizens?

Simply put, government exists to protect the liberty of its people. It is to ensure all are treated fairly and equally and to protect us from abuse. The Department of Corrections is the state agency that is charged with **taking** and **managing** the liberty of our citizens committed to our prisons.

When a person is sent to prison, we tell them when to eat, sleep, and work. We tell them when they can visit, who they can visit with, and for how long. We govern what they wear, what they read and who they can talk to on the phone. In short, the prison governs their liberty. *This is the pure essence of government.* It should not be the venue of a profit making business.

Private Corrections Companies Operate on a Profit Motive.

There is an extremely important difference in *focus* between a state run prison and a private run prison. A state operation is concerned with rehabilitation as its primary goal. That is why it exists. It is how it accomplishes its mission of public safety through the change of behavior of its offenders. A private prison is in existence to make money. If it does not make money, it will close. This difference is seen in every aspect of the two operations from the building of the facilities to the staffing component. The profit motive is not compatible with the incarceration and treatment of offenders.

Why Privatizing is a Risk

Once a state turns over a piece of its correctional system to a private business, it becomes subject to the "market", that is, when the operational costs rise, the state must cover them or risk the pull out of the vendor. This increasing expense is usually covered in the contract by an escalation clause that guarantees the contractor an increase every year that is tied to inflation. The state operation has no such guarantee.

If a private vendor decides to pull out it would leave the state in a serious crisis by having to take over a facility without the resources to do so. It is this situation that forces states to keep agreeing to pay the demanded increases that keep private businesses profitable.

The State Never Gives Up Liability, Only Control

The state retains the liability for the actions of the vendor. If the contractor is found guilty of violating the rights of an offender in their care, the state, not the contractor, must pay. There is no protection of governmental immunity for the employees of the private business.

Colorado, New Mexico, Nevada, California and several Mid-Western and Eastern states have all experienced serious problems in their private run prisons. These problems range from cost escalations and staff strikes to riots and inmate homicides. These states are taking over some of the private contracts as a result.

What Services Can Private Corrections Provide?

The appropriate role for private providers to play is in providing treatment for offenders. They are well suited to fill the void in treatment programs such as substance abuse or sex offender treatment, operating within a state run facility or a community based program.

Conclusion

The Department of Corrections is a unique state agency in that the services it provides are forced on its "customers". No one comes to corrections seeking help. However, it fills a governmental responsibility vital to the well being of our communities.

There are many factors that come into play in the development of public policy. The information provided herein is meant to be added to those other factors in this discussion to ultimately result in the best possible policy being made.

Our recommendation is that Utah State government continue to be responsible for and be the sole provider of, State correctional services.