

**An Assessment of the Risks and Benefits of Prison Privatization**  
**Prepared by: The Citizen's Advisory Board of the New Hampshire State Prison for Women**  
**January 30, 2012**

Since the opening of the first private prison in 1984, the industry has expanded rapidly throughout both state and federal corrections. Currently, the two largest corporations are Correctional Corporation of America (CCA), established 1984, and GEO [formerly Wackenhut Corrections Corporation], respectively. CCA & GEO reported combined revenues in excess of \$2.9 Billion in 2010, suggesting that the privatization of prisons is an economically lucrative corporate venture.

The primary arguments supporting the privatizations of prison are purported cost savings of up to 20% annually due to lower wage and benefit costs for labor, lower procurement costs, and more efficient administration and operation. Extensive research has been conducted over the past twenty 25 years assessing these claims as well as the overall performance and public safety record of privately operated prisons. Conflicting research findings make it difficult to accurately assess cost and performance comparisons between public and privately operated facilities. Inconsistency in the research is acknowledged in the literature and by Corrections Corporation of America spokesman, Steve Owen, who stated: "There is a mixed bag of research out there. It's not as black and white and cut and dried as we would like (Oppel, 2011)." A major obstacle in assessing the advantages and disadvantages of privatization is due to the methodological weaknesses of most of the earlier cost studies [see Appendix A for an explanation of the methodological flaws reported in privatization studies]. According to a 2001 Bureau of Justice Assistance (BJA) report:

"Only a few studies can be relied upon in a debate over cost efficiency of prisons. It is generally accepted that the best research conducted to date... showed no or very minimal differences with respect to costs. The remaining studies had serious methodological flaws that limit their ability to reach firm conclusions (Austin & Coventry, 2001:37)."

Further caution must be exercised in reviewing studies conducted at federal facilities since there are unique statutory regulations that impact wage levels (McDonald & Carlson, 2005), and the Bureau of Prisons does not gather the same type of data from its private facilities as that collected at its other facilities in order to conduct methodologically sound cost comparisons (GAO, 2007:10). See Appendix A for discussion of difficulties in comparing federal to state privatization outcomes.

Drawing upon the wide range of research available, this paper will report on outcomes in the areas of cost savings, public and institutional safety, recidivism, impact on state economic development, and the possible influence privatization can have in the formulation of effective correctional policies.

### **Cost Savings**

Proponents of privatization claim that private prisons are more cost effective because they operate more efficiently. A careful review of the research conducted over the scope of more than two decades reveals a clear consensus that when all cost factors are included in the analysis, the available evidence does not

support the contention that private corrections are more cost-effective or efficient than those publicly operated. A 1998 report found no evidence of greater efficiency reported in studies conducted at that point in time (Cheung, 2004). Similarly, a BJA study found no evidence of greater cost savings, improved services, or conditions of confinement in private prisons, and the rate of major incidents was higher (Austin & Coventry, 2001:38 & 57).

- An examination of nationwide research comparing costs and performance between public and privately operated facilities reported that "...rather than the projected 20-percent savings, the average saving from privatization was only about 1 percent, and most of that was achieved through lower labor costs (Austin & Coventry, 2001:iii)." This report did not find any data to support claims that private facilities are less costly or that the quality of inmate services are better than in publicly operated prisons (Austin & Coventry, 2001:37-38).
- More recently, a 2007 meta-analysis out of the University of Utah of twelve major studies on the cost effectiveness and quality of confinement at private versus public prisons failed to find any "clear benefit or detriment" to private prisons. Rather, it was reported that "[C]ost savings from privatizing prisons are not guaranteed and appear minimal. Quality of confinement is similar across privately and publicly managed systems, with publicly managed prisons delivering slightly better skills training and having slightly fewer inmate grievances...Across the board effect sizes were small, so small that the value of moving to a privately managed system is questionable (Lundahl, et al., 2007:2 & 20)."
- A 2007 comparison study conducted by the Arizona Department of Corrections found "some savings for private medium security facilities, but significant losses for minimum security private prisons (Justice Policy Institute, 2011:32; Arizona Department of Corrections, 2009)."
- A Government Accounting Office (GAO) study concluded that without the availability of comparative data, the Bureau of Prisons could not determine whether private contracting offers greater cost savings than renovating or building public facilities (GAO, 2007:15).

Although many states continue to utilize privatized corrections, several states have either reduced or cancelled private contracts often citing cost as a factor (see Appendix B for additional examples):

- In June 2000 North Carolina terminated its two prison management contracts, both with CCA, saying it would be "in the best interest of the state" to return them to public management. State Representative Paul McCrary told a reporter: "I really felt like it was a failure," adding that private prison firms "...are in business to make money, and they're going to take some shortcuts when they can (Mattera, Khan, and Nathan, 2003:15)."
- In 2000, Utah decided not to proceed with a plan to contract for its "first fully-privatized prison after concluding that it would be cheaper to rent space in county lockups (Mattera, Khan, and Nathan, 2003:15)

- Arizona, Washington, and Minnesota reduced the number of inmates housed in CCA's privately owned and managed facilities while increasing the number of prison beds in their public facilities, and a competitive bid in Alaska was lost (CCA, 2010:40).

**Overpayment.** Changes in economic conditions, criminal activity, and sentencing practices contribute to the difficulties faced in projecting correctional needs and costs even one year ahead (Nash, 2008). Taxpayers are hurt when prisons are built on the assumption that they will be continually filled and operated.

- New Mexico housed 40% of its inmate population in private prisons and overpaid by millions (Gaes, 2008). A New Mexico Legislative Finance Committee audit reported an increase of 57% in private-prison costs over a six-year spending period while the inmate population increased by only 21% (N.M. Pays More, 2007).
- Clayton, New Mexico issued \$63 million in revenue bonds to contract with GEO to build a medium security, 625-bed institution to house mostly state inmates. As prison populations declined, a study conducted for the Legislative Finance Committee reported that the actual cost of the prison will exceed the estimated construction cost of \$61 million. It estimated that over the course of twenty years, the state will pay \$132 million in construction and finance costs and still not own the building. Of the \$95.33 per diem inmate costs for housing, \$27.81 will go toward construction costs (Nash, 2008).

This issue raises a unique dilemma in which correctional policy may become based upon the financial need to incarcerate rather than on best practices regarding sentencing, punishment, and crime control.

**Contractual Exclusions.** One of the reasons that many private prisons have been able to report lower costs is because of contracts that exclude seriously ill or dangerous inmates. Cost comparisons between public and private prisons are often skewed and misleading as a result of the practice known as "cherry picking." Evaluations of cost savings often exclude the disproportionate medical and security costs absorbed by state facilities that are not reflected in the per diem charges of private prisons that have contractually excluded more costly inmates.

- Arizona. Under Arizona state law, private prisons must be less costly than those operated by the state. Despite the practice of "cherry-picking," a state correctional study found that the per-inmate cost in private prisons can either be equal to, or as high as \$1,600 more per year, than the cost of state-run prisons (Oppel, 2011). Five out of eight private prisons in Arizona rejected inmates with limited physical capacity, severe physical or mental health needs, or chronic conditions. In some cases, inmates who became ill were sent back to the state-run prisons "... due to an increase of their medical scores that exceeds contractual exclusions (Oppel, 2011)." While private companies may be able to reduce operating expenses by selecting the least costly means to maintain inmates, state prisons must provide services to all inmates. Consequently, in Arizona, medical expenses at the state prisons averaged one-third higher than at the more selective private prisons (Oppel, 2011).

- Florida. “In Florida, officials found that two private prisons spent only about half as much on health care per inmate as comparable state prisons, a difference of \$9 million over two years. Florida officials say that the new plan will better balance costs, and that private prisons comply with a 7-percent-savings law. But skeptics like Republican State Senator Mike Fasano fear cherry-picking may be the only way they can do that (Oppel, 2011).” A Florida Legislative report confirmed that “[C]urrent contracts do not assure that private prisons serve inmates with comparable medical and mental health conditions as those housed in public prisons...the difference in the populations of public and private prisons results in the state shouldering a greater proportion of the cost of housing these inmates. As a result, the requirement that the private prisons operate at a 7% lower cost than state facilities is undermined (Florida Office of Program Policy Analysis & Government Accountability, 2008:4-5).” CCA spokesman Steve Owen “...acknowledged that most contracts had cost caps, and that terms barring the sickest prisoners were not unusual (Oppel, 2011).”

**Litigation.** Assessment of the cost of incarceration must also consider the economic consequences of litigation. Private prison corporations have been the subject of numerous lawsuits stemming from charges of abuse, violence, negligence, wrongful death, and other factors related to mismanagement. Rising litigation and its accompanying costs are evidenced in CCA’s annual report to the Securities Exchange Commission (2010:53), “...we experienced an increase in legal expenses at managed-only facilities during 2009 compared with 2008. Expenses associated with legal proceedings may fluctuate from quarter to quarter based on new or threatened litigation, changes in our assumptions, new developments, or the effectiveness of our litigation and settlement strategies.”

Loss from litigation is identified by CCA as one of its risk factors that could affect contract retention (see Appendix C). CCA reported terminating its jail management contract with the Bay County Commission in Florida due to losses of \$1.7 million of which \$0.7 million resulted from “...negative developments in outstanding legal matters (CCA, 2010:55).”

- A \$595 million lawsuit was filed against GEO in 2008 following the death of an inmate who had been held in solitary confinement for over a year for assaulting a staff member in a Texas facility the corporation operated (Massive lawsuit filed, 2010).
- In March 1998, Youngstown, Ohio filed suit against CCA on behalf of all the prisoners alleging that prisoners were put at risk by being sheltered with maximum-security prisoners in a facility not designed for containing them. The court ultimately ordered the removal of 113 inmates deemed maximum-security offenders by an independent consultant (Cheung, 2004:3).
- In 2011, an American Civil Liberties Union (ACLU) class action suit was filed against the Idaho Correctional Center which initially included the state of Idaho in the defendant class. A settlement agreement was reached with the state in which the Idaho ACLU removed them in order to avoid further taxpayer costs (Justice Policy Institute, 2011:33; ACLU, 2011; Iverson-

Long, 2010). A spokesperson for the ACLU stated: "...when state governments choose to contract out the management of its facilities, they don't contract out the responsibility to adhere to constitutional standards. The ACLU expects the department to aggressively enforce the safety of its facilities (Iverson-Long, 2010)."

- A 2010 Southern Poverty Law Center and ACLU National Prison Project lawsuit was filed against GEO and Mississippi state officials for abuses and violence in a youth correctional facility. The charges included "...rampant contraband brought in by guards, sex between female guards and male inmates, inadequate medical care, prisoners held inhumanely in isolation, guards brutalizing inmates and inmate-on-inmate violence that was so brutal it led to brain damage." A separate investigation was initiated by the U. S. Department of Justice, Civil Rights Division (Burnett, 2011a).

States also have the option to sue the private company. In 2008, Texas indicted GEO for an inmate death at a Texas facility it operated resulting in a \$42.4 million out of court civil settlement (JPI, 2011:33; Texas Court, 2009).

While the ability to sue private corporations may appear to offer a safety net to the risks associated with privatization, litigation comes with its own taxpayer costs. The cost of state initiated litigation is another one of the many factors not incorporated into cost-efficiency analyses and remains a hidden expense associated with privatization. Justice Policy Institute (2011:33) has noted that "...taxpayers shoulder the burden of the cost of damages and legal fees, either directly or through increased costs for future prison contracts."

### **Institutional and Public Safety**

In 2010, two escaped prisoners from a Management and Training Corporation (MTC) facility killed an Oklahoma couple. A faulty alarm that would ring as often as 200 times a shift for over a two year period was ignored by prison staff. Despite an admittance of negligent responsibility for the escapes, it took eight months and a threat to terminate MTC's contract before the security defects were corrected by the company. Other security breaches included:

"...burned-out perimeter lights, other broken security equipment, and a lax, high-turnover culture in which MTC's green, undertrained staff and rookie supervisors ignored alarms, left long gaps between patrols of the perimeter, left doors leading out of some buildings open and unwatched, didn't alert the state or local police until hours after the escape, and failed in all manner of basic security practices (Ortega, 2011)."

A data analysis from a 1999 survey of all privately operated prisons in the U.S. and its territories concluded that their use of less costly employees produced a less than acceptable level of public safety or inmate care and that "[P]rivately operated prisons appear to have systemic problems in maintaining secure facilities...[which] can reflect problems in policy and procedures, in technology, and in staff capabilities. The "greener" the workforce, the more likely there will be lapses in these fundamental security procedures. The "greenness" of the workforce may pertain not only to line staff, but to mid-level supervisory staff as well (Camp & Gaes, 2001:16)."

The “greenness” of the staff was noted in the 2010 Arizona Department of Corrections Assessment on the MTC prison escape. This report states:

“[S]taff are fairly “green” across all shifts...[approximately] one-third of security employees have less than three months on the job or in their promoted position. Further there is no FTO program to teach staff new to their job or position (AZDOC Report on Kingman Escapes, 2010:9 & 20).” Executive staff were also found to be “ineffective” and lacking a basic understanding of their roles and responsibilities (AZDOC Report on Kingman Escapes, 2010:6).

The following excerpts from the research reflect the differentially high rate of violence at privately operated prisons when compared to those operated by the state (see Appendix D for more details):

- Written testimony before a 2007 Texas Senate Criminal Justice Committee reported 49% more inmate-on-staff assaults and 65% greater inmate-on-inmate assaults in private minimum and medium security facilities than in comparable publicly run facilities (Hudson, 2009:8). See also Appendix E for a listing of news coverage in private prisons in Texas.
  
- A comparison of a private federal low-security facility to twenty low-security federal public prisons found it to have a lower than average assault rate (although within the overall range for all similar federal prisons). The analysis did not include controls for risk of misconduct levels which can vary from one facility to another even though all are classified as low-security.
  - The private facility reported 2 escapes during the contract period in contrast to only 2 escapes from all 20 comparable government operated facilities.
  - Illegal drug use was twice as high as that in the public facilities group even after controlling for differences in inmate populations that would affect drug use.
  - The rate of inmate grievances were 13% higher than the comparison facilities even after controlling for factors that might impact the rate of grievance reporting. No explanation for this difference was provided (MacDonald & Carlson, 2005:143).
  
- Inmates are twice as likely to be assaulted at a medium-security facility run by CCA in comparison to other prisons in Idaho (Boone, 2011).
  
- Sexual abuse of female detainees at two private facilities in Texas received media coverage in 2008. Hawaii withdrew its female inmates from a CCA operated facility in Kentucky after charges of sexual abuse and rape were filed (Grassroots Leadership, Women’s Campaign).
  
- Northeast Ohio Correction Center in Youngstown Ohio reported 13 stabbings, 2 murders and 6 escaped inmates over a 14 month period due to inadequately trained staff and the improper acceptance of maximum-security offenders to the medium-security facility. The director of the state’s Institution Inspection Committee stated, “There is nothing in Ohio’s history like the violence at that prison (Cheung.2004:3).”

**Staffing Vacancies and Turnover.** It is well accepted in the research that private prisons lower costs through paying lower wages and benefits. Consequently, staff vacancies are a problem common to private prisons that is directly linked to institutional safety and the provision of effective services necessary to reduce recidivism. In 2002, private prisons nationwide reported a 52.2% turnover in staff in comparison to 16.6% in publicly run facilities (Hudson, 2009:8).

- Out of New Mexico's ten private prisons, two have reported vacancy rates of 20% and 12.5% for a period of nearly 15 months. Under contract, New Mexico can penalize GEO & CCA, which operate the two prisons, if staff vacancies remain at 10% or higher for thirty consecutive days. Staff vacancy rates exceeded this cap between six and fourteen times at three of the state's privately run prisons. This could be addressed by having staff work overtime to offset the vacancies but for the state to determine whether this occurred would require reviewing shift rosters at all three prisons. Correctional administrators were unable to conduct such a review due to "sporadic record-keeping" at the private prisons. Consequently, the state did not impose penalties that were estimated to be approximately \$18 million (Jennings, 2011).
- In 2006, Hardin, Montana contracted with a private company to construct a new prison. Since construction was completed in 2007 the facility has remained vacant, leading to a technical default on \$27.4 million in revenue bonds, further devastating the town's economic development prospects (Justice Policy Institute, 2011:33).
- The Texas Senate Criminal Justice Committee reported that, consistent with previous analyses, "...the rate of correctional officer turnover at Texas's seven private prisons was 90% in 2008, compared to 24% at the state's public prisons (Hudson, 2009:8)."

A study conducted for the Bureau of Prisons on the effectiveness and quality of federal private prisons concluded:

"Given the apparent relationship between staff separations, staff experience, and inmate misconduct, private companies must either adopt a new innovative strategy towards corrections, or they will have to increase pay and/or benefits to attract and retain experienced employees. Advocates of prison privatization have argued that private prisons can pay workers less, offer fewer benefits, and still deliver a product that is as good or better than that provided by the public sector. The evidence to date contradicts such an encompassing assertion (Camp & Gaes, 2001:16)."

### **Impact on the State Government**

**Impact on Correctional Policy.** Increased privatization of prisons can create higher incarceration rates which will ultimately cost states more money. "While private prison companies may try to present themselves as just meeting existing 'demand' for prison beds and responding to current 'market' conditions, in fact they have worked hard over the past decade to create markets for their product. As revenues of private prison companies have grown over the past decade, the companies have had more

resources with which to build political power, and they have used this power to promote policies that lead to higher rates of incarceration” (Justice Policy Institute, 2011:2).

In its 2010 Annual Report to the United States Securities Exchange Commission (SEC), CCA acknowledged their vested interest in influencing sentencing and correctional policies: “The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws. For instance, any changes with respect to drugs and controlled substances or illegal immigration could affect the number of persons arrested, convicted, and sentenced, thereby potentially reducing demand for correctional facilities to house them. Legislation has been proposed in numerous jurisdictions that could lower minimum sentences for some non-violent crimes and make more inmates eligible for early release based on good behavior. Also, sentencing alternatives under consideration could put some offenders on probation with electronic monitoring who would otherwise be incarcerated. Similarly, reductions in crime rates or resources dedicated to prevent and enforce crime could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities (SEC, 2010:19-20).”

Similar risks are cited in the SEC annual report filed by GEO:

“Our growth depends on our ability to secure contracts to develop and manage new correctional, detention and mental health facilities, the demand for which is outside our control .... [A]ny changes with respect to the decriminalization of drugs and controlled substances could affect the number of persons arrested, convicted, sentenced and incarcerated, thereby potentially reducing demand for correctional facilities to house them. Similarly, reductions in crime rates could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities. Immigration reform laws which are currently a focus for legislators and politicians at the federal, state and local level also could materially adversely impact us (ACLU, 2011:13).”

Until two years ago, CCA & GEO were members of the American Legislative Exchange Council (ALEC), a private agency that drafts and works to implement model legislation in public safety and criminal justice policy as well as other areas of public interest (Sourcewatch, Corrections Corporation of America). It is estimated that 1000 legislative bills, based in whole or partially on ALEC legislative models, are introduced nationwide annually of which approximately 20% have been enacted into law. A major focus of its advocacy has been on laws designed to increase incarceration such as Truth in Sentencing and Three Strikes legislation which led to a massive rise in state and federal correctional budgets (Justice Policy Institute, 2011:29; ACLU, 2011:15-16). Private corporations have denied allegations of influencing legislation resulting in the massive incarceration build up of the past decade. However, the ACLU (2011:15) cites newspaper reports that

“...for the past two decades, a CCA executive has been a member of the council’s [task force that] produced more than 85 model bills and resolutions that required tougher criminal sentencing, expanded immigration enforcement and promoted prison privatization ... CCA’s senior director of business development was the private-sector chair of the task force in the mid- to late 90s when it produced a series of model bills

promoting tough-on-crime measures that would send more people to prison for a longer time... According to one report by a non-profit organization, “[i]n 1999, CCA made the [ALEC] President’s List for contributions to ALEC’s States and National Policy Summit; Wackenhut also sponsored the conference.”

### **Impact of Privatization on Economic Development**

Private prisons are a \$3billion industry in Texas which has greater privatization than any other state. A GEO operated \$11 million detention center in Texas, which relied upon housing inmates from other states, closed after eight years following the suicides of two inmates from Idaho. The enormous lawsuit filed against GEO in one of the deaths caused Idaho to break its contract with the company leaving the city with a \$9 million debt for the vacant facility, the loss of 100 jobs, and spurred a fiscal crisis that caused the city’s bond rating to drop (Burnett, 2011b; Ad Hoc News, 2011). Unable to attract other private companies to take over operation or to auction the property, the city was forced to raise taxes and fees, lay off workers, and defer needed purchases to cover the debt (Burnett, 2011b).

A similar situation occurred at another privately contracted correctional center. When the contractor opted not to renew the contract, 120 jobs were lost leaving the city with a \$1 million annual debt. It has not raised taxes yet but anticipates that may have to occur shortly (Pelt, 2011).

These cases are slightly different than the issue facing New Hampshire, since the facilities were built to generate revenue by housing out-of-state inmates. The cautionary warning they provide, however, is that declining correctional populations increase the incentive to bring in out of state prisoners to fill vacant beds.

### **Conclusion:**

Many States are discontinuing private contracts and returning to public management. While CCA does continue to obtain and renew contracts, the company reports a 1.3% decline in state revenues from 2009 and 2010 (CCA, 2010: 40). This reduction in state revenue is offset by a 4.8% increase in federal contracts, which generates about 40% of their total revenue (CCA, 2010:50).

The reported cost savings attributed to privatization appear to be more immediate and short-term. Much of research is flawed by serious methodological weaknesses that fail to incorporate indirect and hidden costs, critical differences in prison populations, security levels, staff and programming, recidivism and long-term economic impact. Of greatest concern is the indisputable fact that private prisons exist to make a profit. It is in their economic interests to reduce costs by maintaining full facilities, reducing staff wages and benefits, reducing institutional expenses associated with safety and sanitation, and reducing critical care services and programming. These cost-saving measures come at the expense of institutional and public safety, and hold the potential for negative publicity and more costly lawsuits (see Appendix E on adverse media coverage of several private facilities in Texas).

- Maintaining full facilities gives private corporations a vested interest in influencing legislative policies that encourage the use of greater and longer incarceration. There is less incentive to reduce recidivism or release the less dangerous inmates and those amenable to rehabilitation to community programming and supervision. According to their annual report to the SEC (2010:22), CCA states: “*A decrease in occupancy levels could cause a decrease in revenues and profitability.*” (Italics in original).
- Lower wages and benefits means hiring the least qualified staff, offering minimum training and professional development standards which increases the level of abuse and violence in the prison.
- Reducing institutional expenses associated with safety, sanitation, programming, and inmate care and services increases the risk of escapes and lawsuits resulting from gross negligence and basic human rights abuses.
- Private corporations’ main responsibility and accountability is to their shareholders, not the public.

The significance of the need for private prison corporations to reduce risks to profitability cannot be overlooked. Risk factors include the size and inmate characteristics of correctional populations and a reliance on governmental need for more prison beds than it can provide out of public revenue. In their annual report to the SEC, Correctional Corporation of America (2010:18-28) cites the factors that increase risks to profitability:

“Since we are paid on a per diem basis with no minimum guaranteed occupancy under most of our contracts, the loss of such inmates and resulting decrease in occupancy would cause a decrease in our revenues and profitability... revenue derived from our facilities will be affected by a number of factors, including the demand for inmate beds, general economic conditions, and the age of the general population.”

Private concerns for profitability become public concerns when the failure of privatization impacts state economies. By their own acknowledgement, the fiscal stability of private companies is reliant upon governmental contracts for the bulk of their revenue. According to the CCA (2010:21),

“... We currently derive, and expect to continue to derive, a significant portion of our revenues from a limited number of governmental agencies. The loss of, or a significant decrease in, business from the BOP, ICE, USMS, or various state agencies could seriously harm our financial condition and results of operations.... Although the revenue generated from each of these agencies is derived from numerous management contracts, the loss of one or more of such contracts could have a material adverse impact in our financial condition and results of operations. We expect to continue to depend upon the federal agencies and a relatively small group of other governmental customers for a significant percentage of our revenues.”

This stated financial dependency on a “limited number” of revenue streams raises concern that the loss of one or more large contracts has the potential to adversely affect the corporation’s ability to sustain other contracts--which could have enormous statewide economic impact.

The reliance on high crime rates and government contracts makes the incentive for private corporations to interfere with correctional and sentencing policies equally problematic. Policies like *Truth in Sentencing*, which originated in meetings with state legislators organized by ALEC that included CCA and GEO officials, were ultimately enacted by forty states in the 1990’s including New Hampshire. This legislation and similar sentencing bills increased prison populations by 500,000 resulting in an unanticipated and adverse long-term effect on state correctional budgets (Biewen, 2002). This report has documented the role that private corporations have had in influencing sentencing and correctional policies that are advantageous to their existence. The resultant increases in taxpayer spending on corrections have been astronomical without any evidence that increased incarceration has reduced crime or increased public safety (King, Mauer, Young, 2005:3-4).

An inherent dilemma privatization faces is the need to lower costs by reducing prison staffing levels, training, and services juxtaposed against the need to reduce costly litigation resulting from these cost-saving measures. This dilemma appears to be unresolvable:

“These interests may conflict with each other because reducing services, staffing, and guard training may trigger violations of prisoners’ civil rights or create an unsafe prison environment. The resulting lawsuits or violence will raise costs and cut into a prison firm’s profits. Due to this prospect, managers may provide adequate services, staffing, and training for guards in order to decrease the risk of lawsuits and violence. These measures, however, will raise costs and reduce profits (Lemkemeier, 1998:354).”

**Indirect Costs.** Studies supporting the assumption that private prisons cost less often do not include the cost of government monitoring of private contracts in their calculations or the fiscal impact of potential lawsuits. According to a BJA (2001:16) report:

“Constant monitoring of all aspects of internal performance is essential to a good contractual relationship, which may become expensive over time. If continual federal or state monitoring of private institutions is required for accountability purposes, the costs of monitoring ultimately raise the price of privatized services. The potential cost of increased prison litigation is also rarely discussed by private prison advocates.”

It can be reasonably argued that many of the difficulties cited in the literature can be avoided by careful construction of private contracts and the development of state statutes that specifically require the private entity to meet public sector employment, training, and certification standards and address safety and administrative concerns. However, in an analysis of the effectiveness of this safeguard, Lemkemeier (1998:354) concludes that: “Compliance with such contract specifications, however, may be lax due to a state’s limited supervision and the monopolistic nature of the private prison industry.”

**Recidivism.** Any measurement of the financial and social costs associated with incarceration must include the impact of recidivism on correctional budgets and public safety. Little research has been done

comparing recidivism. One study, which found only four academic studies on recidivism by 2008, summarized those findings:

“At best, the most recent found no empirical evidence that private prisons reduce recidivism better than public prisons. At worst, holding people in private prisons far from home... does little to ensure their success upon release from prison... it can be reasoned that without the same types and levels of services as public facilities that are intended to prevent returns to prison upon release, recidivism may be higher for private facilities than public. Given that private prisons tend to hold people at minimum and medium-security levels, most of the people held in these facilities will be released and many will need services to succeed in the community (Justice Policy Institute, 2011:33-34).”

Gaes' (2010:9-10) review of several recidivism studies reports inconsistent results. Although early studies found lower recidivism in private prisons, a methodologically more rigorous study by Bales, et al., found no differences in recidivism (Sharp & Spivak, 2008:490). Part of the difficulty in comparing recidivism rates between private and public facilities is due to the fact that prisoners rarely spend all of their confinement in either a public or private prison. Transfers between facilities are common making it difficult to compare institutional influences on recidivism. A recent study by Spivak & Sharp using a quasi-experimental design to simulate random assignment of inmates to determine institutional impact on recidivism found higher recidivism associated with private prisons on every definitional measure used to capture exposure to each type of facility. Noting the methodological difficulty involved in comparative recidivism research, they conclude that there is a lack of compelling evidence to argue that lower recidivism is associated with type of incarceration (Spivak & Sharp, 2008:505).

### **Recommendation:**

The research is unambiguously clear that when the risks and hidden costs associated with privatization are properly evaluated, along with the potential for the interference of corporate self-interests in the development of sound public policy, it is not in the best economic or public safety interests of New Hampshire to privatize its correctional system.

The literature suggests that if New Hampshire were to privatize its entire correctional system, any cost savings projected by private corporations will be reduced or totally disappear once the true cost of housing all categories of inmates becomes known. Additionally, there is cause for concern that the hidden costs associated with monitoring private contracts and the economic liability the state could face if named as co-defendant in lawsuits stemming from unsafe correctional conditions would increase rather than reduce state correctional costs. Some questions that must be addressed before any decision is made to privatize corrections either partially or completely should include, among others:

- How would New Hampshire be impacted by litigation against private facilities?

- Were prison populations to decline, would there be pressure placed on the state to bring in out of state prisoners to fill vacant beds ; and, if so, what impact would this have on local communities if, when such inmates are released, they decide to remain in the state?
- Will sentencing and crime control policies be influenced by the fiscal requirements of for-profit corrections?

Many states currently faced with declining revenues and the need to reduce budgets, are looking toward sentencing reform, increased community supervision, and reducing recidivism as a way of reducing exorbitant correctional costs (National Conference of State Legislatures, 2010). The evidence presented in this report suggests that privatization may not be the most fiscally and administratively responsible approach to lowering correctional expenditures while maintaining public safety. The recommendation is for New Hampshire to continue to develop non-institutional alternatives to incarceration as a fiscally sound means of controlling crime, ensuring offender accountability for wrongdoing, and protecting public safety.

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## **Appendix A:**

### **Methodological Weaknesses in Comparative Studies**

The weaknesses in the research stem primarily from the difficulty in controlling for the varied and differential factors that affect cost comparisons. These factors include differences in the age and classification status of inmates which affects their manageability. This becomes particularly

salient when private institutions are able to reject more unruly, and hence more costly, inmates (Austin & Coventry, 2001:37).

According to a General Accounting Office (GAO) study (1996:4-5), in order to produce reliable outcomes, cost/performance assessments must utilize accepted evaluation methodology that address the following: (1) comparison facilities should be similar in design, capacity, security levels, and types of inmates housed; (2) both indirect and direct costs needs to be quantified and included in the analysis; (3) when comparing the quality of services, what constitutes “quality” must be carefully defined, as well as whether quality is measured in terms of compliance with a pre-determined standard or by utilizing performance measures such as assault statistics or safety inspection data; and (4) utilizing intra-state rather than inter-state comparisons to control for extraneous influences that more are uniquely state-specific than attributable to private v. public operation. Unfortunately, most of research conducted, particularly the earlier studies, fail to utilize this level of methodological rigor thus contributing to the mixed results that are often reported (Austin & Coventry, 2001:16; GAO, 1996)

An additional factor that hinders conducting reliable cost comparison research is the expense involved in gathering and analyzing comparable data from private contractors (GAO, 2007:20). Consequently, any review of this research requires some level of interpretation and qualification. This is particularly true if studies of federal prisons are being used by states in researching the advisability of privatization.

### **Difficulties in Comparing Federal to State Privatization of Prisons.**

It is widely accepted in the literature that cost savings reported by private prisons are primarily the result of lower wages and benefits paid to employees. Cost comparisons become less reliable whenever statutory regulations impact wage levels. This is particularly relevant when comparing federal prison privatization to that of the states because the wage level for contractors with the federal government is controlled by the “...Service Contract Act of 1965 which requires using DOL determinations of prevailing wages in the region where private contractor operates (McDonald & Carlson, 2005:xiii-xiv)”.

A 2005 congressionally requested cost and performance assessment of low-security, federal Taft Correctional Institution (TCI) in CA (operated by GEO) found higher savings during first 3 years when the base fee paid to GEO was fixed. In the 4<sup>th</sup> year (2001) at first contract renewal by the Bureau of Prisons (BOP), the base fee increased by nearly \$2 million and additional fees were charged for housing a higher than agreed upon population. This reduced the savings between private & public operation. Although five year costs per inmate were lower at TCI than at 14 BOP operated low-security facilities, this was primarily due to lower fringe benefits paid (20% at TCI vs. 45.5% for the BOP) (McDonald & Carlson, 2005:xi-xiv).

Another reason for the lower costs incurred by privately run federal prisons is the exclusion of overhead expenses (12% of total labor costs) that are mandated at BOP operated facilities. Over the 5-year period evaluated, BOP would have paid overhead costs of \$12.5 million if it operated TCI. However, this did not result in an actual savings to taxpayers of this amount because the BOP contract with GEO did not incorporate these costs which, therefore, remained an indirect operating cost assumed by the Bureau. (McDonald & Carlson, 2005:20).

What this demonstrates is that comparing costs between private and public is highly complex with a number of intervening variables affecting outcomes. Audits performed do not utilize a uniform methodology in comparing costs and performance. A careful analysis of overhead costs is needed. Outcomes impacted by the method used to calculate overhead costs. The direct costs of operating a prison include salaries and inmate services and indirect costs (regional and central office supervision, planning and auditing expenses; computer services. The extent to which indirect costs are covered by government for facilities that are privatized will inflate the savings reported by private facilities. Outcomes are also impacted by economy of scale – population size must be standardized to avoid concluding a lower average cost as a statistical artifact, i.e., (a larger population will skew the average per diem cost (Gaes, 2008).

Camp & Daggett's (2005:26) comparison of public and private prisons reported that "...the private prison did not perform as well as the three comparison prisons in the public sector, on the whole. For certain measures, the performance of the private prison was exemplary, as was noted for violent misconduct and security-related misconduct. For the other forms of misconduct, the results were less favorable for the private prison. Camp & Daggett, 2005:26)." Their discussion of the limitations of their research, however, exemplifies some of the difficulties encountered in comparing state to federal privatization outcomes:

First, the results presented here do not generalize to prisons outside of the BOP, although the methods do generalize. Second, the four prisons that provided the primary base of comparison were very similar to one another with respect to architectural design, size, age, and other factors not captured in the models. The comparison prisons were even similar in terms of the money spent per inmate, and this insured that the federal prisons did not have an advantage in terms of spending higher amounts on factors related to controlling inmate misconduct, e.g., higher staffing levels. This advantage of comparability on unmeasured factors is probably not often achieved. Third, the comparisons were done within a prison system that is national in nature. Most prior evaluations of private prisons in the United States have focused upon prisons in single states in the southern part of the country, although some of the evaluations have covered states in the western regions. This means that the results of the analyses may have been influenced by regional factors not captured in the models. Regional differences have not shown up in other analyses of BOP misconduct data (Camp et al., 2003), but the effects may be more subtle than are captured in models with dummy variables for region of the country. As a final word, the results for the analyses presented here are useful in their own right, but they are more important in demonstrating the proper methods for comparing the relative performance of prisons. (Camp & Daggett, 2005:27-28)."

## **Appendix B: States Discontinuing Private Contracts**

While CCA does continue to obtain or renew contracts, it acknowledges the discontinuation of state contracts in Tennessee, Florida, Texas, Ohio, Arizona, as well as a contract with the Federal Bureau of Prisons. The following is taken from their annual report to the Securities Exchange Commission (2010:55-56):

**Tennessee:** As a result of Shelby County's evolving relationship with the Tennessee Department of Children's Services ("DCS") whereby DCS prefers to oversee the juveniles at facilities under DCS control, we ceased operations of the 200-bed Shelby Training Center located in Memphis, Tennessee in August 2008. We reclassified the results of operations, net of taxes, and the assets and liabilities of this facility as discontinued operations upon termination of the management contract during the third quarter of 2008. The Shelby Training Center operated at break-even during the year ended December 31, 2008.

**Texas:** Pursuant to a re-bid of the management contracts, during September 2008, we were notified by the TDCJ of its intent to transfer the management of the 500-bed B.M. Moore Correctional Center in Overton, Texas and the 518-bed Diboll Correctional Center in Diboll, Texas to another operator, upon the expiration of the management contracts on January 16, 2009. Both of these facilities are owned by the TDCJ. Accordingly, the results of operations, net of taxes, and the assets and liabilities of these two facilities have been reported as discontinued operations since the termination of operations in the first quarter of 2009 for all periods presented. These two facilities operated at a loss of \$0.1 million, net of taxes, for the year ended December 31, 2009. These two facilities operated at a profit of \$0.6 million, net of taxes, for the year ended December 31, 2008.

**Ohio.** During December 2008, we were notified by Hamilton County, Ohio of its intent to terminate the lease for the 850-bed Queensgate Correctional Facility located in Cincinnati, Ohio. The County elected to terminate the lease due to funding issues being experienced by the County. Accordingly, upon termination of the lease in the first quarter of 2009, we reclassified the results of operations, net of taxes, of this facility as discontinued operations for all periods presented. The lease with Hamilton County generated a profit of \$1.4 million, net of taxes, for the year ended December 31, 2008.

**Florida.** In April 2010, we announced we were not selected for the continued management of the 1,520-bed Gadsden Correctional Institution in Quincy, Florida pursuant to a re-bid of the management contracts at four Florida facilities. We transitioned management of the Gadsden facility to another operator during the third quarter of 2010. In April 2010, we also provided notice to Hernando County, Florida of our intent to terminate the management contract at the 876-bed Hernando County Jail during the third quarter of 2010 due to inadequate financial performance. Accordingly, we reclassified the results of operations, net of taxes, and the assets and liabilities of these two facilities as discontinued operations upon termination of operations in the third quarter of 2010 for all periods presented. These two facilities operated at a profit of \$4.4 million and \$4.5 million, net of taxes, for the years ended December 31, 2009 and 2008, respectively.

**Bureau of Prisons.** During January 2010, CCA announced that pursuant to the BOP Criminal Alien Requirement 10 Solicitation ("CAR 10") its 2,304-bed California City Correctional Center in California was not selected for the continued management of federal offenders from the BOP located at this facility. The contract with the BOP at the California City facility expired on September 30, 2010. All of the BOP inmates were transferred out of the facility by the end of the third quarter of 2010. In

September 2010, CCA announced a new agreement with California City, California to manage federal populations at the California City Correctional Center under a 15-year Intergovernmental Service Agreement. The management contract, which is co-terminus with the Intergovernmental Service Agreement, allows the housing of prisoners and detainees from multiple federal agencies. CCA began housing USMS populations at the facility in early October 2010 (CCA:2010:F-17).

**Arizona.** On January 15, 2010, the Arizona Governor and Legislature proposed budgets that would phase out the utilization of private out-of-state beds due to in-state capacity coming on-line and severe budget conditions. During January 2010, the Arizona Department of Corrections notified CCA that it elected not to renew the contract at CCA's 752-bed Huerfano County Correctional Center in Colorado upon expiration of the contract in March 2010. As a result, the Arizona Department of Corrections removed all of the inmates from the Huerfano facility during March 2010. Further, during March 2010, the Arizona Department of Corrections notified CCA that it elected not to renew its contract at CCA's 2,160-bed Diamondback Correctional Facility in Oklahoma, which was scheduled to expire on May 1, 2010. The Arizona Department of Corrections completed the transfer of offenders from the Diamondback facility during May 2010. As a result, CCA has idled the Huerfano and Diamondback facilities. The Diamondback facility previously housed inmates from the states of Wisconsin, Hawaii, and Oklahoma, while the Huerfano facility recently housed inmates from the state of Colorado. CCA continues to manage inmate populations from the states of Oklahoma, Hawaii, and Colorado at other facilities it owns and operates (CCA:2010:F-17).

### **CCA Dissolution of Contracts**

When management of facilities is no longer profitable, the private contractor dissolves management contracts:

- Operational management of a county jail in Panama City Florida was terminated by CCA due to \$.17million in losses, \$0.7 million of which was “primarily pertaining to negative developments in outstanding legal matters (CCA, 2010:56).”

New construction of facilities under contract can be suspended if anticipated correctional populations are not realized:

- Construction of a correctional center in Tennessee was temporary stopped in 2008 “... until we have greater clarity around the timing of future bed absorption by our customers (CCA, 2010:57).”

## Appendix C Litigation

CCA acknowledges its civil and criminal liability resulting from inmate litigation, escapes, riots, and/or employee misconduct. In its annual report to the Security Exchange Commission it states:

Such liability could result in significant monetary fines and could affect our ability to bid on future contracts and retain our existing contracts. In addition, as an owner of real property, we may be subject to a variety of proceedings relating to personal injuries of persons at such facilities. The claims against our facilities may be significant and may not be covered by insurance. Even in cases covered by insurance, our deductible (or self-insured retention) may be significant (CCA, 2010:23).

Concern has been expressed that the case ruling in *Richardson v. McKnight*, denying qualified immunity from lawsuits to staff in private prisons, may ultimately result in higher state costs for privatization:

A final result of *Richardson* will be to drive up a state's costs of prison privatization in the long run. Studies indicate that the costs to house prisoners in private prisons are high and the current savings made by states through privatization are low. However, studies also show that private prison management firms have recently made substantial profits. It is clear that the cost increases in the wake of *Richardson* from defending prisoners' lawsuits and paying for insurance will artificially raise costs for prisons. It is unclear, however, whether this cost will be passed on to the states. States enjoy only a slim margin of savings in their existing contracts with prison firms and, therefore, may be unable and unwilling to contract for a higher price (Lemkemeier, 1998:359).

In deciding *Richardson*, the court used a 3-prong test based on specific assumptions regarding the relationship of the state to the private corporation. These included (1) the assumption that state monitoring and supervision over the private vendor will ensure that it receives the quality of services contracted for; (2) favorable entry costs that encourage competitive bidding among vendors; and (3) the absence of political influence over bidding. Lemkemeier points out the potential fallacy of these assumptions since

“The first assumption fails because states are unlikely to monitor private prisons sufficiently to ensure that prisons are safe and effective and guards are not too timid. When a consumer (the state and its citizens) is unable to determine the quantity and quality of a delivered good (prison services), the seller (private prisons) may provide fewer or inferior goods than were bargained for without the consumer's knowledge. This type of market failure is likely to occur in a private prison setting because the state's monitoring is inadequate due to the difficulty of supervision and other impediments to monitoring.

The second assumption fails because the Court failed to account for the monopolistic features present in the prison industry. After a private prison corporation survives the initial competitive bidding process and secures a contract with a state, it is unlikely that other prison corporations will be able to enter the prison market in the future due to market entry costs. Therefore, another corporation which hopes to compete for a state's prison contract will be at a major disadvantage in bidding for future contracts because it will have to figure into its bid capital costs that the existing firm can exclude. The "discount" offered by the existing firm is likely to influence a state to renew its contract.

The third assumption fails because politics heavily influence state decisions to award prison contracts. In Tennessee, the role of politics in the prison industry is evidenced by the significant monetary contributions made by CCA to state public officials. As a result of market failure, monopolistic characteristics, and politics in the private prison industry, if guards perform indecisively and ineffectively it is unlikely that a state will detect their incompetence and, even if it does, that it will effectively pressure the prison to improve its performance (Lemkemeier, 1998:352-353)."

## Appendix D

### Safety

- Between September 2007 & September 2008, with respective populations of approximately 1,500, the Idaho Correction Center (ICC) reported 132 inmate-on-inmate assaults in comparison to 42 at a comparable state-run facility. The number of assaults at ICC in 2008 was higher than at all state-run prisons in Idaho combined. When assault reports under investigation but not yet reported are included, the number of assaults at ICC rises to 141. State officials attributed the higher rate of violence at ICC to the higher rate of gangs incarcerated there and noted that procedures to identify and separate gang members were in progress. However, the rate of violence remained the same in 2010 despite efforts to reduce the violence at the private facility. The violence resulted in several inmate lawsuits being filed in federal court in 2009 and 2010. The number and similarity of lawsuits regarding widespread violence lead to the cases being consolidated into a class-action suit. CCA explains the discrepancy as resulting from prisoners at private facilities feeling safer from reprisal in reporting assaults (Boone, 2011).
- Expose by the WOAI news station in San Antonio reported sexual abuse of female detainees at the GEO Group's South Texas Detention Center in Pearsall. Reports of sexual abuse against detainees have also plagued MTC's Willacy County Detention Center. Last year the State of Hawaii withdrew its female inmates from the Otter Creek Correctional Facility in Kentucky, a Corrections Corporation of America prison, after CCA employees were charged with sexual abuse or rape. Those charged included Otter Creek's chaplain.  
(<http://www.grassrootsleadership.org/women.html>)
- Two separate state audits of the Walnut Grove Youth Correctional Facility in Mississippi conducted in 2005 & 2006 found insufficient staffing that further decreased while the inmate population was rising. The Council of Juvenile Correctional Administrators, whose members represent youth facilities in all 50 states, reports that a guard-to-inmate ratio of 1 officer to 10 or 12 juvenile prisoners is common. The state audit of Walnut Grove found the guard-to-inmate ratio to be 1 to 60. Subsequent audits reported 3 inmate injuries a day in 2009 and, during the first 6 months of 2010, there were "more than one fight a day, an assault on staff at least every other day and nine attempted suicides (Burnett, 2011)." When Walnut Grove opened it was considered a model institution that would house 13-18 year olds. However, legislative bills that allowed the commitment age to increase to 22 years of age made Walnut Grove the only juvenile facility in the U.S. that houses 13 year olds together with 22 year old adults. According to John Mayo, a member of the state correctional committee that oversees correctional facilities, the original age restriction "did not populate Walnut Grove to what I'm going to call a 'profitable operation (Burnett, 2011)." In response to the rise in population, 500 beds were added which generated an additional \$3.4 million in revenue to the contractor. Charges of fiscal abuse by the contractor are also under investigation by the U. S Department of Education Office of Inspector

General regarding the payment of thousands of dollars in “supplemental salaries” to the Warden and his deputy for administering federal Title 1 education funds (Burnett, 2011).

## **Appendix E**

### **Recent News Coverage of Private Prisons in Texas**

Summaries of recent media coverage of private prison and jails in Texas Source:  
([http://www.grassrootsleadership.org/\\_publications/CPJ\\_Second\\_Ed.pdf](http://www.grassrootsleadership.org/_publications/CPJ_Second_Ed.pdf)):

Bartlett State Jail (Bartlett, TX): CCA

2009: An inmate is found dead in his cell, hanging by a bed sheet from a light fixture.

2000: Two prisoners escape from the facility, followed by a high-speed car chase.

Ben Reid Community Correctional Facility (Houston, TX): Cornell

2004: Director of training at this halfway house for paroled felons is indicted for intent to distribute drugs. That same year, seven employees resign after testing positive for drug use.

Bexar County Jail (San Antonio, TX): Aramark, Premier Management Enterprise

2007: After longtime campaign manager and friend of Sheriff Ralph Lopez pleads guilty to a felony count of theft for demanding that Premier’s principals give campaign contributions in exchange for contracts to operate the Bexar County Jail commissary, Bexar County Sheriff Ralph Lopez resigns and pleads no contest to accepting an all-expenses-paid golfing/fishing trip to Costa Rica from Premier, a commissary company owned by the same individuals as LCS Corrections.

Big Spring Complex (Big Spring, TX): Cornell

2008: Cornell Companies refuses to respond to calls from local reporters after a prisoner riot and fire at the Big Spring Complex requires assistance from 15 local police officers.

2005: A “disturbance” inside of the facility leaves five workers hurt, and one staffer requires hospital treatment.

2001: An inmate escapes over a fence and loses Cornell Corrections officers on foot; the inmate is captured after unwittingly asking an off-duty police officer for assistance.

Bi-State Jail (Texarkana, TX): CiviGenics/CEC

2005: A former CiviGenics jailer is arrested and accused of sexual activity with a woman in custody.

2004: Three inmates, including a capital murder suspect, escape and are loose for 28 hours.

Bill Clayton Detention Center (Littlefield, TX): CSC/GEO Group:

2008: After more than a year of solitary confinement in the facility, a second inmate transferred from Idaho dies after apparently killing himself. Reports show that the man was sent to solitary confinement

on administrative penalty after attacking a guard, rather than the guard filing charges and sending him through the courts for a fair hearing. Since this was a repeat instance, Idaho cancels their contract with the facility.

2008: Idaho finds legal aid and access to the courts required by state contract is not provided to inmates, that “no programs are offered,” and that, “most jobs have to do with keeping the facility clean and appear to be less meaningful.”

2008: Randy McCullough, an Idaho inmate placed in solitary confinement for more than a year, commits suicide. His body is not found for more than six hours, despite the operational requirement that inmates in solitary confinement be checked on every six hours. The facility is understaffed at the time of his death.

2006: A brief riot involving 39 Wyoming prisoners is suppressed with pepper spray. Prisoners and staff are treated with first aid, but there is an unspecified amount of property damage and a lockdown.

2004: Two inmates escape the center; four people, including three CSC guards, are arrested for helping the inmates escape. They are charged with permitting and facilitating the escape of a convicted felon.

#### Bowie County Correctional Center (Texarkana, TX) CiviGenics/CEC

2009: A CiviGenics guard is indicted by a grand jury on charges of attempting to take drugs into the facility.

2008: A CiviGenics guard is caught with three sandwich bags full of marijuana inside of the jail.

2007: A CiviGenics guard is arrested for allegedly trying to smuggle marijuana, tobacco and cigars into the jail.

2005: Damian Wheeler, an inmate at the Bowie County Correctional Center, is found unresponsive several hours after a fight after another inmate; he is later pronounced dead.

2005: Smith County inmates are moved from the Bowie County Detention Center to other facilities operated by the CiviGenics firm after the Bowie County facility fails inspection.

#### Bradshaw State Jail (Henderson, TX): MTC

2009: A prison guard is charged with violating the civil rights of an inmate by sexual contact and having a prohibited substance in a correctional facility. The guard told investigators she had sexual relations with an inmate and gave him \$200. The inmate confirmed these claims.

2008: An inmate is found dead in his cell after hanging himself.

2003: An inmate sues an MTC guard for maliciously slamming a door on his fingers, causing two fingertips to be severed and showing indifference to the resulting medical condition.

#### Brazoria County Detention Center (Angleton, TX): CCRI

1997: Guards make a training video of themselves beating, stun-gunning, and unleashing dogs on naked prisoners from Missouri. Injured inmates were dragged face down back to their cells. Reports indicate that convicted felons were hired as guards; typical menu was inadequate and inappropriate.

#### Brooks County Detention Center (Falfurrias, TX): LCS Corrections

2009: A 42 year-old inmate is found dead after being placed on suicide watch. Despite undergoing an autopsy, a cause of death is not released

2004: Immigrant detainee escapes; the resulting manhunt involves over 100 officers from the Brooks County Sheriff's Department, Department of Public Safety, Border Patrol, Texas Department of Criminal Justice, and the local fire department.

Central Texas Detention Facility (San Antonio, TX): The GEO Group

2009: An inmate escapes while wearing handcuffs and leg shackles. He is at large for three days before being caught through reports of his knocking on doors and asking residents if he could use their phone.

2002: A jail guard who crashed a van carrying six prisoners into a downtown lamppost is discovered to not have a driver's license.

1996: A double murderer escapes through a window at the facility, prompting structural improvements to the facility

Coke County Juvenile Justice Center (Bronte, TX): The GEO Group

2007: Three monitors are fired by the Texas Youth Commission for failing to report filthy, dangerous conditions at the Coke County Facility, where they had previously worked for the GEO Group.

2007: Facility is shuttered after an audit by the Texas Youth Commission finds unsanitary and unsafe conditions at the facility, which is described as being in an advanced state of disrepair; rehabilitation programs were not being conducted, and officials conclude that the health and safety of youth housed there is in jeopardy.

2007: Employee fired after TYC discovered he had a previous conviction for exposing himself to a child.

1999: Several girls are sexually, physically, and mentally abused by employees. Abusers include a man with prior conviction for sexual abuse of a child; a lawsuit was settled for \$1.5 million. A 15-year old female victim of this sexual assault by prison employee committed suicide in the wake of the lawsuit settlement that allowed The GEO Group to avoid accepting responsibility.

1995: TYC confirmed allegations that some staff members manipulated a "demotion/graduation" system to coerce girls into giving them sexual favors or dancing naked in front of them. Some girls were raped or fondled, while others were made to disrobe and shower in the presence of male employees.

Dickens County Correctional Facility (Spur, TX): GEO Group

2007: Scot Noble Payne is placed in solitary confinement, where he kills himself. The Associated Press' article on the prison described the facility as "squalid" while Idaho's Department of Corrections Director of Health Care called the prison the worst he's ever seen and "beyond repair."

2007: A former guard is convicted of providing contraband to a prisoner and sentenced to five years of probation, \$1,000 fine and 120 hours of community service. He was using the prisoner as an intermediary to sell contraband to other prisoners and may have been involved in the 2006 escape of Scot Noble Payne.

East Hidalgo Detention Center (La Villa, TX): LSC

2006: Five undocumented immigrants and a former police officer escape from the privately run South Texas jail. The facility is repeatedly found in noncompliance with state standards. An inspection conducted eight days after the escape cites the prison for employing too few guards, adding an unauthorized number of bunks, and keeping unlicensed guards on the payroll.

2006: A prison guard and two other people are arrested for aiding in the escape of six prisoners from the facility. An 18-year-old guard who oversaw the six escapees had been on the job less than three months and had not yet undergone a training course mandated for Texas jailers reports being overpowered by inmates.

Ector County Correctional Center (Odessa, TX): CiviGenics

2008: A guard is charged with bribery for taking \$150 to smuggle in a cell phone, as well as several “baggies” of marijuana at \$100 each over the previous two months.

2008: A twenty-one year old inmate is found dead after hanging himself in his cell. His body is not discovered until more than 24 hours later.

Eden Detention Center (Eden, TX): CCA

2003: Two years after Conrado Mestas Ochoa is found dead in his cell, his family files a lawsuit against CCA claiming their son died after mental abuse that included withholding a special diet for his medical condition.

1996: A daylong riot in which shotgun-toting guards clashed with 400 boisterous prisoners at this low-security facility leaves at least 17 people were hurt.

Frio County Detention Center (Pearsall, TX): CSC

2004: Five federal inmates escape. This escape marked the fifth breakout at this facility since 1996; a total of 14 escapees. Later this year, the U.S. Marshals pull their remaining inmates from the prison citing security concerns.

Jefferson County Downtown Jail (Beaumont, TX): The GEO Group

2003: An officer is arrested by the Jefferson County Drug Task Force for entering the Jefferson County Jail in possession of approximately two ounces of crack cocaine and one hundred dollars of photo copied United States currency. The officer is terminated and charges are filed in the U.S. Federal Court.

2004: A female officer engages in illegal sexual acts with a detainee. Charges are filed against the officer; she is terminated, prosecuted and receives 3 years probation.

LaSalle County Regional Detention Center (Encinal, TX): Emerald

2008: Prison guard is charged with having sex with a prisoner.

2003: Backers of the controversial jail sue the top official in La Salle County, claiming he interfered with a \$25 million contract to build the facility.

2002: A speculative jail is built using nearly \$22 million in high-yield revenue bonds issued by county’s public facilities corporation. After construction, the county starts losing money after it can’t fill all 540 beds.

Liberty County Jail (Liberty, TX): CiviGenics/CEC (formerly run by CCA)

2008: A former CCA prison guard is charged with a felony sex with an inmate charge.

2008: Two prison guards are charged with delivering marijuana, ecstasy, and cash into the jail.

2004: Three prisoners escape after overpowering a guard and two guards were fired for violating jail policy that led to the escapes. There have been seven escapees from this facility since 1995. (CCA)

McLennan County Detention Center (Waco, TX): CiviGenics

2008: It is discovered that the McLennan County Sheriff has been paid \$12,000 a year for ten years by private prison operator CiviGenics. According to the Sheriff, the stipend is a feature of the contract authorized by the McLennan County Commissioners Court.

2008: An inmate at the downtown jail facility is reportedly caught on multiple occasions with a marijuana cigarette in her bra. While investigators attempt to find out how she got the drugs into the jail, the woman reports that guards are having sex with and selling drugs to inmates.

2004: Guard is indicted for having sex with a female inmate.

2001: Resignations of four top detention center officials.

2001: Escape of a prisoner who is subsequently charged with killing a woman and arrest of a guard charged with facilitating the escape.

#### Mineral Wells Pre-Parole Transfer Facility (Mineral Wells, TX): CCA

2009: An inmate is found with injuries consistent with an assault. According to statements by the dispatcher at the time, the caller stated that there was "blood everywhere." Local police also respond to the call.

2008: A major prison riot in the facility involves over 50 inmates. CCA is unable to handle the situation and the inmates were shipped back to the TDCJ. Racial tensions reported as the motive for the riot.

2007: Mineral Wells Police called to facility after hundreds of prisoners refuse to leave the recreational yard; disturbance takes 3 ½ hours to quell.

2007: Two prisoners escape and are missing for six hours before being spotted by helicopter less than five miles from the prison.

2005: Seven inmates are injured in a riot. The local sheriff's department is called in when prison staff could not quell the disturbance.

2000: Twenty-three inmates and six staff contract E. coli due to poor kitchen cleanliness.

#### Pearsall Immigration Detention Center (Pearsall, TX): The GEO Group

2008: A report uncovers widespread instances of sexual abuse by prison guards. One of the victims of the abuse was a Guatemalan immigrant who reportedly became pregnant afterwards.

2007: A mentally-ill patient is not given her prescribed medication and psychiatric treatment. The GEO Group is sued for failing to provide adequate medical care to a documented mentally-ill inmate.

Reportedly, the guards accuse her of faking her illness and claiming she had no rights in the United States. Her crutches were taken from her, and she was stripped naked and put into isolation.

#### Raymondville Detention Center (Raymondville, TX): MTC

2008: Guard accused of stealing money and property from detainees; second time in 2008 that a guard is investigated at the facility.

2008: Facility is discovered serving prisoners rotten food, contaminated food, and food infested with maggots.

#### Reeves County Detention Center (Pecos, TX): The GEO Group

2009: Two riots in consecutive months cost the facility \$1.1 million in damages and leave the facility inoperable. The riots result in injured inmates, guards taken hostage, and arson. Reports indicate the riots are sparked by a lack of medical care in the facility and several inmate deaths.

2009: An inmate dies at the age of 32 while in custody. Some reports state it was suicide, but his family denies the claim.

2004: Arizona inmates stage fights and go on hunger strikes in order to be transferred back to Arizona.

#### Tarrant County Corrections Facility (Fort Worth, TX): CSC/GEO Group

2004: CSC ordered to pay \$38 million for the death of an 18 year-old inmate who died after contracting pneumonia.

2002: Prison nurse is convicted of negligent homicide in inmate death.

2001: Accusations of sexual misconduct by male guards against female inmates plague the camp since its opening in 1992. Lawsuits are filed about sexual abuse charges; Sen. Chris Harris testifies against company saying it was "cutting corners" because of the "corporate bottom line." The facility also endures accusations of staff shortages and questions of improper medical care.

T. Don Hutto Family Detention Center (Taylor, TX): CCA

2007: A lawsuit documented restrictive settings for children, including inadequate school hours, poor nutrition, and threats to separate the children from their parents for misbehavior. 2007: A CCA staffer is fired for "inappropriate contact" with a female prisoner.

Travis County State Jail (Austin, TX): Wackenhut Corrections/The GEO Group

1999: 11 former guards and a case manager are indicted on felony charges of sexual assault and improper sexual activity and misdemeanor charges of sexual harassment. Later this year, the Texas Department of Criminal Justice (TDCJ) would retake control of the facility.

Val Verde Correctional Facility (Del Rio, TX): The GEO Group

2008: A former GEO Group guard is indicted on federal civil rights charges for beating a prisoner.

2007: A mysterious illness killed two prisoners and hospitalized two more at the GEO Group's Val Verde Detention Center. All four prisoners were healthy upon entering the facility. Three of them were held on immigration charges, the other was a county inmate.

2005: An employee reports that his superior displayed a hangman's noose in his office and took pictures of himself donning KKK garb over his prison uniform.

2005: A second lawsuit is filed on behalf of an inmate who committed suicide after being sexually harassed and denied healthcare. The GEO Group settles.

2004: Detainee commits suicide after reporting that she had been sexually assaulted and denied medical care.

Willacy County State Jail (Raymondville, TX): CCA (formerly by GEO Group)

2009: (CCA) Inmate dies after being denied an inhaler.

2007: (CCA) Facility goes into lockdown after a fight between rival gangs leaves 19 prisoners injured.

2006: (GEO Group) The family of a local man killed at a prison run by Wackenhut is awarded \$47.5 million by a Willacy County jury. The inmate was beaten to death four days prior to completing his sentence.

2001: (GEO Group) Following an escape, TDCJ learns that electronic sensors on the perimeter fence had not worked since the facility was built, six to eight of the security television monitors were inoperable, and a perimeter patrol officer was sleeping in a car the night of the escape.

Willacy County Federal Detention Center (Raymondville, TX): MTC

2005: Three Willacy County Commissioners plead guilty after an indictment for receiving kickbacks during the construction of the Management and Training Corporation federal prison project.

2005: State Senator Eddie Lucio, Jr. suspends his consulting work with three companies, MTC, Corplan, and Aguirre Corp., associated with the prison project. This information is based on a document entitled

"Highlights of Private Prison Scandals in Texas." Independent criminal justice policy expert Michele Deitch originally prepared this list of scandals in 2003 using newspaper reports and the database of the Florida Police Benevolent Association. The information was updated by Bob Libal in 2005, Nicole Porter in 2007, and Andrew Strong and Nick Hudson in July, 2009.

Many of these cases were compiled from the website of the Private Corrections Institute (<http://www.privateci.org>).