

Should Florida Expand Privatization of Entire Correctional Facilities

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Abstract

Florida will need to construct an additional 9,260 prison beds before June 10, 2003. The Legislature will determine if two new prisons are constructed and operated by the state or by the private sector. Florida statutes require continuation of privatization of prison facilities to depend primarily on documented cost savings to the state. Florida's five private adult prisons, housing 5% of the state's prison population (3,000 inmates), operate at an aggregate monthly expense of \$5.9 million. Differences in public and private facilities hinder accurate cost comparisons. Preliminary comparisons of the costs of public and private facilities in Florida have been the subject of controversy and have reached opposite conclusions. No conclusive research has been provided which demonstrates that privatization of correctional facilities reduces costs to the state.

Introduction

The Criminal Justice Estimating Conference (CJEC) is the official entity that forecasts the prison population in Florida. Based on CJEC forecasts, it will be necessary for Florida to construct and provide operations funding for an additional 9,260 prison beds before June 30, 2003 (CJEC working papers held October 31, 1997). Proponents of privatization maintain that new prisons should be constructed and operated by the private sector while critics of privatization maintain that they should be constructed and operated by the state. Chapters 957.07 and 944.714 Florida statutes, require continuation of privatization of prison facilities to depend primarily on documented cost savings to the state.

The focus of this study is to determine if Florida's venture toward privatization of entire correctional facilities is based on conclusive research that demonstrates cost savings to the taxpayer. An evaluation of the methodologies and results of preliminary cost comparisons has been conducted in an effort to answer the following questions. Are private prisons in Florida more cost effective than prisons that are publicly constructed and operated? What are the results of cost comparisons of public and private prisons in other states? What can be done to facilitate accurate and meaningful evaluations of the construction and operating costs of public and private prisons?

The rapid expansion of The Department of Correction's budget to accommodate the growing prison population will divert significant resources from other critical state priorities.

The determination of whether additional prisons will be built and operated by the public sector or private sector is a policy decision for the Legislature. In 1989, the Legislature authorized the construction and operation of private prisons in an effort to reduce costs associated with the projected increase in the prison population. Florida currently houses 95% of its 65,000 inmates (approximate) in public prisons and 5% in private prisons.

Proponents of privatization cast government agencies as inefficient service providers desirous of maintaining a non-competitive monopoly (Florida Corrections Commission, 1966). Critics of privatization cast private prison operations as politically

connected profiteers touting fabricated cost savings while increasing expenditures of tax dollars.

Preliminary comparisons of the costs of public and private prisons have reached opposite conclusions and have been the subject of controversy. Critics of privatization have steadfastly maintained that it is not cost efficient and proponents have steadfastly maintained that it is cost efficient. The Department of Corrections (Department) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) are in favor of relying on an independent third party to develop methodologies and provide a comparison of the costs of public and private prisons in Florida (OPPAGA, March, 1997). The Department is considering a proposal by the Florida State University School of Criminology and Criminal Justice to conduct an independent evaluation of cost efficiency and program effectiveness of prison privatization in Florida (Web). The Corrections Privatization Commission (Commission) is of the opinion that because of the differences in public and private facilities in Florida, the involvement of a third party to develop methods for comparisons would have no costs benefits (OPPAGA, March, 1997).

Methods

This research project was conducted by literature review. To assess the differences between the conclusions of contradictory preliminary costs comparisons, data was collected from authoritative critics, proponents, and objective researchers of correctional facilities privatization. Archival data was collected from the United States General Accounting Office (GAO) and The National Institute of Justice (NIJ) related to five major studies conducted since 1921. Reports were collected from the Florida Corrections Commission (FCC), the Florida Office of Program Policy Analysis and Accountability (OPPAGA), and the Florida Office of Auditor General (OAG) providing information on preliminary costs comparisons that have been completed in Florida. Letters and reports from the Department and the Commission provided the methodologies and costs adjustments used by each to conduct preliminary costs comparisons with contradicting conclusions.

Site visits were made to all five adult private prisons in Florida and five public prisons operated by the Department. Observation and discussions were used to gather information related to adjustments used for costs comparisons. Proponents and critics of privatization of correctional services were asked to identify credible archival data for informational purposes.

Weakness in much of the literature became readily apparent based on the lack of objectivity of the authors. Publications by entities with financial and political interest read more like political position papers than accounting documents with accepted methodologies. Significant differences in public and private prisons and variations in methodologies used to adjust the differences produced cost comparisons with opposite conclusions.

This research is limited to an evaluation of existing preliminary cost comparisons between public and private prisons in Florida and a brief overview of archival cost comparisons of public and private prisons in other states.

Results

Cost Comparisons In Other States

Comparisons of costs and quality of service in public and private prisons in other states are inconclusive. The United States General Accounting office (GAO) reviewed five major studies conducted in Texas, New Mexico, California, Tennessee and Washington since 1921 and published its findings in August, 1996. The studies reported little difference and mixed results and the GAO could not conclude whether private facilities were more costs efficient than public facilities (United States General Accounting Office, August, 1996).

Summary of the United States General Accounting Office's (GAO)

Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service

<u>State/Study</u>	<u>Findings: Study</u>	<u>Findings: GAO</u>
Texas:	4 privately-run prisons versus 4 similar hypothetical public prisons 14% to 15% savings for private facilities no actual similar public facilities; study did not measure for any quality similarities	
New Mexico:	3 private and public women's facilities in West Virginia private facilities outperformed state and federal facilities in quality and cost inmate survey showed that public prison quality was better than private; the costs were mixed, and there were no substantial savings	
California:	3 for-profit, 1 private, and 2 publicly managed facilities costs were mixed between public and private prisons; quality could not be assessed confirmed findings	
Tennessee:	1 private and 2 public prisons no appreciable differences in quality or cost between public and private facilities confirmed findings	
Washington:	3 prisons in Tennessee and 3 in Louisiana no cost savings for state; quality was the same for private and public prisons confirmed findings	

Conclusions: because studies reported little difference and/or mixed results, GAO could not conclude whether privatization saved money.

Cost Comparisons In Florida

Preliminary comparisons of the cost of public and private prisons by the Department and the Commission reached opposite conclusions about whether private

prisons provide cost savings. The Commission has concluded that private prisons contracted through the Commission are providing cost savings and the Department has concluded that they are not.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) has reported "while it is possible to evaluate whether private prisons save money, significant differences in Florida's public and private prisons hinder comparisons" (OPPAGA, March, 1997, p. 3). The Florida Corrections Commission (FCC), although in favor of increased privatization, was also unable to compare the cost of public and private prisons (Florida Corrections Commission, November, 1996).

Preliminary cost comparisons have not provided a conclusive answer regarding any cost savings resulting from privatization in Florida.

Differences In Public And Private Prisons

Calculation of any cost savings is complicated and controversial with limited reliability because of the differences in public and private facilities. The Legislature provides funding through commission contracts for private prisons with air conditioning, large gymnasiums, numerous recreational options and multiple programs. However, the Legislature has removed or restricted amenities of this type from public prisons. Contracts with vendors place a \$7,500 per incident cap on outside hospitalization health care cost after which the inmate and additional health care cost are transferred back to the department. During FY 1995-96, 726 inmates incurred hospitalization costs in excess of \$7,500, costing the Department \$6.5 million over what private vendors paid (H. K. Singletary, personal communication, January 14, 1997)

The Department and the Commission used different methodologies and data to conduct separate cost comparisons. The Commission compared its private prison cost with the cost of 32 adult male public prisons. The Department compared the private prison cost with 9 public prisons that it determined to be more comparable. The Department and the Commission agree that the public and private prisons are dissimilar in size, types of programs offered, types of inmates, and location. However, they do not agree on the methodologies that should be used to make costs adjustments. OPPAGA reported "both comparisons were flawed due to the prisons chosen for comparison and the methodologies used to make comparisons" (OPPAGA, March, 1997).

Discussion

Privatization Of Correctional Services

The Department contracts with private vendors for delivery of a variety of secondary services to support prison operations. Architect, engineering, computer programming and systems analysis services are frequently contracted out by the Department. Contracts for health services and substance abuse treatment programs currently total in excess of \$79 Million per year. Electronic monitoring of supervised offenders, transitional care programs, staff training and curriculum development are commonly provided by private contractors.

The Department has historically contracted for services when an evaluation reflects that the contract is cost efficient and provides a comparable or higher quality of service, or it is a service in which the department lacks staff expertise (H. K. Singletary, personal communication, January 14, 1997).

Contracting For Entire Facilities

Contracting for the construction and operation of entire correctional facilities is a more recent development mandated by the Legislature (Florida House of Representatives, Justice Council, Committee on Corrections, April, 1997). In an effort to reduce costs resulting from Florida's rising inmate population and identify innovative approaches to corrections, the Legislature authorized the construction and operation of private correctional institutions in 1989 (OPPAGA, November, 1995). In 1993, the Legislature enacted legislation creating the Correctional Privatization Commission (Commission). The commission contains five members who are appointed by the Governor and for administrative purposes operates under the Department of Management Services (DMS) (Senate Committee on Criminal Justice, December, 1996). Provisions of s. 957.03 F.S., prohibit an employee of the Department from being a member of the Commission. The Commission was created to enter into contracts with private contractors to construct and operate private correctional facilities for the state (separate from the Department). Request for proposals (RFPs) issued by the Commission seek bids from private contractors for the financing, construction and operation of adult correctional facilities. Florida Statutes, that govern privatization initiatives by The Department, reflect that continuation of privatization of prisons should depend primarily on the ability of the private prisons to provide cost savings over comparable state operated prisons (Sections 957.07, 944.714 F. S.).

Funding Procedures For Private Facilities

The Commission approves payments to pay vendors for operating private correctional facilities and the Department pays the invoices from the General Revenue funded appropriations made to the Department. This procedure, mandated by the Legislature, results in the Commission executing contracts that obligate the Department without its review or agreement. The Department has no formal mechanism to provide input into Commission decisions regarding the size and location of a private correctional facility, or the gender or age of the inmates to be housed in the facility (Florida Corrections Commission, November, 1996). The Commission has executed vendor contracts without the Department's review or agreement obligating the Department to pay vendors for a 90% occupancy rate even if the beds are not currently needed and the Department has vacant beds in Department facilities.

Prison costs are commonly calculated by identifying the average daily operational cost of incarcerating an inmate (inmate per diem). The contracts for private prisons in Florida guarantee one per diem rate for 90% of capacity and a lower per diem rate for additional inmates housed at the private facility.

Per diem rates for private adult facilities in Florida for FY 1995-96 ranged from \$38.44 to \$45.88 for 90% capacity and from \$6.57 to \$40.00 for each additional inmate.

The private youthful offender facility in Lake City has a per diem rate of \$65.73 for 90% capacity and \$63.29 for each additional inmate (OPPAGA, March, 1997). The amount of per diem paid to private prisons is dependent upon the number of inmates assigned. The Department is currently required to house in excess of 3,000 inmates in private facilities on a continuing basis at an average cost of \$5.9 million per month while it has enough vacant beds to accommodate all 3,000 inmates. No cost savings to the state are realized by maintaining high occupancy levels in private facilities as the contracts

require, when Department beds are left empty. Department work camps are operating at less than 80% capacity because of Commission contracts that require reduced custody, relatively healthy, well behaved inmates to be housed in private facilities.

Private Facilities Under Contract

Presently, there are four private correctional facilities under state contract to house adult prisoners and one to house youthful offenders. The Department is the contracting entity for Gadsden C I and the Commission is the contracting entity for the remaining four.

Name	Location	Number of Beds	Contracting Entity	Opening Date
Gadsden CI	Gretna	768	Department	Mar 1995
Bay CI	Panama City	750	Commission	Jul 1995
Moore Haven CI	Moore Haven	750	Commission	Aug 1995
South Bay CI	South Bay	1318	Commission	Feb 1997

Preliminary Cost comparisons

Preliminary comparisons of the costs of public and private prisons by the Department and the Commission reached opposite conclusions about whether private prisons provide cost savings. The Commission has reported to the Legislature that private correctional facilities are providing a high level of correctional services at a cost savings to the state (C. M. Hodges, personal communication, November 27, 1996). The Department has reported to the Legislature that it questions the accuracy and credibility of the Commission’s cost analysis. The Department reported *“the analysis, as presented, over simplifies and ignores many variables affecting cost that must be considered if a true and equitable comparison is to be made”* (H. K. Singletary, personal communication, January 15, 1997, p. 3).

The Department calculated the actual total per diem cost for adult male facilities operated by the Department to be \$41.47 per day and the per diem cost for private facilities to be \$48.24 per day (Florida Department of Corrections, 1996). The commission submitted a report to the legislature projecting savings per 1,000 privatized beds over a 20 year period based on 100% occupancy. The Commission’s report placed the Department’s per diem at \$44.40 the first year and the private facilities at \$42.62. The projection reflected a savings to the state of \$1.78 per inmate per day the first year increasing to \$3.12 per inmate per day over 20 years (C. M. Hodges, personal communication, November 27, 1996). OPPAGA has reported “while it is possible to evaluate whether private prisons save money, significant differences in Florida’s public

and private prisons hinder comparisons” (OPPAGA, March, 1997).

Socio-Political Environment

Any attempt to study private corrections occurs in a volatile socio-political environment. The first fully Republican Legislature in Florida history was elected in 1996, and they are expected to press for a wider adoption of privatization policies for all governmental services (T. R. Clear and G. Waldo, personal communication, December 4, 1996).

Proponents of privatization claim that costs savings are realized by the private sector as the result of the absence of civil service regulations, lower fringe benefits & pension benefits, more efficient bidding & procurement procedures, streamlined decision making and staffing efficiencies.

Critics of privatization contend that any costs savings and a profit margin would be achieved by reductions in the number of staff to provide services, quality of staff training, quality of correctional services and lower salaries & benefits (Florida Corrections Commission, November, 1996).

Differences in Public and Private Prisons Hinder Comparisons

Private prisons are air conditioned and provide numerous academic, vocational, and recreational opportunities including use of television and weights. The programs and opportunities are provided as part of the per diem paid by the state through the provider contract (Florida Corrections Commission, November, 1996). However, public sentiment against “coddling” inmates has produced prison legislation that has removed or restricted these amenities and opportunities from public prisons (Florida House of Representatives, Justice Council, Committee on Corrections, April, 1997).

Numerous variables hinder cost comparisons of public and private prisons (OPPAGA, March, 1997). The size and location of institutions being compared, coupled with the education, substance abuse and other rehabilitation programs offered, have to be similar, (or adjustments made for the differences), when conducting credible cost comparisons. The inmate population profile including psychological and medical grade, custody level, age (youthful offender or adult) and gender have a definite effect on costs comparisons.

The following table reflects a selection of variables and why they affect cost comparisons.

Factor	Why Important
Size of Institution	A larger prison can achieve economies of scale because fixed costs are divided among a higher number of inmates.
Education, Substance Abuse, and Other Rehabilitation Programs	Programs designed to serve larger portions of the prison population will require specially trained education and substance abuse staff, thus increasing payroll expenses.
Type of Inmate: Psychological and Medical Grade of Inmates	Psychological treatment requires professional and medical staffing, appropriate medication, and specialized medical equipment and facilities.
Custody Level of Inmates	Higher inmate custody levels require closer supervision, which increases construction costs.
Age of Inmates	Youthful offender institutions are more costly than adult facilities due to closer supervision and more programs.
Gender of Inmate	Females generally cost more to house than male inmates.
Geographical Location	Some prisons located in the central and southern part of Florida have higher costs.

Calculations Of Per Diem Rates

Calculations of actual costs are complex and segmented. Most methodologies include operations costs, health services costs, education services costs, agency indirect overhead costs and state indirect overhead costs (at a minimum) to derive "total" inmate per diem costs.

Because of the differences in public and private facilities in Florida, adjustments in costs (up and down) are necessary to derive an equitable comparison. Examples of adjustments that can be used are, property tax credit, contract monitor credit, debt service charged as direct cost, payments to maintenance reserve, hospitalization cost limit, inmate welfare trust fund revenues, equalization of education and substance abuse programs, revenue derived from Public Work Squads and forced under utilization of beds and programs.

Proponents and critics of privatization do not agree on what adjustments are appropriate and generally promote adjustments that favor their own position. "The Department and the Commission do not agree on which prisons to compare or how to adjust the differences" (OPPAGA, March, 1997).

Options To Facilitate Better Cost Comparisons

Contract with an unbiased independent third party to develop methodologies for comparing costs and conducting costs comparisons. This option would increase objectivity and lend more credibility to the conclusions reached.

Identify specific public prisons and fund substance abuse, education, and recreational programs at comparable levels with private prisons. Develop a procedure to avoid medical costs in excess of \$7,500 per incident in targeted public prisons (consistent with private prisons), house similar inmates and implement other adjustments to simplify costs comparisons and minimize differences. This option would require a determination between the Department and the Commission on which differences warrant adjustments and how the adjustments should be made.

Authorize the construction and operation of public and private prisons that are comparable. This option would provide an opportunity to conduct meaningful costs analysis without complex and controversial adjustments.

Conclusions

Privatization of entire correctional facilities in Florida has been mandated by the Legislature. Over 3,000 inmates are currently housed in private facilities at an average cost to the state of \$5.9 million per month. The state has over 6,000 empty public sector prison beds and does not have a current need for the private prisons. No conclusive research has indicated that privatization of prisons has resulted in reduced spending in Florida or other states. Proponents and critics of privatization are in disagreement about what methodologies and adjustments are appropriate to determine actual costs. Florida will need an additional 76,000 beds over the next 10 years and the legislature will determine whether they are constructed and operated by the public or private sector. Efforts are being made by OPPAGA to develop appropriate methodologies that should result in more conclusive costs comparisons.

Clarence Rudloff is a long time member of the Florida Department of Corrections

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