

BACKGROUND BRIEF • APRIL 2014

The Costs of Private Prisons

The private prison industry claims that governments can save money by privatizing prisons, but what does the evidence actually indicate? To maximize returns for their investors, for-profit prison companies have perverse incentives to cut costs in vital areas such as security personnel, medical care, and programming, threatening the health and safety of prisoners and staff. Yet research and the recent experiences of states show that the promised cost savings often fail to materialize for government agencies that contract with for-profit prison companies. Furthermore, proponents of prison privatization may employ questionable methodology when calculating costs of private facilities. This includes finding ways to hide the costs of private prisons, ensuring that increased costs are not apparent until after the initial contract is signed, and using inflated public prison costs during comparisons. This backgrounder summarizes recent research and state reports related to private prison costs, and then discusses some common, yet dangerously flawed and unsound tactics employed to make private prisons appear cost effective.

AT A GLANCE

Research and the recent experiences of states show that the promised cost savings often fail to materialize for government agencies that contract with for-profit prison companies.

Numerous Meta-Studies Find No Cost Advantage

In 1996, the GAO reviewed major studies related to costs and private prisons.¹ They found that alleged cost savings from private prisons were inconclusive. In 1999, University of Cincinnati researchers conducted a meta-analysis of 33 cost-effectiveness evaluations of public and private prisons from 24 separate studies. They concluded that private prisons were not more cost-effective than public prisons, and cautioned that “relinquishing the responsibility of managing prisons to the private sphere is unlikely to

¹ US General Accounting Office, *Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Services* (August 2009), available at www.gao.gov/archive/1996/gg96158.pdf.

alleviate much of the financial burden on state correctional budgets.”² In 2001, The U.S. Bureau of Justice Assistance found that “the cost benefits of privatization have not materialized to the extent promised by the private sector.”³ More recently, in 2007, researchers from the University of Utah Criminal Justice Center conducted another meta-analysis of 12 studies that met a rigorous set of selection criteria, and concluded that cost savings from private prisons “are not guaranteed and appear minimal.”⁴

Most recently, one of the few studies to find significant cost savings for governments investing in private prisons was discredited when it was uncovered that the study was funded by private prison companies. The study is currently the subject of an ethics inquiry by Temple University, where the study’s authors are based.⁵

Private Prisons Have Failed to Save Money in States

Arizona

At the end of 2010, Arizona’s Office of the Auditor General performed an audit of the state’s prison system. The report analyzed 2009 data and found that a medium-security prisoner costs \$55.89 per day in a private prison, compared to \$48.13 per day in a public facility.⁶ Private prisons were also more expensive than public facilities to house minimum-security prisoners.⁷ Arizona calculated that a prisoner in a private prison can cost up to \$1600 more per year, despite the finding that private prisons often only house the healthiest prisoners, who are cheaper to care for.⁸

Florida

Although Florida law requires prison privatization to result in a 7% cost savings, a recent analysis of the state’s private prisons by the Florida Center for Fiscal and Economic Policy found that there was no compelling evidence that any cost savings have actually occurred.⁹ A December 2008 state audit substantiates this claim.¹⁰ In October 2013, the *Palm Beach Post* conducted an extensive eight month investigation into Florida’s private prisons. They examined the costs of running private and public prisons, using 2009-2012 cost data produced by the Florida

² Travis Pratt & Jeff Maahs, “Are Private Prisons More Cost-Effective Than Public Prisons? A Meta-Analysis of Evaluation Research Studies,” *Crime and Delinquency* 2999 45:358.

³ U.S. Bureau of Justice Assistance, “Emerging Issues on Privatized Prisons,” February 2001.

⁴ Brad Lundahl, Chelsea Kunz, Cundi Brownell, Norma Harris, Russ Van Vleet, “Prison Privatization: A Meta-Analysis of Cost Effectiveness and Quality of Confinement Indicators, Utah Criminal Justice Center, University of Utah, April 26, 2007.

⁵ Matt Stroud, “Study funded by private prison dollars praises private prisons; no comment, says public university,” *In These Times*, January 9, 2014.

⁶ Arizona Office of the Auditor General, Audit, http://www.azauditor.gov/Reports/State_Agencies/Agencies/Corrections_Department_of/Performance/10-08/10-08.pdf

⁷ *Ibid.*

⁸ Richard Oppel Jr., “Private Prisons Found to Offer Little in Savings,” *New York Times*, May 18, 2011.

⁹ Florida Center for Fiscal and Economic Policy, *Are Florida’s Private Prisons Keeping Their Promise?* (2010), available at www.fcfe.org/attachments/20100409--Private%20Prisons

¹⁰ Florida Office of Program Policy Analyses and Government Accountability, Report 08-71, www.opaga.state.fl.us/reports/pdf/0871rpt.pdf

Department of Corrections. The *Post's* analysis found that despite the state's claims of savings, closer examination of the data showed that four of the state's six private prisons failed to meet the 7% cost savings requirement and three of those four prisons failed to save any money at all.¹¹

Georgia

In 2012, the Georgia Department of Corrections (GDC) developed costs projections for FY 2011 which compared the state's costs per day for both private and state prisons. Based on the GDC's estimates for FY 2011, private prisons cost Georgia \$45.81 per prisoner per day while state prisons cost Georgia \$44.51 per prisoner per day.¹² In FY 2010, private prisons cost Georgia \$45.70 per prisoner per day while state prisons cost Georgia \$36.32 per prisoner day.¹³

New Mexico

With 42% of its state prisoners in private prisons, New Mexico leads the nation with the highest rate of private prison use.¹⁴ Between FY 2001 and FY 2006, New Mexico's annual spending on private prisons increased by 57% from \$34 million to \$54 million.¹⁵ However, during the same period, New Mexico's prisoner population increased by only 21%.¹⁶ Much of the increase is due to automatic contract price increases.

Ohio

Ohio law requires private prison companies to produce a 5% cost savings over what it would cost the state to run the facility. While Ohio claims that its prison privatization efforts have met this threshold, 2011 analysis by Policy Matters Ohio, a non-partisan state-based research institute, shows that the state's formula has produced flawed conclusions and that cost savings have been overstated, and in some years, nonexistent.¹⁷ For example, the Ohio Department for Rehabilitation and Correction (ODRC) compared the cost of operating the Lake Erie Correctional Institution by the private contractor and the cost associated with a hypothetical state-run counterpart. For the 2006-07 biennium, the state computed that private operation of the facility would result in a savings of \$2.4 million. However, that savings became a cost of between \$380,000 and \$700,000 a year upon closer examination.¹⁸ Policy Matters Ohio found that the staffing and overhead estimates associated with the state-run counterpart were bloated. The staffing estimate included 20% more staff than were actually employed at the

¹¹ Pat Beall, "Do Taxpayers Benefits? State's math is misleading," Palm Beach Post, October 27, 2013.

¹² Georgia Department of Corrections FY2011 Allocation of Cost to Inmates, Probationers, Etc., Feb. 28, 2012, <http://www.dcor.state.ga.us/pdf/CorrectionsCosts.pdf>.

¹³ Ibid.

¹⁴ Report to the Legislative Finance Committee: Corrections Department Review of Facility Planning Efforts and Oversight of Private Prisons and Health Programs, May 23, 2007, accessed from New Mexico Public Library Digital Collections, <http://nmdigital.cdmhost.com/cdm/ref/collection/p267801coll5/id/1122>.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Policy Matters Ohio, "Cells for Sale: Understanding Prison Costs & Savings," April 2011, <http://www.policymattersohio.org/wp-content/uploads/2011/09/CellsForSale2011.pdf>.

¹⁸ Ibid.

Lake Erie facility and the costs were 12% higher than what the state would actually need to operate the facility. The calculation of indirect costs for the state-run counterpart was six times too high. When Policy Matter Ohio adjusted these numbers, the savings from privatization disappeared. State officials have acknowledged that previous methods used to calculate private prison cost savings have been inconsistent and imprecise.¹⁹

Hawaii

Due to prison overcrowding, Hawaii houses select adult prisoners out of state in private prisons.²⁰ A 2010 report from the Hawaii Auditor concluded that the Department of Public Safety had unreliable cost data and “flawed methodology” when comparing the cost of private out-of-state and public in-state prisons.²¹ Rather than calculating in-state prison costs based on the actual number of people in a facility, the department uses the operational bed capacity, inflating in-state prison costs.^{22,23} In addition, the department, “...does not allocate its indirect general administration costs” to the private prisons out-of-state which further inflates in-state public prison costs.²⁴

Beware: Strategies used to make private prisons appear cost-effective

Expensive Contract Terms

Contracts that may seem like a good deal at the beginning can shortly become a drain on taxpayer dollars. Once states have committed to working with for-profit prisons, they are vulnerable to shifting contract terms that raise costs. Indeed, in CCA’s 2010 Annual Report, the company explicitly cites, “enhancing the terms of our existing contracts” as one of the approaches it uses to develop its business and increase profits.²⁵ Potential amendments include raising the per diem rate (the rate the state pays per prisoner per day to the contractor), or inserting occupancy guarantees that ensure that the state will either keep a facility filled to a certain level, frequently 90%, or pay the contractor for the empty beds if occupancy dips below the required threshold.²⁶

¹⁹ Policy Matters Ohio, “Cells for Sale: Understanding Prison Costs & Savings,” April 2011, <http://www.policymattersohio.org/wp-content/uploads/2011/09/CellsForSale2011.pdf>.

²⁰ Management Audit of the Department of Public Safety’s Contracting for Prison Beds and Services, A Report to the Governor and the Legislature of the State of Hawai’i, Report No. 10-10, December 2010, The Auditor State of Hawai’i, <http://files.hawaii.gov/auditor/Reports/2010/10-10.pdf>.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ CCA’s 2010 Annual Report on Form 10-K, page 10

²⁶ For more information about occupancy guarantees in private prison contracts, see ITPI’s recent report, Criminal: How Lockup Quotas and “Low-Crime Taxes” Guarantee Profits for Private Prison Corporations.”

Automatic Contract Price Increases

As noted above, New Mexico's auditor scolded the state for agreeing to automatic annual cost increases in its private prison contracts. This type of provision ties the hands of the state, as the department of corrections no longer has any control over the amount per diem rates increase each year. For New Mexico, the cost increases were tied to the consumer price index (CPI), and were not to exceed 5%. Unfortunately, due to errors in applying the CPI, and in some years, awarding price increases twice in the same year, the private contractor was able to secure contract increases over the 5% threshold.²⁷

Cherry-Picked Populations

Even in cases where private prisons appear to cost the state less per prisoner than public prisons, this may not reflect a cost savings for the prison system as a whole. Private prison companies are commonly able to "cherry pick" certain types of prisoners who are less expensive to house. For example, contracts often permit private prisons to exclude the following categories of incarcerated people from their facilities: maximum security, death row, female prisoners, or prisoners that have serious medical or mental health conditions, all of whom are more expensive to incarcerate.²⁸

For example, a December 2008 report by Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA) stated that the state's private prison contracts do not "assure that private prisons serve inmates with comparable medical and mental health conditions as those housed in public prisons."²⁹ The report further explained, "as special needs inmates are more expensive to serve than other inmates, the difference in the populations of public and private prisons results in the state shouldering a greater proportion of the costs of housing these inmates." The report concludes that as a result, the 7% savings requirement is "undermined."³⁰

Overinflating Public Prison Costs

As the Ohio example above illustrated, one method for making private prisons look more cost effective is to pad the costs of public prisons. Ohio's experience is not unique. For example, the Florida Department of Correction's central office has overhead costs that are often not even factored into cost comparisons of public and private prisons. Additionally, there are costs that the state must incur regardless of whether the prison is public or private, such as sentence calculation and review of grievances and disciplinary actions, which are often not properly

²⁷ Report to the Legislative Finance Committee: Corrections Department Review of Facility Planning Efforts and Oversight of Private Prisons and Health Programs, May 23, 2007, accessed from New Mexico Public Library Digital Collections, <http://nmdigital.cdmhost.com/cdm/ref/collection/p267801coll5/id/1122>.

²⁸ Chris Petrella, "The Color of Corporate Corrections, Part II: Contractual Exemptions and the Overrepresentation of People of Color in Private Prisons, *Radical Criminology*, Issue 3, 2014.

²⁹ Florida's Office of Program Policy Analysis and Government Accountability, "While DMS Has Improved Monitoring, It Needs to Strengthen Private Prison Oversight and Contracts," December 2008. <http://www.oppaga.state.fl.us/reports/pdf/0871rpt.pdf>

³⁰ *Ibid.*

included in cost comparisons.³¹ Similarly, the costs to the state to oversee and monitor private prisons are also rarely included in cost comparisons, but can be a significant expense if the state properly oversees its contractors.^{32 33}

For video profiles of the companies that profit from mass incarceration, visit ACLU's Prison Profiteers series:
<https://www.aclu.org/prison-profiteers>

For additional resources on prison privatization, visit
www.InthePublicInterest.org

³¹ Private Corrections Institute Inc., "Policy Brief: Do Private Prisons Save Money?" January 2012.

³² Private Corrections Institute Inc., "Policy Brief: Do Private Prisons Save Money?" January 2012.; Janice Fine and Patrice Mareschall, "Overlooking Oversight: A Lack of Oversight in the Garden State is Placing New Jersey Residents and Assets at Risk," Rutgers University, March 2014.

³³ Recently, Arizona Representative John Kavanagh published an article in the Arizona Republic claiming that private prisons are cheaper than public prisons once facility construction and pension costs are factored in. See: <http://www.azcentral.com/opinions/articles/20140111private-prisons-keep-money-taxpayers-pockets.html>. The argument that private prisons save money through fronting prison construction costs is misleading. In many cases, for-profit prison corporations are managing prisons originally built by the state. And in those cases where the prison corporation built the facility, the cost of construction is more than recouped through the per-diem rates charged to the state over the life of the contract, which is often 20 years. And as discussed above, in many cases, the company has the option to raise its per-diem rate annually. With regard to the pension argument, it should be noted that the cost of past pension service is not eliminated by privatizing a prison. Unfunded liabilities are a cost of past service. These legacy costs will not be eliminated, even if the jobs are. A fair and proper cost comparison would look at the cost of future pension benefits/accruals (unbiased by past costs), and compare that figure to the cost of running a prison under privatization.