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Report to the Subcommittee on Crime,
Committee on the Judiciary, House of
Representatives

August 1996

PRIVATE AND PUBLIC PRISONS

Studies Comparing Operational Costs and/or Quality of Service



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The Honorable Bill McCollum
Chairman
The Honorable Charles E. Schumer
Ranking Minority Member
Subcommittee on Crime
Committee on the Judiciary
House of Representatives

Since 1991, when we issued our earlier report on private prisons,¹ various jurisdictions and levels of government have made or planned greater use of this alternative to publicly run correctional facilities. At the federal level, plans for privatization of correctional facilities have changed in recent years. For example, the administration's fiscal year 1996 budget proposal reflected a commitment to increase the use of privatized correctional facilities in the federal Bureau of Prisons (BOP). Specifically, under the BOP privatization initiative presented in the budget request, the bureau proposed to contract with private firms, where most appropriate, to operate the majority of all future federal pretrial detention facilities as well as the majority of all future federal minimum- and low-security correctional facilities. The Department of Justice's fiscal year 1997 budget justification projected the activation of two privatized facilities in that year. However, in June 1996, the Justice Department reversed its plans for using private contractors to operate the facilities identified in the 1996 and 1997 budget proposals. In explaining its decision to staff these facilities with BOP employees, the Justice Department noted that it was "unable contractually to reduce the risk of a strike or walk out" of correctional officers employed by private firms.²

Proponents of privatization assert that the experiences of several states demonstrate that private contractors can operate prisons at less cost than the government, without reducing the levels or quality of service. In contrast, other observers say there is little or no valid evidence that privatization of corrections is a cost-effective alternative to publicly run facilities.

To help frame the continuing deliberations of the Justice Department's privatization plans, we self-initiated this review to (1) identify studies

¹Private Prisons: Cost Savings and BOP's Statutory Authority Need to Be Resolved (GAO/GGD-91-21, Feb. 7, 1991).

²Letter, dated June 5, 1996, from the Assistant Attorney General for Administration, Department of Justice, to various congressional committee and subcommittee chairmen and ranking minority members.

(completed since 1991) comparing the operational costs and/or the quality of service³ of private and public correctional facilities; (2) determine, based on these studies, what could be concluded regarding the operational costs and/or quality of service of comparable private and public facilities; (3) assess whether the reported results are generalizable to correctional systems in other jurisdictions; and (4) identify lessons learned to help guide future comparative studies of private and public correctional facilities. Our work basically was a form of evaluation synthesis whereby we assessed existing studies, particularly with respect to the strength of evidence supporting the reported findings. Appendix I presents further details about our objectives, scope, and methodology.⁴ We are addressing this report to you because of your Subcommittee's interest in prison issues, as exemplified by the hearings you held on June 8, 1995.

We conducted our work from June 1995 to June 1996 in accordance with generally accepted government auditing standards. We received oral comments on a draft of this report from BOP and written comments from the Department of Justice's Office of Justice Programs; the National Council on Crime and Delinquency; and a Northeastern University (Boston, MA) professor of criminal justice, who is a nationally recognized authority on corrections administration. These comments and our evaluation of them are discussed at the end of this letter.

Results in Brief

On the basis of literature searches and discussions with correctional officials and criminal justice researchers, we identified five studies completed since 1991 that compare private and public correctional facilities in relation to operational costs and/or quality of service. Three states sponsored comparative studies of correctional facilities in their states—Texas, California, and Tennessee. The National Institute of Justice, the Bureau of Prisons, and the National Institute of Corrections funded a comparative study that focused mainly on facilities in New Mexico. Washington state studied facilities in Tennessee, Louisiana, and Washington state. The correctional facilities that were the focus of these studies varied in terms of geographic location and the types of inmates

³As discussed in appendix I, we did not attempt to generically define "quality of service." Rather, we accepted the definition and/or evaluation criteria used in each applicable study that we reviewed. Some studies, for instance, used a variety of quality measures or outcomes, such as safety and incident data and the extent of treatment programs for inmates.

⁴Although not addressed in this report, the privatization of corrections has, at times, raised various other issues besides cost and quality of service issues. For example, there has been some debate over the issue of whether administration of justice (which includes the operation of prisons) is an inherently governmental function not appropriately delegable to the private sector.

housed. There was also variation in the methodologies and measurements employed by the researchers.

Three of the studies we reviewed (California, Tennessee, and Washington) made comparisons of costs between reasonably matched private and public facilities that were operating within each state that was studied. Of the four private/public comparisons reported in these three studies, two showed no significant differences in operational costs, one showed a 7-percent difference in favor of the private facility, and the other reported the private facility to be more costly than one public facility but less costly than another public facility. One additional study (Texas) reported a 14- to 15-percent savings from privatization; however, the analysis for the Texas study was problematic because the comparison was based on hypothetical public facilities, not existing ones. We could not conclude from these studies that privatization of correctional facilities will not save money. However, these studies do not offer substantial evidence that savings have occurred.

Two studies (New Mexico and Tennessee) assessed a wide variety of factors in their reviews of comparative quality of private and public facilities. These factors, among others, included measures of safety, personnel qualifications, physical conditions of the facilities, health care, and inmate activities. One of these two studies (Tennessee) reported no difference between private and public facilities. The other study (New Mexico) reported a higher quality score for one private facility compared with two public facilities. However, on the inmate survey portion of the assessment, one public facility had higher scores in all of the areas that were assessed, except one. One additional study (Washington), using a less detailed approach to assessing comparative quality, found no differences between private and public facilities.

These studies offer little generalizable guidance for other jurisdictions about what to expect regarding comparative operational costs and quality of service if they were to move toward privatizing correctional facilities. First, several of the studies focused on specialized inmate populations, such as those in prerelease situations, that limited their generalizability to a wider inmate population. Second, methodological weaknesses in some of the comparisons—such as using hypothetical facilities or nonrandom survey samples—make some findings questionable, even for the study setting. Third, a variety of differences in other states and regions could result in experiences far different from those of the states that were studied. For example, cost of living and a state's correctional philosophy

could affect the comparative costs and quality of private and public facilities from state to state. Finally, the age or maturity of the private system could affect the relationship between private and public facilities in terms of costs and quality.

From a methodological standpoint, the five studies provide some lessons learned for future comparisons of private and public correctional facilities. The importance of focusing on both operational costs and quality of service, comparing institutions (both private and public) that are actually in operation, and using multiple measures of quality are attributes that worked well in selected studies.

Background

A generally accepted evaluation criterion is that any comparative study of private and public prisons should be based upon the selection and analysis of similar facilities. For example, the private and public prisons selected for comparison should be as similar as possible regarding design and capacity, security level, and types of inmates. Otherwise, any comparative analysis of operational costs or quality of service could be skewed. On a per-inmate basis, for instance, higher security prisons can be expected to have higher operating costs than lower security prisons because the former type of facilities generally have higher staff-to-inmate ratios.

Even if similar private and public prisons are available for study, a comparison of operational costs can still present difficulties in ensuring that all costs, direct and indirect, are consistently and fully quantified. Possible difficulties can arise due, in part, to differences in budgeting and accounting practices between and even within the private and public sectors. Determining the appropriate allocation of corporate headquarters overhead and government agency overhead, for instance, can be particularly difficult.

Comparing the quality of service at private and public prisons also presents challenges and, in fact, can be more difficult than comparing costs. The concept of “quality” is neither easily defined nor measured. For example, although the American Correctional Association (ACA) sets accreditation standards for prisons, accredited facilities can vary widely in terms of overall quality. According to ACA officials, such variances occur because ACA accreditation means that a facility has met minimum standards.

Generally, however, assessments of quality can take several approaches. For example, one is a compliance approach, that is, assessing whether or to what extent the prisons being compared are in compliance with applicable ACA standards and/or other relevant policy and procedural guidelines and/or court orders and consent decrees. Another approach is to assess performance measures.⁵ For example, measures of safety could include assault statistics, safety inspection results, and accidental injury reports.

The difficulties of comparatively assessing private and public prisons—regarding operational costs and/or quality of service—are further complicated if the prisons are not located in the same state. Each state and its correctional system have characteristics and conditions that must be recognized in conducting interstate analyses. For example, economic conditions and cost-of-living factors can vary by state and by regions of the nation. Similarly, each state’s correctional system may be somewhat unique regarding the extent of overcrowding, the history of court intervention, the emphasis given to ACA accreditation, and the presence or influence of various other factors. As an illustration, with respect to the five studies we reviewed, appendix III presents state-specific details regarding some relevant factors that could affect interstate comparisons of prison costs and/or quality of service.

Five Comparative Studies Completed Since 1991

On the basis of extensive literature searches and inquiries with knowledgeable corrections officials and criminal justice researchers (see app. I), we identified five studies completed since 1991 that compared private and public prisons in reference to operational costs and/or quality of service. The following is a brief overview of each study:⁶

- **Texas study (1991):** Conducted by the Texas Sunset Advisory Commission, this study compared (1) the actual costs of operating four privately managed prerelease minimum-security facilities for male prisoners and (2) the estimated costs of operating similar but hypothetical public facilities in Texas. The study did not empirically assess quality of service.

⁵Charles H. Logan, “Criminal Justice Performance Measures for Prisons,” Performance Measures for the Criminal Justice System, U.S. Department of Justice, Oct. 1993.

⁶As presented, each study is introduced with a short title showing the sponsoring state and/or the state wherein the compared facilities are located. Also, the studies are listed in chronological order by the date of completion or publication indicated in parentheses. Appendix II provides a more detailed overview of these five studies.

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- **New Mexico study (1991):** Funded by the National Institute of Justice, the Bureau of Prisons, and the National Institute of Corrections, this study compared the quality of service at three multicustody facilities (minimum- to maximum-security levels) for women, i.e., a private prison and a state-run prison in New Mexico and a federal prison in West Virginia. The study did not include a detailed analysis of operational costs.
 - **California study (1994):** Conducted by California State University with funding from the California Department of Corrections, this study focused on three community correctional facilities for males. All three facilities were operated (under contracts with the state) as for-profit alternatives to state-operated prisons. One facility (medium-security) was operated by a private corporation, the second (high-security) by a local police department, and the third (low- to medium-security) by a city administration. The study compared operational and construction costs and quality of service. More specifically, regarding costs, the study compared the three facilities (1) with one another and (2) with other state correctional facilities. Both operational and construction costs were included in the comparison of the three facilities with one another. The statewide comparison did not include construction costs for the California Department of Corrections facilities. Regarding quality of service, the study compared the three facilities with two state facilities.
 - **Tennessee study (1995):** Conducted in two parts, one for operational costs and one for quality of service, by the Tennessee state legislature, this study compared three of Tennessee's multicustody (minimum- to maximum-security) prisons for male inmates. One prison was privately managed, and the other two were state-run prisons.
 - **Washington study (1996):** At the time of this study, the state of Washington had no privately run prisons but was considering the feasibility of such. Therefore, the study, conducted by the Washington State Legislative Budget Committee, analyzed pertinent information available in other states. Regarding operational costs, for, example, the study looked at the three Tennessee facilities (mentioned above) as well as three multicustody male prisons in Louisiana (two private and one public).⁷ Regarding quality of service, the study compared the three Tennessee facilities, the three Louisiana facilities, and two Washington facilities.

⁷As discussed in appendix II, the Washington study also included some interstate comparisons of operational and construction costs.

In summary, the California, Tennessee, and Washington studies assessed operational costs and quality of service.⁸ The Texas study analyzed operational costs only, and the New Mexico study analyzed quality of service only.

Drawing Conclusions From the Five Studies

While the five studies varied in terms of methodological rigor, they do, to differing degrees, offer some indication of comparative operational costs and/or quality of service in the specific settings they assessed. However, regarding operational costs, because the studies reported little difference and/or mixed results in comparing private and public facilities, we could not conclude whether privatization saved money. Similarly, regarding quality of service, of the two studies that made the most detailed comparative assessments, one study (New Mexico) reported equivocal findings, and the other study (Tennessee) reported no difference between the compared private and public facilities.

Comparisons of Operational Costs Indicated Little Difference And/or Mixed Results

Four of the five studies (Texas, California, Tennessee, and Washington) assessed operational costs of private and public correctional facilities. In three of the studies (California, Tennessee, and Washington), comparisons of private and public facilities indicated little or some differences in operational costs. Only the Texas study reported finding substantially lower (14- to 15-percent) operational costs for private versus public correctional facilities.

Using fiscal year 1990 data, the Texas study reported average daily operational costs of \$36.76 per inmate for the private facilities, compared with estimates of \$42.70 to \$43.13 for the public facilities. However, the results of the Texas study are not fully based on actual experience. Rather, the study compared existing private facilities (prerelease institutions) to hypothetical public facilities. This type of hypothetical comparison does not allow for consideration of any unanticipated changes in components such as staffing levels, other expenses, rate of occupied bed space, or many other factors that could affect actual costs. Changes in any single assumption, or set of assumptions, for the hypothetical institutions could

⁸The authors of the California study noted, however, that their findings regarding quality of service were based upon a small, nonrandom sample of inmates.

change the size or even the direction of the differences in the comparative operational costs.⁹

Based upon our experience in designing and assessing evaluation methodologies, we found the Tennessee study (of the studies we reviewed) to have the most sound and detailed comparison of operational costs of private and public correctional facilities. The study compared three mixed-population (minimum- to maximum-security) institutions (one private and two public). All three facilities were located in Tennessee, and all three had relatively comparable inmate populations, in terms of numbers and most demographics, except race. Also, direct and indirect costs were considered in the analysis, and representatives from both the private and the public facilities agreed on the cost components and relevant adjustments prior to data collection. The analysis showed very little difference in average inmate costs per day among the three facilities—\$35.39 for the private facility and \$34.90 and \$35.45, respectively, for the two public facilities.

The Washington study, which made intrastate comparisons of correctional facilities (minimum- and maximum-security populations) in Tennessee and Louisiana, also found very little difference in the operational costs of private and public facilities. For Tennessee, the private facilities' average daily operational costs per inmate (\$33.61) were lower (about 7 percent) than the comparable costs for the two public facilities studied (\$35.82 and \$35.28, respectively). It should be noted that the Tennessee facilities, which were analyzed and reported on in the 1996 Washington state study, were the same facilities that are discussed in the 1995 Tennessee study cited above. For Louisiana, the average inmate costs per day for the two private facilities studied were \$23.75 and \$23.34, respectively, and the comparable daily operational costs for the public facility studied were \$23.55 per inmate.¹⁰

The 1994 California study compared three for-profit community correctional facilities located in that state—one run by a private firm and two run by local governments. The study found that the private facility's average annual costs per inmate (\$15,578) were higher than comparable

⁹Moreover, in response to competition from the private sector, public prisons could, over time, become more cost efficient. As discussed later, this was one of the conclusions of the Washington study.

¹⁰As presented in the study, the costs for the Tennessee and Louisiana facilities were calculated after an adjustment to equalize prison inmate population numbers. The adjustment was necessary because, among other things, comparisons of per-capita costs should be based upon equivalent levels of capacity. Otherwise, a facility operating at less than full capacity, for example, generally will show higher per-capita costs than a facility operating above its rated capacity.

costs for one of the government-run facilities (\$13,195) but were lower than such costs for the other government-run facility (\$16,627). The lower cost government-run facility had a disproportionate share of drug offenders, which could have affected overall costs. Further, the authors of the study noted that the results of this study must be viewed with some additional caution because of inconsistencies in the underlying or supporting cost figures obtained from different sources within the state.

Comparisons of Quality Are Unclear

Although comparative costs are very important, they are not the only factors considered by policymakers in deciding the direction or extent of corrections privatization. A principal concern is whether private contractors can operate at lower costs to the taxpayers, while providing the same or even a better level of service as the public sector, particularly with respect to safety and security issues.

Of the studies we reviewed, two (New Mexico and Tennessee) assessed the comparative quality of service between private and public institutions in much greater detail than the other studies. Both studies used structured data-collection instruments to cover a variety of quality-related topics, including safety and security, management, personnel, health care, discipline reports, escapes, and inmate programs and activities. The New Mexico study reported equivocal findings, and the Tennessee study reported no difference in quality between the compared private and public institutions.

The findings in the New Mexico study are difficult to interpret. On the basis of surveys of correctional staff and reviews of institutional records, the study reported that the private prison “outperformed” the public facilities on most of the measured quality dimensions. However, the author noted that the results from one of the data-collection instruments—the inmate surveys—showed an opposite result, with one of the public facilities “outperforming” the private facility on every dimension except inmate activities (e.g., work and training programs).

The Tennessee study, in assessing the quality of service at one private and two public prisons, reported that “all three facilities were operated at essentially the same level of performance.” This conclusion was largely based on the results of an operational audit conducted at each of the facilities by an inspection team. Composed of private and public sector members, the team used a structured survey instrument to conduct a

detailed review of records, observe operations and practices, and conduct interviews.

The Texas study did not empirically assess the quality of service at the private correctional facilities. Rather, the study noted that all four of the privately operated prerelease facilities were in general compliance with 11 of the 16 mandates of court rulings applicable to Texas prisons. Also, the study noted that two of the four private facilities had received ACA accreditation, and the other two were still involved in the accreditation process. ACA officials told us, however, that ACA accreditation means that a facility has met minimum standards and that accredited facilities can vary widely in terms of overall quality. To reiterate, because it was based on hypothetical public facilities, the Texas study made no attempt to comparatively assess the quality of service across private and public facilities in Texas.

The California study, in assessing quality of service, used inmate and staff surveys to compare the three community correctional facilities with two state prisons. However, the results could not be generalized to the inmate or staff populations of the respective facilities because small, nonrandom samples were used.

The California study also attempted to compare the three community correctional facilities with the state's other correctional institutions with respect to recidivism rates. The study reported that, of the three community correctional facilities, one of the publicly managed facilities was "most impressive" in performance based on recidivism rates. Sufficient data were not available to adequately complete the analysis comparing the inmates released from the community correctional facilities with inmates released from other correctional institutions in the state.

The Washington study assessed the quality of service at the three facilities (one private and two public) in Tennessee, three facilities (two private and one public) in Louisiana, and two facilities (both public) in Washington. While not as detailed as the New Mexico and the Tennessee studies, the Washington study concluded that the private and public prisons studied within the respective states (Tennessee and Louisiana) were generally similar in quality of service. However, the study noted that Washington's two state-run facilities had more counselors per inmate than the other states' facilities.

Generalizability of the Studies' Results

The few studies that have compared the operational costs and/or the quality of service of private and public prisons provide little information that is widely applicable to various correctional settings. For example, while these studies compared private and public facilities that generally were similar (in terms of capacities, inmate demographics, etc.), the selected facilities were not necessarily typical or representative of prisons in either the state studied or other jurisdictions. Also, a variety of factors that relate to a given location or correctional system may render the experience of one jurisdiction with private prisons very different from that of another. Further, the passage of time could alter the relationship between private and public correctional facilities in terms of costs and quality. For these reasons, among others, the few studies that we reviewed do not permit drawing generalizable conclusions about the comparative operational costs and/or quality of service of private and public prisons.

Jurisdictions, such as states, vary on several dimensions that could have an impact on the comparative costs of private versus public prisons and, in turn, affect the generalizability of a given study's results. First, other states' correctional philosophies could differ from that of the states studied. Some state correctional philosophies are more punitive in nature (as reflected, for example, by higher incarceration rates), whereas other states are less punitive and more inclined toward treatment.¹¹ California, for example, which is one of the states discussed in the five studies we reviewed, generally has had incarceration rates above the national average. Also, the Washington study noted that the adjusted estimated per-bed costs for a state-run facility in Washington (\$60,400) were almost double Florida's costs (\$33,900) due, in part, to state differences in operating and programming approaches.

Second, jurisdictions also vary in relation to a variety of economic factors that could affect the relationship between private and public prison costs. Differences in the costs of living could affect both private and public prison costs, but in some jurisdictions, one more than the other. For example, a labor shortage could result in higher operational costs for private and public prisons.

Third, in some jurisdictions, the inmate population to be incarcerated in private facilities may be different from those inmate populations in the five studies. Three of the five studies focused on inmate populations that were

¹¹The rate of incarceration is the number of sentenced prisoners (per 100,000 resident population) in correctional facilities. Since the mid-1980s, according to Bureau of Justice Statistics data, the southern and western regions of the nation have had higher incarceration rates than the northeastern and midwestern regions.

not representative of the broader prison population—prerelease prisoners (Texas study), female prisoners (New Mexico), and those housed in community correctional facilities (California). Only two studies (Tennessee and Washington) focused on costs in relation to facilities housing a more mainstream prisoner population.

Finally, regarding both operational costs and quality of service, the comparative performance of private versus public correctional facilities is not likely to be static. Changes over time could alter the comparative performance. For example, the first year of a new prison—either private or public—could reflect expenses for training inexperienced staff as well as hiring replacements for those unsuited to the work. Inexperienced staff could also have a negative effect on some measures of quality. Also, in the initial years of managing a prison, a private firm may choose to bill for its services at rates below costs to obtain or extend a contract. As time goes by, however, to remain a viable business entity, the contractor's cost-recovery practices would have to change. Similarly, over time, public prisons could become more cost efficient in response to competition from the private sector. For instance, this conclusion was reached by the Washington study, which was commissioned to help the state determine the potential benefits of privatization.

Lessons Learned for Future Comparative Studies

The results of studies comparing private and public prisons obviously are of interest to any jurisdiction whose policymakers are deciding whether or to what extent corrections should be privatized. Ideally, to be most useful, such studies should be based upon representative samples of prisons, with sufficient statistical controls in place to measure and account for any differences. However, because the number of private correctional facilities is still relatively small (see app. IV)—and, given the fact that each stand-alone facility (whether private or public) may have some unique characteristics—conducting a truly optimal comparative evaluation may be impractical.

Nonetheless, the five studies completed since 1991 offer several lessons learned to guide future studies, even if such studies focus on comparing only one private facility and one public facility. In reviewing the relative strengths and weaknesses of each study to formulate lessons learned, we largely relied on our extensive experience in designing and assessing evaluation methodologies—that is, our experience with generally accepted methodological standards and practices. Specifically, on the basis of our review of the five studies, we identified the following lessons learned:

- In considering the extent to which corrections should be privatized, a key question is whether private contractors can operate at lower costs to taxpayers, while providing at least the same level of service as the public sector, particularly with respect to security and safety issues. Thus, it is important that any study focus on both operational costs and quality of service. Two of the studies we reviewed (Texas and New Mexico) did not have this dual focus.
- The best approach for evaluating operational costs is to study existing comparable facilities, not hypothetical facilities. One of the studies we reviewed (Texas) used hypothetical similar public facilities.
- Generally, there is more than one way to objectively measure or compare prison security, safety, order, and various other dimensions that constitute quality of service. In this regard, it is important to use multiple indicators or data sources to provide cross-checks. The New Mexico study, for example, illustrates that divergent results can be reached by using one data source (e.g., inmate surveys) versus another source (e.g., staff surveys).
- Comparative findings with respect to operational costs and/or quality of service in any given year may not hold true for other years. Similarly, because trends are not self-perpetuating, even findings based on multiyear comparisons must be carefully considered. Nonetheless, all other factors being equal, comparative evaluations based upon several years' data potentially have more value than evaluations based upon 1 or 2 years of data. Nearly all five of the studies we reviewed were based upon 1 or 2 years of data.

These lessons learned could be particularly applicable to BOP if, in the future, it resumes its plans for contracting with private companies to operate selected federal correctional facilities.¹² For instance, according to April 1995 congressional testimony by the BOP Director, BOP's privatization initiative, if implemented, would provide an opportunity to undertake some thorough comparative evaluations:

"I know that the Attorney General and . . . [the Office of Management and Budget] are very interested in working carefully with us in the Bureau of Prisons to track, on these new contracts, very carefully, what the cost impact truly is, because there are a lot of hidden costs in privatization . . . [T]here has never been, we don't believe, a real good cost analysis

¹²For example, the Justice Department's budget justification for fiscal year 1997 projected the activation of two privatized facilities in that year—a detention facility (677 beds) in Seattle, WA, and a multicustody (minimum- and low-security) facility (2,048 beds) in Elkton, OH. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for 1997: Hearings before a Subcomm. of the House Comm. on Appropriations, 104th Cong., 2d Sess. 1655 (1996). However, in June 1996, the administration announced that plans to privatize these facilities were being suspended.

to determine, apples to apples, what is the cost of a traditional prison system and private contracting. The private contractors claim they can do it at great savings, and so we are very interested in monitoring the ones that we have projected for the next few years and determining . . . how well the taxpayers are being served on either side.”¹³

The BOP Director noted that by contracting out the management of selected facilities incarcerating general inmate populations, BOP was moving to the “next level of privatization,” which would provide a good basis for comparative evaluations focusing on “like or similar institutions.” In this regard, the lessons learned from previous comparative studies should be useful to BOP if the federal privatization initiative is revisited.

Comments and Our Evaluation

We obtained oral comments on a draft of this report from BOP and written comments from the Department of Justice’s Office of Justice Programs; the National Council on Crime and Delinquency; and a Northeastern University (Boston, MA) professor of criminal justice, who is a nationally recognized authority on corrections administration.

BOP commented that the report was accurate, well done, and useful.

The Office of the Assistant Attorney General, Office of Justice Programs, concurred with the report and noted that additional study of the privatization of correctional facilities is needed. The National Institute of Justice, a component agency of the Office of Justice Programs, commented that the report appeared “to be as comprehensive as the available data permits.” Also, the Institute commented that the report’s discussion of the strengths and weaknesses of the five studies “is excellent.”

In commenting on the draft, the Executive Vice President, National Council on Crime and Delinquency, said that the report is accurate in concluding that few studies have been completed to date and that these studies have methodological problems that limit understanding the actual cost-benefits of privatization. He noted, however, that our report could place more emphasis on the Tennessee study, which is the most rigorous study to date. Although we concur with the reviewer’s assessment of the study, our objective was to provide similar information for each of the studies reviewed. Further, he noted that the report could add more emphasis to evaluating the claims of private providers that they can

¹³Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for Fiscal Year 1996: Hearings on H.R. 2076 before a Subcomm. of the Senate Comm. on Appropriations, 104th Cong., 1st Sess. 303, 308 (1995).

construct new facilities faster and cheaper than public entities. Since the studies reviewed did not assess these claims, this issue was beyond the scope of our work.

The Northeastern University reviewer¹⁴ commented that (1) our evaluation synthesis was an important contribution to the corrections field, (2) the report's conclusion that the five studies offer little generalizable guidance for other jurisdictions regarding the comparative cost and quality of service of private and public correctional facilities was "right on point," and (3) our cautions concerning interstate comparisons were "well-founded."

However, the reviewer underscored the need also to focus privatization research on crime reduction and various philosophical questions underpinning the privatization debate. These issues were beyond the scope of our work. In addition, the reviewer suggested that it would be valuable to the corrections field if the report included a short, concise statement describing the critical dependent and independent variables that should be considered in comparative analyses of private and public corrections facilities. Because of variations in available data and possible measurement adjustments required in specific research situations, we are hesitant to prescribe what variables should be studied. The studies reviewed, however, suggest possible variables. Furthermore, citing the difficulties researchers have in accessing data from private firms, the reviewer proposed that the report contain a recommendation that would facilitate researchers' access to proprietary information needed for evaluation of private corrections. In the case of federal corrections-related contracts, we would likely have access to data, but we have considerably less jurisdiction at the state level.

We are providing copies of this report to the Chairman and Ranking Minority Member of the House Judiciary Committee, the Attorney General; the Director, BOP; and other interested parties. Copies will also be made available to others upon request.

¹⁴Dr. Edith Elisabeth Flynn, College of Criminal Justice, Northeastern University, Boston, Massachusetts.

The major contributors to this report are listed in appendix V. Please contact me on (202) 512-8777 if you or your staff have any questions.

A handwritten signature in black ink that reads "Laurie E. Ekstrand". The signature is written in a cursive style with a large, stylized 'L' and 'E'.

Laurie E. Ekstrand
Associate Director, Administration
of Justice Issues

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Abbreviations

ACA American Correctional Association
BOP Federal Bureau of Prisons

Objectives, Scope, and Methodology

In initiating this review, our specific objectives were to answer the following key questions:

- What studies, completed since 1991, have compared the operational costs and/or the quality of service of private and public prisons?
- From these studies, what can be concluded with respect to the operational costs and/or the quality of service of comparable private and public facilities?
- Are the results of these studies generalizable to correctional systems in other jurisdictions?
- From these studies, what are the “lessons learned” to help guide future comparative studies of private and public prisons?

Identification of Comparative Studies

To identify relevant studies, we requested and obtained literature searches from the National Criminal Justice Reference Service and the National Institute of Corrections. Also, within the Department of Justice, we contacted knowledgeable officials of the component agencies responsible for managing federal correctional facilities—the Federal Bureau of Prisons (BOP), U.S. Marshals Service, and Immigration and Naturalization Service.

Similarly, to query knowledgeable state agency officials, we first contacted the Director of the Private Corrections Project at the University of Florida’s Center for Studies in Criminology and Law to obtain information about the number of privatized facilities in each state (see app. IV).¹ Then, for each applicable state, we contacted officials at the state’s corrections department and/or corrections research agency and inquired about any completed, ongoing, or planned studies comparing private and public prisons. Further, we contacted the National Council on Crime and Delinquency and various nationally recognized researchers in academia.

Assessment of Studies

We assessed each of the five relevant studies that we identified. Our work in assessing the conclusions or results of each study and the generalizability of same—as well as identifying any lessons learned—can be characterized as a form of evaluation synthesis. By definition, an evaluation synthesis is a systematic procedure for organizing findings from several disparate evaluation studies. That is, the procedure addresses key questions or issues by assessing existing studies or evaluations, rather than by conducting primary data collection.

¹Established in 1988 to conduct policy-relevant research on corrections privatization, the Private Corrections Project publishes (semiannually) the Private Adult Correctional Facility Census.

In reviewing the studies, we focused on the findings and conclusions of each study and evaluated these in relation to the methodology used by the respective study.² As an initial and fundamental inquiry, for instance, we focused on the similarity of the private and public facilities being compared in each study. That is, we wanted to determine (1) if the facilities were reasonably well matched in relation to design and capacity, security level, inmate demographics, and other relevant institutional characteristics and (2) whether the facilities were actually in operation and, if so, for what length of time prior to the comparative evaluation.

In reviewing each applicable study's comparative evaluation of operational costs, we focused on whether (1) both direct and indirect cost components were considered for the private and public facilities, (2) actual data versus estimates were used, and (3) consistent cost components were used. We did not independently verify any of the cost data presented in the studies.

In reviewing each applicable study's comparative evaluation of quality of service, we focused on whether the private and the public facilities were consistently evaluated in the respective study. That is, in reference to both the private and the public facilities compared in a given study, we were interested in whether the same or similar methodology and data sources were used to evaluate quality of service. Thus, we did not attempt to generically define "quality of service;" rather, we accepted the definition and/or evaluation criteria used in each applicable study. Also, we did not independently verify the reported quality measures or outcomes, such as safety and incident data and the extent of rehabilitation and treatment programs for inmates.

We reviewed the relative strengths and weaknesses of each study to formulate lessons learned for future comparative studies. In doing so, we largely relied on our extensive experience in designing and assessing evaluation methodologies—that is, our experience with generally accepted methodological standards and practices.

Private Sector Contacts

Initially, in September 1995, to obtain a practical understanding of privatization issues, we visited two privately operated facilities housing federal inmates. These facilities, which held deportable aliens, are located in west Texas and were operated by private firms under the general

²Two of our staff—senior analysts with specialized training and years of experience in designing and assessing evaluation methodologies—independently reviewed each of the five studies.

authority of intergovernmental agreements entered into by BOP and the respective city governments of Big Spring and Eden. We toured the facilities and interviewed managers and staff of the private firms. Also, we interviewed the on-site federal monitors.

Further, to obtain additional overview information on privatization issues, we interviewed a senior executive (the Director for Strategic Planning) of one of the nation's largest private corrections firms. This official was a former director of BOP.

Description of Studies Comparing Private and Public Prisons

We identified five studies completed since 1991 that compare private and public correctional facilities in relation to operational costs and/or quality of service. Table II.1 briefly describes each of these studies. Following the table, separate sections respectively provide more details about each study.

Table II.1: Citation, Evaluation Parameters, and Reported Results of Five Studies Comparing Private and Public Prisons

State	Study citation	Evaluation parameters	Reported results
Texas	“Information Report on Contracts for Correction Facilities and Services,” Recommendations to the Governor of Texas and Members of the Seventy-Second Legislature, Sunset Advisory Commission, Final Report, Texas Sunset Advisory Commission (Austin: 1991).	Operational costs were studied. Four private, prerelease, minimum-security prisons (500 beds each) for males were compared with hypothetical public facilities in Texas. Fiscal year 1990 data were analyzed.	The private prisons’ operational costs were 14 to 15 percent less than the costs of the hypothetical state facilities.
		An empirical assessment of quality of service was not conducted.	The study noted that two of the four private facilities had received ACA accreditation, and the other two were still involved in the accreditation process. Also, the study noted that all four facilities were in compliance with 11 of the 16 mandates of court rulings applicable to Texas prisons.
New Mexico	Charles H. Logan, <i>Well Kept: Comparing Quality of Confinement In a Public and a Private Prison</i> , National Institute of Justice (1991).	A detailed analysis of operational costs was not conducted.	Not applicable.
		Quality of service was studied. Three multicustody facilities (minimum- to maximum-security) for women were compared: a private prison and a state-run prison in New Mexico and a federal prison in West Virginia. The data analyzed for the private facility covered June 1989 through November 1989; data for the state facility covered June 1988 through November 1988; and the federal data covered December 1987 through May 1988.	The results of the study depended on the data-collection instruments that were employed. For example, data from staff surveys and official records showed that the private prison “outperformed” the state and federal prisons across nearly all dimensions. However, inmate survey data showed that one of the public facilities “outperformed” the private facility on every dimension except “activity” (e.g., work and training programs).

(continued)

**Appendix II
Description of Studies Comparing Private
and Public Prisons**

State	Study citation	Evaluation parameters	Reported results
California	Dale K. Sechrest and David Shichor, <u>Final Report: Exploratory Study of California's Community Corrections Facilities</u> , California State University (San Bernardino: 1994).	Operational and construction costs were studied.	The private facility's average annual costs per inmate (\$15,578) were higher than comparable costs for one of the government-run facilities (\$13,195) but were lower than such costs for the other government-run facility (\$16,627).
		Three for-profit community correctional facilities—one managed privately (medium-security) and two managed by local governments (low- to medium- and high-security)—for males were compared with one another and with other state correctional facilities.	Due to methodological limitations, conclusions could not be reached by comparing the three for-profit community correctional facilities with other state correctional facilities. For example, different cost components were used for the two sets of facilities in the comparison. In addition, it is likely that the universe of the state's correctional facilities reflected wide-ranging differences concerning inmate populations and services.
		Fiscal year 1991-1992 data were analyzed.	
		Quality of service was studied.	Due to methodological limitations, conclusions could not be reached by comparing the community correctional facilities with two state facilities. For example, the results could not be generalized to the inmate or staff populations of the facilities because small, nonrandom samples were used.
		The same three community correctional facilities for males were compared with two state correctional facilities.	
		Data were collected in summer 1992.	
Tennessee	Cost Comparison of Correctional Centers, Tennessee Legislature Fiscal Review Committee (Nashville: 1995).	Operational costs were studied.	There was little difference in the average daily operational costs per inmate across the three facilities—\$35.39 for the private facility, versus \$34.90 and \$35.45, respectively, for the two public facilities.
		Three multicutody prisons (minimum- to maximum-security) for males were compared: one private and two state-run prisons.	
		Data from July 1993 through June 1994 were analyzed.	
	Comparative Evaluation of Privately Managed CCA Prison and State-Managed Prototypical Prison, Tennessee Legislature Select Oversight Committee on Corrections (Nashville: 1995).	Quality of service was studied.	There was no difference in quality of service between the private and public facilities.
		The same three multicutody prisons for males were compared.	
		Data from March 1991 through September 1994 were analyzed.	
Washington	Department of Corrections Privatization Feasibility Study, Report 96-2, State of Washington Legislative Budget Committee (Olympia: 1996).	Operational costs of the same three Tennessee facilities mentioned above were studied.	The average daily operational costs per inmate for the private facility (\$33.61) were slightly lower than such costs for the two public facilities (\$35.82 and \$35.28, respectively).
		Data from July 1993 through June 1994 were analyzed.	

(continued)

Appendix II
Description of Studies Comparing Private
and Public Prisons

State	Study citation	Evaluation parameters	Reported results
		Operational costs of three multicustody facilities in Louisiana (two private and one state-run) for males were studied. Projected data for July 1995 through June 1996 were analyzed.	The average daily operational costs per inmate for the two private facilities were \$23.75 and \$23.34, respectively, compared with \$23.55 for the public facility.
		Operational costs of a Washington state prison were compared with the costs for one Tennessee state prison and a Louisiana state prison. Data analyzed for Washington state covered calendar year 1995; time frames for Tennessee and Louisiana data are mentioned above.	The average daily operational costs per inmate for the Washington facility (\$44.52) were higher than such costs for the Tennessee and Louisiana facilities (\$37.07 and \$24.04, respectively).
		Construction costs were studied. The estimated costs for Washington state to construct a planned multicustody public prison for males were compared with a private company's costs for constructing a similar facility in Florida. Data analyzed for Washington state were based on projected July 1998 cost figures; and data analyzed for the Florida facility were based on projected July 1998 cost figures.	The estimated cost per bed for the Washington state facility (\$60,400) was approximately double the estimated cost per bed for the Florida facility (\$33,900).
		Quality of service was studied. Three multicustody male facilities in Tennessee (mentioned above), three multicustody male facilities in Louisiana (mentioned above), and two multicustody male facilities in Washington were compared. Data analyzed for Tennessee covered 1994 (for review of institutional records) and 1995 (for on-site visits); data analyzed for Louisiana covered 1995; data analyzed for Washington covered 1995.	Site visits showed that all prisons were "clean and appeared to be orderly." Additional data indicated that the prisons generally were similar regarding quality of service. However, the Washington facilities had more counselors per inmate than the Tennessee and Louisiana facilities.

Source: GAO summary of information reported in the cited studies.

Texas Study (1991)

Conducted by the Texas Sunset Advisory Commission, this study involved a comparative assessment of operational costs; an empirical assessment of quality of service was not conducted. The actual costs of operating four privately managed prerelease minimum-security facilities (500 beds each) for male prisoners were compared with the estimated costs of operating similar but “hypothetical” public facilities in the state of Texas. Two of the four prerelease facilities were managed by Corrections Corporation of America, and the other two were managed by Wackenhut Corrections Corporation.

The study considered direct and indirect costs to compute operational costs for private and public sector management of the prerelease facilities. Direct costs included items such as salaries and fringe benefits, food, medical services, utilities, and supplies. Also, the study recognized that another direct cost would be the expense of having state corrections agency staff on-site to monitor the contractor’s performance. Indirect costs included salaries and expenses for corrections department executive personnel, an annual audit of facilities, and “other administration items” attributable to the private or state facilities. Construction costs were excluded because the state built the private facilities. Also, the study did not include depreciation expenses and capital outlays, but debt service for construction was included.

The study concluded that the state achieved savings from the privatized facilities. Based on requirements specified in state statute, the state estimated the costs of operating similar state-run prerelease facilities. Specifically, because similar state-run facilities did not exist, the state estimated the costs of operating hypothetical state-run prerelease facilities. Contract provisions stipulated that contractors would receive at least 10 percent less than the estimated costs for the state to operate each facility.¹ Therefore, in a sense, 10-percent “savings” to the state was guaranteed. Cost data for fiscal year 1990 were analyzed. The state estimated that the privatized facilities achieved 14- to 15-percent cost savings (taking into consideration tax revenues paid to state and local

¹Texas state statutory provisions authorize the Texas Department of Corrections to contract with private vendors and county commissioners to finance, construct, operate, maintain, or manage secure correctional facilities. The provisions establish guidelines by which the state can enter into a contract for such services. Among other things, the provisions specify that a contract proposal must provide the state with a savings of at least 10 percent below the costs of similar state-operated facilities.

authorities)² compared with hypothetically equivalent state-run facilities. The average daily operational costs per inmate for the private facilities were \$36.76. Because of staffing and construction differences between the contractors, separate costs were estimated for the hypothetical state operation of a facility for each contractor. The estimated average daily operational costs per inmate for the hypothetical state-run facilities were \$42.70 for one contractor and \$43.13 for the other. However, because the state did not operate any prerelease facilities nor did any of its existing facilities have prerelease components, the cost estimates for the state-run facilities were not based on actual state experience. The method assumed no unanticipated changes in components such as salary and other expenses. Thus, an error in one or more assumption could have resulted in different cost estimates, changing the size or even the direction of estimated differences in private versus public management costs.

An empirical assessment of the quality of service was not conducted due to the absence of comparable state facilities. However, the study noted that two of the four private facilities had received ACA accreditation, and the other two were still involved in the accreditation process. Additionally, the study noted that all four facilities were in general compliance with 11 of the 16 mandates of court rulings applicable to Texas prisons.

New Mexico Study (1991)

Funded by the Department of Justice’s National Institute of Justice, Bureau of Prisons, and National Institute of Corrections, this study, of the five we reviewed, made the most systematic effort to address quality of service. However, a detailed cost analysis was not included. The study compared three multicustody (minimum- to maximum-security) women’s facilities—a privately run facility and a state-run facility in New Mexico and a federal facility in West Virginia—across eight dimensions of quality.³

²According to the Texas study, the private prisons have paid an estimated \$400,000 per prison in state and local sales taxes and payments in lieu of property taxes. The study noted that because the state owned the prisons, property taxes were not assessed. Rather, the private contractor paid the local taxing authorities an annual amount, which generally approximated the taxes that would have been owed if the property were privately owned.

³The New Mexico study used a “confinement model” of imprisonment to develop quality assessment criteria. The model defined eight distinct dimensions or performance measures on which to evaluate the quality of a correctional facility. According to the study, these dimensions are based on the premise that confinement “carries with it an obligation to meet the basic needs of prisoners at a reasonable standard of decency,” including standards to evaluate health care, safety, sanitation, and nutrition, as well as constitutional standards to ensure due process and fairness. Examples of those dimensions are (1) security (e.g., facility design and security procedures); (2) safety (e.g., personal injury and harm); (3) order (e.g., discipline and control standards); (4) care (e.g., health care and counseling); (5) activity (e.g., work and training programs); (6) justice (e.g., discipline and grievance procedures); (7) conditions (e.g., food services); and (8) management (e.g., staff turnover and job satisfaction).

Data analyzed for the private facility covered June 1989 through November 1989, data for the state facility covered June 1988 through November 1988, and data for the federal facility covered December 1987 through May 1988.

The study recognized, at least indirectly, that differences among the facilities regarding age, architecture, and inmate programs made comparisons somewhat difficult to interpret. For example, the private facility was new, the state facility was 4 years old, and the federal facility was about 60 years old. The respective inmate populations were 170 (private), 143 (state), and 814 (federal). The inmates at the New Mexico facilities were nearly similar with respect to characteristics of age, race, and offense type. However, they differed from the federal inmates in race and offense type. The study indicated that one of the factors enhancing the comparability of the two New Mexico institutions was that both were applying for accreditation by the American Correctional Association (ACA). However, ACA officials told us that ACA accreditation means that only minimum standards are met, and since there can be wide variations among facilities in exceeding minimum standards, accreditation should not be used to assume that two or more facilities are comparable.

In assessing and comparing the quality of service at the three facilities, the study derived multiple indicators for each of eight quality dimensions. Data sources for all three facilities included various institutional records,⁴ such as incident and disciplinary reports as well as work and education records. Also, staff surveys were conducted at all three facilities, and inmate surveys were conducted at the private and the state facilities. In total, the study made 595 comparisons among the institutions using 333 indicators. All of the indicators were available for the private and state prisons, while 131 indicators were available for the federal prisons. Thus, the study made three-way comparisons for 131 of the 333 indicators and two-way comparisons (private/state) for 202 of the indicators.

The study concluded, generally, that “the private prison ‘outperformed’ the state and federal prisons, often by quite substantial margins, across nearly all dimensions.” It noted, however, that results varied by data source. For example, contrary to other sources used in the study, inmate survey data showed that the state facility “outperformed” the private facility in every dimension except “activity” (e.g., work and training programs).

While the study did not include a detailed analysis of operational costs, it suggested that the better performance of the private facility was

⁴The study noted that fewer official records were collected for the federal prison.

accomplished at lower cost. However, the study offered little evidence to support this assertion. For instance, the full report consisted of 291 pages, with only 2 pages devoted to costs. Without providing any detailed analysis, the report noted that the average daily operational costs per inmate for the private facility were \$69.75 in fiscal year 1989-1990, the average daily costs of housing an inmate in federal facilities (nationwide) were \$39.67 in 1988, the average daily costs for New Mexico state facilities (statewide) were \$68.00 in 1988, and the average daily costs for the particular state facility studied were \$80.00 in fiscal years 1988-1989. Although no detailed cost analysis was attempted, the study appeared to base the perception of lower costs of private facilities on the fact that “financial analysts in the New Mexico Corrections Department believed that the [private] contract was saving the state money.”

California Study (1994)

Conducted by California State University, this study was neither supportive nor critical of private facilities. To assess costs and quality of service, the study compared three for-profit community correctional facilities for males—one privately managed (medium-security) and two publicly managed by local governments (one low-to medium-security and one high-security).⁵ Specifically, the study compared the three facilities with one another and with other state correctional facilities. Both operational and construction costs were included in the comparison of the three facilities with one another. The statewide comparison did not include construction costs for the California Department of Corrections facilities. Also, the study attempted to compare the quality of service of the three facilities with two other California Department of Corrections facilities.

The three community correctional facilities were generally comparable. For instance, the inmates were nearly similar with respect to characteristics of age, race, and offender status. However, one of the public facilities had a greater percentage of drug offenders⁶ and Anglo- and African-American inmates and a smaller percentage of Hispanics. The private facility housed 400 inmates, compared with about 420 and about 450 housed at the public facilities. For the period studied, the number of admissions was 1,498 for the private facility versus 392 and 1,073,

⁵Correctional facilities that are operated for-profit by a private corporation under contract with the California Department of Corrections are referred to as “private proprietary facilities.” Correctional facilities that are operated for-profit by local government agencies under contract with the California Department of Corrections are referred to as “public proprietary facilities.”

⁶This public community correctional facility housed narcotics offenders who were sentenced under a “civil addict program” and subsequently violated parole.

respectively, for the two public facilities. The two public facilities were relatively new (operational by mid-1991), while the study referred to the private facility as “older.”

Using fiscal year 1991-1992 data, construction and operational cost comparisons of the private and the two public facilities revealed some differences. For example, the study found that the private facility’s average annual costs per inmate (\$15,578) were higher than comparable costs for one of the government-run facilities (\$13,195) but were lower than such costs for the other government-run facility (\$16,627). Construction and operational costs, including overhead and capitalization costs, were calculated for the three facilities. Costs were based on contracts negotiated with the facilities and included capitalization, lease, renovation, program development, and liability insurance. Costs that were not included in the calculations were Parole Division overhead costs (for community correctional facilities), state monitoring, medical costs allocated to the California Department of Corrections, inmate clothing, inmate pay, miscellaneous contracts, interest payments, and possible tax breaks. Also, there were inexplicable inconsistencies in the cost data obtained from two agencies within the California Department of Corrections. These inconsistencies may have affected the reliability of the cost estimates.

Attempts to compare the costs of the three community correctional facilities and other state correctional facilities were not fully successful. The cost calculations for the other state facilities used different components than did the calculations for the community correctional facilities. The latter costs included construction costs; however, the data for the other state facilities did not. Therefore, these cost calculations were not directly comparable. Further, given the unique characteristics of community correctional facilities, the usefulness of comparing these facilities to all other correctional facilities in California—many of which are likely to be very different from the community-based facilities—is questionable.

To assess quality of service, inmate and staff surveys were conducted at the three community correctional facilities and at two state prisons. However, due to small, nonrandom samples, the results could not be generalized to the inmate or staff populations at any of the facilities.

The California study also attempted to compare the three community correctional facilities and the state’s other correctional institutions in

reference to recidivism rates. The study reported that, of the three community correctional facilities, one of the publicly managed facilities was “most impressive” in performance based on recidivism rates. Sufficient data were not available to adequately complete the analysis comparing the inmates released from the community correctional facilities to inmates released from other correctional institutions in the state.

In summary, the California study’s methodological limitations prohibit drawing any overall conclusions about quality of service. The study acknowledged that any future comparative studies in California should “incorporate more inclusive and better-selected survey samples.”

Tennessee Study (1995)

The Tennessee state legislature conducted a two-part study. One part was a cost assessment, and the other was an assessment of quality. Overall, this effort was the most systematic attempt of all the studies we reviewed to assess both the costs and quality of service. Three multicustody (minimum- to maximum-security) prisons in Tennessee were compared—one privately managed prison (Corrections Corporation of America) and two state-run prisons.

The facilities were generally comparable. All three were new (e.g., operational by mid-1992), and all had been accredited by ACA also had met other applicable professional standards. The inmates were similar on all demographic characteristics mentioned, except race. No information was provided on capacity level, but the institutions housed approximately the same numbers of inmates—private (961) and state (929 and 1,029).⁷ The study did not report any information regarding the inmate-to-staff ratios for the facilities.

Similar criteria were used to compare the operational costs of the facilities. The cost components and relevant adjustments—for direct and indirect costs—were agreed to by all parties (private and public) prior to data collection. Direct costs included salaries and fringe benefits, food, professional services, equipment, maintenance, travel, utilities, and supplies. Also, there was a cost provision for state employees to monitor the private prison. Costs for medical and mental health services were excluded. Indirect costs included salaries and expenses for corrections department administration and overhead, and interest on working capital.

⁷These data reflect the second year of operation.

Using data that covered July 1993 through June 1994, the study concluded that the costs of operating the private and both state facilities were virtually identical. Specifically, the comparison showed that the average daily operational costs per inmate for the private prison were \$35.39, versus \$34.90 and \$35.45, respectively, for the two public prisons.

The quality of service assessment consisted of three components—an audit (given a weight of 60 percent), a security and safety index (a weight of 25 percent), and a program and activity index (a weight of 15 percent). The study period for the quality of service assessment was March 1991 through September 1994.

An operational audit was conducted at each of the facilities by an inspection team, consisting of selected staff from the Tennessee Department of Corrections and the Corrections Corporation of America. The staff had varying degrees of expertise in major functional areas, such as administration, safety and physical plant, health services, treatment, and security. The team used a structured survey instrument to conduct a detailed review of records, observe operations and practices, and conduct interviews. By using the survey instrument, the team attempted to assess compliance with the various programs and practices within each of the functional areas. Examples of those programs and practices were administration (e.g., fiscal management and affirmative action); safety and physical plant (e.g., fire and occupational safety and sanitation); health services (e.g., dental care and pharmacy services); treatment (e.g., inmate orientation and social programs); and security (e.g., firearms and armory control).

The security and safety index considered many factors, including disciplinary reports, use-of-force incidents, assaults, deaths, injuries, and escapes. These reports were counted over a 15-month period (from July 1993 through September 1994) for each facility.

The program and activity index measured the percentage of inmates who were eligible for a work or program assignment but remained inactive and unassigned. The data used in this review were derived from monthly reports that measured actual numbers of prisoners assigned to the particular program or activity and the percent unassigned.

The results of the quality of service assessment stated that “all three facilities were operated at essentially the same level of performance.” No differences were found among the facilities on the security and safety

index or on the program and activity index. All estimated variation across the facilities was due to differences in audit scores. The overall performance scores were 98.49 for the private facility and 97.17 and 98.34, respectively, for the two public facilities.

Washington Study (1996)

When the Washington State Legislative Budget Committee conducted this study, the state had no privately run prisons but was considering the feasibility of such. Therefore, using pertinent information available in other states, this study made several intrastate and interstate comparisons of correctional facilities. For example, the study compared the operational costs of the three Tennessee facilities (mentioned above) as well as three multicustody male facilities in Louisiana. Of the three facilities in Louisiana, two were privately operated (Corrections Corporation of America and Wackenhut, respectively), and the other was state operated. All three Louisiana facilities were in full operation by the beginning of 1991.

Each of the Tennessee prisons had a rated capacity for 1,336 inmates, and each of the Louisiana prisons had a rated capacity for 1,474 inmates. The average daily inmate population at each of the Tennessee prisons was slightly over 1,300, compared with a range of over 1,300 to more than 1,400 at the Louisiana prisons. Also, within each state, there was little difference among the prisons' inmates with respect to demographics such as education, age, offense types, and sentence lengths.

Several cost comparisons were made between the private and public facilities. First, the operational costs of the one private and the two public prisons in Tennessee (actual data for July 1993 through June 1994) were compared, as were the operational costs of the two private prisons and the one public prison in Louisiana (estimated data for July 1995 through June 1996). The unadjusted operational costs of the three Tennessee facilities were similar. However, after adjustments to equalize the numbers of inmates, the private facility's average daily operational costs per inmate (\$33.61) were slightly lower than the comparable costs for the two public facilities (\$35.82 and \$35.28, respectively). For the Louisiana facilities, the average daily operational costs per inmate for the two private prisons were \$23.75 and \$23.34, respectively, versus \$23.55 for the public facility.

The Washington study also compared the operational costs of one Washington state prison with the operational costs of one Tennessee state prison and the operational costs of one Louisiana state prison. The three

facilities were similar on some characteristics; however, adjustments were made to the costs and number of beds of the Tennessee and Louisiana facilities to further equalize the comparison. The study showed that the average daily operational costs per inmate for the Washington facility (\$44.52) were higher than the costs for the Tennessee (\$37.07) and the Louisiana (\$24.04) facilities.

The comparison of the Washington facility with the Tennessee and the Louisiana facilities was problematic. While the facilities were similar in capacity, there were differences in inmate demographics, such as race and offense type. Other factors (e.g., cost-of-living differences) served to complicate further the interstate comparisons. In any event, these interstate cost comparisons involved state-run facilities only and did not consider any private facilities.

Further, the Washington study looked at construction costs by comparing the estimated costs for Washington state to construct a planned multicustody public prison for males with a private company that was constructing a similar facility in Florida.⁸ In making the interstate comparison, the study noted that it focused on the “major elements contributing to capital costs,” which included amounts and types of facility space, actual construction costs, and ancillary construction costs such as design and administration.⁹

Although the Washington study noted that the facilities were comparable in terms of size and inmate mix (e.g., “large multicustody”), it made cost and space programming adjustments to the facilities to further equalize the comparison. For instance, land and site-related costs, taxes, and unique local costs were excluded from the comparison. For the Florida facility, the study made upward cost adjustments to account for differences between the two facilities in labor and material costs, the later completion (about 2 years of construction inflation) of the Washington facility, and state oversight of the construction. For the Washington facility, the study made downward cost adjustments to account for differences between the two facilities, such as budget reductions of 20 percent, and space reductions of 18 percent to account for differences in inmate security levels and other space allocations. In addition, the study made downward cost and space adjustments to reflect the Florida facility’s lower mix of close custody beds.

⁸When completed, the Florida facility is to be operated by Wackenhut.

⁹The private prisons in Tennessee and Louisiana could not be used for capital costs comparisons because the prisons were state built rather than privately built.

The study indicated that there were other differences in the space programming between the two facilities, for which no adjustments were made. For example, the Washington facility assumed single cells for “Close Housing and Administrative Segregation,” while the Florida facility assumed double cells for those beds. Also, the Washington facility’s minimum-security beds had relatively high per-bed space allocations, reflecting the incorporation of service and program space in the housing calculation. The space allocations for the Florida facility, however, reflected medium-security beds with centralized program and service space.

The study showed that the adjusted estimated per-bed cost for the Washington state facility (\$60,400 per bed) was approximately double the estimated cost for the Florida facility (\$33,900 per bed). The cost difference was explained largely as due to different operating and programming approaches or philosophies between the two states.

The Washington study concluded that privatization per se would not result in cost savings to the state. Rather, the report noted that savings could be accomplished through privatization or through changes in the state’s operational policies and practices. For example, savings directly related to privatization would be due primarily to a private company’s flexibility to operate outside state rules and procedures, collective bargaining agreements, and the state’s employee compensation system.

Finally, the Washington study comparatively assessed the quality of service at the selected private and public prisons in Tennessee and Louisiana and two multicustody male facilities in Washington. While this portion of the study was not as detailed or as comprehensive as the portion involving costs, the quality assessment included visiting the prisons and reviewing institutional records for several topics, such as escapes, major disturbances, and inmate infractions. The study concluded that the private and public prisons studied within the respective states (Tennessee and Louisiana) generally were similar in quality of service. However, the study noted that Washington’s two state-run facilities had more counselors per inmate than the facilities in the other states.

Factors That Could Affect Interstate Comparisons of Prison Costs And/or Quality of Service

Several factors could affect interstate comparisons of prison costs and/or quality of service. In addition to cost-of-living and other economic differences among the nation's geographic regions and states, these factors include the (1) extent of prison overcrowding, (2) history of court interventions, (3) status of ACA accreditation of facilities, (4) rate of incarceration (as an indicator of the punitiveness of the corrections system), and (5) rights of correctional employees to organize and bargain collectively.

Regarding the studies that we reviewed, the sponsoring states—Texas, New Mexico, California, Tennessee, and Washington—are located in the southern or western regions of the United States, the areas where most privatized facilities are located (see app. IV). Regional differences, such as cost of living, may affect comparisons with other states or regions. For example, the Washington state study adjusted Tennessee's operational costs upward by 20 percent to account for regional cost-of-living differences between the two states.

By definition, prison overcrowding¹ occurs when the number of inmates actually incarcerated exceeds the rated capacity² of the correctional facility. As table III.1 shows, the extent of overcrowding (if any) varied among the five states studied—at the time of initial privatization of selected correctional facilities within the respective state.³ For example, on January 1, 1991, California's prisons held 94,050 inmates, which was 41,352 inmates (or 78.5 percent) above the total rated capacity (52,698). In comparison, at that time, the average state correctional system was operating at 12.6 percent above rated capacity.

Texas was not reporting overcrowding on January 1, 1989. However, most states, including Texas and the other states studied, have been involved, at some point, in litigation challenging various conditions of confinement, such as overcrowding, in their prisons. The following general descriptions are examples of prison litigation that have occurred in the states studied:

¹Overcrowding, in and of itself, is not a violation of the Eighth Amendment's prohibition of cruel and unusual punishment unless specific effects flowing from that condition form the basis for a violation. See *Hoptowitz v. Ray*, 683 F.2d 1237, 1249 (9th Cir. 1982).

²The term "rated capacity" refers to the maximum number of beds or inmates assigned by a rating official to institutions within the jurisdiction.

³At the time of its study, the state of Washington had no privatized prisons. Thus, for the purposes of table III.1, we present data for Louisiana rather than for Washington. The Washington study included a comparative evaluation of three multicustody prisons (two private and one state-run) in Louisiana, as discussed in appendix II.

Appendix III
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- In Texas, the Ruiz v. Estelle⁴ line of decisions includes a 1980 ruling, which found that various conditions (such as overcrowding and inadequate sanitation, recreational facilities, and health care) within the Texas Department of Corrections violated the U.S. Constitution. Thus, the court appointed special masters and monitors to supervise the implementation of and compliance with its decree.
- In New Mexico, the Duran v. Apodaca⁵ line of cases includes a 1980 consent decree that contained mandatory and prohibitive injunctions relating to conditions and practices at the state's penitentiary. Among other subjects, the consent decree addressed living conditions, medical and mental health care, and inmate discipline.
- In California, various court decisions in the 1980s addressed segregation procedures, double-celling, and other conditions of confinement at several prisons located in northern areas of the state.
- In Tennessee, the 1982 Grubbs v. Bradley⁶ decision found that certain practices and conditions of confinement at the state's adult penal institutions were unconstitutional.
- In Louisiana, in the 1977 Williams v. Edwards⁷ decision, the court held that conditions at the state penitentiary at Angola violated the U.S. Constitution and certain state laws.

Another factor that could be considered in making interstate comparisons of correctional facilities is the extent of ACA accreditation. Obtaining ACA accreditation signifies that a facility has met minimum standards. ACA officials told us that, at the time of the respective state's initial privatization efforts, Texas and Louisiana had no ACA-accredited facilities; but New Mexico, California, and Tennessee had "some" accredited facilities. For these latter three states, the ACA officials were unable to specifically quantify the number of accredited facilities that existed when the respective state began its privatization efforts. However, the officials were able to tell us that, as of 1989, the state-run women's facility in New Mexico was not accredited by ACA.

⁴503 F. Supp. 1265 (S.D. Tex. 1980), aff'd in part and vacated in part, 679 F.2d 1115, amended in part, 688 F.2d 266 (5th Cir. 1982), cert. denied, 460 U.S. 1042 (1983).

⁵C.A. No. 77-721-C (D.N.M. July 14, 1980).

⁶552 F. Supp. 1052 (M.D. Tenn. 1982).

⁷547 F.2d 1206 (5th Cir. 1977).

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The degree of punitiveness of a corrections system, as reflected, for example, by the system's incarceration rate,⁸ may affect operating and programming approaches, and therefore, expectations of service. States with higher incarceration rates tend to be found in the west and south, although there is variation within regions. On December 31, 1988, Texas and New Mexico had incarceration rates of 240 and 180, respectively, while the national average rate for state institutions was 227. On December 31, 1990, the incarceration rates in California (311) and Louisiana (427) were higher than the national average rate for state institutions (227); Tennessee's incarceration rate, however, was lower (207). Furthermore, the Washington study found differences in programming (e.g., education and work programs) when comparing Washington with Tennessee and Louisiana.

Both opponents and proponents of privatization have suggested that active correctional employees' unions can affect whether a state decides to privatize corrections; for example, union agreements with the state may be a disincentive to privatization. According to the results of an April 1994 ACA survey of state adult correctional departments, the public employees of such organizations in the five states studied shown in table III.1 had the right to organize. However, the percentage of such correctional employees represented by unions in two of the states was 20 percent or below and one state did not provide data; in three states, the correctional employees could not bargain collectively; and in none of the states did the correctional employees have the right to strike.

Table III.1: Factors That Could Affect Comparisons With States Studied

Factors	States studied				
	Texas	New Mexico ^a	California	Tennessee	Louisiana
Year of initial operation of private facilities ^b	1989	1989	1991	1991	1991
Geographic region ^c	South	West	West	South	South
All state facilities^d					
Rated capacity	41,252	2,878	52,698	8,700	15,006
Inmate population	39,525	2,932	94,050	8,380	13,849
Under or (over) capacity	1,727	(54)	(41,352)	320	1,157

(continued)

⁸As defined earlier, the rate of incarceration is the number of sentenced prisoners (per 100,000 resident population) in correctional facilities.

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Factors	States studied				
	Texas	New Mexico ^a	California	Tennessee	Louisiana
Status of ACA accreditation of state correctional facilities ^e	none accredited	some accredited	some accredited	some accredited	none accredited
Incarceration rate ^f	240	180	311	207	427
Unions^g					
Right to organize	yes	yes	yes	yes	yes
Right to bargain	no	yes	yes	no	no
Right to strike	no	no	no	no	no
Percent of correctional employees represented	not applicable	20 percent	83 percent	55 percent	12 percent

^aThe New Mexico data apply to all state facilities, while the New Mexico study (see app. II) focused on women's correctional facilities.

^bThe year that inmates were first sent to privatized facilities in the respective state.

^cThe Bureau of Justice Statistics groups all 50 states and the District of Columbia into four regions—northeast (CT, ME, MA, NH, NJ, NY, PA, RI, VT), midwest (IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WI), south (AL, AR, DE, D.C., FL, GA, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA, WV), and west (AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY).

^dTexas and New Mexico data are for January 1, 1989. California, Tennessee, and Louisiana data are for January 1, 1991.

^eACA provided us information on the general accreditation status of state facilities in each state studied at the time of privatization; specific numbers were not available.

^fIncarceration rates for Texas and New Mexico are for December 31, 1988. Incarceration rates for California, Tennessee, and Louisiana are for December 31, 1990.

^gResponses shown are from an ACA-sponsored survey of state adult correctional departments (April 1994) and refer only to public, state-level employees. Regarding the percentage of correctional employees represented by unions in Texas, the term "not applicable" was not defined. The data refer only to adult correctional departments.

Source: Data on geographic region and incarceration rates are from Kathleen Maguire and Ann L. Pastore, eds., *Sourcebook of Criminal Justice Statistics, 1993*, Department of Justice, Bureau of Justice Statistics, 1994. Data on overcrowding are from the *Corrections Yearbook, 1989 and 1991*, Criminal Justice Institute, Inc., 1989 and 1991. Data on accreditation status and union rights and representation are from ACA.

Use of Private Corrections in States

As table IV.1 shows, as of March 1996, a total of 47 private correctional facilities (secure facilities for adults) were being operated or being planned for operations by private companies in various states. These 47 private correctional facilities are located in 12 states. However, the most use (actual or planned) of privatized correctional facilities is in 3 states—Texas, with 21 facilities; Florida, with 7 facilities; and California, with 5 facilities.

Table IV.1: Private Adult Secure Correctional Facilities Operating or Planned, as of March 1996

State	Number of private facilities ^a	Security classification of facilities	Total rated capacity ^b
Arizona	2	minimum to medium	850
Colorado	1	medium	752
California	5	minimum	1,446
Florida	7	minimum/medium to medium	4,636
Kentucky	3	minimum	1,300
Louisiana	2	medium/maximum	2,948
Mississippi	2	medium	2,034
New Mexico	1 ^c	all security levels	322
Tennessee	1	medium	1,506
Texas	21	minimum to maximum	15,702
Utah	1	minimum/medium	400
Virginia	1	medium	1,500
Total	47		33,396

Note: According to the author of the data, the information presented is subject to change and represents the number of actual or planned facilities at a particular point in time only. We did not verify the accuracy or completeness of the information.

^aThe information presented includes only state-sponsored private facilities that primarily house inmates from the sponsoring state's correctional system.

^bThe term "rated capacity" refers to the maximum number of beds or inmates assigned by a rating official to institutions within the jurisdiction.

^cThis is an all-women's facility.

Source: Charles W. Thomas, Private Corrections Project, Center for Studies in Criminology and Law, University of Florida, Private Adult Correctional Facility Census, 9th ed. (Gainesville, FL: Mar. 1996).

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