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Public-Private Partnerships for Corrections in California: Bridging the Gap between Crisis and Reform

By Leonard C. Gilroy, Adam B. Summers, Anthony Randazzo and Harris Kenny

INTRODUCTION

With a correctional system strained by severe overcrowding, a state fiscal crisis and a recent federal order to reduce the prison population by over 40,000 inmates, there are no silver bullet solutions to California's prison crisis. Even if a combination of early releases, home detention of low-risk inmates and changes to sentencing and parole rules could allow the state to achieve compliance with the federal order in the short term, there will still be major capacity needs over the long term, as the state would still be operating at 137% of prison system design capacity. Further, the state's ongoing budget crisis demands immediate attention to reduce the unsustainable costs of existing operations; at over $47,000, annual spending per inmate in California is currently over 50% higher than the national average. California's average in-state cost per inmate is more than double the amount it spends to house inmates in out-of-state, privately run facilities.

Public-private partnerships (PPPs) offer a powerful policy option as part of a comprehensive strategy to address California's corrections crisis. PPPs provide an effective, cost-saving alternative for governments seeking to address significant capacity needs while taking pressure off their corrections budgets. For example, Texas, with the second largest state corrections system after California, spends approximately two-thirds less per inmate per year system-wide, and Texas officials estimate that annual cost savings in PPP prisons has ranged between 3- 15% since 2003, averaging 8.5% annually over that eight-year span.

Given California's dire fiscal straits, corrections PPPs represent a common-sense reform that can provide significant budgetary relief and dramatic service quality improvements. The sooner the state acts to implement PPPs, the sooner it will begin realizing cost savings and begin addressing the state's corrections crisis in earnest.

CALIFORNIA CORRECTIONS: A STATE OF CRISIS

California's correctional system is in crisis. The state inmate population is nearly double what the state's prison system was designed to hold. The state's high recidivism rate has held steady, even as the incarcerated population and total prison spending have skyrocketed over time. The state's severe fiscal challenges have brought renewed attention to the costs and performance of the corrections system.

The severity of the Golden State's corrections crisis is overwhelming:

- The California Department of Corrections and Rehabilitation (CDCR) estimates that the state had approximately 167,000 people in correctional facilities in 2009 at a cost of approximately $47,000 annually per inmate.[1]
- The state's prison system is severely overcrowded, filled to nearly double the capacity it was designed for (84,000 prisoners). Instead of prison cells, it's common to see California inmates double- and triple-bunked in hastily converted open gymnasiums today.
- In August 2009, a three-judge federal panel ruled that conditions in the state's prisons are so deplorable that the state must devise a plan to release over 40,000 prisoners to relieve overcrowding and maintain basic quality of life for the prisoners behind bars.[2] Even if 40,000 inmates are released, the state's prisons would still be at roughly 137% of design capacity. The environment was described in the court opinion as "criminogenic", which means that it increases the likelihood of inmates committing crimes. Further, the court said that action was necessary to prevent "death and harm" to inmates.[3]
- Helping drive overcrowding is the reality that once leaving, two out of three offenders are returning to the corrections system. California's 70% recidivism rate is among the highest in the country, an unsustainable trend driving spiraling corrections costs and a capacity crisis.[4]
- A federal Receiver has taken control of California's correctional health care services in the wake of a 2001 class action lawsuit over the dismal quality of medical care in the state prison system. In ruling for a federal takeover, U.S. District Court Judge Thelton E. Henderson wrote, "[t]he Court has given defendants (the State) every reasonable opportunity to bring its prison medical system up to constitutional standards, and it is beyond reasonable dispute that the State has failed. [...] It is clear to the Court that this unconscionable degree of suffering and death is sure to continue if the system is not dramatically overhauled."

- It takes California an average of seven years to build a new state prison through traditional public-sector procurement methods laden with onerous rules and cost mandates. By contrast, private corrections companies can deliver an equivalent facility in approximately one year.[5]
- Correctional officers are California's single biggest personnel expense. According to the Legislative Analyst's Office (LAO), the state's politically powerful prison guards union—the California Correctional Peace Officers Association (CCPOA)—represents one of every seven state employees, but it accounts for a disproportionately high 40% of all state personnel costs paid from the state's General Fund.[6]
- A 2006 analysis by the *San Diego Union-Tribune* found that nearly 2,400 correctional officers—one in 10—earned pay exceeding $100,000 in 2005, up from 557 the previous year.[7] Prison guards' pay and benefits are so good that 130,000 people apply for correc-

tional officer jobs every year, equivalent to one of every 140 persons in the entire California civilian labor force.[8]

- In fact, the California Department of Corrections and Rehabilitation (CDCR) has run advertisements claiming that, "you can earn more than $73,000 a year wearing one of our uniforms" and "earn a retirement package you just can't find in private industry."[9]
- In a 2007 report to the governor, the Little Hoover Commission found that, "Despite the rhetoric, 30 years of "tough on crime" politics has not made the state safer. Quite the opposite: today thousands of hardened, violent criminals are released without regard to the danger they present to an unsuspecting public… California's parole system remains a billion dollar failure."[10]

The high costs of California corrections become even starker when viewed in the context of its peers' costs. Among the largest state corrections systems, California's daily cost per inmate of $133 was dramatically higher than any of its peers, save New York ($152). Notably, Texas—with an inmate population second only to California's and of comparable scale—spends less than one-third the amount per inmate than the Golden State, in part to due Texas's use of PPPs in corrections.

Table 1: Top 10 State Correctional Systems and Costs, 2008

State	Adult Inmate Population	Population Rank	**2008 Average Daily Cost per Offender**
California	174,291	1	$132.98
Texas	155,459	2	$42.54
Florida	99,057	3	$52.90
New York	61,276	4	$152.38
Georgia	52,775	5	$47.96
Ohio	50,371	6	$64.17
Michigan	49,635	7	$89.02
Illinois	45,675	8	n/a
North Carolina	40,406	9	$74.77
Pennsylvania	38,270	10	$91.40

Source: American Correctional Association, *2009 Directory of Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities*.

CRISIS OPENS DOORS TO PRIVATE SECTOR SOLUTIONS

PPPs are simply government contracts with private sector prison operators or service vendors to provide a range of different correctional services—from financing and operating prisons to delivering various inmate services (e.g., health care, food) and administrative/operational support functions (e.g., facility maintenance, transportation and information technology). Since the introduction of corrections PPPs in the United States in the 1980s, governments at all levels have found that they can play a critical role in driving down corrections costs (5-15% on average, though sometimes far more), stretching limited tax dollars and improving the quality of prison services–and thus, of offender outcomes.

A. The Benefits of Partnerships in Corrections

Governments at all levels have increasingly partnered with private sector correctional services providers to finance, design, build, and/or operate correctional facilities and deliver a wide array of correctional services. PPPs are increasingly used to achieve cost savings, alleviate overcrowding, access state-of-the-art security and inmate management techniques, harness innovative rehabilitation programs and decrease recidivism rates. All of these benefits are reasons for California to take a closer look at expanding its corrections PPPs.

Private management of prisons generally takes two forms. One is standard contract operation, whereby a private management firm is hired to run a government prison. The other is contracting for bed space to house prisoners, either at in-state or out-of-state private correctional facilities. For example, states like Alaska and Hawaii have no privately operated prisons within their borders but contract with out-of-state private prisons to house overflow inmates, an approach replicated in recent years in California.

Similar to PPPs in other areas of government-provided services, partnerships in corrections can be used in a variety of ways, including the financing and construction of new correctional facilities, contracts for private prison beds to relieve inmate overcrowding and the delivery of an array of services (e.g., health care, food services, transportation, etc.) that reduce corrections costs for struggling budgets.

The driving force behind successful PPPs is competition. The private sector competes for the best price, the highest quality and most effective service. Competition drives costs down, encourages efficiency, inspires innovation and rewards quality in the delivery of services. In fact, efficiency, innovation and quality—in addition to cost savings—have been leading reasons why public corrections agencies have partnered with private providers to help improve system operations and address capacity needs.

Contracts should be performance-based (focusing on outputs or outcomes) and include quality assurances or quality control assurances. Quality outcomes arise from the appropriate safeguards and performance standards that governments write into contracts, creating a strong incentive for the contractor to deliver high-quality services and ensure proper performance. If written properly, a competitive corrections contract gives policymakers more control and flexibility than their own in-house corrections because contractors have something to lose if they don't perform to standards. PPPs also allow governments to shift the risks to the contractors, which helps achieve both the most efficient risk allocations and allows risk to be used as a management tool.

1. Cost Savings

There is abundant academic and government research demonstrating that private corrections providers can operate correctional facilities at a lower cost than government-run facilities. For example:

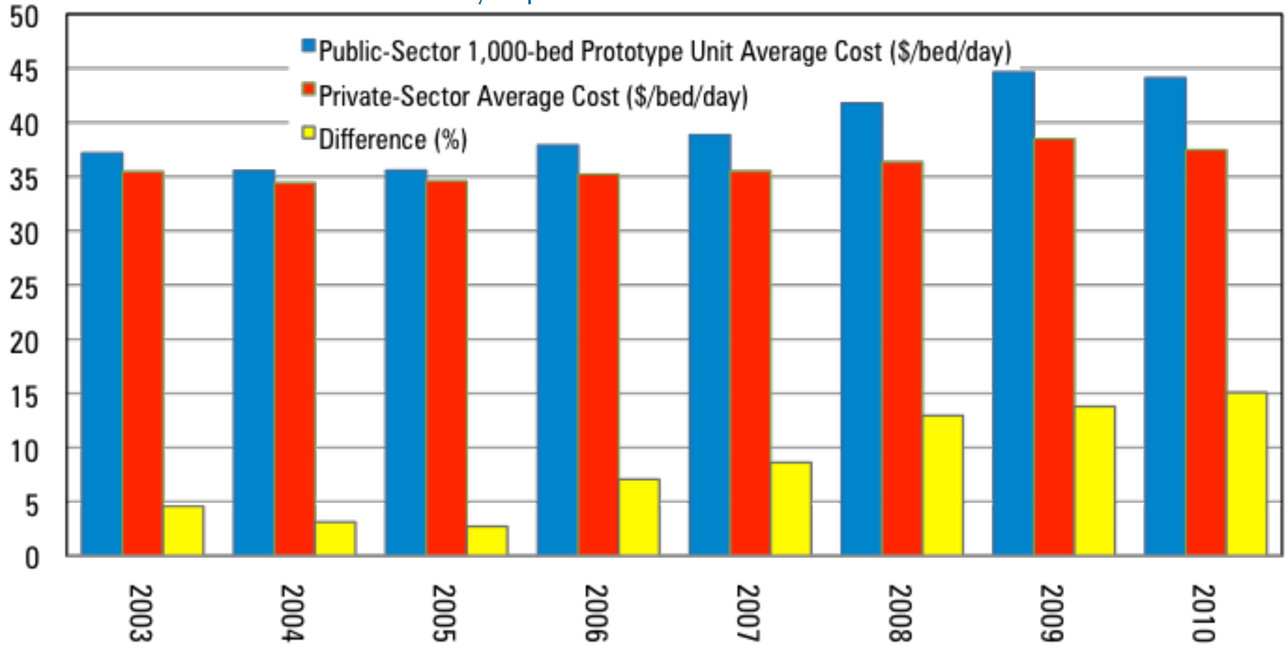
- Data compiled by the state of Texas show that the per diem costs in privately operated prisons have ranged between 3% to 15% lower than the per-diem costs in comparable government-run facilities since 2003, averaging an 8.5% annual cost savings over that eight-year period.
- A 2002 Reason Foundation study reviewed 28 academic and government studies on the corrections PPPs and found that private corrections companies saved up to 23% in daily operating costs over comparable government-run systems.[11] The studies reviewed support a conservative estimate that private facilities offer cost savings of between 10 and 15% over their public sector counterparts.
- A comprehensive 2003 study by the Rio Grande Foundation surveyed prison expenditures in 46 states, and found that states with significant private prison populations save considerable amounts over those with no private prisons. For example, the study found that public sector facilities in New Mexico—which contracted out 45% of its correctional system under the administration of former Gov. Gary Johnson—spent $9,660 dollars per prisoner per year less than peer states that had no privately operated correctional facilities.[12]
- A 2009 Avondale Partners survey of 30 state correctional agencies found that in states currently using private sector services, the average daily savings for partnership prisons was 28%.[13]

Texas offers compelling evidence for the cost savings possible through PPPs. The Texas Legislative Budget Board's (LBB) biannual cost comparison study of public and private sector prison operations offers data demonstrating that annual cost savings in PPP prisons has ranged between 3% and 15% since 2003, averaging 8.5% annually over that eight-year span. (see Figure 1).

The use of corrections PPPs in Texas has helped keep the state's annual inmate costs relatively stable in recent decades; conversely, California's costs have risen dramatically in the absence of competitive pressures.

The key to the lower costs of the private sector is competition. Competitive pressure provides the incentive to be efficient that helps drive private sector costs down, and firms can also achieve cost savings through innovative design and manage-

Figure 1: State of Texas Per-Diem Comparison: State-Operated 1,000 Bed Prototype Unit vs. Privately Operated Facilities (2003-2010)



Source: Texas Legislative Budget Board, *Criminal Justice Uniform Cost Report,* various editions.

ment practices. The private sector saves money by doing a number of things differently from government. Since its success hinges on delivering the same product as the government but at lower cost, or a better product at a cost effective price, it turns to new management approaches, new monitoring techniques, and administrative efficiencies and other innovations.[14] Moving beyond "the way things have always been done" allows it to reduce labor costs, reduce tension between correctional officers and inmates, make full use of a facility's capacity, and make more efficient purchases.

2. Service Quality

In addition to reducing costs, there is clear and significant evidence that privately operated facilities provide at least the same level of service that government-run facilities do. Service quality considerations cut across all dimensions and variables involved in correctional operations, including facilities, safety, recidivism, educational and vocational training, inmate programming (e.g., substance abuse, etc.), health care delivery and food quality.

As important as cost savings are in considering the potential use of corrections PPPs, it is just as important for policymakers to consider *how* firms would provide services or deliver projects. Enhancing accountability and performance are prime considerations for many public officials in their role of protecting the public interest. Performance-based PPP contracts are a key means of capturing the broad range of service delivery goals that go beyond simple cost savings.

The contractual mechanism in PPPs increases the incentive to produce high-quality work and ensure high performance. Indeed, the level of performance is firmly established in the contract. Generally, contracts should be performance-based (focusing on outputs or outcomes) and include quality control assurances. They allow governments to purchase results, not just process, rewarding the private firm only if specified quality and performance goals are met. This makes privatization even more dramatically a case of purchasing something fundamentally different from in-house services.

Service quality considerations generally fall into two categories:

Facility Quality: Corrections management companies have greater incentives to build high-quality, cost-effective facilities because their future business depends on successful projects. Government-run projects have little incentive (other than overcrowding) to finish building by a specific date. If a company fails to complete a contracted correctional facility on time or doesn't build a quality prison, the governing entity can simply fire them, or not hire them again. The same cannot be said if the government fails in building its own facility.

Privately operated correctional facilities employ state-of-the-art technology and design techniques—such as sight lines and technology to allow inmates to be monitored with fewer correctional personnel—as they compete to stay a step ahead of their competitors. Any given firm may be constructing multiple facilities each year, allowing for continuous improvement in facility design that tends to be unmatched in the public sector, whereas an individual agency may only be responsible for delivering one or two new correctional facilities *each decade*.

Operations Quality: Most concerns about quality are related to prison operations. Because corrections management companies seek to maximize profit, critics argue they will cut corners and create unsafe conditions for both correctional officers and inmates. However, because these correctional operators have to compete to win the right to manage a facility, they have a strong incentive to run efficient operations. They also have a greater incentive to meet quality standards for fear of losing their contract. These twin concerns give private firms the incentive to provide the same level or better service and security that public prisons do while saving considerable taxpayer funds.

Most contracts now stipulate adherence to American Correctional Association accreditation standards that include training at a more stringent level than many state corrections departments require. Some corrections management companies, seeking competitive advantage in the quality of their staff, train their staff above ACA accreditation standards. Further, private prisons improve efficiency by controlling legal liabilities, reducing use of overtime, managing to prevent injuries and workers' compensation liabilities, and improving labor productivity. Moreover, competition and the fear of privatization drives efficiency in the public sector corrections marketplace, because government facilities are pressured to become more efficient and to provide better services to compete with private corrections management companies.

3. Overcrowding and Capacity Needs

PPPs can be used to address overcrowding and capacity needs in several ways: out-of-state contracts for open beds in existing prisons, tapping PPPs to deliver an out-of-state prison to house state inmates, or perhaps to build a brand new, in-state prison. Regardless of the mechanism chosen, corrections PPPs can be particularly effective in solving overcrowding issues by adding additional beds at cost-effective rates, as California has already seen through its limited use of contracting for out-of-state beds in privately operated prisons.

Private corrections providers can design and build new facilities with their own money to help public corrections agencies meet their capacity needs, and states can also contract with correctional management firms to transfer inmates out of crowded, in-state public sector prisons to open beds in privately operated, out-of-state correctional facilities. The La Palma Correctional Center, a newly opened prison built in Arizona to house California inmates, was delivered through this type of approach.

The public sector is already paying for these inmates at their facilities anyway, so if a contract is designed effectively, the public sector may wind up saving money while solving its overcrowding problem at the same time. The additional facility will also add new jobs and provide an economic boost to a community.

4. Risk Transfer

One of the most important benefits of PPPs—whether in corrections or most other types of government services—is that they offer governments a means of shifting major risks to contractors (and *away* from taxpayers)—which helps achieve both the most efficient risk allocations and allows risk to be used as a management tool, rather than just something to fear.

The power of a strong, performance-based contract should not be overlooked by public officials, who can incorporate quality assurances into service delivery—or incorporate quality controls into project delivery, in the case of new or expanded prison capacity built through PPPs—as ways of managing risk. Further, significant operational risks—perhaps most importantly, the risk of future service quality declines—can be minimized by incorporating financial penalties for underperformance into the contract. PPP contracts for building new correctional facilities should also transfer project delivery risks—including the risk of cost overruns and schedule slips—to the private partner, creating strong incentives for efficiency and performance in project delivery.

B. Common Concerns with Private Correctional Services

1. Accountability, Regulation and Oversight

Privately operated prisons have much more accountability than public sector facilities. In traditional public sector facilities, government plays the role of both regulator and operator, which tends to promote a lack of transparency and accountability. State officials are effectively placed in the position of being able to "grade themselves," creating few incentives to perform better and seek innovative, cost-saving service delivery strategies. And while policymakers can certainly influence and oversee the activity of state agencies through various means (e.g., budgeting, rulemaking, legislation, hearings, etc.), there often tends to be an implicit deference by policymakers to the agency director and staff on matters of substance, which tends to limit the willingness and ability of policymakers to effectuate systemic reforms that radically overhaul existing public service delivery systems. In addition, public sector civil service rules tend to limit the ability of public sector managers to "right-size" systems by releasing or realigning staff, which by its very nature limits the ability of managers to hold public employees accountable for their on-the-job performance. In many ways, the government monopoly in corrections tends to experience the same phenomenon as any other monopoly—absent external pressures, accountability suffers.

By contrast, there are five key layers of accountability with corrections PPPs—the terms of the contract, government monitoring, policymakers, internal audits and compliance reviews, and corporate shareholders—far more than in traditional public sector facilities.

2. Legal Authority

Local and state governments deal with the legal authority to contract for correctional services in their own ways. The 31 states that currently have a partnership prison in operation or under construction have prescribed authority under state or local law that allows inmates to be placed in private custody. States often pass enabling legislation to allow for private prisons, while others seek a determination by the state attorney general that there is no law or constitutional provision forbidding contracts for partnership corrections.

3. Safety and Incidents

Riots and other violence occasionally occur in both public and private prisons. Private firms are generally required to staff enough trained personnel to deal with an inmate uprising. Both state-run and private prisons usually also rely on help from local and state authorities to quell disturbances. Because private prisons generally have better trained guards and more modern facilities with better safety features, the number of incidents at private facilities is lower than at state-run prisons,

Table 2: Violence in Public and Private Prisons, Allegations and Substantiated Incidents, 2005-6								
	Allegations		**Rate** (per 1,000 inmates)		Substantiated Incidents		**Rate** (per 1,000 inmates)	
	2005	2006	2005	2006	2005	2006	2005	2006
Public-State	4,341	4,516	3.68	3.75	458	549	0.39	0.46
Public-Federal	268	242	1.71	1.5	41	5	0.26	0.03
Private	182	200	1.8	1.91	24	9	0.24	0.09
Total	6,421	6,528	2.83	2.91	885	967	0.4	0.43

Source: Bureau of Justice Statistics

and roughly the same as at federal prisons.

The most recent data from the Bureau of Justice Statistics (see Table 2) shows privately operated facilities had a much lower rate of violent incidents (both alleged and substantiated) than state facilities in 2005 and 2006. The rate of allegations made against public sector prisons were roughly double that of the private sector, and after investigations, the rate of substantiated violent incidents was found to be five times higher in state facilities than those operated under private management. It should be noted, however, that these data cover all security levels and may not fully account for differences in inmate populations among public and private providers.

Almost every incident between inmates—or between inmates and correctional officers—costs a prison money. These incidents lead to lawsuits, which also increase personnel costs. Private corrections management companies respond to these incentives by managing facilities in ways that minimize incidents.[15] This means maintaining tight control of inmates and keeping them well-fed and occupied with work, education or recreation.

The contract itself can be constructed to tie payment to the achievement of safety goals. For example, the state of Victoria, Australia has used an innovative performance-based fee to align the company's long-term interests with the government's goal of safe and high-quality services. The fee is tied to a set of performance indicators—including escapes, deaths in custody, assaults on inmates and assaults on staff. As long as the company meets standards in these areas, based on averages from government prisons, it receives the full fee.

Given the vital importance of safety to private corrections providers—after all, firms with poor safety records will lose contracts to strong performers—market competition creates an ever-present incentive for firms to operate correctional facilities as securely and safely as public sector prisons—if not more so.

4. Use of Force

The use of force is an issue that all private corrections firms must face. There are judicially prescribed limitations on the use of deadly force by police and corrections officers in government-run prisons. Common law allows for the use of force by private citizens, including private prison guards, for self-defense, defense of another, or to prevent the escape of a felon. Although there have been no cases dealing directly with the use of deadly force by partnership corrections personnel, some scholars anticipate that the same rules that apply to public prison guards will apply to private ones as well.

The use of force is one area in which the private sector has been innovative. Since partnership prisons are held accountable for all incidents with their inmates, they have every incentive to limit uses of force. At the La Palma Correctional Facility in Arizona, operated by CCA, guards use specialized pellet guns (which resemble large paintball guns) specially designed to disperse crowds while inflicting minimal damage.

POLICY OPTIONS FOR CALIFORNIA: PUBLIC-PRIVATE PARTNERSHIPS IN CORRECTIONAL SERVICES

Since CDCR began partnering with Corrections Corporation of America (CCA) in 2006 to house 1,000 inmates out of state, the contract has been amended to accommodate a tenfold increase in out-of-state contracted beds. The California population housed in CCA facilities in Arizona, Mississippi and Oklahoma now stands at more than 10,000 under the most recent contract amendment from 2009.

Even though these out-of-state contracts were small steps relative to the scale of California's capacity crisis, policymakers should recognize that the private sector delivered when California needed it most, suggesting a greater role for public-private partnerships (PPPs) moving forward. The following recommendations outline further steps California can take to leverage PPPs to help address the state's severe prison capacity issues with limited public funds.

Major Potential Savings for California through PPPs

1. Partial Outsourcing

While the large-scale outsourcing of the state's corrections operations may not be politically or practically feasible immediately, California can take an important, immediate step toward reducing its corrections costs by building upon its successful experience transferring inmates to lower-cost facilities out of state. Expanding this strategy by transferring an additional 25,000 low- to medium-security inmates to such facilities—5,000 per year for five years—would result in an estimated savings of *between $111 million and $120 million for the first year of the prisoner transfer plan, and between $1.7 billion and $1.8 billion in savings by the end of year five* (see Table 3).

According to industry experts, there is currently not enough excess bed capacity in out-of-state privately operated prisons today to absorb that many prisoners. Increasing the number of transferred prisoners incrementally, however—such as 5,000 per year for five years—would allow time for private corrections management firms to finance, design and build new prison capacity—either through new prisons or expansions of existing facilities out of state—to accommodate the additional inmates. Though the financial markets are still in recovery in the wake of the 2008-2009 recession, it is very likely that if California were to demonstrate strong interest in PPPs to the marketplace, investors would capitalize the development of new prison capacity.

The savings estimates above are based on comparing California's total costs to house and care for inmates in state-run facilities with private industry's costs, as well as costs in other state correctional systems. It is difficult, if not impossible, to make more detailed estimates at the service level (such as for facilities maintenance or specific health and mental health services) due to a lack of basic spending and performance data at the

Table 3. Estimated 5-Year Cost Savings from Transferring Additional Inmates to Out-of-State Facilities

Year	Year 1	Year 2	Year 3	Year 4	Year 5
Cumulative Number of Prisoners Transferred	5,000	10,000	15,000	20,000	25,000
1-Year Savings	$111 million - $120 million	$222 million - $240 million	$333 million - $360 million	$444 million - $480 million	$555 million - $600 million
Total Savings	$111 million - $120 million	$333 million - $360 million	$666 million - $720 million	$1.11 billion - $1.20 billion	$1.67 billion - $1.80 billion

CDCR, a problem that has been noted by various experts, including the State Auditor's Office and the Legislative Analyst's Office.

Finally, the above savings estimates assume that the state also embarks on an internal streamlining process, so that cost savings are actually realized, not used to cover waste shifted around to other sections of the CDCR's budget. For example, any efficiency gains achieved through outsourcing or other reforms should be combined with hiring reductions, which could be achieved over time without layoffs by taking advantage of normal attrition rates.

2. Complete Outsourcing

Based on correctional partnership experiences across the nation and the globe, California could reasonably and conservatively expect to realize cost savings of between 5 and 15% from outsourcing its correctional services. Applying this savings range to the state's current (Fiscal Year 2009-10) corrections operating budget of $8,233,620,000 yields estimated savings of *between $412 million and $1.24 billion per year*. This is mitigated somewhat by the fact that the state already does some contracting, although this contracting comprises only a small portion of the state's facilities and budget.

The potential savings may be even greater than this. First, California prison guards' salaries and benefits are higher than those of their counterparts in other states, so contracting should realize greater personnel cost savings (particularly from fringe benefits) than in other places.

Second, there is a large discrepancy in CDCR's self-reported average costs per inmate per day and other data the agency has reported on its operational budget and inmate population, suggesting that the state may be underreporting its true per diem costs. California's self-reported average cost per inmate per day is $133, but the cost calculated by simply dividing the correctional operating budget by the number of inmates is $162. By contrast, as noted above, the per diem rate received by private firms in recent contracts ranges from $60 to $75.

If these rates were applied to the entire California corrections budget, that would represent *savings of 44–55% over the state's self-reported per day costs, or savings of 53–63% over the implied per inmate costs* (operating budget divided by inmate population). While this is a generalized analysis that may not capture every cost borne by the state, even if half of this difference is not realized for one reason or another, that would still represent cost savings in the range of 20 to 30%, which, based on the current CDCR budget, translates to *savings between $1.65 billion and $2.47 billion per year*.

3. Facilities Design and Construction Outsourcing

In addition to realizing savings from outsourcing its correctional operations, California could achieve further savings by outsourcing the finance, design and construction of correctional facilities. Private companies can build prisons and jails for considerably less than government agencies. Firms in the industry often contend that they can cut between 10 and 40% off construction costs, with 30% being the most common savings estimate.[16] Independent estimates of the cost savings show a similar range of 15 to 25%.[17]

There is no single solution to California's prison capacity crisis, and policymakers will need to rely on a variety of short-, mid- and long-term solutions. PPPs can play a vital role in each case.

- In the short term, the state should dramatically expand contracting for out-of-state prison beds, as described above.
- In the near-term, the state should consider opportunities to partner with private corrections firms to finance and build new correctional facilities in other, lower-cost states to house larger swaths of California inmates.
- Over the long-term, the state should partner with private-sector providers to finance and develop most, if not all, new in-state correctional facilities under PPPs, and it should contract out the operations of existing facilities wherever possible.

However, numerous statutory obstacles prevent the private sector development and operation of in-state, adult secure prisons, and to effectuate the recommendations made above, policymakers will need to pass legislation granting such authority, waive current laws obstructing their development, or both. This is why California should initially send inmates out of state where such enabling legislation currently exists and private corrections management companies are able to build and operate prisons that offer bed space at lower costs.

Cost savings from outsourcing prison construction or other services related to infrastructure are inherently difficult to quantify and would depend upon the number, size, location and type of new facilities to be constructed and how much potential litigation related to overcrowding would be relieved through expanding capacity versus sentencing reform, early release policies and other corrections population reduction strategies.

4. Additional Partnership Opportunities

California can take additional steps to help address the state's severe prison capacity issues with limited public funds by leveraging PPPs. However, given the lack of detailed and transparent correctional budget and facility data at CDCR, this report is not able to offer more detailed estimates of the potential costs savings associated with each of the following approaches. Cost savings—whether from operations, infrastructure or future cost avoidance—can be maximized, however, by implementing performance-based contracts that specify outcome goals and allow contractors the flexibility to innovate and best determine how to achieve those goals.

PPPs in Correctional Health Care, Maintenance and Food Services: For-profit and nonprofit private organizations also play an important role in providing many correctional support functions in many states, including health care, food services, facility management and maintenance, mental health services, substance-abuse counseling, educational and vocational programming, transportation services and the management of prison industries. Savings can be significant. For example, Louisiana corrections officials estimate that they will reduce the annual costs of providing prisoner medications by over 50% partnering with the private sector for correctional pharmacy services, and the Indiana Department of Correction has reduced the food services costs at dozens of facilities by approximately 30% since contracting out in 2005.

PPPs to Enhance the Performance and Capacity of Probation and Parole: To achieve sustainable reductions in the prison population, California will need to expand and improve the performance of its probation and parole system to address the state's high recidivism rate. Opening the playing field to allow for greater participation of private and non-profit providers, in addition to existing public programs, would yield a more meaningful, robust system of community-based providers.

PPPs to Finance and Build Specialized Facilities: Governments are increasingly recognizing the cost and efficiency benefits of using specialized facilities to house unique inmate populations, and more and more states are turning to the use of prisons specifically built and designed to house medical patients, inmates with mental health needs, sexually violent predators and more. Not only can specialized facilities help states better control costs by consolidating inmates with similar needs and care requirements, but the design of these facilities can be customized to the unique populations they serve.

CONCLUSION

Public-private partnerships (PPPs) offer a powerful policy option as part of a comprehensive strategy to address California's corrections crisis. Corrections PPPs may not be a panacea, but they should certainly be part of the answer. Soliciting and implementing PPP proposals to address the state's needs for more prison beds, lower operating costs in state prisons and expanded capacity in community corrections would give policymakers a powerful tool to help address severe prison overcrowding, reduce future operational costs, and deliver needed new correctional system capacity.

California's corrections costs are significantly higher than those in other states in the region, and more than twice as high as the neighboring states of Arizona and Nevada. Further, California's average in-state cost per inmate is more than double the amount *it spends itself* to house its inmates in out-of-state, privately run facilities. Texas, the second largest state corrections system after California, spends less than half as much per inmate per year system-wide as California does, and Texas officials estimate that annual cost savings in PPP prisons (relative to their public sector peers) has ranged 3 to 15% between 2003 and 2010, averaging 8.5% annually.

There is abundant evidence that private corrections providers can offer the same or better services for significantly less cost. With contracts that specify outcomes but leave processes up to contractors, PPPs in correctional operations would allow the state to rein in excessive personnel costs and take advantage of competition and private sector incentives to maximize service quality and minimize costs in order to retain or renew contracts. These incentives are largely absent under the existing government monopoly.

While the large-scale outsourcing of the state's corrections operations may not be politically or practically feasible immediately, California can take an important, immediate step toward reducing its corrections costs by building upon its successful experience transferring inmates to lower-cost, privately operated facilities out of state. Transferring an additional 25,000 low- to medium-security inmates to such facilities—5,000 per year for five years—would result in an estimated savings of between $111 million and $120 million for the first year of the prisoner transfer plan, and between $1.7 billion and $1.8 billion in aggregate savings by the end of year five. This could be accomplished without laying off current personnel, but rather down-sizing the state labor force using attrition.

If applied system-wide, the expanded use of corrections partnerships could save California between $412 million and $1.24 billion annually (or, 5-15% of its current operating budget) as a conservative estimate, though it is possible that actual savings could be even higher.

California can also seek cost savings and quality improvements through PPPs for correctional health care, maintenance and food services, probation and parole services and the development of new, specialized facilities to house unique inmate populations (including medical and mental health facilities).

PPPs have a proven track record in driving down costs and improving correctional service delivery, but they should not be viewed as a silver bullet for the enormous corrections challenges California is facing; PPPs are just one policy tool among many needed to address the corrections crisis. Truly "right-sizing" the system and putting California corrections on a sustainable path will demand a wide range of other actions and systemic reforms, including a system-wide CDCR performance audit and review, state sentencing reform, expansions in the use of evidence-based recidivism reduction strategies, and reductions in the use of technical violations to re-incarcerate offenders on parole or probation.

Given the state's dire fiscal straits, corrections PPPs represent a common-sense reform that can provide significant budgetary relief and dramatic service quality improvements. The sooner the state acts to implement PPPs, the sooner it will begin realizing cost savings and begin addressing the state's corrections crisis in earnest.

ABOUT THE AUTHORS

Leonard Gilroy, AICP is the Director of Government Reform at Reason Foundation, a nonprofit think tank advancing free minds and free markets. Gilroy, a certified urban planner (AICP), researches privatization, government reform, transportation, infrastructure and urban policy issues. Gilroy has a diversified background in policy research and implementation, with particular emphases on public-private partnerships, competition, government efficiency, transparency, accountability and government performance. Gilroy has worked closely with legislators and elected officials in Texas, Arizona, Louisiana, Utah, Virginia, California and several other states in efforts to design and implement market-based policy approaches, improve government performance, enhance accountability in government programs and reduce government spending. Gilroy is the editor of the well-respected newsletter on privatization, *Privatization Watch*, and is the editor of the widely read *Annual Privatization Report*, which examines trends and chronicles the experiences of local, state and federal governments in bringing competition to public services. His articles have been featured in such leading publications as *The Wall Street Journal*, *Los Angeles Times*, *New York Post*, *The Weekly Standard*, *Washington Times*, *Houston Chronicle*, *Atlanta Journal-Constitution*, *Arizona Republic*, *San Diego Union-Tribune*, *Philadelphia Inquirer* and *The Salt Lake Tribune*.

Adam B. Summers is a policy analyst at Reason Foundation. He has written extensively on privatization, government reform, public pension reform, occupational licensing, law and economics, individual liberty and various other political and economic topics. Mr. Summers's articles have been published by *The Wall Street Journal*, *Los Angeles Times*, *San Francisco Chronicle*, *San Diego Union-Tribune*, *Atlanta Journal-Constitution*, *Orange County Register*, *Baltimore Sun*, *Los Angeles Daily News*, *Los Angeles Business Journal* and many others.

Anthony Randazzo is the Director of Economic Research for Reason Foundation, a non-profit think tank advancing free minds and free markets. He specializes in financial regulatory policy, fiscal policy, government reform and privatization policy. He also serves as associate editor of *Privatization Watch*. His work has been featured in *Reason* magazine, *The Detroit News*, *Chicago Sun-Times* and various online publications.

Harris Kenny is a research intern at Reason Foundation. Kenny will be graduating from Pepperdine University with a Bachelor of Arts in Economics in May 2010. He is also currently interning at the Los Angeles Economic Development Corporation. At Pepperdine he conducts research for Dr. Luisa Blanco-Raynal of the School of Public Policy.

NOTE

Sections of this report discussing comparative public and private sector per diem costs in Texas were revised in April 2011 to reflect updated data reported by the Texas Legislative Budget Board. In addition, those sections were revised to reflect a more robust LBB analysis comparing the estimated per diem costs of a 1,000-bed prototype public sector facility to those of a comparable privately operated facility. Earlier versions of this report cited systemwide average costs, as opposed to the more detailed facility-level cost comparison.

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