

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Tuesday, February 8, 2011

TIME: 8:00 —11:00 a.m.

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Dean, Vice Chair; Senators Dockery, Margolis, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 366 Altman (Similar H 63)	Handbill Distribution; Provides additional penalties for the offense of unlawfully distributing handbills in a public lodging establishment. Specifies that certain items used in committing such offense are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act. Authorizes a law enforcement officer to arrest a person without a warrant when there is probable cause to believe the person violated s. 509.144, F.S., and where the owner or manager of the public lodging establishment signs an affidavit containing information supporting the determination of probable cause, etc. CJ 02/08/2011 Favorable CM BC	Favorable Yeas 4 Nays 1
2	SB 402 Negron (Identical H 45)	Regulation of Firearms and Ammunition; Prohibits specified persons and entities, when acting in their official capacity, from regulating or attempting to regulate firearms or ammunition in any manner except specifically authorized by s. 790.33, F.S., or by general law. Eliminates provisions authorizing counties to adopt an ordinance requiring a waiting period between the purchase and delivery of a handgun. Provides that public funds may not be used to defend the unlawful conduct of any person charged with a knowing and willful violation of the section, etc. CJ 02/08/2011 Fav/CS CA JU RC	Fav/CS Yeas 3 Nays 2
3	Overview of the Privatization of State Prisons: Presentations by the Department of Management Services, OPPAGA, the Department of Corrections, various other officials and contract vendors.		Presented

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 366

INTRODUCER: Senator Altman

SUBJECT: Handbill Distribution

DATE: January 27, 2011

REVISED: 02/08/11

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable
2.			CM	
3.			BC	
4.				
5.				
6.				

I. Summary:

Currently, s. 509.144, F.S., prohibits delivering, distributing, or placing a handbill at or in a public lodging establishment without the expressed written or oral permission of the owner, manager, or agent of the owner or manager of the establishment where a sign is posted prohibiting advertising or solicitation as specified in the statute.

The bill does the following:

- Amends the definition of ‘handbill’ to indicate the term does not include communication protected by the First Amendment to the United States Constitution.
- Amends the definition of the term “without permission” to remove “oral permission.” Only written permission would indicate expressed permission.
- Increases the fine for persons who unlawfully direct another to distribute handbills from \$500 to \$1,000.
- Provides the following fines for subsequent violations of the handbill statute:
 - For a second violation, a minimum fine of \$2,000.
 - For a third or subsequent violation, a minimum fine of \$3,000.
- Provides that property (as specified in the bill) that was used as an instrumentality in the commission of a person’s third or subsequent violation of the handbill distribution statute is subject to seizure and forfeiture.
- Adds another exception to the general rule that officers must witness a misdemeanor offense in order to make a warrantless arrest by authorizing an officer to arrest a person without a warrant:

- If there is probable cause to believe that a violation of s. 509.144, F.S., has been committed; and
- Where the owner or manager of the public lodging establishment in which the violation occurred signs an affidavit containing information that supports the probable cause determination.
- Provides that the terms and provisions of the act do not affect or impede provisions of s. 790.251, F.S. (rights to keep and bear arms in motor vehicles for self-defense and other lawful purposes), or any other protection or right guaranteed by the Second Amendment to the United States Constitution.

The effective date of the bill is October 1, 2011.

This bill substantially amends the following sections of the Florida Statutes: 509.144, 901.15, and 932.701.

II. Present Situation:

Unlawful Handbilling

Section 509.144(2), F.S., provides that any individual, agent, contractor, or volunteer who is acting on behalf of an individual, business, company, or food service establishment and who, without permission,¹ delivers, distributes, or places, or attempts to deliver, distribute, or place, a handbill² at or in a public lodging establishment³ commits a first degree misdemeanor.⁴

Section 509.144(3), F.S., provides that any person who, without permission, directs another person to deliver, distribute, or place, or attempts to deliver, distribute, or place, a handbill at or in a public lodging establishment commits a first degree misdemeanor. Any person sentenced under this subsection shall be ordered to pay a minimum fine of \$500 in addition to any other penalty imposed by the court.

While the statute does restrict handbilling, which could potentially involve protected speech or commercial speech, Senate professional staff did not find any case challenging the statute. It appears that in order to determine that restrictions on handbilling at a public lodging establishment implicate constitutional protections involving speech or political activity, a court would have to determine that a public lodging establishment, which is generally open only to paying patrons, is really the “functional equivalent” of a “town center.”

¹ Section 509.144(1)(b), F.S., defines “without permission” to mean “without the expressed written or oral permission of the owner, manager, or agent of the owner or manager of the public lodging establishment where a sign is posted prohibiting advertising or solicitation in the manner provided in subsection (4).” Subsection (4) of s. 509.144, F.S., provides that a public lodging establishment that intends to prohibit advertising or solicitation, as described in the statute, must comply with specified requirements in this subsection regarding posting and accessibility of the sign.

² Section 509.144(1)(a), F.S., defines “handbill” to mean “a flier, leaflet, pamphlet, or other written material that advertises, promotes, or informs persons about an individual, business, company, or food service establishment, but shall not include employee communications permissible under the National Labor Relations Act.”

³ Section 509.144(1)(c), F.S., defines “at or in a public lodging establishment” to mean “any property under the sole ownership or control of a public lodging establishment.”

⁴ A first degree misdemeanor is punishable by up to 1 year in a county jail, a fine up to \$1,000, or both. ss. 775.082 and 775.083, F.S.

In *Publix Supermarkets, Inc. v. Tallahasseeans for Practical Law Enforcement*, a case which involved a citizen and political action committee soliciting signatures for a political petition on the private property of a Publix supermarket in Tallahassee, the Second Judicial Circuit Court held that “there is no right under the First Amendment to the United States Constitution to engage in free speech or other political activity on private property without the property owner’s permission.”⁵ The circuit court noted U.S. Supreme Court cases which held that protections of the First Amendment “[cannot] be invoked in the absence of State action,”⁶ but the circuit court found “no evidence of governmental control” over the Publix supermarket property.⁷ While the circuit court indicated it was aware of cases which found “something analogous to ‘State action’ by concluding that large malls have, in some cases, become the functional equivalent of ‘town centers’ where people gather to socialize,”⁸ the circuit court:

could not find any decisions holding that a smaller shopping center or a free standing supermarket is the functional equivalent of a “town center.” Indeed, every decision reviewed by the Court involving a supermarket has held that individuals have no constitutional right to solicit, or to engage in free speech or political activity over the store owner’s objection.⁹

Florida Contraband Forfeiture Act

Sections 932.701 – 932.706, F.S., otherwise known as “The Florida Contraband Forfeiture Act,” provide that any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the Act, or in, upon, or by means of which any violation of the Act has taken or is taking place, may be seized and shall be forfeited subject to the provisions of the Act.

Section 932.701(2)(a), F.S., defines the term “contraband article” to include:

- Any controlled substance as defined in chapter 893 or any substance, device, paraphernalia, or currency or other means of exchange that was used, was attempted to be used, or was intended to be used in violation of any provision of chapter 893, if the totality of the facts presented by the state is clearly sufficient to meet the state’s burden of establishing probable cause to believe that a nexus exists between the article seized and the narcotics activity,

⁵ 2005 WL 3673662, at p. 3 (Fla.Cir.Ct. 2005) (not reported in So.2d) (citations omitted).

⁶ *Id.*, at p. 3 (citing cases).

⁷ *Id.*, at p. 3.

⁸ *Id.*, at p. 4 (citing cases).

⁹ *Id.*, at p. 4. In another Florida case, which involved a person collecting signatures on the property of a shopping mall in order to get his name on a ballot for a political office, the Circuit Court of Bay County held that Art. I, § 5, Fla. Const., which contains protections similar to those afforded under the First Amendment, “prohibits a private owner of a ‘quasi-public’ place from using state trespass laws to exclude peaceful political activity.” *Wood v. State*, 2003 WL 1955433, p. 3 (Fla.Cir.Ct. 2003) (not reported in So.2d). The court stated that “[c]ourts in this state have recognized this generally accepted principle that malls and other shopping centers are still private property, but have a ‘quasi-public’ nature.” *Id.* However, the only case cited in support of its holding is *State v. Woods*, 624 So.2d 739 (Fla. 5th DCA 1993), *review denied*, 639 So.2d 629 (Fla.1994), which had nothing to do with protected speech or political activity but rather involved a policy of a police department that limited access to a shopping mall in a manner not authorized by the state trespass law. The Florida Supreme Court case quoted by the 5th DCA in regards to the ‘quasi-public’ nature of the mall, *Corn v. State*, 332 So.2d 4 (Fla.1976), did not involve protected speech or political activity but rather involved an equal protection challenge to the trespass law.

whether or not the use of the contraband article can be traced to a specific narcotics transaction.

- Any gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was used, was attempted, or intended to be used in violation of the gambling laws of the state.
- Any equipment, liquid or solid, which was being used, is being used, was attempted to be used, or intended to be used in violation of the beverage or tobacco laws of the state.
- Any motor fuel upon which the motor fuel tax has not been paid as required by law.
- Any personal property, including, but not limited to, any vessel, aircraft, item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, securities, books, records, research, negotiable instruments, or currency, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.
- Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which was used, is being used, or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.
- Any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, currency, or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person who takes aquaculture products in violation of s. 812.014(2)(c), F.S.
- Any motor vehicle offered for sale in violation of s. 320.28, F.S.
- Any motor vehicle used during the course of committing an offense in violation of s. 322.34(9)(a), F.S.
- Any photograph, film, or other recorded image, including an image recorded on videotape, a compact disc, digital tape, or fixed disk, that is recorded in violation of s. 810.145, F.S., and is possessed for the purpose of amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person.
- Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920, F.S., or s. 409.9201, F.S.; any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, or currency; or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920, F.S., or s. 409.9201, F.S.

The current definition of the term “contraband article” does not include property that was used as an instrumentality in the commission of a violation of s. 509.144, F.S., relating to handbill distribution.

Relevant to the bill, there are indications that forfeitures may or do occur in some misdemeanor cases. For example, one Florida court has indicated (in dicta) that the definition of “contraband article” in s. 932.701(2)(a), F.S., would apparently apply to the seizure of “money as suspected contraband connected with narcotics activity, regardless of whether the crimes constitute

felonies.”¹⁰ Additionally, the Florida Supreme Court has held that the Contraband Forfeiture Act “does not preempt to the Legislature the field of vehicle seizure and forfeiture, much less impoundment, for misdemeanor offenses.”¹¹ Therefore, a municipality may adopt “an ordinance that authorizes the seizure and impoundment of vehicles used in the commission of certain misdemeanors.”¹²

Warrantless Arrest

Section 901.15, F.S., sets forth the instances in which a law enforcement officer can arrest a person without a warrant. For misdemeanor offenses, the general rule is that law enforcement officers must witness the occurrence of the offense in order to make an arrest without a warrant. If the officer does not witness the offense, the officer must obtain an arrest warrant.

In certain instances the Legislature has deemed particular misdemeanor offenses to be of such a nature that they should be exceptions to the above rule. Some examples include violations of injunctions for protection in domestic violence, repeat violence, sexual violence, and dating violence situations; violations of pretrial release conditions in domestic and dating violence cases; misdemeanor battery; and criminal mischief or graffiti-related offenses. For these offenses, an officer does not have to witness the crime in order to make a warrantless arrest – the officer only needs to have probable cause to believe the person committed the crime.

Relevant to the bill, there are currently exceptions to the requirement for an arrest warrant for some non-violent misdemeanor crimes, e.g., criminal mischief and graffiti-related offenses.

III. Effect of Proposed Changes:

Currently, s. 509.144, F.S., prohibits delivering, distributing, or placing a handbill at or in a public lodging establishment without the expressed written or oral permission of the owner, manager, or agent of the owner or manager of the establishment where a sign is posted prohibiting advertising or solicitation as specified in the statute.

The bill amends s. 509.144, F.S., as follows:

- Modifies the definition of ‘handbill’ to indicate that the term does not include communication protected by the First Amendment to the United States Constitution.
- Modifies the definition of the term “without permission” to remove “oral permission.” Thus, a person who distributes handbills must have the written permission of the public lodging establishment’s owner or manager.
- Increases the fine for persons who unlawfully direct another to distribute handbills from \$500 to \$1,000.
- Provides the following fines for subsequent violations of the handbill statute:
 - For a second violation, a minimum fine of \$2,000.
 - For a third or subsequent violation, a minimum fine of \$3,000.

¹⁰ *Shuler v. State*, 984 So.2d 1274, 1275 (Fla. 2d DCA 2008) (footnote omitted).

¹¹ *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1246 (Fla.2006).

¹² *Id.*

- Provides for seizure and forfeiture of any personal property, including, but not limited to, any vehicle of any kind, item, object, tool, device, weapon, machine, money, securities, books, or records, which was used or was attempted to be used as an instrumentality in the commission of, or aiding and abetting in the commission of, a person's third or subsequent violation of s. 509.144, F.S., whether or not comprising an element of the offense.

The bill amends s. 901.15, F.S., to add another exception to the general rule that officers must witness a misdemeanor offense in order to make a warrantless arrest. Specifically, the bill provides that an officer may arrest a person without a warrant:

- If there is probable cause to believe that a violation of s. 509.144, F.S., has been committed; and
- Where the owner or manager of the public lodging establishment in which the violation occurred signs an affidavit containing information that supports the probable cause determination.

The bill also amends the definition of the term "contraband article" in s. 932.701, F.S., to indicate the term also includes the property specified in s. 509.144, F.S., which is subject to seizure and forfeiture.

The bill also provides that the terms and provisions of the act do not affect or impede provisions of s. 790.251, F.S. (rights to keep and bear arms in motor vehicles for self-defense and other lawful purposes), or any other protection or right guaranteed by the Second Amendment to the United States Constitution.

The effective date of the bill is October 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Under Florida law, in order for restrictions on handbilling at a public lodging establishment to implicate constitutional protections involving speech or political activity, a court likely would have to determine that a public lodging establishment,

which is generally open only to paying patrons, is the “functional equivalent” of a “town center.”¹³

The bill amends paragraph 1(a) of s. 509.144, F.S., to specify that a ‘handbill’ does not include communication protected by the First Amendment to the United States Constitution. As a result, if a court or law were to hold that sliding pizza delivery pamphlets under hotel room doors without permission is constitutionally protected free speech, the bill’s provisions would not apply to such activity.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not met to determine the prison bed impact of the bill. However, the bill does not create any new felony or reclassify an existing misdemeanor to a felony, so it appears there should not be any state prison bed impact. It is unknown at this time if the provisions relevant to warrantless arrest and forfeiture would result in more prosecutions and convictions for the current misdemeanor offenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹³ See *Supermarkets, Inc. v. Tallahasseeans for Practical Law Enforcement*, 2005 WL 3673662 (Fla.Cir.Ct. 2005) (not reported in So.2d); *supra* at Present Situation, Unlawful Handbilling.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

Tourist Safety Act of 2011

Criminal Justice Committee
Tuesday, February 8, 2011, 8:00am

Rich Maladecki
President
Central Florida Hotel & Lodging Association



Current Statute

- Florida Statute 509.144 “Tourist Safety Act”
- Prohibited handbill distribution in a public lodging establishment
- Approved 2005 – Effective July 1, 2005
- Current Law:
 - Prohibits advertising handbills to be distributed without permission
 - Violations include:
 - 1st Degree Misdemeanor for those distributing handbills
 - 1st Degree Misdemeanor & minimum \$500 fine for those directing this distribution

GOAL

To enhance the original statute:

1. To protect the hospitality industry
2. To ensure guest safety and satisfaction
3. To provide law enforcement with the tools necessary to protect Florida visitors and residents



WHY?

Safety & Security

- Delivered by convicted criminals and repeat offenders.
- Check for loose handles and doors for easy entry.
- Threaten hotel employees and guests.



Credit Card Theft



- Guests who order services from these companies have also been victims of credit card theft, regardless of whether or not they receive the services requested.

Identity Theft

- As many guests carry sensitive items during their visit, criminals have the ability to steal these items through a variety of opportunities, including during handbill distribution or while taking an order over the phone.



Health Concerns



- Visitors often order from these flyers, not knowing exactly where food items were prepared.
- Using hidden surveillance, suspects have been discovered preparing food items in unsanitary conditions, including vans and home garages.

Negative Word of Mouth

- According to VisitFlorida, over 80 million people visit the Sunshine State each year.
- When a visitor has a negative experience during their stay, this creates a negative ripple-effect.



Examples

- The following flyers were distributed to hotels in Central Florida:

SPEEDY DELIVERY
More Great Deals NY Style Pizza More Great Deals

ITALIAN RESTAURANT
Joe's Pizzeria

Se Habla Espanol 9251 South O.B.T.
Open Every Day 11:00 am - 4:00am

407-859-0519
Dine-In • Catering • Delivery

Pizza Fresh Handmade Dough & Pizza Sauce Made Daily

	13" MED	14" LG	16" XL
Cheese	8.99	9.99	11.99
Veggie Lovers	10.99	11.99	13.99
Hawaiian	10.99	11.99	13.99
Blanca	11.99	13.99	15.99
Meat Lovers	12.99	14.99	16.99
Deluxe	12.99	14.99	16.99
Chicken Deluxe	13.99	14.99	16.99
Calzone	7.99		
Stromboli	7.99		
Additional Toppings	1.00	1.99	1.99

Toppings
Pepperoni, Sausage, Beef, Ham, Chicken, Mushrooms, Green Peppers, Black Olives, Onions, Pineapple, Tomatoes, Jalapeños

Sides
Fried Calamari 7.99
Buffalo Chicken 6.99
Chicken Finger w. Fries 5.99
Mozzarella Sticks 4.25
Garlic Bread 2.99
Garlic Bread w. Cheese 4.99
Onion Rings 3.99
Fried Mushrooms 4.99
French Fries 1.99

Dinners All Dinners served with Garlic Bread
Fettuccine Alfredo 6.99
Spaghetti & Meatballs 6.99
Spaghetti & Meat Sauce 6.99
Chicken Parmesan 6.99
Meat Lasagna 6.99
Cheese Ravioli 6.99
Stuffed Shells 6.99
Meatloaf 6.99
Any 1 Dinner 7.99
Any 2 Dinners 13.99
Any 3 Dinners 19.99

Bella Italia Famous
Gyro 6.99
Philadelphia Cheese Steak 7.99

Wings Hot, Mild, BBQ or Garlic Butter
HOT SAUCE
10 Wings 8.99 40 Wings 19.99
20 Wings 11.99 50 Wings 33.99
30 Wings 16.99 100 Wings 44.99

Subs Ham, Italian, Tuna, Turkey, Meatball, Chicken Parmesan, & Chicken
All Cold Subs served with lettuce, tomato, onions, black olives, mayo, and cheese
6.99

Salads
Tossed Salad 4.99
Caesar Salad 5.99
Chef Salad 6.99
Greek Salad 5.99
Chicken Salad 5.99
Antipasta Salad 7.99

Desserts
Chocolate Cake 2.99
Cheese Cake 2.99

Drinks Cans .99
3 Liter 2.50
6 pack 4.99
Bottled Water 1.25

More Great Deals

SPEEDY DELIVERY
More Great Deals NY Style Pizza More Great Deals

Bella Italia
Ristorante & Pizzeria
9251 South O.B.T.

Open Every Day 11:00 am - 4:00am

If you don't mind cold food call them,
But if you like Great service & Great Hot Food, Call Us!

Se Habla Espanol Family Owned & Operated
Catering services for all your events; affordable party packages

407-859-0519
Dine-In • Catering • Delivery

The Great Deal
1 XL 3 Topping & 20 Wings Plus 4 Free Sodas
20.99

The Double Deals
2 Med 3 Topping **15.99**
2 LG 3 Topping **17.99**
2 XL 3 Topping **20.99**

The Couples Deal
1 LG 3 Topping & 10 Wings Plus 2 Free Sodas **15.99**

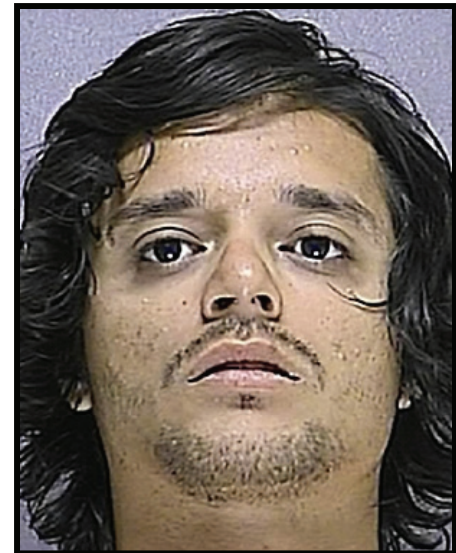
The Family Deals
3 LG 3 Topping **24.99**
1 LG 3 Topping 2 Dinners Plus 2 Free Sodas **20.99**
2 LG 3 Topping 20 Wings Plus 4 Free Sodas **28.99**

The Party Deal
6 LG 2 Topping or 6 Dinners or Any 6 combinations **39.99**
Kids Meal Chicken Fingers French Fries & Soda **5.99**

TAX NOT INCLUDED. DELIVERY CHARGES MAY APPLY. GRATUITY APPRECIATED.
Credit cards are subject to processing fee \$1.50

Suspect Arrested In Attempted Rape At Daytona Beach Hotel

- On September 1, 2010 a man in Daytona Beach was arrested on charges of trying to rape a tourist at a beachfront hotel. Authorities said John Garcia, 25, used a ladder to access a second-floor room at the Conch House on Atlantic Avenue at about 2 a.m. A woman in the room told investigators she heard the commotion, confronted Garcia and was able to fight him off. Police said she told them she had seen Garcia earlier while checking in. He was apparently distributing pizza fliers and authorities said they believe she was deliberately targeted.
- According to Daytona Beach Police, Garcia has been arrested several times over the past two years in Daytona Beach on charges including burglary, unlawful distribution of handbills, trespassing, loitering and obstruction.



Name: John J. Garcia
Age: 25

Hotel Security Officer Assaulted

- On January 8, 2011 a Security Officer was punched in the face at the Wyndham Orlando Resort after confronting a man distributing pizza flyers. The suspect jumped into his vehicle, placed the car in reverse and attempted to strike the Security Officer with the vehicle. The subject left the scene however; the Orange County Sheriff's T.O.P.S. Unit followed up on this case and has identified the suspect.
- On November 16, 2010 in Daytona Beach, a pizza flyer delivery man attacked a hotel security guard at the Wyndham Ocean Walk Resort after being caught slipping pizza ads underneath doors on the 17th floor.
- Similar incidents have been reported in Central Florida, including at the Wyndham Lake Buena Vista Resort, where a young man was trespassed for distributing flyers, provided a false name and date of birth, was photographed and thumb printed. Five months later, this individual was involved and arrested for a murder that occurred in the area.

Customer Survey Responses

Customers surveyed were asked "Do you have any comments regarding your experience at this hotel?"

"Great staff. Great food. Great facility. Getting pizza flyers numerous times a day was distracting, irritating, and (at times) disconcerting."

"There was a food vendor that had left a pizza advertisement on our door. I was not happy with their service. I would suggest a check of the vendors you allow to place flyers in your hotel, since it reflects on you."

"My husband heard the door open and thought we had returned. He got up & found a pizza flyer way inside the room. It appeared that someone opened the door and tossed it in. This gave us the creeps."



ACTION

- Removing '**or oral**' to accept only written permission of the owner, manager, or agent of the owner or manager of the public lodging establishment.
- By exclusively requiring written permission, this will help limit some entry and allow hotels to honor current contracts with vendors.

ACTION

- **Increase the minimum fine** for those who direct another to distribute handbills without permission:
 - The minimum fine would raise from \$500 to **\$1,000**.
 - 2nd Violation: Minimum Fine - **\$2,000**
 - 3rd or Subsequent Violation: Minimum Fine - **\$3,000** and are subject to **seizure and forfeiture**.

Misdemeanor Exception Rule

- A **misdemeanor exception rule** will allow law enforcement to arrest these individuals without a warrant, if there is probable cause to believe a violation of F.S. 509.144 has been committed (i.e. Shoplifting).
- Importantly, this claim must be supported by a **written affidavit** provided by the owner or manager of a public lodging establishment in which the violation occurred.

Positive Fiscal Impact

- Due to fine increases and civil forfeiture provision, local governments may see increased revenues.



A Law Enforcement Perspective



Captain Al Rodrigues
Orange County Sheriff's Office
Uniform Patrol Division
Sector VI Commander

Endorsements



**FLORIDA
RESTAURANT
& LODGING
ASSOCIATION**



THANK YOU

Senator Greg Evers, Chair
Senator Charlie Dean, Sr., Vice Chair
Senator Paula Dockery
Senator Gwen Margolis
Senator Chris Smith

Questions?

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 402

INTRODUCER: Senator Negron

SUBJECT: Regulation of Firearms and Ammunition

DATE: February 1, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Pre-meeting
2.			CA	
3.			JU	
4.			RC	
5.				
6.				

I. Summary:

Senate Bill 402 expands and clarifies state preemption of the regulation of firearms and ammunition. The bill creates certain exceptions to its application for employers and law enforcement agencies.

It creates a third degree felony offense for violation of the section and provides for up to a \$5 million fine under certain enumerated circumstances.

The bill further provides for injunctive and declaratory judgments, actual and consequential damages, costs and treble attorney's fees, with 15 percent interest from the date upon which a civil suit is filed.

This bill substantially amends and reorganizes section 790.33 of the Florida Statutes.

II. Present Situation:

The Joe Carlucci Uniform Firearms Act, as s. 790.33, F.S., is known, became law in 1987. The policy and intent of the Act is stated as follows:

It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof

unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.¹

The Act accomplished its stated purpose by “occupying the whole field of regulation of firearms and ammunition,” as stated in subsection (1) of the Act:

PREEMPTION.—Except as expressly provided by general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or regulations relating thereto. Any such existing ordinances are hereby declared null and void.²

Section 790.33, F.S., contains a limited exception for local ordinances governing a three-day handgun purchase waiting period.³ Since 1990 there has been a statewide three-day waiting period as set forth in the Constitution of the State of Florida.⁴ The constitutional provision prevails over any local ordinances which may have been enacted. There are statutory exemptions from the waiting period in the Act. Of these exemptions, two were adopted in s. 790.0655, F.S., as required by the Constitution.⁵ The other exemptions are:

- Individuals who already lawfully own another firearm and who show a sales receipt for another firearm or who are known to own another firearm through a prior purchase from the retail establishment;
- A law enforcement or correctional officer as defined in s. 943.10, F.S.;
- A law enforcement agency as defined in s. 934.02, F.S.;
- Sales or transactions between dealers or between distributors or between dealers and distributors who have current federal firearms licenses; or
- Any individual who has been threatened or whose family has been threatened with death or bodily injury, provided the individual may lawfully possess a firearm and provided such threat has been duly reported to local law enforcement.⁶

Since these specific exemptions were not included in the Constitutional amendment, and because the Carlucci Act’s exemptions pre-date the amendment to the Constitution, they are essentially null and void.

¹ Section 790.33(3), F.S.

² Section 790.33(1), F.S.

³ Section 790.33(2), F.S. (1988). Note: At the time of enactment in 1987 the Act provided the exception for a 48-hour waiting period.

⁴ There shall be a mandatory period of three days, excluding weekends and legal holidays, between the purchase and delivery at retail of any handgun. For the purposes of this section, “purchase” means the transfer of money or other valuable consideration to the retailer, and “handgun” means a firearm capable of being carried and used by one hand, such as a pistol or revolver. Holders of a concealed weapon permit as prescribed in Florida law shall not be subject to the provisions of this paragraph. ... This restriction shall not apply to a trade in of another gun. Art. 1, Sec. 8(b), 8(d), Florida Constitution.

⁵ The exemptions apply to persons who hold a valid concealed weapons permit at the time of the purchase or who are trading in another handgun. s. 790.0655(2), F.S., Art. 1, Sec. 8(b), 8(d), Florida Constitution.

⁶ Section 790.33(2)(d), F.S.

Despite the provisions of the 1987 Joe Carlucci Act and a Florida appellate court opinion upholding the Act⁷, local governments have enacted or considered enacting ordinances that required trigger locks, prohibited concealed carry permit holders from lawfully carrying their firearms on municipal or county property, required special use permits to certain sporting goods stores, and banned recreational shooting.

III. Effect of Proposed Changes:

Senate Bill 402 expands and clarifies state preemption of the regulation of firearms and ammunition. In the process, s. 790.33, F.S., is also reorganized.

The bill expands “the whole field of regulation of firearms and ammunition” to include the storage of those items. Although the preemption language relating to zoning ordinances is stricken from subsection (1) of s. 790.33, F.S., on lines 49-55 of the bill, that language is re-inserted on lines 205-210.

The bill enumerates governmental or publicly-funded private entities that are prohibited from regulating or attempting to regulate firearms or ammunition. Those entities are:

- A local government.
- A special district.
- A political subdivision.
- A governmental authority, commission, or board.
- A state governmental agency.
- Any official, agent, employee, or person, whether public or private, who works or contracts with any state or other governmental entity.
- Any entity that serves the public good when such service is provided in whole or in part by any governmental entity or utilizes public support or public funding.
- Any public entity other than those specified in this subsection, including, but not limited to, libraries, convention centers, fairgrounds, parks, and recreational facilities.
- Any body to which authority or jurisdiction is given by any unit or subdivision of any government or that serves the public good in whole or in part with public support, authorization, or funding or that has the authority to establish rules or regulations that apply to the public use of facilities, property, or grounds.

The bill also sets forth the methods by which those entities are prohibited from regulating or attempting to regulate firearms or ammunition as the enactment or enforcement of any:

- ordinance,
- regulation,
- measure,
- directive,
- rule,
- enactment,

⁷ *National Rifle Association v. City of South Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

- order,
- policy, or
- exercise of proprietary authority, or
- by any other means except as specifically authorized by general law.

To the extent that the listed entities or methods of regulation exceed the parameters of the current preemption language found in s. 790.33(1), F.S., the bill will broaden the reach of the State's preemption of the "whole field of regulation of firearms and ammunition."⁸

Subsection (2) of s. 790.33, F.S., is stricken by the bill. This is the subsection of the Joe Carlucci Act that requires a three-day waiting period for the purchase of a handgun state-wide. It pre-dates the constitutional amendment and constitutionally-required statutory enactment.⁹ Eliminating this subsection of the Act merely clarifies the current state of the law regarding the three-day waiting period, which is found in the Constitution and s. 790.0655, F.S.

The bill retains the policy and intent language from the original Act, currently found in subsection (3) of s. 790.33, F.S. It also adds language setting forth the 2011 Legislature's intent to deter and prevent the knowing violation of the preemption law.

The bill addresses deterrence and prevention in a new subsection (4) setting forth potential penalties, both criminal and civil, for the violation of the preemption law.

The bill creates a third degree felony of a knowing and willful violation of s. 790.33, F.S., by any person or entity. A third degree felony is generally punishable by up to 5 years imprisonment and a fine of up to \$5,000.¹⁰ The bill provides that a fine of up to \$5 million may be assessed against a governmental entity if the violation is willful and any person with oversight of the offending official, designee, contractee, or employee knew or should have known that the act was a violation. Fines are required to be deposited into the administrative account of the state attorney and the court in the jurisdiction in which a violation occurs and is prosecuted.

The bill specifies that the state attorney is responsible for the investigation and prosecution of violations of the preemption law, and provides that he or she may be held accountable under the rules of professional conduct if his or her duties are not carried out. The bill also prohibits the use of public funds, other than for the services of the public defender or conflict counsel, in defense of a criminal prosecution. An exception is made where the defendant is found not guilty at trial or the charges are dismissed.

Additionally, the bill provides that a knowing and willful violation of the preemption law shall be grounds for the immediate termination of employment or contract or removal from office by the Governor.

⁸ Current preemption language applies "to the exclusion of all existing and future county, city, town, or municipal ordinances or regulations relating thereto." s. 790.33(1), F.S.

⁹ Art. 1, Sec. 8, Florida Constitution; s. 790.0655, F.S.

¹⁰ Sections 775.082, 775.083, F.S.

Civil actions are also provided for in the bill. A person or organization whose membership is adversely affected by an alleged violation of the preemption law may seek declaratory and injunctive relief. The bill also provides for the assessment of actual and consequential damages.

The court is required to award a prevailing plaintiff's attorney's fees at three times the federal district court rates as well as related costs. Additionally, the bill provides that 15 percent interest shall accrue on the fees, costs and damages awarded the plaintiff, retroactive to the date the suit is filed. Payment may be secured by the seizure of municipal vehicles used by elected officeholders in the appropriate municipality if the fees, costs and damages are not paid within 72 hours of the court's ruling having been filed. It is presumed that the term "appropriate municipality" means the jurisdiction wherein the violation occurred.

In subsection (5) of s. 790.33, F.S., as created by the bill, a provision excepting certain zoning ordinances in the original Carlucci Act has been relocated and other exceptions to the prohibitions are set forth in the bill. Specifically, the bill does not prohibit:

- Law enforcement agencies from enacting and enforcing firearm-related regulations within their agencies;
- The entities listed in paragraphs (2) (a)-(i) from regulating or prohibiting employees from carrying firearms or ammunition during the course of their official duties, except as provided in s. 790.251, F.S.¹¹; or
- A court or administrative law judge from resolving a case or issuing an order or opinion on any matter within the court or judge's jurisdiction.

Although the last exception provided, regarding courts and administrative law judges, is somewhat vague, presumably the intent is to convey jurisdiction in cases or controversies arising from the enactment of the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Section 790.251, F.S., is entitled 'Protection of the right to keep and bear arms in motor vehicles for self-defense and other lawful purposes; prohibited acts; duty of public and private employers; immunity from liability; enforcement.'— (1) SHORT TITLE.—This section may be cited as the "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008." See specifically s. 790.251(4), F.S., for the acts of public or private employers that are prohibited.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Among those specifically prohibited from violating the provisions of the bill are: entities or persons who accept public funds through a contractual arrangement; who work with any state or other governmental entity; or any body that serves the public good with public support, authorization, or funding. To the extent that the listed entity or person can be prosecuted for a criminal violation or against whom a civil cause of action may be brought, there is the potential for the levying of in excess of \$5 million in fines, fees, costs and damages.

C. Government Sector Impact:

Governmental entities that violate the prohibitions in the bill face in excess of \$5 million in fines, fees, costs and damages.

VI. Technical Deficiencies:

Since the Florida Constitution was amended to require a three-day waiting period on the purchase of handguns after the original Joe Carlucci Uniform Firearms Act (s. 790.33, F.S.) was enacted in 1987, there is no reference to the Constitution's explicit authority in this area of the law in the original Act. For clarity and consistency, the reference should be inserted on lines 41 and 63 of the bill.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



264256

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2011	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 63
and insert:

(1) PREEMPTION.—Except as expressly provided by the Florida Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or regulations relating thereto. Any such existing ordinances or



264256

regulations are hereby declared null and void. ~~This subsection shall not affect zoning ordinances which encompass firearms businesses along with other businesses. Zoning ordinances which are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in conflict with this subsection and are prohibited.~~

(2) PROHIBITIONS.-The following entities may not, when acting in their official capacity or otherwise under color of law, regulate or attempt to regulate firearms or ammunition in any manner, whether by the enactment or enforcement of any ordinance, regulation, measure, directive, rule, enactment, order, policy, or exercise of proprietary authority, or by any other means, except as specifically authorized by this section, by general law, or by the Florida Constitution:

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 9 - 10

and insert:

as specifically authorized by s. 790.33, F.S., by
general law, or by the Florida Constitution; providing
a penalty for knowing and



399034

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2011	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 165 - 169
and insert:
should have known the act was a violation.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 21
and insert:
providing for



515860

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2011	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 199 - 203
and insert:
accrue at 15 percent per annum from the date on which suit was
filed. Where applicable, payment may be secured by seizure of
any vehicles used or operated for the benefit of any elected
officeholder or official found to have violated this section if
not paid within 72 hours after the order's filing.

===== T I T L E A M E N D M E N T =====



515860

13 And the title is amended as follows:
14 Delete line 31
15 and insert:
16 vehicles for specified nonpayment of

History of Correctional Privatization in Florida

**A presentation to the
Senate Criminal Justice Committee**

February 2011

**Byron Brown,
Chief Legislative Analyst**



Overview of Privatization History

- Department of Corrections
 - 1989-1999
- The Correctional Privatization Commission (CPC)
 - 1993-2004
- The Department of Management Services
 - 2004 - present

Six Years Required to Establish First Private Prison

- Authorized by Legislature in 1989, requiring “substantial savings”
- 1990 Legislature required department to issue contract for 10% savings
- 1991 Legislature mandated a contract for a prison in Gadsden County

Gadsden Correctional Facility

Opened in March, 1995



- All classification officers are state employees
- Planned as male prison; opened as female
- Initially contracted to United States Corrections Corporation
- 768 beds; now 1,520

Multiple Issues with Gadsden

- Switch from male to female facility
- High percentage of uncertified officers
- Program delivery below requirements
- Department oversight needed improvement
- USCC merged with (CCA) in 1998
- Oversight transferred to Correctional Privatization Commission in 1999

The Correctional Privatization Commission – 1993-2004

- Created by Legislature to oversee contracts
- Comprised of individuals without allegiance to or direct involvement with Florida Corrections
- Housed within Dept. of Management Services
- Required a 7% cost savings
- Had the authority to approve variations from public prisons

Four CPC Prisons Were Started in 1993-94

Year	Prison - County	Size	Original Vendor
1993	Moore Haven – Glades	750 beds	Wackenhut (now Geo)
1993	Bay – Bay	750 beds	CCA
1994	Lake City – Columbia	350 beds	CCA
1994	South Bay – Palm Beach	1,318 beds	Wackenhut (now Geo)
1994	Two other 350 bed facilities were built and transferred to DJJ		

CPC Contract Awards

- Combined construction and operations
- Did not go to low bidder, but to “most qualified bidder” who met projected savings requirements
- Bay was 33% more expensive to build than identical Moore Haven

CPC Made Numerous Mistakes

- Promised property tax revenue to counties
- Failed to penalize vendors for vacancies
- Incorrectly applied competitive area differential payments
- Did not properly manage the inmate welfare trust fund
- Ethical and legal shortcomings

Department of Management Services – 2004 to the present



- Chapter 2004-248, *Laws of Florida*, transferred responsibility to DMS July 1, 2004, and abolished the CPC
- Created the Bureau of Correctional Privatization within DMS

DMS Has Assumed Oversight

- DMS internal audit documented mistakes of the commission
- Bureau took pro-active management role
 - Imposed deductions for vacancies
 - Worked to renegotiate contracts
 - Improved relationship with Department of Corrections

Two Newer Private Prisons

Year	Prison - County	Size	Original Vendor
1993	Moore Haven – Glades	985 beds	CCA
1993	Bay – Bay	985 beds	CCA
1994	Lake City – Columbia	893 beds	CCA
1994	South Bay – Palm Beach	1,861 beds	Geo
1999	Gadsden – Gadsden	1,520 beds	MTC
2007	Graceville - Jackson	1,884 beds	CCA
2010	Blackwater – Santa Rosa	2,000 beds	Geo

Determining Cost Savings Hindered by Comparability Issues

- *Size* – Initial prisons were 750 beds when public prisons were much larger
- *Programs* – Private prisons were program rich, while public prisons had few programs
- *Type of Inmate* – Health needs, custody level, age, and gender all affect costs
- *Location* – Costs vary widely across state

Recent Construction Illustrates Design Differences

**Suwannee CI
(public)**



**Blackwater River CF
(private)**



Other Issues to be Considered in Comparisons

- Payment of taxes by private prisons
- Medical differences
- Work squad differences
- Major maintenance funding
- Inmate Welfare Trust Fund
- Air conditioning
- Bonding of construction

What Have We Learned?

- Comparability issues limit the conclusiveness of cost savings analyses
- Department of Corrections has achieved reductions in some costs
- Private prisons generally provide some savings compared to public prisons
 - Less costly pension benefits explain much of achieved cost savings

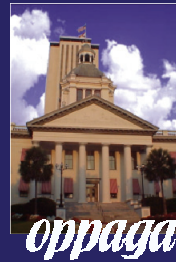
Other Lessons

- Active monitoring by the state is essential to managing costs and performance

.....

- To this point, all of our state experience is with private construction and operation of new facilities

Questions?



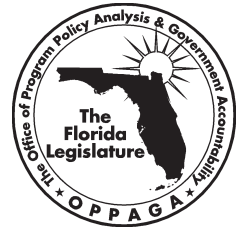
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The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



RESEARCH MEMORANDUM

Private Prisons Exceed Savings Requirements

April 20, 2010

Summary

Florida's current contracts for the Bay, Moore Haven, Graceville and Gadsden private prisons expire on June 30, 2010. Section 957.11, *Florida Statutes*, directs OPPAGA to evaluate the performance of each private prison contractor that manages a privately operated prison at the end of its contract period in order to make recommendations to the Speaker of the House and the President of the Senate on whether to continue the contract.

The law also provides that the Department of Management Services may not enter into a contract or series of contracts unless it determines that these contracts will result in a cost savings to the state of at least 7% over the public provision of a similar facility.¹ Applying the department's methodology and cost adjustments, all four private prisons exceeded the projected 7% cost savings, although direct cost comparisons with public prisons are limited by a number of factors. The savings generally come from four major factors: lower retirement contributions on behalf of private correctional officers, greater administrative cost allocation to public prisons, higher estimated rehabilitative program costs in comparable public prisons, and a lack of comparable women's prisons.

On a scale ranging from failed to excellent, the Department of Management Services has rated vendors' performance at the four prisons as acceptable, suggesting that they should be considered for continued management of the private prisons. However, the department needs to continue to work with the vendors to improve contract compliance and to reduce the security findings identified in unannounced security audits of the private prisons.

Background

The Departments of Corrections and Management Services both have a role in overseeing Florida's six private prisons. As provided in law, the Department of Corrections classifies all offenders by custody level, assigns them to both public and private prisons, conducts security audits at public and private prisons, and is legally responsible for the health and welfare of all Florida inmates. As of January 2010, the department operated 60 public prisons and a variety of

¹ Section 957.07, *F.S.*

other facilities such as forestry camps and work release centers. Including the six private prisons, the Department of Corrections had a population of 101,157 inmates. The department had 27,027 employees and an operating budget of \$2.4 billion in state funding.

The Department of Management Services awards contracts to private prison companies and uses contract administrators and on-site monitors to try to ensure that these companies operate the private prisons in compliance with state correctional policies and contract requirements. The department has contracted with two publicly traded firms to operate private prisons in Florida.

- The Corrections Corporation of America (CCA) manages the Bay and Gadsden correctional facilities. Bay is a 985-bed prison for adult male offenders in Bay County. Gadsden is a 1,520-bed prison for adult female offenders in Gadsden County. CCA operates correctional facilities for a variety of federal, state, and local governments. In Fiscal Year 2008-09, CCA operated 65 facilities in 19 states and Washington, D.C., managing approximately 75,000 beds, 17,000 employees, and \$1.6 billion in revenues.
- The GEO Group operates the Moore Haven and Graceville correctional facilities. Moore Haven is a 985-bed adult male prison in Glades County. Graceville is a 1,500-bed adult male prison in Jackson County. GEO Group also operates correctional, immigration, detention, mental health, and residential treatment facilities for other governments – in Fiscal Year 2008-09, GEO operated 61 facilities in six countries with approximately 60,000 beds, 13,000 employees, and \$957 million in revenues.
- Contracts for Bay, Moore Haven, Graceville and Gadsden are in their final year of three-year contracts.

Findings

All four private prisons exceeded required cost savings

Using the Department of Management Services' methodology and cost adjustments, all four private prisons exceeded the 7% cost savings projected by the department when the contracts were let.² The savings achieved over the first two years of the contract ranged from 7.5% for Bay Correctional Facility to 28.3% for Gadsden Correctional Facility. While significant, these cost savings estimates are subject to caveats and should be evaluated cautiously. Cost comparisons between public and private prisons require a number of adjustments to actual costs because prisons differ on factors such as size and location; facility design and age; the physical and mental health of the inmates served; inmate custody level; and the educational, vocational, behavioral, and substance abuse programs provided. Such adjustments to 'equalize' Florida's public and private prisons historically have been controversial.³ Moreover, all four private prisons are currently midway through the final year of their three-year contracts, and cost data for the current year of operation (Fiscal Year 2009-10) are not yet available.⁴

² For three of the four prisons, the Department of Corrections has identified a different comparison public prison to be used for the contract renewals. This suggests that there may have been changes since the inception of these contracts that lessens the comparability of these public and private prisons.

³ For example, see *South Bay Correctional Facility Provides Savings and Success; Room for Improvement*, OPPAGA [Report No. 99-39](#), March 2000; *Lake City Correctional Facility Experienced Start-Up Problems, But It Has Improved*, OPPAGA [Report No. 99-33](#), February 2000; *Review of Bay Correctional Facility and Moore Haven Correctional Facility*, OPPAGA [Report No. 97-68](#), April 1998.

⁴ We have conducted this analysis without the final year of data because contracts expire June 30, 2010; the Department of Management Services needs the analysis before letting new contracts.

Exhibit 1 shows two-year aggregated adjusted costs of the four private prisons compared to adjusted comparable public prisons. These cost data are based on adjusted comparisons and do not reflect actual appropriations. See Appendix A for more detail on these estimates.

Exhibit 1

All Four Private Prisons Exceeded the Projected 7% Per Diem Cost Savings for the First Two Years of the Contracts

Private Prison		Fiscal Year 2007-08	Fiscal Year 2008-009	Two-Year Aggregate
Bay ¹ (CCA)	Bay Private Prison Per Diem	\$54.84	\$50.68	\$52.73
	Adjusted Public Prison Per Diem for Similar Adult Male Prison	\$60.44	\$53.58	\$56.98
	Cost Savings	9.3%	5.4%	7.5%
Moore Haven (GEO)	Moore Haven Private Prison Per Diem	\$50.70	\$50.46	\$50.58
	Adjusted Public Prison Per Diem for Similar Adult Male Prison	\$60.44	\$55.54	\$57.97
	Cost Savings	16.1%	9.1%	12.8%
Graceville (GEO)	Graceville Private Prison Per Diem	N/A ²	\$39.35	N/A
	Adjusted Public Prison Per Diem for Similar Adult Male Prison	N/A	\$50.50	N/A
	Cost Savings	N/A	22.1%	N/A
Gadsden (CCA)	Gadsden Private Prison Per Diem	\$51.00	\$49.39	\$50.19
	Adjusted Public Prison Per Diem for Similar Adult Female Prison	\$72.17	\$67.75	\$69.97
	Cost Savings	29.3%	27.1%	28.3%

¹ We used two-year aggregated costs to reach our conclusions as to whether the contract provided the required 7% cost savings. Bay did not meet the 7% savings in a Fiscal Year 2008-09 but met the standard for the two-year aggregate because it achieved a higher level of savings in Fiscal Year 2007-08.

² Graceville was opened in September 2007, and was not fully populated with inmates until December 2007. Accordingly, we based our assessment of its operation based on its Fiscal Year 2008-09 costs.

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Years 2007-08 and 2008-09.

The cost savings reflected in Exhibit 1 are largely attributed to four major areas: lower retirement contributions on behalf of private correctional officers, greater administrative cost allocation to public prisons, higher estimated rehabilitative program costs in comparable public prisons, and the lack of a comparable women's prison to serve as a benchmark for Gadsden.

The private vendors offer a lower retirement contribution for correctional officers than the state retirement system. The state pays a defined retirement contribution for all correctional officers, who are special risk employees, of approximately 21% of their salaries. In contrast, private vendors match up to 5% of officers' 401K contributions, which are optional. As a result, retirement benefit costs are much lower for the private prisons.

The public prisons are allocated higher administrative costs than the private prisons. As required by law, the cost of the public prisons includes an allocation of the Department of Corrections' administrative costs for operating the entire Florida prison system. In contrast, the cost of the private prisons includes an allocation of only those Department of Corrections' administrative costs expended directly in support of the private prisons, plus the prison's portion

of the costs of the Bureau of Private Prisons within the Department of Management Services. As a result, higher administrative costs are allocated to public prisons than the private prisons.

The public prisons are allocated higher costs for rehabilitative programming than are the private prisons. Florida's private prisons have been authorized to provide greater levels of rehabilitative programming (adult education, vocational training and substance abuse treatment) than Florida's public prisons. Therefore, for comparison purposes, public prison costs must be adjusted based upon an estimate of costs if the public prisons were to provide a similar level of programs. DMS uses an estimate that is based on calculations made initially by the prison per diem work group in 2003 using the department's rehabilitative costs for serving smaller numbers of inmates. For example, approximately half of Moore Haven's savings can be attributed to the fact that it provides rehabilitative programs at a lower cost than the estimated public prison cost to provide similar programs.⁵

Lack of comparable women's prisons. Hernando, the facility used for the comparison in Exhibit 1, has fewer than 500 beds and thus does not enjoy the same economies of scale as Gadsden which has 1,520 beds. For the 2010 contract renewal, the Department designated Lowell, the only women's prison with more than 750 inmates, as the official comparison prison. However, Lowell has special features that reduce its comparability to Gadsden, such as a reception center and medical services that are significantly more expensive than the medical services provided through Gadsden. As a result, the substantial estimated savings achieved by Gadsden (28.3%), as calculated using the Department of Management Services' methodology and cost adjustments, is artificially high.

It should be noted that the adjusted public prison costs used in these comparisons do not reflect the amount that would be appropriated by the Legislature for a new prison. When the Legislature funds public and private prisons, it includes only direct costs in its appropriations. Funding for a new public prison would not include allocations for the administrative costs or similar levels of rehabilitative programming. Similarly, closing down a public prison would not directly reduce the same level of expenses.

Vendor performance for all four prisons was rated acceptable by the Department of Management Services; however, vendors need to improve compliance with security and staffing requirements

The performance of the private prisons is assessed by the state in several ways, including the Department of Management Services' ongoing reviews of vendor compliance with contract requirements, the Department of Corrections' unannounced security audits of the private prisons, and the Correctional Medical Authority's periodic mental and physical health reviews of the prisons. While these assessments have identified areas for improvement, they collectively indicate that vendor performance at the four prisons is acceptable and that the vendors should be considered for continued management of the private prisons. The Department of Management Services has improved its enforcement of contract requirements by imposing financial sanctions for contract violations, but additional efforts are needed to address security audit findings and staffing shortages.

⁵ An alternative approach would be to deduct the vendor's reported program costs from the comparison. However, this approach would also be flawed because the comparison would no longer be inclusive of all of the monies paid to the private prison vendor. The vendor could easily under or over report their program costs, thus influencing the cost savings figure achieved.

The Department of Management Services (DMS) supervises the private prison vendors' performance through onsite monitors and contract administrators. The onsite monitors report monthly on each private prison's performance on over 70 criteria reflecting compliance with their contracts and American Correctional Association standards, including provisions addressing diligence in filling vacant positions, maintaining operational perimeter cameras, and having written policies governing key control. The department assesses some indicators monthly, while others may be checked less frequently. Each criteria is assessed on a scale of 0 to 10, and any item receiving a score of less than 7 is considered to be in non-compliance and vendors are required to take corrective action. The monitors rate performance on each criteria and add these scores together to create a percentage score, with an overall score of 70-80% considered satisfactory performance. The DMS contract administrators use the composite scores in reviewing each prison's compliance with its contract.

Each of the four private prisons generally met the requirement for satisfactory performance. As shown in Exhibit 2, for the period July 2008 through February 2010, Bay and Graceville consistently scored in the satisfactory range, while Gadsden and Moore Haven occasionally were slightly under the minimum score of 70 in some months but had satisfactory performance in most months.

Exhibit 2

All Four Prisons Scored Above or Near the Satisfactory Range on Monthly Reports by Onsite Monitors

Date	Private Prison			
	Bay (CCA)	Gadsden (CCA)	Moore Haven (GEO)	Graceville (GEO)
July 2008	77%	78%	71%	77%
August 2008	76%	78%	70%	76%
September 2008	74%	77%	70%	78%
October 2008	70%	79%	70%	79%
November 2008	70%	74%	69%	79%
December 2008	70%	74%	70%	79%
January 2009	70%	71%	70%	80%
February 2009	70%	70%	70%	76%
March 2009	70%	70%	70%	78%
April 2009	70%	66%	70%	80%
May 2009	75%	70%	70%	80%
June 2009	80%	70%	70%	80%
July 2009	80%	69%	70%	80%
August 2009	79%	69%	70%	80%
September 2009	80%	70%	70%	80%
October 2009	79%	70%	70%	80%
November 2009	80%	70%	70%	71%
December 2009	79%	70%	70%	70%
January 2010	75%	70%	70%	70%
February 2010	70%	69%	70%	70%
Average¹	75%	72%	70%	77%

¹ The average was calculated based on the 20-month period July 2008 through February 2010.

Source: OPPAGA summary of Department of Management Services Contract Monitoring Reports.

In addition to DMS' contract monitoring, Department of Corrections' staff conduct unannounced security audits of both public and private prisons. These audits review all aspects of the prisons' security operations, including whether perimeter security meets department standards, compliance with procedures for inmates' movements and counts, maintenance of appropriate control over tools and other sensitive items, and procedures within special confinement areas. The Department of Corrections conducted nine audits of the private prisons during the contract period.

Although no inmates escaped from the private prisons during the contract period, the Department of Corrections' audits identified a number of security deficiencies, including some repeat findings, in its audits of the four prisons (see Exhibit 3). The cited deficiencies included dirty weapons in the prison arsenals, inaccurate tool or medical instrument inventories, and a lack of documentation that security equipment was tested as required. In its summary of the security audits, the Department of Corrections places the greatest emphasis on the repeat findings as the cause of 'significant concern'. Repeated deficiencies cited in the private prisons included failure to make recommended facility improvements such as changing the distance between light poles on the perimeter to meet new standards, discrepancies between the key logs and key inventories, failure to conduct weekly tests of metal detectors, and inconsistent completion of official visitors' logs. Department of Corrections officials said that vendors have become more responsive to fixing identified security problems as DMS has increased its enforcement of security audit findings in recent years.

Exhibit 3

Department of Corrections Security Audits Found Repeat Findings at Each of the Four Private Prisons

Facility	Date of DOC Security Audit	Number of Deficiencies Found
Bay	March-April 2008	38 (including 11 repeat findings)
	May 2009	43 (including 6 repeat findings)
Gadsden	November 2007	91 (including 18 repeat findings)
	June 2009	39 (including 15 repeat findings)
Graceville	January 2009	46 (first audit, no repeat findings)
	April 2009	12 (all repeat findings)
	December 2009	17 (including 2 repeat findings)
Moore Haven	April 2008	34 (including 10 repeat findings)
	February 2009	19 (including 5 repeat findings)

Source: OPPAGA summary of Department of Corrections' audits.

When warranted, DMS has imposed financial sanctions against the private prison vendors for non-compliance. During the current contracts, the department has assessed liquidated damages against both GEO Group and CCA for noncompliance with contract requirements and security audit findings. For example, the department fined CCA \$23,000 for failing to prepare and/or maintain a detailed inventory of furniture, fixtures and equipment at Gadsden. The department noted that CCA had not submitted a complete inventory after receiving at least two deadline extensions to do so. The department also fined CCA \$95,000 for failing to do a proper background check on correctional officers at Bay; the vendor was in breach of the contract for a month before the department cited this violation. The department fined GEO Group \$6,000 in response to Department of Corrections' security audit findings at Graceville in December 2009.

These findings included inmate living areas that contained excessive and improperly stored personal property of inmates and weeds between the perimeter fences, which restrict visibility.

The department also has imposed financial sanctions against both vendors for not maintaining full security staffing levels. Although staffing vacancies also occur in public prisons, the vendors have a contractual obligation to maintain certain staffing levels. During the first two years of the contract, the Department of Management Services deducted \$1.5 million from payments to CCA and deducted \$1.9 million from payments to GEO Group due to these vacancies.

Each of the four private prisons had positive health services reviews during the contract period. The Correctional Medical Authority conducts physical and mental health surveys of both public and private prisons. During the contract period, the authority conducted surveys at Moore Haven in April 2009 and at Bay in November 2009.⁶ The review teams identified no physical or mental health findings in the review of Moore Haven, and cited a single mental health finding in its survey of Bay; this finding cited the limited availability of a senior mental health clinician to provide weekly supervision to the two-full time mental health specialists on the prison staff. Both reviews were complimentary of the health services programs at the private prisons.

Conclusion and Recommendations

Florida statutes provide that the Department of Management Services may not enter into a private prison contract or series of contracts unless it determines that these contracts will result in a cost savings to the state of at least 7% over the public provision of a similar facility.⁷ Each of the four private prisons exceeded the projected 7% cost savings when the department's methodology and cost adjustments are applied, although this cost comparison with public prisons is limited by several caveats. Because GEO and CCA achieved the required cost-savings levels, experienced no escapes, and achieved acceptable performance as reported by the contract managers, we recommend that both vendors be considered for continued operation of these private prisons. However, both vendors should improve their future performance by maintaining full staffing and addressing issues cited in the security audits. See Exhibit 4 for an overview of the vendors' performance on costs and operations at the four prisons.

⁶ The CMA last conducted a physical and mental health survey at Gadsden Correctional Facility in April of 2007, before the current contract began. In that survey, there were a number of physical and mental health findings that required the attention of CCA. These findings were addressed through corrective action plans with DMS officials. There has been no CMA survey at Graceville Correctional Facility.

⁷ Section 957.07, F.S.

Exhibit 4

For the Two-Year Period, Fiscal Year 2007-08 and 2008-09, Private Prison Vendors Exceeded Cost Savings Requirements but There Is Room for Performance Improvement

Evaluation Criteria	Private Prison			
	Bay (CCA)	Moore Haven (GEO)	Graceville (GEO)	Gadsden (CCA)
Cost savings in comparison to most similar public prison	7.5%	12.8%	22.1% ¹	28.3%
Escapes	0	0	0	0
Total staff vacancy deductions	\$ 622,533	\$1,149,878	\$776,506	\$ 845,530
Total liquidated damage assessments ²	\$209,000	0	0	\$123,500
Average contract compliance rating ³	75%	70%	77%	72%
Average number of security audit findings	41	27	29	65
Average number of repeat security audit findings	9	8	6	17
Physical or mental health findings	1	0	N/A	N/A

¹ Graceville was opened in September 2007 and was not fully populated with inmates until December 2007. Cost savings are based on its Fiscal Year 2008-09 costs.

² Neither Moore Haven nor Graceville was assessed liquidated damages for Fiscal Years 2007-08 and 2008-09. However, both were assessed liquidated damages in Fiscal Year 2009-10.

³ The average contract compliance rating was calculated based on the 20-month period July 2008 through February 2010.

Source: OPPAGA analysis of Department of Corrections and Department of Management Services data.

Appendix A

Cost Comparison Methodology

To determine whether the private prison contracts for the Bay, Moore Haven, Gadsden and Graceville private prisons met the statutory requirement to operate at least 7% below the cost of comparable public prisons, we replicated the two methods used by the Department of Management Services to compare public and private prison costs. In addition, we also compared the actual unadjusted direct costs associated with the public and private prisons to assess how the legislative appropriations for public and private prisons differ.

- **Method 1 compares private prison costs against a *specific* public prison.** This method uses the costs of a specific public prison, identified in the private prison bid, for comparison purposes. This method adjusts the specific public prison's operating costs to include that prison's portion of the Department of Corrections' central and regional office administrative costs and to take into account the department's estimated cost of providing the same inmate programs proposed by the vendor.
- **Method 2 private prison costs against the average cost of *several* public prisons.** This method averages the costs of public prisons that house inmates of similar age, gender, and custody level as those housed in the private prison. This method was developed by the Prison Per Diem Work Group, which was established by s. 957.07(5), *Florida Statutes*, and charged with developing consensus on the per diem costs of Florida prisons—i.e., the cost per inmate per day statewide. The work group excluded reception centers, which have special classification and medical programs that are used to process new inmates, and specialty prisons, which provide certain medical or custody services or programs that are atypical of most other public and all private prisons.

Both methods use the same calculation adjustments to compare public and private prison costs. These calculations are described in detail below.

Private Prison Per Diem Rates

Private prison costs are based on the number of inmates housed, with adjustments for any penalties assessed for contract violations and state administrative costs, as shown in Table A-1. These adjustments are explained in more detail following the table.

Table A-1

Private Prison Per Diem Adjustments Reflect Actual Costs to the State

Per Diem Adjustments	Bay - Adult Male		Moore Haven - Adult Male	
	2007-08	2008-09	2007-08	2008-09
Private prison contracted per diem rate (first number is guaranteed for first 90% of capacity; second number is the amount paid for each inmate over the 90% guarantee).	\$56.28/\$28.33	\$56.28/\$28.33	\$54.90/\$10.09	\$54.90/\$10.09
Average per diem earned (based on actual inmate population)	\$54.62	\$53.53	\$51.05	\$50.76
Total vacancy deductions—payments withheld due to security vacancies expressed as a per diem	-\$1.12	-\$0.65	-\$1.71	-\$1.53
Budget reductions—in 2009, contracts were amended to reduce payments to vendors.	N/A	-3.43	N/A	N/A
Department of Corrections administrative costs allocated to private prisons	+\$0.88	+\$0.80	+\$0.88	+\$0.80
Department of Management Services administrative costs allocated to private prisons	+\$0.47	+\$0.43	+\$0.47	+\$0.43
Private prison per diem rate	\$54.84	\$50.68	\$50.70	50.46
Per Diem Adjustments	Graceville - Adult Male		Gadsden - Adult Female	
	2007-08	2008-09	2007-08	2008-09
Private prison contracted per diem rate (first number is guaranteed for first 90% of capacity; second number is the amount paid for each inmate over the 90% guarantee).	N/A	\$42.23/\$7.49	\$52.39/\$25.47	\$52.39/\$25.47
Average per diem earned (based on actual inmate population)	N/A	\$39.03	\$50.85	\$49.78
Total vacancy deductions—payments withheld due to security vacancies-expressed as a per diem	N/A	-\$0.91	-\$1.20	-\$0.37
Budget reductions—in 2009, contracts were amended to reduce payments to vendors	N/A	N/A	N/A	-1.25
Department of Corrections administrative costs allocated to private prisons	N/A	+\$0.80	+\$0.88	+\$0.80
Department of Management Services administrative costs allocated to private prisons	N/A	+\$0.43	+\$0.47	+\$0.43
Private prison per diem rate	N/A	\$39.35	\$51.00	49.39

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Years 2007-08 and 2008-09.

- **Private prison contracted per diem rate.** The private prison contracts establish two rates. First, the contracts establish a base per diem rate that is guaranteed regardless of the number of inmates housed, and the base rate covers the first 90% of the private prison's inmate population. A second marginal rate is not guaranteed and covers the actual number of inmates housed above 90% of the contracted capacity per private prison. Graceville Correctional Facility opened in September 2007, and its population was gradually increased to full capacity over a period of three months. We did not include Fiscal Year 2007-08 costs for this prison in our analysis as these costs would not be comparable due to the ramp up period when the facility was purposefully not operating at peak efficiency.
- **Average per diem earned.** This is the net per diem earned by the vendor based on the actual inmate population.
- **Vacancy deductions.** By contract, the Department of Management Services may penalize private prison vendors through contract deductions when the vendors do not meet security staffing requirements. In the two-year period, payments for each of the four private prisons were reduced for this reason. Payments to Bay were reduced by \$390,464 in Fiscal Year 2007-08 and \$232,069 in Fiscal Year 2008-09, while payments to Moore Haven were reduced by \$606,202 and \$543,676 for the two years, respectively. Payments to Graceville were reduced in Fiscal Year 2008-09 by \$493,149. Payments to Gadsden were reduced by \$641,780 in Fiscal Year 2007-08 and \$203,750 in Fiscal Year 2008-09. These deductions are converted to per diems by dividing by the average number of inmates per day by the number of days per year.
- **Budget reductions.** In the spring of 2009, statewide budget reductions necessitated a cutback in contract expenses. The Department of Management Services reduced the payments to Bay and Gadsden Correctional Facilities to meet the needed budget reductions. The department determined that the vacancy deductions already being applied to Moore Haven and Graceville were sufficient to achieve the needed budget cuts. Contract requirements for educational, vocational, and substance abuse programming at all facilities were amended, and programming costs were shifted to the Inmate Welfare Trust Fund.
- **Department of Corrections administrative costs.** A portion of the Department of Corrections central and regional office activities serve the private prisons. For example, the Management Information System manages data for all inmates, the inspector general's office coordinates certain reviews of activities in the private prisons and private prison funding is routed through the department's budget. The department has estimated the percentage of these efforts that serve the private and public prisons, and on that basis, assigned administrative costs to the private prisons.
- **Department of Management Services costs.** Since the Department of Management Services' Bureau of Private Prison Monitoring oversees private prisons, the costs of that bureau are allocated to the private prisons and distributed equally among all of the inmates in all private prisons.

- **Private prison per diem rate.** These figures represent the daily inmate cost of these two private prisons during the first two years of this contract, and are the figures used in Exhibit 1 of our review.

Per diem rates for similar public prisons

For each private prison, the Department of Corrections selects a single prison as the most comparable public prison, and vendors bid against the costs of this specific prison to demonstrate a 7% savings. For Bay and Moore Haven, the department selected Lawtey Correctional Institution to represent state costs. For Graceville, the department selected Wakulla Correctional Institution. For Gadsden, the department selected Hernando Correctional Institution. For the new contracts now being offered for bid, the department has changed the designated comparison public prison for Bay and Moore Haven to New River Correctional Institution and for Gadsden to Lowell Correctional Institution. Table A-2 provides data for both the old and the new comparison facilities to show that using the new comparison prison does not materially affect the results of our review. The actual per diem rate for these comparison prisons is calculated based on Department of Corrections' data and then adjusted for program costs to improve the comparability of the public and private prisons, as shown below.⁸

Table A-2

Per Diem Rates Are Calculated for Public Prisons Similar to the Bay and Moore Haven Private Prisons

Per Diem Adjustments	Lawtey - Adult Male	
	2007-08	2008-09
Comparable public prison per diem rates for operations, health, and programs	\$43.09 \$6.12 \$1.26	\$41.34 \$4.78 \$0.79
Total comparable prison per diem	\$50.47	\$46.91
Department of Corrections administrative costs allocated to public prisons	+\$3.39	+\$3.54
Actual program per diem rate	-\$1.26	-\$0.79
Program costs adjustments	+\$7.84	+\$3.92/+5.88
Adjusted comparable prison per diem rate	\$60.44	\$53.58/\$55.54

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Years 2007-08 and 2008-09.

⁸ In this review, we have made the same adjustments made by the Department of Management Services in reviewing the vendor bids. In prior reports, we have made several other adjustments, such as giving vendors credit for taxes paid, or the fact that public prisons have community work squads that the private prisons do not have. These adjustments were not material to the conclusion reached.

Table A-3**Per Diem Rates Are Calculated for Public Prisons Similar to the Graceville Private Prison**

Per Diem Adjustments	Wakulla - Adult Male
	2008-09
Comparable public prison per diem rates for operations, health, and programs	\$35.96 \$5.12 \$0.63
Total comparable prison per diem	\$41.71
Department of Corrections administrative costs allocated to public prisons	+\$3.54
Actual program per diem rate	-\$0.63
Program costs adjustments	+\$5.88
Adjusted comparable prison per diem rate	\$50.50

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Year 2008-09.

Table A-4**Per Diem Rates Are Calculated for Public Prisons Similar to the Gadsden Private Prison**

Per Diem Adjustments	Hernando - Adult Female	
	2007-08	2008-09
Comparable public prison per diem rates for operations, health, and programs	\$48.73 \$12.21 \$2.55	\$46.89 \$13.40 \$2.55
Total comparable prison per diem	\$63.49	\$62.84
Department of Corrections administrative costs allocated to public prisons	+\$3.39	+\$3.54
Actual program per diem rate	-\$2.55	-\$2.55
Program costs adjustments	+\$7.84	+\$3.92
Adjusted comparable prison per diem rate	\$72.17	\$67.75

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Years 2007-08 and 2008-09.

- **Comparable public prison per diem rates.** The Department of Corrections annually reports its costs in the form of inmate per day costs for operations, health, and programs.
- **Total comparable prison per diem.** This is the sum of operations, health and program per diem rates.
- **Department of Corrections administrative costs.** The department allocates all of its central and regional office costs to public and private inmate programs. These costs are not costs directly associated with individual prisons, but are associated with the overall operation and management of the prison system. The

portion that relates to institutions is then allocated on a per diem basis among all of the inmates in the system.

- **Actual program per diem rate.** Having added the estimated amount for the Department Corrections to run programs to serve the same number of inmates as the private prisons, the Department of Management Services subtracted the actual costs of providing the fewer programs in the public prisons.
- **Program costs adjustments.** The Department of Management Services used information provided by the 2005 Per Diem Work Group to estimate program costs for each inmate participating in education or substance abuse treatment programs. The per diem work group calculated that it cost the department \$14.58 per day for every inmate participating in education programs, and \$11.28 per day for every inmate participating in substance abuse treatment. The Department of Management Services multiplied these numbers times the percentage of inmates the private prisons anticipated would be participating in education and substance abuse treatment programs (60% and 20% respectively at each of the prisons), and came up with \$7.84 to add for the South Bay comparison. For Fiscal Year 2008-2009, program costs at the private prisons were shifted from being paid through the per diem rate to being paid out of the Inmate Welfare Trust Fund due to budget reductions. For Bay and Gadsden private prisons, this change was effective from January through June, or 50% of the year. For Moore Haven and Graceville, it was effective from April through June, or 25% of the year. Therefore, the department's estimated program costs for the comparison prisons have been similarly reduced.
- **Adjusted comparable prison per diem rate.** These figures represent the actual cost of operating the department's most comparable prison, adjusted to reflect estimated department costs for providing programs to the same number of inmates as the private prisons were required by contract to provide. These are the numbers used in Exhibit 1 of our review.

Average per diem rates for Florida's public prisons statewide

In 2002 and 2005, the prison per diem work group calculated average per diem rates for Florida's public adult male, adult female and youthful offender prisons. The calculations excluded reception centers, specialty institutions for death row inmates, institutions housing inmates with serious mental health needs, and work release centers. The calculations were based on Department of Corrections' data and then adjusted in the same way that the previous per diem rates discussed earlier were adjusted, as shown below.

Because Bay and Moore Haven prisons are smaller than the typical public prison, we also calculated a size-adjusted alternative per diem rate. This rate is based upon four prisons that are most comparable in size to Bay and Moore Haven, each of which has 985 beds.

Table A-5
Comparison Per Diem Rates for Adult Male Prisons Are Calculated Using the Statewide Average Costs of Florida's Prisons

Per Diem Adjustments	Adult Male		Adult Male – Size Adjusted	
	2007-08	2008-09	2007-08	2008-09
Aggregate public prison per diem rates for operations, health, and programs	\$37.60	\$35.71	\$41.84	\$38.83
	\$6.37	\$5.79	\$9.93	\$8.65
	\$1.00	\$0.80	\$0.91	\$0.79
Total aggregate prison per diem rate	\$44.97	\$42.30	\$52.68	\$48.27
Department of Corrections administrative costs allocated to public prisons	+\$3.39	+\$3.54	+\$3.39	+\$3.54
Actual program per diem rate	-\$1.00	-\$0.80	-\$0.91	-\$0.79
Program costs adjustments	+\$7.84	+\$5.88	+\$7.84	+\$3.92/+5.88
Adjusted aggregate prison per diem rate	\$55.20	\$50.92	\$63.00	\$54.94/\$56.90

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Years 2007-08 and 2008-09.

Table A-6
Comparison Per Diem Rates for Adult Female Prisons Are Calculated Using the Statewide Average Costs of Florida's Prisons

Per Diem Adjustments	Adult Female	
	2007-08	2008-09
Aggregate public prison per diem rates for operations, health, and programs	\$48.41	\$46.14
	\$24.36	\$21.46
	\$1.73	\$1.70
Total aggregate prison per diem rate	\$74.50	\$69.30
Department of Corrections administrative costs allocated to public prisons	+\$3.39	+\$3.54
Actual program per diem rate	-\$1.73	-\$1.70
Program costs adjustments	+\$7.84	+\$3.92
Adjusted aggregate prison per diem rate	\$84.00	\$75.06

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Years 2007-08 and 2008-09.

- **Aggregate public prison per diem rates.** This is the average operations, health, and programs per diem rates for the group of prisons most similar to the private prisons.
- **Total aggregate prison per diem.** This is the sum of operations, health and program per diems.
- **Department of Corrections administrative costs.** This is the allocation of statewide and regional Department of Corrections' costs.

- **Actual program per diem rate.** Public prisons provide fewer programs than do the private prisons. Therefore, we subtracted the actual program costs out of the calculation being used for comparison purposes.
- **Program costs and excess medical cost adjustments.** See discussion for previous table. Identical methodology was used for this calculation.
- **Adjusted aggregate prison per diem rate.** These figures represent the actual cost of operating the department's most comparable prisons, adjusted to reflect estimated department costs for providing programs to the same number of inmates as the private prisons were required by contract to provide.

Cost comparisons between public and private prisons using the per diem workgroup methodology

Using this methodology, each of the four private prisons showed substantial savings compared to public prisons over the two-year period.

Table A-7
Private Prison Cost Savings

Prison	Estimated Cost Calculations	Fiscal Year 2007-08	Fiscal Year 2008-09	Two Year Comparison
Bay Private Prison	Bay Private Prison Per Diem	\$54.84	\$50.68	\$52.73
	Adjusted costs for public prisons statewide housing adult males	\$63.00	\$54.94	\$58.82
	Percentage savings provided by private prisons when compared to the costs of all adult male public prisons	13.0%	7.8%	10.4%
Moore Haven Private Prison	Moore Haven Private Prison Per Diem	\$50.70	\$50.46	\$50.58
	Adjusted costs for public prisons statewide housing adult males	\$63.00	\$56.90	\$59.83
	Percentage savings provided by private prisons when compared to the costs of all adult male public prisons	19.5%	11.3%	15.5%
Graceville Private Prison	Graceville Private Prison Per Diem	N/A ¹	\$39.35	N/A
	Adjusted costs for public prisons statewide housing adult males	N/A	\$50.92	N/A
	Percentage savings provided by private prisons when compared to the costs of all adult male public prisons	N/A	22.7%	N/A
Gadsden Private Prison	Gadsden Private Prison Per Diem	\$51.00	\$49.39	\$50.19
	Adjusted costs for public prisons statewide housing adult females	\$84.00	\$75.06	\$79.42
	Percentage savings provided by private prisons when compared to the costs of all adult male public prisons	39.3%	34.2%	36.8%

¹ Graceville was opened in September 2007, and was not fully populated with inmates until December 2007. Therefore, we have omitted the Fiscal Year 2007-08 data from the analysis.

Source: OPPAGA analysis of data provided by Department of Corrections and Department of Management Services for Fiscal Years 2007-08 and 2008-09.



Private Prison Monitoring

February 8, 2011

Senate Criminal Justice Committee

Bureau of Private Prison Monitoring

Mission:

To promote program accountability and continuous improvement in private prison programs and services, in accordance with Chapter 957, F.S.

- Provide public safety to the citizens of Florida
- Ensure private contract will result in 7% cost savings over a public facility, as required by statute
- Provide effective oversight and management of private prison contracts
- Provide programs designed to reduce recidivism

Acronyms

- CF – Correctional Facility
- CPC – Correctional Privatization Commission
- DMS – Department of Management Services
- DC – Department of Corrections
- PPM – Private Prison Monitoring

History: Florida Prison Privatization – Department of Management Services

- **2004 – Present (Department of Management Services)**
 - Private Prison Monitoring (PPM)
 - 2007 - Expansions at Bay, Gadsden, Lake City, Moore Haven and South Bay CFs
 - 2005 to 2009 - Design, construction and operation of a 1,500 adult male facility in Graceville + 384 bed expansion
 - 2008 to 2010 - Design, construction and operation of a 2,000 bed adult male facility, Blackwater River CF
 - Total Managed facilities: 7
 - Total private prison beds: 10,128

Private Prison Monitoring – Operating Budget and Contract Funding

- **PPM Operating Budget - DMS**
 - 15 staff
 - Onsite contract monitors at each site
 - \$2.2 million operating budget
- **Contract Funding - DC**
 - s. 957.15, F.S.
 - PPM contract funding is appropriated to DC
 - FY 2010-11 \$159 million
 - FY 2011-12 \$170 million

Comparable Facility Per-diem Calculation and Budget Categories

- Guided by statute, s. 957.07, F.S.
- DC sends information to the Auditor General
- Auditor General Certifies DC's per-diem cost
- DMS incorporates into procurement
- Private Prison Per-diem Workgroup, s. 957.07 (5)(a), F.S.
- Appropriated in three budget categories, Adult Male, Adult Female and Youthful Offender Male

Inmate Profiles and Transfer Agreements

- DC determines the inmate population at each private facility
- Population specifications are incorporated into procurement documents
- Transfer Agreements are signed between DMS, DC and the Private Prison Contractor

Adult Male Facilities

- **Adult Male**

- Bay Correctional Facility, 985 beds, Min/Med Custody
- Graceville Correctional Facility, 1,884 beds Med/Close Custody
- Moore Haven Correctional Facility, 985 beds, Min/Med Custody
- South Bay Correctional Facility, 1,861 beds, Med/Close Custody
- Combined per-diem, \$43.63
- Savings of 20.4% over the provision of a public facility

- Blackwater River Correctional Facility, 2,000 beds, Med/Close Custody
- \$42 per-diem with an estimated savings of 13.4% over a public facility

- 61% (4,742) inmates in academic, vocational, behavioral and substance abuse programs

Adult Female & Youthful Offender Male Facilities

- **Adult Female**

- Gadsden Correctional Facility, 1,520 beds, Min/Med Custody
- Per-diem, \$45.97
- 16.2 % savings compared to a public facility
- 75% (1,140) inmates in academic, vocational, behavioral and substance abuse programs

- **Youthful Offender Male**

- Lake City Correctional Facility, 893 beds, Med/Close Custody
- Per-diem, \$60.84
- 10% savings compared to a public facility
- 67% (605) inmates in academic, vocational, behavioral and substance abuse programs

Recent Procurements

- In 2010, four new contracts went into effect:
 - **Bay Correctional Facility** remained with Corrections Corporation of America (CCA)
 - **Gadsden Correctional Facility** previously operated by CCA was awarded to Management and Training Corporation (MTC)
 - **Graceville Correctional Facility** previously operated by The GEO Group, Inc. (GEO) was awarded to CCA
 - **Moore Haven Correctional Facility** previously operated by GEO was awarded to CCA
- \$1.5 million in savings over FY 2009-10 rates

Contract Changes – FY 2010-11

- No medical caps
- Parity with DC commissary items
- Emergency response agreement between DC and Contractor
- 35 day vacancy deductions for Certified and non-certified staff
- Liquidated Damages to Adjustments in Payment/Credits
- Bar-coded inventory database

Contract Changes – Safety

- Department of Corrections performs annual Unannounced Security Audits
- Since 2007
 - 61% decrease in total audit findings
 - 79% decrease in repeat audit findings
- State Law Enforcement Radio System (SLERS) subscriber
- DC providing regional emergency training with the Contractors

Monitoring Tool

- 300 indicators
- Indicators are based on:
 - Contract Requirements
 - American Correctional Association Standards
 - Department of Corrections procedures
 - Chapter 33, F.A.C.
 - Various codes and requirements from local county health department, Fire Marshal, Department of Health, Department of Children and Families, Department of Education, and the Florida Department of Law Enforcement

Contact

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Private Prison Monitoring

www.dms.myflorida.com/ppm

The seal of the Department of Corrections, State of Florida, is a circular emblem. It features a central sunburst with a large 'DC' monogram. The sunburst is superimposed on a map of the state of Florida. The outer ring of the seal contains the text 'DEPARTMENT OF CORRECTIONS' at the top and 'STATE OF FLORIDA' at the bottom, separated by two stars.

Overview of the Privatization of State Prisons

Senate Committee on Criminal Justice

February 8, 2011



Chapter 944, Florida Statutes, assigns legal custody of all Florida inmates in state and private prisons to the Department of Corrections.

- DOC makes all decisions that affect inmate discipline, gain time and release
- DOC conducts routine security, infirmary and contraband audits



Private Prison Inmate Assignments

- All inmates go through the DOC reception process upon incarceration
- After Initial Classification, inmates are transferred to private prisons as appropriate.
- Private prisons do not house every type of inmate
- Inmates are transferred in and out of private prisons for various reasons



Security Audits

- The security audit process is applied equally to both private prisons and state prisons.
- DOC security standards and procedures are provided to each private prison.
- A team of DOC auditors performs the audit and subsequent follow-up to insure any corrective action is being fully implemented.



Differences between state and private prison design

- DOC adopts a campus style design as opposed to the single site facility that private companies have built.
- Security – we believe this provides better sight lines and visibility of dorms from the control room.
- Allows for future expansion – provides a bigger foot print for growth.



Calculation of Comparable Prison Per Diem Rate

- Pursuant to s. 957.07 (4), F.S. DOC identifies a similar sized public facility and makes adjustments to the actual operating costs to reach a comparable operating cost.
- This per diem cost is used by DMS for procurement and as a base for calculating savings.
- More appropriate to use the “footprint” of each private prison and calculate costs to operate each as a public prison. Provides a true “apples to apples” comparison.



- Florida is the only state where private prison contracts are managed outside a correctional agency.
- Regardless, DOC and DMS have forged an excellent relationship in managing private prison contracts

Public-Private Partnerships in Corrections



February 8, 2011
Florida Senate Committee on Criminal Justice
Tallahassee, FL

Leonard Gilroy, AICP
Director of Government Reform
Reason Foundation | www.reason.org

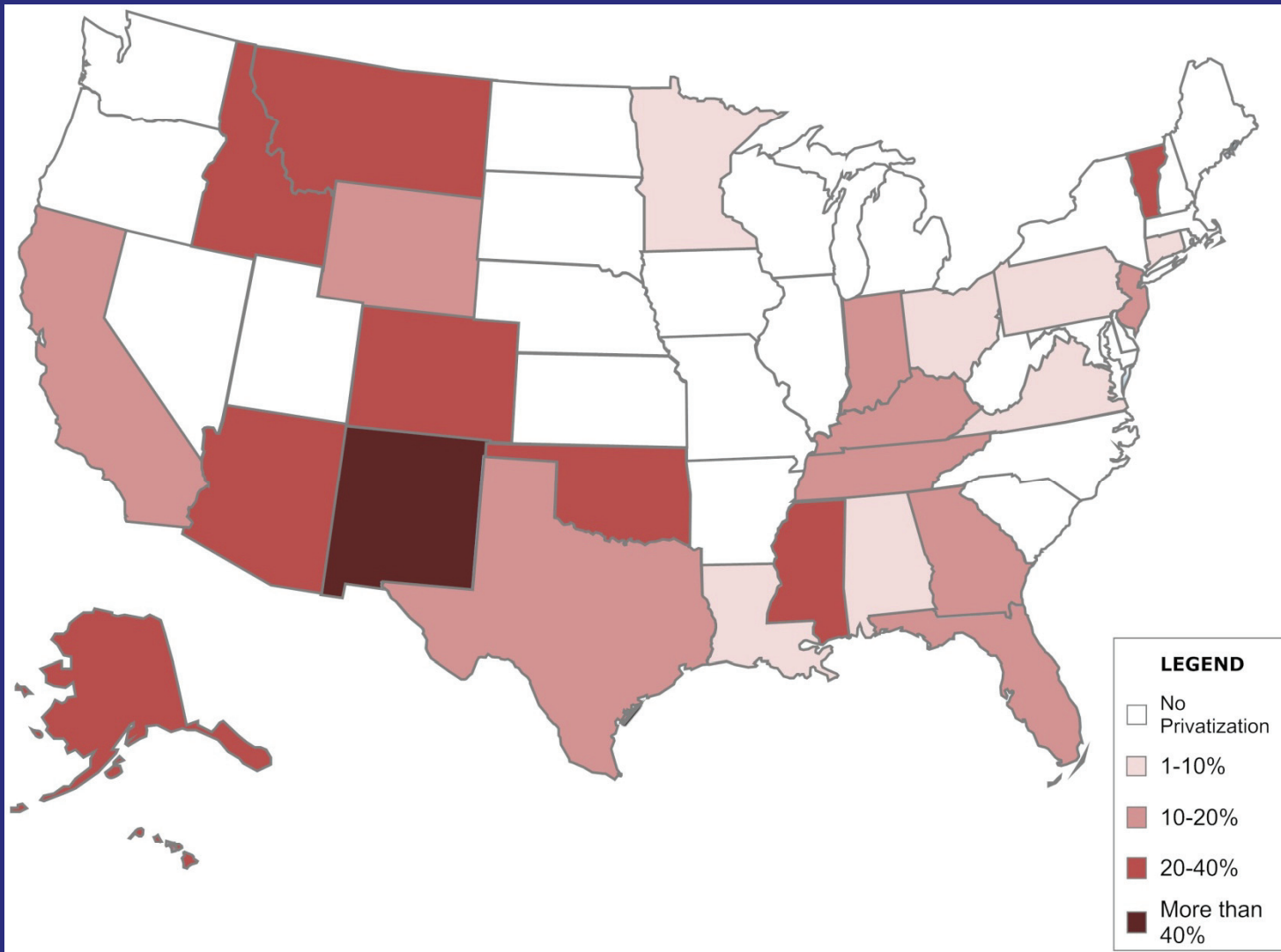
Corrections PPP Overview:



- Used by federal, state and local authorities since the 1980s.
- Significant growth since 2000:
 - b/n 2000-05, the number of PPP prisons & community corrections facilities rose 51%, from 264 in 2000 to 415 in 2005. (USDOJ)
 - 2000-2009 increase in total population: 43% Federal / 12% State
 - 2000-2009 increase in PPP beds: 120% Federal / 32% State

Year	Total Federal Prison Population	Federal Population in Private Facilities	% Federal Population in Private Facilities	Total State Prison Population	State Population in Private Facilities	% State Population in Private Facilities
2000	145,416	15,524	10.7%	1,245,845	71,845	5.8%
2001	156,993	19,251	12.3%	1,247,039	72,577	5.8%
2002	163,528	20,274	12.4%	1,276,616	73,638	5.8%
2003	173,059	21,865	12.6%	1,295,542	73,842	5.7%
2004	180,328	24,768	13.7%	1,316,772	73,860	5.6%
2005	187,618	27,046	14.4%	1,340,311	80,894	6.0%
2006	193,046	27,726	14.4%	1,376,899	85,971	6.2%
2007	199,618	31,310	15.7%	1,398,627	92,632	6.6%
2008	201,280	33,162	16.5%	1,408,479	96,320	6.8%
2009	208,118	34,087	16.4%	1,405,622	95,249	6.8%

Corrections PPP Overview: State Use of PPP Prison Capacity (2010)



Source: U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2009 Report*, adjusted for contracts announced in 2010.

Corrections PPP Overview: Where are States Using Corrections PPPs?

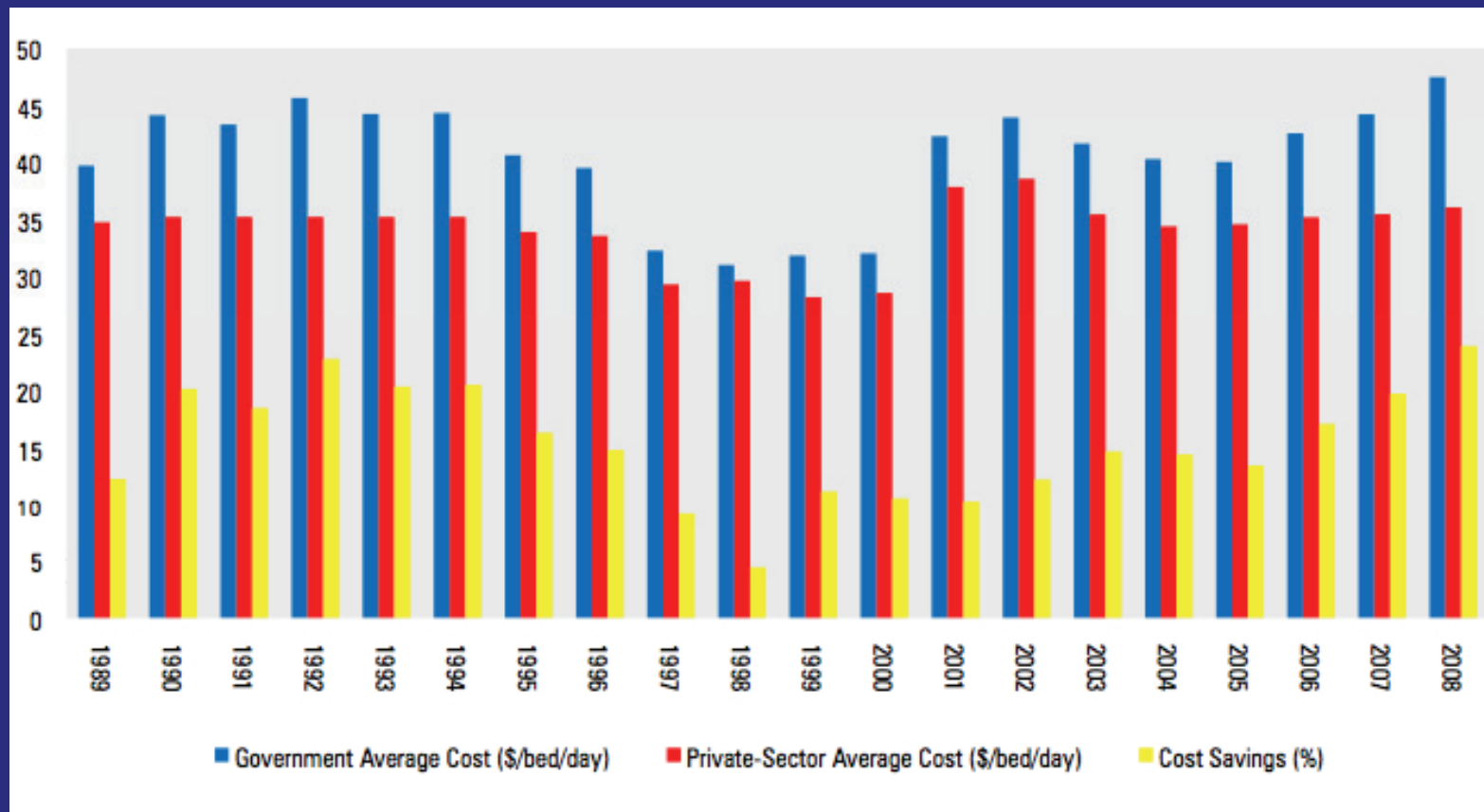


- *Correctional facility operations*
 - Operating contracts for existing state facilities
 - Contracted beds in privately owned/operated prisons (in-state and out-of-state)
 - Accelerated delivery of “greenfield” (new-build) facilities; public debt avoidance; capital and operational savings
- *Healthcare*
 - Correctional system medical, dental, mental health services
- *Substance abuse and treatment programs*
- *Educational/vocational programs*
- *Probation and parole services*
- *Food services*
- *Facility maintenance, transportation*

Cost Savings through Corrections PPPs: Texas



- Cost savings in PPP prisons average 15% annually from 1989-2008.
 - Average daily cost of operation in PPP prisons has not exceeded the comparable costs in government-run prisons since 1989.



Source: 1989-2003 data: Texas Criminal Justice Policy Council. 2004-2008 data: Texas Legislative Budget Board, *Criminal Justice Uniform Cost Report*, various editions.

Cost Savings through Corrections PPPs: 2010 Florida PPP Cost Comparison



- Under current Florida law, privatization of prison operations cannot be approved without a minimum cost savings of 7%.
- 2010 Florida DMS procurement—four state prisons:
 - DMS team set benchmark per diem based on costs at comparable state facilities—bid threshold set at 7% below
 - Winning bids: cost savings range between 14-27%

Facility	# of Beds	Comparable State Per Diem Cost	Private Operator Per Diem Cost	% Cost Savings	Annual Cost Savings	3-Year Cost Savings
Bay Correctional Facility	985	\$57.52	\$48.05	16%	\$3,404,702	\$10,214,105
Gadsden Correctional Facility	1,520	\$54.85	\$45.97	16%	\$4,926,624	\$14,779,872
Graceville Correctional Facility	1,884	\$47.02	\$34.37	27%	\$8,698,899	\$26,096,697
Moore Haven Correctional Facility	985	\$56.19	\$48.36	14%	\$2,815,081	\$8,445,242
TOTAL					\$19,845,306	\$59,535,917

Source: Florida Department of Management Services

Several Layers of Accountability in Corrections PPPs



- **Contractual requirements**
 - contracts specify operating standards, accreditation mandates, and other aspects of service delivery deemed critical by public sector
 - compliance with accreditation standards (e.g., American Correctional Assn, National Comm. on Correctional Healthcare, etc.)
- **Government contract monitoring**
 - corrections PPPs typically utilize on-site, government contract monitors
- **Policymakers**
 - elected officials exert control through lawmaking, budgeting, rulemaking, legislative hearings and oversight, etc.
- **Internal audits**
 - Private partners have a vested financial interest in ensuring proper performance; use internal auditing and review teams, contract compliance reviews, etc to ensure performance and quality controls
- **Shareholders**
 - companies' ability to attract investors and obtain credit is predicated on their overall business viability through their delivery of quality services

Corrections 2.0: Creating a Continuum of Care in Corrections through PPPs



- Corrections 1.0—Current state correctional systems
 - Central focus on *incarceration*; rehabilitation a secondary concern
 - Offenders move across a system of fragmented facilities and services
 - Little coordination & continuity of knowledge of individuals' history and rehabilitation progress
 - Little accountability → Poor performance → High recidivism
- Corrections 2.0 Proposal—Continuum of Care through PPPs
 - Central focus on *rehabilitation & successful re-entry to society*
 - Coordinated delivery of most or all correctional services within a region
 - Contract designed to hold providers accountable for reducing recidivism; achieving high performance in offender outcomes
 - Rehab/programs customized to each inmate and follow the inmate across continuum—designed to ensure inmates are in the *right place* at the *right time* for the *right programs*

Focusing PPPs on What Works in Offender Rehabilitation



Kevin A. Wright, WA State University, *Journal of Offender Rehabilitation* (April 2010):

- *leverage the power of PPPs and performance-based contracts to improve rehabilitation & increase use of proven methods of reducing recidivism and successfully reintegrating offenders back into society.*
- *“Private prisons [present] the unique opportunity for innovation in corrections through the use of contracts that emphasize principles of effective intervention and programs that work.”*
- *“...the privatization of prisons can serve as the vehicle that the rehabilitation effort has searched for in its revivification [...] In essence, it appears that private prisons and the rehabilitative ideal would be the perfect marriage for corrections.”*

Proposed Model: Corrections Continuum of Care PPPs



- Would bundle the delivery of most or all correctional services within an entire DOC region through PPPs.
- Pilot implementation in 1-2 DOC regions, partnering with different operators (teams) in each to maximize competition, mitigate risks.
- 10-year, performance-based contract—contractual responsibility for demonstrably reducing recidivism over the contract.
- DOC would issue an “invitation to negotiate” asking respondents to submit their qualifications and a 10-year conceptual plan for implementation.
- Proposals would be evaluated based on:
 - Maximizing the use of state resources;
 - Cost savings;
 - Increases/decreases in the number and operation of existing facilities; and
 - Implementing best practices in care, service delivery and programming.
- Would require statutory authority for DOC/state to implement regionalized, continuum of care PPPs.
- Could exclude or limit the private sector operation of maximum security prisons/units; other sensitive facilities

Potential Benefits of Continuum of Care PPPs in Corrections



- **Cost Savings**
 - Though typical savings through PPPs exceed 10%, COC PPPs would be more complex—savings between 7-10% are more realistic
- **Lower Recidivism and Improved Performance**
 - More coherent, individualized rehabilitation plans that follow inmates
 - Contractual focus on improved outcomes and reduced recidivism
- **Improved Tracking and Management of Offenders**
 - PPPs would include state-of-the-art tracking systems and databases to follow offenders throughout the continuum.
 - inherent flexibility to move personnel and facilities around in a nimble way to adapt and tailor an individual's changing rehabilitation needs.
- **“Bundling” for Better Value**
 - Governments maturing in their use of privatization; finding greater economies of scale, cost savings and/or value for money through bundling several—or even all—services in a given agency or agency subdivision into a PPP initiative, rather than treating individual services or functions separately.

Continuum of Care PPPs: Florida Case Study



- Estimated annual cost savings through continuum of care PPP approach (conservative estimate @ 7-10%):
 - FDOC Region I: \$41.8M - \$59.7M
 - FDOC Region IV: \$29.3M - \$41.9M
 - Both regions: \$71.1M - \$101.6M

	FDOC Region I	FDOC Region IV	Combined FDOC Regions I & IV
Number of Correctional Facilities	37	34	71
Inmate Population (October 2010)	32,960	21,028	53,988
Inmate Population held in Privately Operated Facilities	4,905	2,829	7,734
% of Inmate Population held in Privately Operated Facilities	14.9%	13.5%	14.3%
Estimated Annual Correctional Facilities Cost	\$545,572,731	\$367,795,601	\$913,368,331
Offenders under Community Supervision	36,366	37,958	74,324
Estimated Annual Community Corrections Cost	\$51,700,601	\$51,735,165	\$103,435,766
Total Estimated Annual Cost	\$597,273,332	\$419,530,765	\$1,016,804,097
Estimated Continuum of Care PPP Cost Savings (7%)	\$41,809,133	\$29,367,154	\$71,176,287
Estimated Continuum of Care PPP Cost Savings (10%)	\$59,727,333	\$41,953,077	\$101,680,410
Total Estimated 10-Year Cost	\$5,972,733,317	\$4,195,307,654	\$10,168,040,971
Estimated 10-Year Continuum of Care PPP Cost Savings (7%)	\$418,091,332	\$293,671,536	\$711,762,868
Estimated 10-Year Continuum of Care PPP Cost Savings (10%)	\$597,273,332	\$419,530,765	\$1,016,804,097

Questions?



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Corrections 2.0: A Proposal to Create a Continuum of Care in Corrections through Public-Private Partnerships

by Leonard C. Gilroy and Adrian T. Moore, Ph.D.



Reason Foundation

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Through its Center for Justice Performance and Accountability, Florida TaxWatch is actively engaged in a coordinated effort with key partner organizations to bring smart, reasonable and commonsense justice reform to Florida that will enhance public safety through proven cost-effective measures. It believes that Florida can save hundreds of millions of taxpayer dollars while reducing crime, improving public safety and ensuring Florida has a top-quality workforce. More information about Florida TaxWatch justice reform efforts and recommendations are available at www.FloridaTaxWatch.org

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Part 1

Introduction

State fiscal crises are driving change in correctional systems. In recent years, states like Texas, Rhode Island and California have begun transformational shifts in corrections—applying strategies like the expansion of residential and community-based treatment and diversion programs, the adoption of sentencing reforms, and the increased use of out-of-state privately operated prisons—to help address some major challenges, including the need to reduce expenditures amid budget pressures, the need to target chronically high recidivism rates, and the need to avoid major capital expenditures on new prisons and other facilities. In short, fiscal crises are presenting an opportunity for state policymakers and corrections administrators to “think outside the box” in transforming and right-sizing correctional systems.

Current government correctional systems can be characterized as a fragmented collection of facilities and services—including prisons, halfway houses, probation systems, home monitoring, programming and rehabilitation—and offenders move between these facilities and services with little continuity of knowledge of their particular history and rehabilitation progress, leading to little accountability and poor results for the successful return of these individuals to society. Further, the facilities and services that comprise current systems are usually the legacy of policy decisions made years—even decades—ago and may not comport with the facility and service mix needed to improve performance of the system today and into the future. Given the disjointed nature of the current system, it should come as no surprise that recidivism is a persistent challenge, with offenders in most states more likely to return to prison than remain in free society upon release.

Corrections needs a new paradigm. This paper outlines a concept designed to target recidivism and drive cost reduction via a bold, new approach: a continuum of care through public-private partnerships (PPPs). PPPs are simply government contracts with private sector prison operators or service vendors to provide a range of correctional services—from financing, building and operating prisons to delivering a range of inmate services (e.g., health care, food, rehabilitation services) and administrative/operational support functions (e.g., facility maintenance, transportation and information technology).

PPPs provide an effective, cost-saving alternative for governments seeking to improve outcomes while taking pressure off their corrections budgets. While not a panacea, their expanded use through an integrated, continuum of care approach could play a major role in lowering costs and improving service delivery and system performance.

Part 2

Toward a New Model in Corrections

In the current correctional system, services designed to reduce recidivism are poorly coordinated across an inmate's entire experience with the justice system. Identifying solutions that might work for an inmate may begin as early as during the trial, but that information does not pass on into evaluations conducted once an inmate enters a secure facility. Likewise, what programs the inmate may participate in while serving his sentence are typically not coordinated with those in pre-release facilities and certainly not with post-release supervision.

Applying a *continuum of care* approach within a state correctional system would solve this challenge and maximize programming's effects on recidivism. It would coordinate and link evaluations, programs and resources for an inmate across all facilities and levels of care. So once an inmate is evaluated and a programming plan is established, all information about the success or failure of his programs, modifications and the resources for the programs he participates in follow the inmate to whatever facility or level of care he goes to, until he leaves the justice system. This accomplishes several things:

- Coordinating programs over the entire span of time the inmate is in the justice system maximizes the effect of the care and programming he receives. Piecemeal programming dramatically reduces the effect. When programming works in concert with previous care and moves deliberately through a succession of goals, the results can be dramatically improved.
- Successful programming requires continuous evaluation and modification when necessary. But typically each time an inmate moves to a new facility or to a new level of care, the process begins all over again, or he is plugged into what programs exist there with little regard to his needs or his previous programming plan. Preventing these disruptions and even sudden changes in programming is crucial to success, and continuum of care is the proper tool to manage that.
- A continuum of care approach would use resources much more effectively. First, resources are customized to each inmate and follow the inmate rather than him being top loaded into generic, facility-based programs regardless of his changing needs. Second, spending a lot of resources on uneven, uncoordinated programming for an inmate across various facilities and levels of care delivers a poor return on expenditures—the results fail to justify the high costs of programming. Coordination across a continuum of care would maximize the value of every tax dollar spent.

- By using only those programs that serve the goal, the continuum of care uses fewer facilities, resulting in better use of resources. Typical programming plans are based on available facilities and services targeting general inmate needs, rather than individual inmates' specific, evaluated needs. Better planning and programming through a continuum of care would place inmates in the right facilities at the right time, targeting the specific programming they need to get the maximum effect. Ideally this allows various specialized programming to be concentrated rather than dispersed across facilities, and inmates to be allocated accordingly to get the best effect from the programming and the most efficient use of resources.

The current correctional system structure is antithetical to the continuum of care approach because the various aspects of incarceration are not designed to coordinate with each other. Programming is developed independent of facility management or funding. Inmates are moved without regard for programming needs. Pre- and post-release facilities and services are also separately managed and funded, and have their own goals and priorities that do not include coordinating with or following through on programming begun during incarceration. While inmate programs attempt to reform inmate behavior, the fragmented structure of the current system presents a significant obstacle to achieving that goal.

However, public-private partnerships (PPPs) could provide integrated facilities and services for an organized continuum of care. A PPP that included all levels of care for, say, a region of a state—including post-release services—would give the private manager the flexibility and the incentives to provide a thorough continuum of care, coordinating programming and management decisions to optimize outcomes. The private partner or partners could consolidate and reorganize facilities and programs to ensure inmates are always in *the right place at the right time for the right programs*, continuously evaluating, modifying and coordinating programming as appropriate. Further, contract incentives based on programming success and even recidivism rates would align the common goals of the general public and private partners to reforming more offenders, as described in the following section.

Part 3

Corrections 2.0: A Proposal to Create a Continuum of Care in Corrections through Public-Private Partnerships

A. The Proposed Model: PPPs for a Corrections Continuum of Care

States are already making extensive use of competition in corrections, though on a piecemeal, unintegrated basis. Over 20 states house inmates in privately operated correctional facilities, either in state or out of state (see map in Appendix A). Private involvement in community corrections—such as operating low-security work-release or halfway-house facilities—is a long-standing tradition in the United States. Many states have outsourced some or all of the provision of correctional health care, food, transportation and other services essential to successful system operation. In addition, state governments have traditionally let contracts with for-profit and nonprofit providers for services that include substance abuse counseling, assessment and treatment of sexual offenders, and vocational training and placement.

The next evolution in correctional PPPs will involve putting these pieces together in a more integrated fashion to develop a continuum of care in corrections and reorient the system toward performance and value per dollar spent. Rather than operating individual facilities and programs independently, a continuum of care PPP would provide the delivery of most or all correctional services within an entire state department of corrections (DOC) region, including:

- the operation of prisons, community corrections facilities, halfway houses, work camps and similar facilities;
- the operation of reception/intake centers;
- probation and parole services;
- substance abuse treatment, education, rehabilitation, vocational and other programming for offenders;
- correctional medical, behavioral health and dental care; and
- building maintenance, custodial, transportation and other internal correctional system services.

To initiate a continuum of care PPP, a state DOC would issue an “invitation to negotiate” asking potential private partners to submit their qualifications and a 10-year conceptual plan to provide an integrated continuum of care within a DOC region (or regions). Proposals would be evaluated based on the respondent’s ability to maximize the use of state resources, deliver cost savings, increase or decrease the number and operation of existing facilities as necessary, and implement best practices in correctional care, service delivery and programming. The PPP could also be designed to exclude or limit the private sector operation of certain maximum security prisons or units (e.g., death row) or other sensitive facilities for which policymakers may prefer ongoing public sector operation. The PPP could also give the DOC the flexibility to further subdivide regions into smaller districts if necessary to enhance the likelihood of competition and ultimate success for the continuum of care model.

A viable structure for a region-level continuum of care PPP would be a 10-year, performance-based contract designed not only to ensure a high quality of care in adherence with nationally recognized standards (e.g., accreditation of facilities, health care, etc.), but to also place a contractual responsibility on the private operator for demonstrably reducing recidivism in the region over time. Driving change in any system can take years, but a 10-year contract timeframe provides a reasonable window within which targeted recidivism rate reductions could be achieved by the private operator and validated by the state. However, the contract should also facilitate the ability for the state and its private partner to periodically amend terms based on changing conditions, lessons learned or unanticipated needs that may arise early during contract implementation.

It is important to note that any one individual corrections management company will not offer every single service that would be required under a continuum of care PPP. Rather, the global experience in PPPs in transportation and social infrastructure shows that companies typically partner with other firms to provide specialized services not available in-house, adopting a team approach by bidding together as one consortium for a PPP procurement.

To move forward, policymakers would need to grant statutory authority for a DOC to undertake the necessary internal reorganization and implement regionalized, continuum of care PPPs. Depending on the state, number and character of DOC regions and other regional considerations, policymakers may find it advantageous to consider using this approach in multiple regions in a pilot implementation, partnering with different operators in each to maximize competition and mitigate implementation risks from the DOC’s vantage point. Piloting the continuum of care PPP model in one or two regions would keep the implementation limited and manageable in scope while still applying it at a scale large enough for private operators to realize significant economies of scale in service delivery. Further, state DOC officials would have the flexibility to modify implementation as needed to improve the model midstream, incorporating lessons and best practices learned from a comparative analysis of multiple vendors’ performance and outcomes.

Though no state has yet adopted a continuum of care PPP model for correctional systems, there is certainly precedent in other states for large-scale adoption of correctional PPPs. For example, New Mexico contracted out 45% of its correctional system under the administration of former Gov. Gary Johnson, and a 2003 study by the Rio Grande Foundation surveyed prison expenditures in 46

states and found that public sector facilities in New Mexico were spending \$9,660 dollars per prisoner per year less than peer states that had no privately operated correctional facilities.¹ As former Gov. Johnson explained in a 2010 Reason.tv interview:²

[i]n New Mexico we had over 600 prisoners housed out of state, we were under a federal court order—federal consent decree—regarding our prisons and how they should be run. I ended up—as a result of a legislature that was not wanting to address this issue—ended up privatizing over half of the state's prisons. Comparing apples to apples, the private side produced the same goods and services for two-thirds the price. To me that was good government.

B. Benefits of the Continuum of Care PPP Approach

Adopting a continuum of care PPP model in corrections offers a wide range of potential benefits to the state and taxpayers, including lower costs, reduced recidivism, improved system performance and better value through service integration.

1. Cost Savings through PPPs

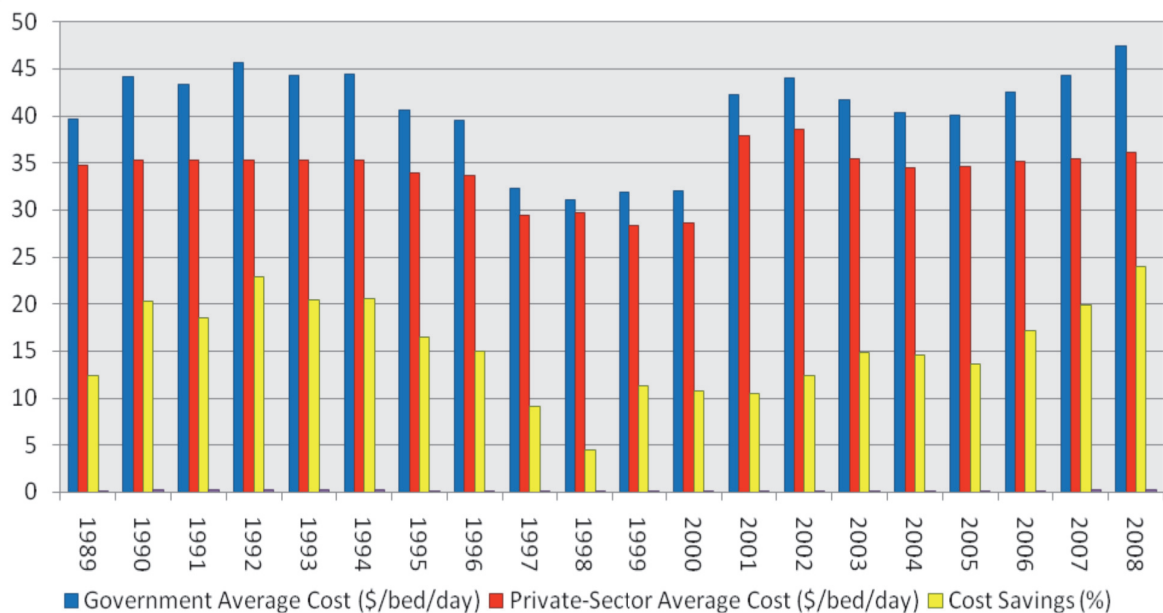
There is abundant academic and government research demonstrating that private corrections providers can operate correctional facilities at a lower cost than government-run facilities. The best long-term trend data comes from the Texas Legislative Budget Board's biannual cost comparison study of public and private sector prison operations, which shows that cost savings in PPP prisons have averaged 15% annually between 1989 and 2008 (ranging between 4% and 24%).³ As shown in Figure 1, the average daily cost of operation in privately operated prisons has never exceeded the comparable costs in government-run prisons since 1989. In 2008, operating costs per inmate per day in public and private sector prisons were \$47.50 and \$36.10, respectively, representing a savings of 24%.⁴ It is noteworthy that Texas spent about the same per inmate, on average, in both public and private facilities in 1989 as it does today, despite inflation and escalating costs.

Other notable research on cost savings through correctional PPPs include:

- A 2002 Reason Foundation study reviewed 28 academic and government studies on corrections PPPs and found that private corrections companies saved up to 23% in daily operating costs over comparable government-run systems.⁵ The studies reviewed support a conservative estimate that private facilities offer cost savings of between 10% and 15% over their public sector counterparts.
- 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%.⁶
- A December 2008 Vanderbilt University study found that states that contracted with private corrections companies significantly reduced their overall prison expenditures compared to states that did not.⁷ According to researcher James Blumstein, “The

fundamental conclusion is that, over that six-year period, states that had some of their prisoners in privately owned or operated prisons experienced lower rates of growth in the cost of housing their public prisoners—savings in addition to direct cost savings from using the private sector.” In addition to saving money at privately operated prisons, the study found that public facilities that remain under state operation also had reduced costs, a likely result of competition.

Figure 1: State of Texas Cost Comparison Data: Private v. Government Prison Provision



Source: 1989-2003 data: Texas Criminal Justice Policy Council. 2004-2008 data: Texas Legislative Budget Board, *Criminal Justice Uniform Cost Report*, various editions.

Given that the initial transition of a state DOC region to a continuum of care PPP model would involve complex integration and operational issues, cost savings through PPPs would likely start small and increase incrementally over time as the model is refined and unanticipated transition issues are resolved. A typical scenario might involve cost savings of 0% to 2% in the early years of the contract, ramping up to a 5% to 15% cost savings level by year 10. States can define their targeted level of cost savings up front, inviting private bidders to compete to lower costs beyond a minimum threshold. Further, contracts would be established on a fixed-price basis, ensuring long-term predictability in fiscal planning for the state.

2. Lower Recidivism and Improved Performance

Current state correctional systems are under stress and will be increasingly pressured to safely reintegrate growing numbers of offenders back into society on tighter budgets. Further, the fragmented nature of the typical state corrections system presents a significant barrier to lowering recidivism, as discussed in the previous section of this report.

Expanding private involvement in providing services to inmates throughout incarceration and after release can bring a new wave of innovation, as private correctional management companies have a well-established track record in providing effective rehabilitation, education and post-release programs aimed at reintegrating inmates into the community and reducing recidivism rates.

Shifting to a continuum of care PPP model and contracting for recidivism reduction would facilitate the development of more coherent, individualized rehabilitation plans that follow offenders as they move throughout the system, from reception center to prison to home. The private operator would be required to tailor rehabilitation programs to the individual and would be contractually accountable for ensuring high performance in tracking and working with offenders to successfully move them through the corrections cycle and back to society.

Further, under the continuum of care PPP model, the contract would be structured with an explicit focus on reducing recidivism. The United Kingdom can serve as a model in this regard, as it has shifted from a predominantly public system to one in which both public and private sector providers deliver community corrections services. Notably, it relies on performance-based contracts with public and private providers alike that tie payments to precise benchmarks and outcome-based measures of recidivism and public safety. So far, the use of PPPs in community corrections is having a positive effect on rates of recidivism in the U.K.; one recent study found that the recidivism rate had decreased 10.7%, from 43.7% of total offenders released in 2000 to 39% in 2006.⁸

In the proposed PPP model, a contractual mandate to reduce recidivism would drive companies to innovate in areas like drug and alcohol rehabilitation therapy, behavioral programs, and educational and vocational training. These programs not only make the prisons themselves safer but also save even more taxpayer dollars by lowering crime rates, judicial costs and further incarceration—and the private sector is often faster to embrace innovations in evidence-based service delivery methods. Overall, contracting with recidivism reduction as a central aim would properly align private sector economic incentives with public sector performance goals.

While reducing recidivism, PPPs can also improve system efficiency by controlling legal liabilities, reducing use of overtime, managing to prevent injuries and workers' compensation liabilities, and improving labor productivity. Moreover, as the aforementioned Vanderbilt University study suggests, private sector competition 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. In other words, introducing privatization creates a competitive “tension in the system” that acts as a rising tide to improve the performance of both the public and private sector.

Outside of the corrections sector, a recent Florida legislative study on the operation of its three state psychiatric hospitals—including the privately operated South Florida State Hospital—provides strong evidence suggesting that large-scale privatization can drive both cost savings and improved *public sector* service delivery. In February 2010, the Florida Legislature's Office of Program Policy

Analysis and Government Accountability (OPPAGA) issued a report showing that SFSH's per bed costs were 6% to 14% lower than two state-run facilities and that the quality of care was similar. Because of better utilization SFSH was 39% to 48% less costly per person served than the two state-run facilities, even though the public facilities have significant economies of scale, with 46% to 83% more beds. The disparities in cost and quality had previously been larger but Florida's state-run hospitals have improved considerably since competition was introduced via the SFSH partnership in 1998. Indeed, introducing privatization seems to have had a positive effect on costs and quality of care throughout the state system, and similar results would be expected through continuum of care PPPs in corrections.

3. Improved Tracking and Management of Offenders

One of the major benefits of a continuum of care PPP model is the inherent flexibility to move personnel and facilities around in a nimble way that improves system efficiency, while also giving the private partner the ability to quickly adapt and tailor an individual's rehabilitation needs based on changing circumstances. It is difficult for many state corrections agencies to operate in this fashion, given inflexibility in personnel rules and operating policies and procedures.

Private partners would be required to implement and maintain state-of-the-art tracking systems and a comprehensive electronic database to follow offenders throughout the continuum, from intake to prison to post-release rehabilitation and reintegration into the community. This system would track an inmate's progression throughout the continuum of care, ensuring a continuity of knowledge and tracking the provider's success in rehabilitating and reintegrating offenders post-release.

Further, because their contracts are tied to performance, private operators would ensure that rehabilitation, educational, vocational and substance abuse programs are provided throughout the continuum of care within a region, thus maximizing the use of resources and enhancing the likelihood of successfully reintegrating offenders into the community and reducing recidivism rates.

4. "Bundling" for Better Value

Shifting to a bundled, region-wide PPP approach may at first appear to be a daunting endeavor, and indeed the shift would be unprecedented in the United States. However, in reality the concept reflects an ongoing trend of governments increasingly maturing in their sophistication with privatization and finding greater economies of scale, cost savings and/or value for money through bundling several—or even all—services in a given agency or agency subdivision (e.g., facility management and maintenance) into a PPP initiative, rather than treat individual services or functions separately.

There are many notable examples outside the world of correctional PPPs. At the municipal level, three new cities have been established in metropolitan Atlanta since 2005 that have relied on private contractors to perform almost all city functions outside of police and fire services. On a smaller scale, the two Florida cities of Bonita Springs and Pembroke Pines have both privatized all

of their community development services (planning, zoning, permitting, code enforcement, etc.) since 2008, and Centennial, Colorado privatized its public works department that year.

States offer other examples. For instance, Virginia and Florida have both made major shifts from piecemeal Interstate and highway maintenance contracting toward bundled maintenance PPPs in recent decades. The Florida Department of Transportation currently has nearly three dozen “total asset management” contracts covering a broad spectrum of highway maintenance activities across all manner of geographies, e.g., specific Interstate segments, entire stretches of Interstate, entire FDOT districts, bundles of highway segments, toll roads, etc. For 28 of those contracts, FDOT estimates savings over in-house provision at 16%, and savings over traditional short-term maintenance contracting of 10%.⁹ It’s likely that the true savings are even higher. Those 28 bundled contracts would have been 980 discrete contracts had they been issued through traditional short-term maintenance contracting, and instead of the 348 invoices they process annually under the 28 contracts, the state would have processed over 11,000 annually under traditional contracting approaches.

Georgia has applied a similar model in corrections and secure-site facility maintenance. Georgia’s Department of Juvenile Justice (DJJ) began outsourcing facility maintenance at 30 of its 35 facilities in 2001, contracting with CGL Engineering Inc. for a comprehensive maintenance solution, marking the first successful state correctional system maintenance outsourcing to a private firm. The partnership was structured to provide a long-term maintenance solution without increasing the budget—in essence, the state was aiming to have the private partner tackle major corrective maintenance projects the state had been unable to address itself, all on the same maintenance budget that existed under state operation (i.e., doing more with the same resources).

To date, this partnership has generated significant improvement in facility conditions and resolved lingering maintenance needs, all while holding the budget flat. For the first six months of the contract, corrective maintenance work orders outnumbered preventive maintenance work orders as longstanding maintenance needs were addressed. After two full years of the contract, the equation had reversed: preventive maintenance work orders were almost double the corrective work orders. Significantly, the cost of preventive maintenance in the contract remained at year 2000 labor costs, the year before maintenance was outsourced. CGL also developed a computerized maintenance management system for all of the facilities as part of the initiative, dramatically improving budget and facility information management. Prior to this, the state did not collect this information.

This contract was viewed as such a success that policymakers subsequently decided to apply the same model beyond just DJJ, issuing a new contract covering maintenance at the 30 DJJ sites and an additional 18 secure-site facilities across two additional agencies—the Georgia Department of Corrections and the Georgia Bureau of Investigation. This multi-agency, multi-facility performance-based contracting approach is keeping maintenance budgets in check while helping the state tackle core facility maintenance challenges and do more with less.

The proposed continuum of care PPP model is similarly aimed at improving outcomes amid tightening budgets. States are already thinking big on PPPs in corrections—many state DOCs

already outsource healthcare, food, transportation and other services on an agency-wide or system-wide basis—so in effect, the proposed continuum of care PPP model can be viewed as an extension and integration of initiatives that many states are already doing on a more piecemeal basis.

C. Keys to Success

The continuum of care PPP model described in this section represents a new approach to corrections in the United States. However, because of the novel nature of the approach, ready-made templates for implementing continuum of care models do not yet exist and will require proper due diligence at every stage of program design and implementation. Some important keys to successful implementation include:

- ***Collaboration between the state DOC and the private sector:*** The collaborative development of a framework for the continuum care PPP between the state DOC and the private sector is a key to ultimate successful implementation of this innovative model. The state DOC should work collaboratively with the private sector to develop the continuum of care PPP framework, set measurable metrics and objectives, and craft a comprehensive implementation plan that combines private sector innovation and effective government oversight.
- ***Defining cost and performance metrics:*** Embracing continuum of care PPPs in corrections would be a major step forward in leveraging the private sector to effect systemic change in a state corrections agency and better performance at rehabilitating criminals. But to know what outcomes to contract for, the states will need a proper assessment of where they currently are and where they want to go.

Correctional systems in many states lack fundamental accountability and transparency. Because they lack a robust performance-based approach to measuring outcomes and results in the public sector, it is difficult—if not impossible—to get an accurate accounting of operational costs and performance at the individual facility level, much less across a system. This makes it difficult for state officials to answer even simple questions like, “how much does it cost to change a light bulb at State Prison X versus State Prison Y?”

The inability to answer these sorts of questions suggests that the officials and policymakers in charge of the corrections system may not have a clear sense of *what an efficient and effective prison even is*, given that what is not measured cannot be known. Without a clear sense of what the goal is, it is unsurprising that states are experiencing high recidivism rates.

For successful implementation of continuum of care PPPs, state DOC officials will need to undertake the proper upfront due diligence necessary to establish an accurate cost accounting at the facility level, evaluate how each facility is performing across a variety of service delivery metrics, and derive a clear and meaningful set of performance targets and desired outcomes that can be operationalized and incorporated into a PPP contract. Not only will this maximize a PPP’s likelihood of success, but this process would help

policymakers better distinguish between success and underperformance across all state facilities, whether operated by public or private entities.

- ***Using performance-based PPP contracts:*** 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.

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 that involve 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.

Because private corrections firms 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 of service and security that public prisons do while saving considerable taxpayer funds.

- ***Measuring and tracking performance:*** It is important to note that while the proposed continuum of care PPP model would change the DOC's role in a region's operation, it would not abdicate or eliminate it. Governments should never sign a PPP contract and walk away. Rather, a PPP is a *partnership* that outlines a framework and scope for the partners' roles on an ongoing basis. In a well-constructed PPP, the private partner's role is oriented toward innovation and delivering operational performance, while the public partner's role is oriented toward regulation, contract oversight and otherwise holding the private partner accountable for meeting the terms of the contract. This requires the public partner to develop and implement robust performance measurement and contract monitoring systems to ensure private sector compliance with contractual performance targets.
- ***Benchmarking performance across the entire system:*** The performance metrics delineated in the PPP contract have benefits that extend beyond the scope of the PPP contract itself. Not only can these performance metrics be used to evaluate the performance of a private operator in a region-level continuum of care PPP, but they can also be used to measure and

benchmark the performance of other regions. In time, this benchmarking and focus on managing for performance would likely lead to an overall improvement in the delivery of services by all regions system-wide—government-run and privately operated—contributing even further to the containment of overall costs throughout the corrections system.

Part 4

Continuum of Care PPP Example: Florida

As one of the largest state correctional systems, and one that already makes extensive use of PPPs in corrections, Florida provides a useful model for framing the cost savings benefits a state might realize through the use of correctional continuum of care PPPs.

With an inmate population of over 102,000 inmates, Florida has the third largest correctional system in the nation after California (174,000) and Texas (155,000).¹⁰ The state is responsible for overseeing the operation of 147 correctional facilities across four regions statewide that include prisons, work camps, treatment centers and work release centers. Of the state's 63 prison facilities, seven (or 11%) are currently operated under PPPs with private corrections management firms.¹¹ Additionally, the state is responsible for overseeing over 151,000 offenders under active community supervision.¹²

As a hypothetical model, of all of the Florida Department of Corrections (FDOC) regions, Regions I and IV would be logical choices to pilot a continuum of care PPP due to their already extensive use of privatization today. FDOC Region I, which covers the Florida panhandle, currently houses nearly 15% of its inmates in private prisons today, while FDOC Region IV, which covers south Florida, houses nearly 13.5% of its inmates in private prisons (see Table 1) and has partially privatized the delivery of correctional healthcare services.

Comparing private and governmental corrections services is sometimes more of an art than a science. Government agencies and private firms use different budgeting and accounting methods. Adjustments can help correct for many differences, but the result is a comparison of estimates, not specific expenditure data. Further, Florida and many other states often do not conduct activity-based costing at either the facility or regional level, requiring researchers to infer these costs using less direct means, as was the case here.

In order to provide the simplest and most direct estimates of current region-wide operating costs possible, we have chosen to rely on data from FDOC and the state budget to approximate the total annual operating costs for each FDOC region. As detailed in Appendix B, for each type of correctional facility within each FDOC region (e.g., prisons, reception centers, work camps, etc.), we multiplied the total population by the average per diem for that facility type (as reported in the fiscal year 2008–9 FDOC budget), aggregating them for a region-wide annual cost estimate for

correctional facilities. Similarly, for each category of community supervision within each FDOC region—probation, drug offender, community control, pre-trial intervention and post-prison release—we multiplied the total population by the average per diem for that type of supervision (using 2010 FDOC data), aggregating them for a region-wide annual cost estimate for community corrections. Adding the total regional correctional facility and community corrections costs together yields an estimated total annual cost of region operation. Total estimated annual costs for Regions I and IV were \$597.3 million and \$419.5 million, respectively (see Table 1).

With an estimate of the annual costs for Regions I and IV in hand, an estimate of potential cost savings through continuum of care PPPs became possible. As stated in the previous section, cost savings through correctional PPPs typically range from 5% to 15%. Given current Florida law requiring all private prison contracts to achieve a minimum 7% cost savings as a mandatory condition of approval, it was assumed that this would represent the minimum level of cost savings private corrections firms would be required to achieve in a continuum of care PPP.

However, given that a 7% cost savings level would be the minimum eligible bid, bidder competition would be expected to drive the actual contracted cost savings higher. Even though a 15% cost savings would be a realistic high-end estimate of savings based on current state experience (see discussion in previous section on cost savings through correctional PPPs in Texas and other states), we assumed a more conservative range of 7% to 10% cost savings for discussion purposes.

	FDOC Region I	FDOC Region IV	Combined FDOC Regions I & IV
Number of Correctional Facilities	37	34	71
Inmate Population (October 2010)	32,960	21,028	53,988
Inmate Population held in Privately Operated Facilities	4,905	2,829	7,734
% of Inmate Population held in Privately Operated Facilities	14.9%	13.5%	14.3%
Estimated Annual Correctional Facilities Cost	\$545,572,731	\$367,795,601	\$913,368,331
Offenders under Community Supervision	36,366	37,958	74,324
Estimated Annual Community Corrections Cost	\$51,700,601	\$51,735,165	\$103,435,766
Total Estimated Annual Cost	\$597,273,332	\$419,530,765	\$1,016,804,097
Estimated Continuum of Care PPP Cost Savings (7%)	\$41,809,133	\$29,367,154	\$71,176,287
Estimated Continuum of Care PPP Cost Savings (10%)	\$59,727,333	\$41,953,077	\$101,680,410
Total Estimated 10-Year Cost	\$5,972,733,317	\$4,195,307,654	\$10,168,040,971
Estimated 10-Year Continuum of Care PPP Cost Savings (7%)	\$418,091,332	\$293,671,536	\$711,762,868
Estimated 10-Year Continuum of Care PPP Cost Savings (10%)	\$597,273,332	\$419,530,765	\$1,016,804,097

Sources: Number of Correctional Facilities: derived from Florida Department of Corrections, *Annual Statistics for Fiscal Year 2008-2009*, <http://www.dc.state.fl.us/pub/annual/0809/facil.html>, (accessed 12/16/2010). Inmate Population: Florida Department of Corrections, "End-of-Month Florida Prison Populations by Facility: October 2010," *Inmate Population by Facility for Fiscal Year 2010-2011*, <http://www.dc.state.fl.us/pub/pop/facility>, (accessed 12/16/2010). Offenders Under Community Supervision: Florida Department of Corrections, Bureau of Research and Data Analysis, *Florida's Community Supervision Population—Monthly Status Report (October 2010)*, pp. 5-8, <http://www.dc.state.fl.us/pub/spop/2010/10/1010.pdf>, (accessed 12/16/2010). Estimated Annual Correctional Facilities Cost & Estimated Annual Community Corrections Cost: Author's calculation (see Appendix B).

According to the analysis:

- For FDOC Region I, shifting to a continuum of care PPP model would be expected to reduce the annual costs of correctional facility operation and community corrections by \$41.8 million to \$59.7 million per year. Assuming an average annual 10% cost savings, a continuum of care PPP could potentially save the state \$597.3 million over a 10-year time frame.
- For FDOC Region IV, shifting to a continuum of care PPP model would be expected to reduce the annual costs of correctional facility operation and community corrections by \$29.4 million to \$41.9 million per year. Assuming an average annual 10% cost savings, a continuum of care PPP could potentially save the state \$419.5 million over a 10-year time frame.
- If applied in both Regions I and IV, shifting to a continuum of care PPP model would be expected to reduce the annual costs of correctional facility operation and community corrections by \$71.2 million to \$101.7 million per year. Assuming an average annual 10% cost savings, a continuum of care PPP could potentially save the state over \$1 billion over a 10-year time frame.

Potential savings could even be higher. The 10-year cost savings estimates are based on holding current annual costs constant each year, ignoring the likelihood of public sector cost inflation over a decade-long period. Also, an agency's budget normally does not include various central administrative and support expenses. For example, some state prison budgets do not include the cost of some medical services, legal services, risk management or personnel administration services, many of which are handled on a central accounting basis by other state agencies. Even within an agency budget, many costs may be borne by a central office that should actually be allocated to specific service units, facilities, etc. in a proper accounting scheme. To the extent that certain costs of correctional operation may fall outside of FDOC's agency budget, potential cost savings may be understated.

While a more thorough analysis of potential cost savings possible through continuum of care PPPs would require a full accounting of facility-level and service-level operating costs within each region, the estimates in this analysis suggest that implementing the proposed PPP model could lower the state corrections budget by \$419 million to over \$1 billion over a ten-year period, depending on whether officials chose to pursue PPPs in one region or both. Estimated cost savings of this magnitude—in addition to recidivism reduction and the other potential benefits of the proposed PPP model discussed in the previous section—offer a compelling reason for policymakers to consider embracing the approach.

Part 5

Conclusion

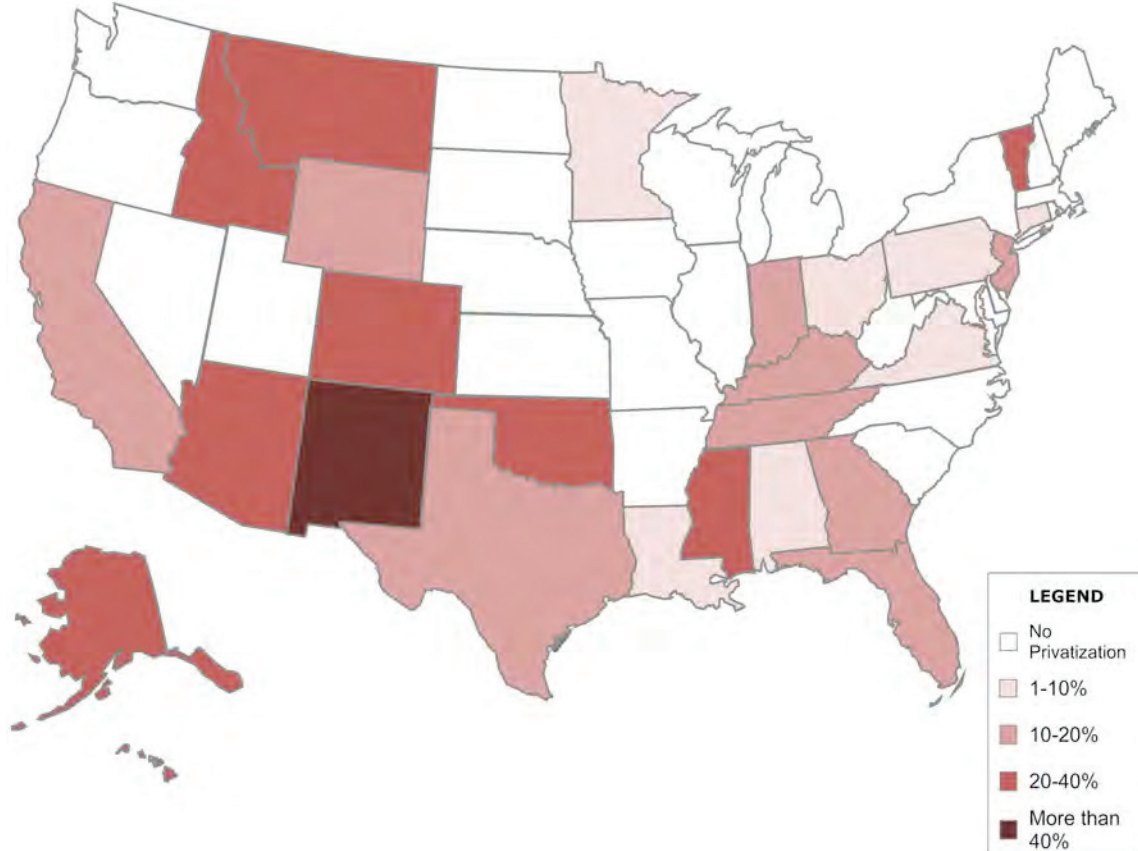
Since the introduction of corrections PPPs in the United States in the 1980s, governments at all levels have found that they can play a critical role in driving down corrections costs (5% to 15% on average, though sometimes far more), stretching limited tax dollars and improving the quality of prison services—and thus, of offender outcomes in terms of behavioral changes through rehabilitation. Expanding the use of PPPs to create a continuum of care in corrections—one that follows offenders from intake, through prisons and into post-release services—would create a more integrated and coordinated system of programming and management to provide as ideal a programming continuum as possible to optimize outcomes while lowering costs.

Given its current usage and experience with implementing correctional PPPs, Florida provides a useful example of the cost savings benefits a state might realize through the use of correctional continuum of care PPPs. As this analysis shows, shifting to a continuum of care PPP model in two regions of the state could reduce the annual costs of correctional facility operation and community corrections by \$71 million to \$102 million per year. Over a 10-year time frame, this adds up to approximately *\$1 billion in potential savings*.

In the current fiscal environment, the potential to achieve cost savings at this scale while improving offender outcomes should compel policymakers in Florida and other states to seriously consider adopting a continuum of care in corrections through PPPs. PPPs already have a long and successful track record at helping correctional agencies control costs, deliver high-quality inmate rehabilitation services, safely operate correctional institutions and—ultimately—curb recidivism and improve correctional outcomes. Extending the PPP model to create a continuum of care would better orient the system toward high performance and ensure that offenders are always in *the right place at the right time for the right programs* to maximize the likelihood of a successful return to society.

Appendix A

Figure A1: Estimated Correctional Privatization in the United States (2010)



Source: Author's calculation based on 2009 data from U.S. Department of Justice, Bureau of Justice Statistics, Prisoners in 2009 Report, <http://bjs.ojp.usdoj.gov/content/pub/pdf/p09.pdf> (accessed December 27, 2010). 2009 state private prison population data were adjusted to reflect announcements of private prison activations and new private prison contracts in 2010 in the states of California, Florida, Georgia and Indiana.

Appendix B

Table B1: FDOC Region I: Estimated Annual Cost of Correctional Facilities

Facility Summary (1)	Total (1)	Population as of October 2010 (2)	Average Per Diem (3)	Estimated Annual Cost (4)
Correctional Institutions				
Apalachee CI (East & West Units)		1,925	\$42.31	\$29,728,064
Jefferson CI		1,118	\$42.31	\$17,265,442
Jackson CI		1,297	\$42.31	\$20,029,766
Calhoun CI		1,315	\$42.31	\$20,307,742
Century CI		1,429	\$42.31	\$22,068,261
Holmes CI		1,071	\$42.31	\$16,539,614
Walton CI		1,222	\$42.31	\$18,871,529
Gulf CI & Annex		2,837	\$42.31	\$43,812,217
Franklin CI		1,458	\$42.31	\$22,516,113
Okaloosa CI		954	\$42.31	\$14,732,765
Wakulla CI & Annex		2,899	\$42.31	\$44,769,692
Santa Rosa CI & Annex		2,644	\$42.31	\$40,831,689
Liberty CI & Quincy Annex		1,706	\$42.31	\$26,346,014
Total Correctional Institutions	13	21,875		\$337,818,906
Youth Custody				
Total Youth Custody	0	0	\$0.00	\$0
Reception Centers				
NWFRC - Main & Annex		2,012	\$85.94	\$63,112,617
Total Reception Centers	1	2,012		\$63,112,617
Work Camps, Boot Camps, Stand Alone Work/Forestry Camps, Treatment Centers				
River Junction WC		386	\$42.31	\$5,961,056
Liberty WC		271	\$42.31	\$4,185,094
Caryville WC		120	\$42.31	\$1,853,178
Graceville WC		275	\$42.31	\$4,246,866
Okaloosa WC		264	\$42.31	\$4,076,992
Holmes WC		314	\$42.31	\$4,849,149
Calhoun WC		280	\$42.31	\$4,324,082
Jackson WC		279	\$42.31	\$4,308,639
Century WC		239	\$42.31	\$3,690,913
Gulf Forestry Camp		280	\$42.31	\$4,324,082
Bay City WC		268	\$42.31	\$4,138,764
Walton WC		274	\$42.31	\$4,231,423
Wakulla WC		414	\$42.31	\$6,393,464
Berrydale Forestry Camp		123	\$42.31	\$1,899,507
Total Work Camps	14	3,787		\$58,483,209
Work Release Centers				
Panama WRC		67	\$30.80	\$753,214
Pensacola WRC		82	\$30.80	\$921,844
Tallahassee WRC		114	\$30.80	\$1,281,588

Table B1: FDOC Region I: Estimated Annual Cost of Correctional Facilities

Facility Summary (1)	Total (1)	Population as of October 2010 (2)	Average Per Diem (3)	Estimated Annual Cost (4)
SHISA House West		32	\$30.80	\$359,744
Total Work Release Centers	4	295		\$3,316,390
Road Prisons				
Tallahassee Road Prison		86	\$42.31	\$1,328,111
Total Road Prisons	1	86		\$1,328,111
Private Institutions				
Gadsden CI		1,503	\$45.53	\$24,977,530
Bay CF		974	\$45.53	\$16,186,370
Blackwater River CF		563	\$45.53	\$9,356,187
Graceville CF		1,865	\$45.53	\$30,993,409
Total Private Institutions	4	4,905		\$81,513,497
Region I Total	37	32,960		\$545,572,731

(1) Facility counts by facility type are drawn from Florida Department of Corrections, "Facilities," *Annual Statistics for Fiscal Year 2008-2009*, <http://www.dc.state.fl.us/pub/annual/0809/facil.html>, (accessed 12/16/2010).

(2) Inmate population counts drawn from Florida Department of Corrections, "End-of-Month Florida Prison Populations by Facility: October 2010," *Inmate Population by Facility for Fiscal Year 2010-2011*, <http://www.dc.state.fl.us/pub/pop/facility> (accessed 12/16/2010).

(3) Average per diem costs by facility type are drawn from Florida Department of Corrections, "Budget Summary," *Annual Statistics for Fiscal Year 2008-2009*, <http://www.dc.state.fl.us/pub/annual/0809/budget.html>, (accessed 12/16/2010).

(4) Estimated annual cost is calculated by multiplying actual October 2010 population counts by the average per diems (FY08-09) by facility type.

Table B2: Florida DOC Region I Community Corrections: Active Community Supervision Offender Population

Supervision Type	Total Annual Cost (FY2010-2011 Budget) (1)	Total Population (October 2010) (2)	Estimated Annual Cost Per Offender (3)	Region I Population (October 2010) (4)	Estimated Annual Cost for Region I (5)
Probation	\$125,678,002	109,692	\$1,146	25,993	\$29,781,099
Drug Offender	\$20,724,651	16,717	\$1,240	4,118	\$5,105,229
Community Control	\$33,595,479	10,636	\$3,159	2,886	\$9,115,885
Pre-Trial Intervention	\$4,430,182	9,331	\$475	1,920	\$911,580
Post-Prison Release	\$23,882,634	5,099	\$4,684	1,449	\$6,786,809
TOTAL	\$208,310,948	151,475	\$10,703	36,366	\$51,700,601

(1) Total annual cost by supervision type from FDOC enacted budget: Florida House of Representatives, Florida House Bill 5001 (Enrolled), Regular Session 2010, pp. 127-130,

http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=HB_5001_Enrolled.pdf&DocumentType=Bill&BillNumber=5001&Session=2010 (accessed December 20, 2010)."

(2) Total population counts by supervision type from Florida Department of Corrections, Bureau of Research and Data Analysis, Florida's Community Supervision Population: Monthly Status Report (October 2010), p.1, <http://www.dc.state.fl.us/pub/spop/2010/10/1010.pdf> (accessed December 20, 2010).

(3) Annual per-offender cost estimates are calculated by dividing Total Annual Cost (FY 2010-2011 Budget) by Total Population (October 2010) for each supervision type.

(4) Region I population counts by supervision type from Florida Department of Corrections, Bureau of Research and Data Analysis, Florida's Community Supervision Population: Monthly Status Report (October 2010), p.5, <http://www.dc.state.fl.us/pub/spop/2010/10/1010.pdf> (accessed December 20, 2010).

(5) Region I annual cost estimate is calculated by multiplying estimated annual cost per offender by the Region I actual October 2010 population by supervision type.

Table B3: FDOC Region IV: Estimated Annual Cost of Correctional Facilities

Facility Summary (1)	Total (1)	Population as of October 2010 (2)	Average Per Diem (3)	Estimated Annual Cost (4)
Correctional Institutions				
Everglades CI		1,636	\$42.31	\$25,264,993
Okeechobee CI		1,622	\$42.31	\$25,048,789
Glades CI		670	\$42.31	\$10,346,911
Homestead CI (Female)		670	\$69.30	\$16,947,315
Martin CI		1,293	\$42.31	\$19,967,993
Dade CI		1,574	\$42.31	\$24,307,518
Hardee CI		1,597	\$42.31	\$24,662,711
De Soto CI - Annex		1,453	\$42.31	\$22,438,897
Charlotte CI		963	\$42.31	\$14,871,753
Hendry CI		940	\$42.31	\$14,516,561
Total Correctional Institutions	10	12,418		\$198,373,441
Youth Custody				
Indian River CI		486	\$60.37	\$10,709,034
Total Youth Custody	1	486		\$10,709,034
Reception Centers				
So. Florida RC - Main & So. Units		1,466	\$85.94	\$45,985,635
Broward CI (Reception Center)		732	\$85.94	\$22,961,449
Total Reception Centers	2	2,198		\$68,947,084
Work Camps, Boot Camps, Stand Alone Work/Forestry Camps, Treatment Centers				
Martin WC		201	\$42.31	\$3,104,073
Glades WC		276	\$42.31	\$4,262,309
Sago Palm WC		223	\$42.31	\$3,443,822
Ft. Myers WC		117	\$42.31	\$1,806,849
De Soto WC		281	\$42.31	\$4,339,525
Hendry WC		257	\$42.31	\$3,968,890
Hardee WC		287	\$42.31	\$4,432,184
Total Work Camps	7	1,642		\$25,357,652
Work Release Centers				
Ft. Pierce WRC		81	\$30.80	\$910,602
Hollywood WRC		114	\$30.80	\$1,281,588
Atlantic WRC		42	\$30.80	\$472,164
Bradenton Transit Ctr (contract)		110	\$30.80	\$1,236,620
Pompano Transit Ctr (contract)		207	\$30.80	\$2,327,094
Bridges of Pompano (contract)		199	\$30.80	\$2,237,158
Miami North WRC		182	\$30.80	\$2,046,044
West Palm Beach WRC		141	\$30.80	\$1,585,122
Opa Locka WRC		132	\$30.80	\$1,483,944
Total Work Release Centers	9	1,208		\$13,580,336
Road Prisons				
Big Pine Key RP		62	\$42.31	\$957,475
Loxahatchee RP		89	\$42.31	\$1,374,440
Arcadia RP		96	\$42.31	\$1,482,542
Total Road Prisons	3	247		\$3,814,458
Private Institutions				
Moore Haven CF		979	\$45.53	\$16,269,463
South Bay CF		1850	\$45.53	\$30,744,133
Total Private Facilities	2	2,829		\$47,013,595
FDOC Region IV Total	34	21,028		\$367,795,601

(1) Facility counts by facility type are drawn from Florida Department of Corrections, "Facilities," Annual Statistics for Fiscal Year 2008-2009, <http://www.dc.state.fl.us/pub/annual/0809/facil.html>, (accessed 12/16/2010).

(2) Inmate population counts drawn from Florida Department of Corrections, "End-of-Month Florida Prison Populations by Facility: October 2010," Inmate Population by Facility for Fiscal Year 2010-2011, <http://www.dc.state.fl.us/pub/pop/facility> (accessed 12/16/2010).

(3) Average per diem costs by facility type are drawn from Florida Department of Corrections, "Budget Summary," Annual Statistics for Fiscal Year 2008-2009, <http://www.dc.state.fl.us/pub/annual/0809/budget.html>, (accessed 12/16/2010).

(4) Estimated annual cost is calculated by multiplying actual October 2010 population counts by the average per diems (FY08-09) by facility type.

Table B4: Florida DOC Region IV Community Corrections: Active Community Supervision Offender Population

Supervision Type	Total Annual Cost (FY2010-2011 Budget) (1)	Total Population (October 2010) (2)	Estimated Annual Cost Per Offender (3)	Region IV Population (October 2010) (4)	Estimated Annual Cost for Region IV (5)
Probation	\$125,678,002	109,692	\$1,146	28,884	\$33,093,420
Drug Offender	\$20,724,651	16,717	\$1,240	3,160	\$3,917,563
Community Control	\$33,595,479	10,636	\$3,159	2,235	\$7,059,599
Pre-Trial Intervention	\$4,430,182	9,331	\$475	2,273	\$1,079,177
Post-Prison Release	\$23,882,634	5,099	\$4,684	1,406	\$6,585,406
TOTAL	\$208,310,948	151,475	\$10,703	37,958	\$51,735,165

(1) Total annual cost by supervision type from FDOC enacted budget: Florida House of Representatives, Florida House Bill 5001 (Enrolled), Regular Session 2010, pp. 127-130,

http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=HB_5001_Enrolled.pdf&DocumentType=Bill&BillNumber=5001&Session=2010 (accessed December 20, 2010).

(2) Total population counts by supervision type from Florida Department of Corrections, Bureau of Research and Data Analysis, Florida's Community Supervision Population: Monthly Status Report (October 2010), p.1, <http://www.dc.state.fl.us/pub/spop/2010/10/1010.pdf> (accessed December 20, 2010).

(3) Annual per-offender cost estimates are calculated by dividing Total Annual Cost (FY 2010-2011 Budget) by Total Population (October 2010) for each supervision type.

(4) Region IV population counts by supervision type from Florida Department of Corrections, Bureau of Research and Data Analysis, Florida's Community Supervision Population: Monthly Status Report (October 2010), p.8, <http://www.dc.state.fl.us/pub/spop/2010/10/1010.pdf> (accessed December 20, 2010).

(5) Region IV annual cost estimate is calculated by multiplying estimated annual cost per offender by the Region IV actual October 2010 population by supervision type.

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, New Jersey, 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. He is currently serving as a member of Arizona's Commission on Privatization and Efficiency.

Gilroy is the editor of the well-respected privatization newsletter *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*, *San Francisco Examiner*, *Philadelphia Inquirer* and *The Salt Lake Tribune*.

Adrian Moore, Ph.D., is vice president of research at Reason Foundation, a non-profit think tank advancing free minds and free markets. Moore oversees all of Reason's policy research and conducts his own research on topics such as privatization, government and regulatory reform, air quality, transportation and urban growth, prisons and utilities. Moore, who has testified before Congress on several occasions, regularly advises federal, state and local officials on ways to streamline government and reduce costs.

Moore is also co-author of *Curb Rights: A Foundation for Free Enterprise in Urban Transit*, published in 1997 by the Brookings Institution Press, as well as dozens of policy studies. His work has been published in the *Los Angeles Times*, *Boston Globe*, *Houston Chronicle*, *Atlanta Journal-Constitution*, *Orange County Register*, *The Independent Review*, *Economic Affairs*, *Public Policy and Management*, *Consumer Affairs* and numerous other publications.

In 2002, Moore was awarded a World Outsourcing Achievement Award by PricewaterhouseCoopers and Michael F. Corbett & Associates Ltd. for his work showing governments how to use public-private partnerships and the private sector to save taxpayer money and improve the efficiency of their agencies.

Prior to joining Reason, Moore served 10 years in the Army on active duty and reserves. As a noncommissioned officer he was accepted to Officers Candidate School and commissioned as an Infantry officer. He served in the United States and Germany and left the military as a Captain after commanding a Heavy Material Supply company.

Endnotes

- ¹ Matthew Mitchell, *The Pros of Privately Housed Cons: New Evidence on the Cost Savings of Private Prisons*, (Albuquerque, NM: Rio Grande Foundation, 2003).
- ² Reason.tv interview with Gary Johnson, “Gary Johnson’s Our America (Full-Length Version),” February 2010, available at <http://reason.tv/video/show/gary-johnson-full-interview>.
- ³ Calculations in this section are based on an analysis of data prepared by the Texas Legislative Budget Board since 2004, which were formerly prepared by the Criminal Justice Policy Council for prior years. All data are available at: http://www.lbb.state.tx.us/PubSafety_CrimJustice/PubSafety_CrimJustice.htm.
- ⁴ Texas Legislative Budget Board, *Criminal Justice Uniform Cost Report*, Fiscal Years 2006-2008, January 2009, http://www.lbb.state.tx.us/PubSafety_CrimJustice/PubSafety_CrimJustice.htm
- ⁵ Geoffrey F. Segal and Adrian T. Moore, *Weighing the Watchmen: Evaluating the Costs and Benefits of Outsourcing Correctional Services; Part II: Reviewing the Literature on Cost and Quality Comparisons* (Los Angeles, CA: Reason Foundation, 2002), <http://reason.org/files/50b944ab1f7d1cb15d8943c0c334df56.pdf>
- ⁶ “Behind the Bars—An In-Depth View of the Corrections Industry,” Avondale Partners, LLC (March 2, 2009).
- ⁷ James F. Blumstein, Mark A. Cohen and Suman Seth, “Do Government Agencies Respond to Market Pressures? Evidence from Private Prisons,” (Nashville, TN: Vanderbilt University, 2007).
- ⁸ Kate Mize, *Stopping the Revolving Door: Reform of Community Corrections in Wisconsin* (Madison, WI: Wisconsin Policy Research Institute, 2009), <http://www.wpri.org/Reports/Volume22/Vol22No5/Vol22No5.pdf>
- ⁹ Shirley Ybarra, “Temporary Fix for Transportation Trust Fund: States should look to private sector for help building, maintaining infrastructure,” Reason Foundation, October 1, 2008, <http://reason.org/news/show/1003153.html>
- ¹⁰ Florida population from Florida Department of Corrections, “End-of-Month Florida Prison Populations by Facility: October 2010,” Inmate Population by Facility for Fiscal Year 2010-2011, <http://www.dc.state.fl.us/pub/pop/facility>, (accessed 12/16/2010). California and Texas population data from American Correctional Association, 2009 Directory of Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities.
- ¹¹ Florida Department of Corrections, Annual Statistics for Fiscal Year 2008-2009, <http://www.dc.state.fl.us/pub/annual/0809/facil.html>, (accessed 12/16/2010). The privately operated Blackwater River Correctional Facility in Milton, Florida was activated in October 2010 and has been added to the total facility count (146) referenced in this FDOC report.
- ¹² Florida Department of Corrections, Bureau of Research and Data Analysis, Florida’s *Community Supervision Population—Monthly Status Report* (October 2010), p. 4, <http://www.dc.state.fl.us/pub/spop/2010/10/1010.pdf>, (accessed 12/16/2010).



Reason

Reason Foundation
www.reason.org



Florida TaxWatch
www.floridatxwatch.org

PRIVATE PRISON BONDING

Bond	Series	Principal	Interest	Other Fees
Bay County Facility	1994	\$7,860,000.00	\$3,735,912.50	
Columbia County Facility	1995 A	\$2,505,000.00	\$1,084,250.00	
South Bay Correctional Facility	1995	\$7,610,000.00	\$3,220,050.00	
Master Lease Glades County Facility	2001	\$18,575,000.00	\$6,411,002.94	\$20,417.00
Master Lease Gadsden County Facility	2001	\$14,690,000.00	\$5,398,119.19	\$20,416.66
Master Lease Bay County Facility	2001	\$25,710,000.00	\$10,230,118.27	\$24,416.66
Master Lease Expansion South Bay County Facility	2004 B	\$25,607,579.00	\$16,049,470.33	
Master Lease Expansion Columbia County Facility	2004 B	\$21,787,421.00	\$13,655,200.92	
Master Lease Refunding South Bay County Facility	2004 A	\$30,540,780.00	\$10,726,708.00	
Master Lease Refunding Columbia County Facility	2004 A	\$9,504,220.00	\$3,338,127.00	
Bay County Facility Expansion	2006 A	\$11,835,000.00	\$6,107,778.84	
Gadsden County Facility Expansion	2006 A	\$19,655,000.00	\$10,139,093.42	
Glades County Facility Expansion	2006 A	\$14,730,000.00	\$7,599,842.37	
Graceville Correctional Facility	2006 A	\$74,290,000.00	\$38,329,167.38	
Graceville 385 Bed Expansion	2008 A	\$26,045,000.00	\$11,843,584.58	
Bond Debt Service (Blackwater River)	2009 A	\$130,770,000.00	\$79,304,015.80	
TOTAL		\$441,715,000.00	\$227,172,441.54	\$65,250.32

PRIVATE PRISON PER DIEM

FACILITY	Total Beds	Per Diem	10 - 13	13 - 15	> 15	Per Diem INC	Yearly Beds*Inc*365)	% INC
Bay	985	Up to 90 %	\$51.74	\$55.00	\$57.81	\$6.07	\$2,182,316.75	11.7%
	985	Over 90%	\$14.64	\$15.79	\$16.44	\$1.80	\$647,145.00	12.3%
	985	Blended	\$48.05	\$51.10	\$53.69	\$5.64	\$2,027,721.00	11.7%
Blackwater River	2000	Up to 90 %	\$45.80	\$48.75	\$51.20	\$5.40	\$3,942,000.00	11.8%
	2000	Over 90%	\$7.70	\$8.25	\$8.70	\$1.00	\$730,000.00	13.0%
	2000	Blended	\$42.00	\$44.70	\$46.95	\$4.95	\$3,613,500.00	11.8%
Gadsden	1520	Up to 90 %	\$50.11	\$53.80	\$57.22	\$7.11	\$3,944,628.00	7.4%
	1520	Over 90%	\$8.71	\$9.17	\$9.48	\$0.77	\$427,196.00	8.8%
	1520	Blended	\$45.97	\$49.34	\$52.19	\$6.22	\$3,450,856.00	13.5%
Graceville	1884	Up to 90 %	\$36.51	\$38.81	\$40.79	\$4.28	\$2,943,184.80	11.7%
	1884	Over 90%	\$15.02	\$16.11	\$16.79	\$1.77	\$1,217,158.20	11.8%
	1884	Blended	\$34.37	\$36.55	\$38.40	\$4.03	\$2,771,269.80	11.7%
Lake City	893	Up to 90 %	\$65.05	\$67.00	\$69.01	\$3.96	\$1,290,742.20	6.1%
	893	Over 90%	\$22.82	\$23.50	\$24.21	\$1.39	\$453,063.55	6.1%
Moore Haven	985	Up to 90 %	\$52.01	\$55.29	\$58.11	\$6.10	\$2,193,102.50	11.7%
	985	Over 90%	\$15.30	\$16.50	\$17.21	\$1.91	\$686,692.75	12.5%
	985	Blended	\$48.36	\$51.43	\$54.04	\$5.68	\$2,042,102.00	11.7%
South Bay	1861	Up to 90 %	\$52.69	\$54.28	\$55.91	\$3.22	\$2,187,233.30	6.1%
	1861	Over 90%	\$7.29	\$7.50	\$7.74	\$0.45	\$305,669.25	6.2%

TOTAL INCREASE: \$17,383,424.30

CORRECTIONAL OFFICER TURNOVER

Employees

Agency	2009			2008			2007			2006		
	Total	Termed	Percent	Total	Termed	Percent	Total	Termed	Percent	Total	Termed	Percent
GEO Group												
Moore Haven Correctional Facility	151	32	21%	147	56	38%	121	63	52%	122	43	35%
South Bay Correctional Facility	241	37	15%	242	60	25%	245	84	34%	236	85	36%
Correction Corporation of America												
Bay Correctional Facility	172	34	20%	176	62	35%	159	103	65%	157	24	15%
CCA Citrus County Detention Facility	110	24	22%	123	70	57%	129	29	22%	83	23	28%
Corrections Corporation Of America	County took back operations			170	27	16%	160	77	48%	169	94	56%
Gadsden Correctional Institution	196	39	20%	184	50	27%	160	73	46%	143	57	40%
Hernando County Jail/CCA	135	26	19%	130	40	31%	148	59	40%	136	72	53%
Lake City Correctional Facility	145	71	49%	148	99	67%	163	112	69%	149	109	73%
Total	1150	263	23%	1320	464	35%	1285	600	47%	1195	507	42%

State DOC	18143	2316	13%	18461	2578	14%	17118	2668	16%	16764	2851	17%
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CORRECTIONAL OFFICER CERTIFICATION

	Private Prisons*		Public Prisons	
TOTAL Officers	1363		19014	
< 1 year certified	189	14%	1750	9%
< 3 years certified	498	37%	4676	25%
< 5 years certified	746	55%	7408	39%
< 10 years certified	953	70%	11232	59%
> 10 years certified	410	30%	7782	41%

* Totals are cumulative

MTC

Presentation to the Florida Senate Criminal Justice Committee February 8, 2011



MTC

Corrections

Management & Training Corporation

MTC Staff

- Mike Murphy, MTC Vice President, Marketing
- Connie Cruz, Marketing Director
- Sergio Molina, Warden



MTC's Corporate Office,
Centerville, Utah

MTC



MTC Overview

Privately-owned

No long-term debt

Employs more than 9,500

Management team began in 1966

Annual revenues exceed \$680 million

MTC



MTC History

- 1966
 - Began as the education division of Thiokol Corporation
 - 1,000 employees
- 1980
 - Dr. Robert Marquardt and key employees acquired the division and formed MTC
- 2011
 - More than 9,500 employees in two countries

MTC



MTC's Roots in Job Corps

MTC is the largest operator of Job Corps centers in the United States.



- More than 18,500 residential beds in 26 Job Corps centers
- Helping at-risk youth become employable through programs
 - Academic education
 - Vocational training
 - Social and employability skills

MTC



What Makes MTC Different?

MTC's Corrections philosophy evolves from its Job Corps heritage

- We won't warehouse inmates
- We work to make a difference in offenders' lives
- We believe in rehabilitation through education
 - Give offenders the social and employability skills to help them succeed upon release

MTC



MTC – A Leader in Corrections

MTC

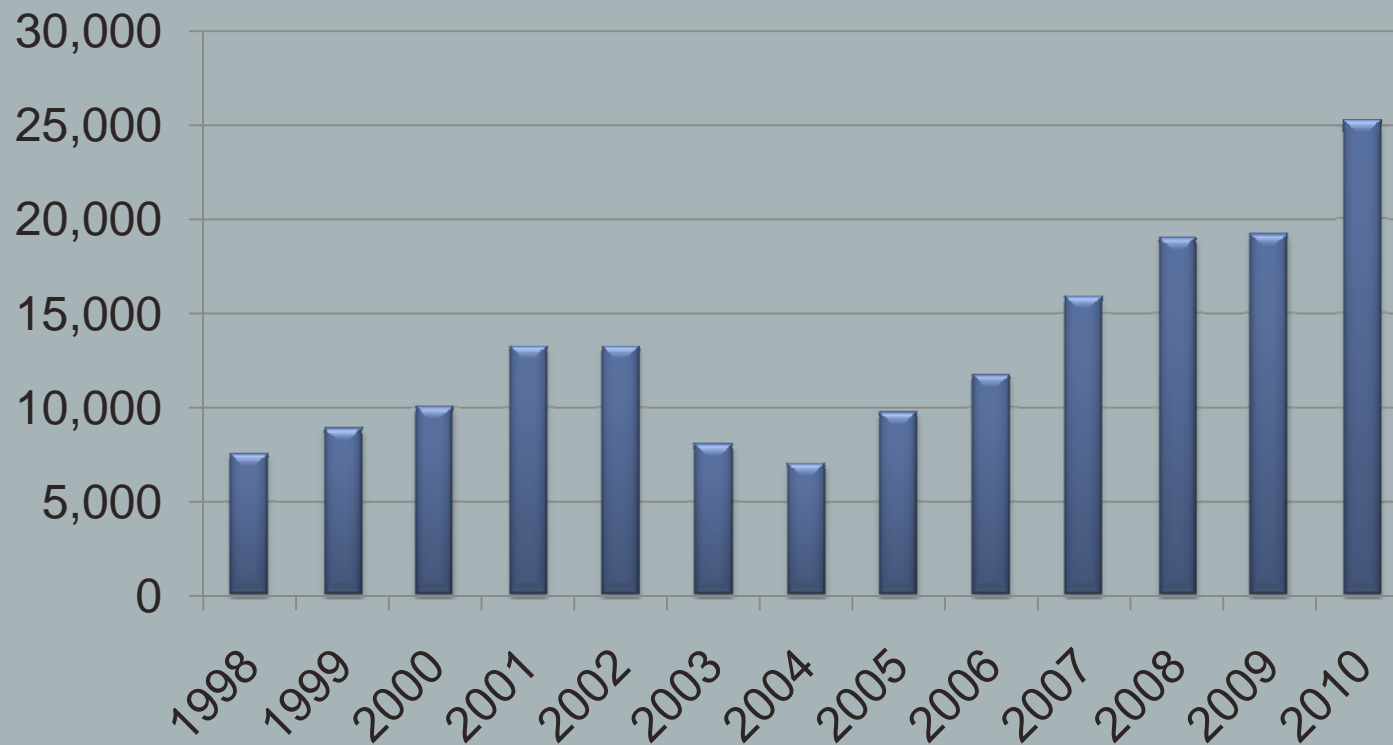
- Operates 20 correctional facilities
- Over 25,000 beds under contract
- Strong executive leadership team
- Safe and secure facilities
- Effective inmate programs
- Business and community partnerships



MTC Corrections Growth

MTC

Number of Inmates

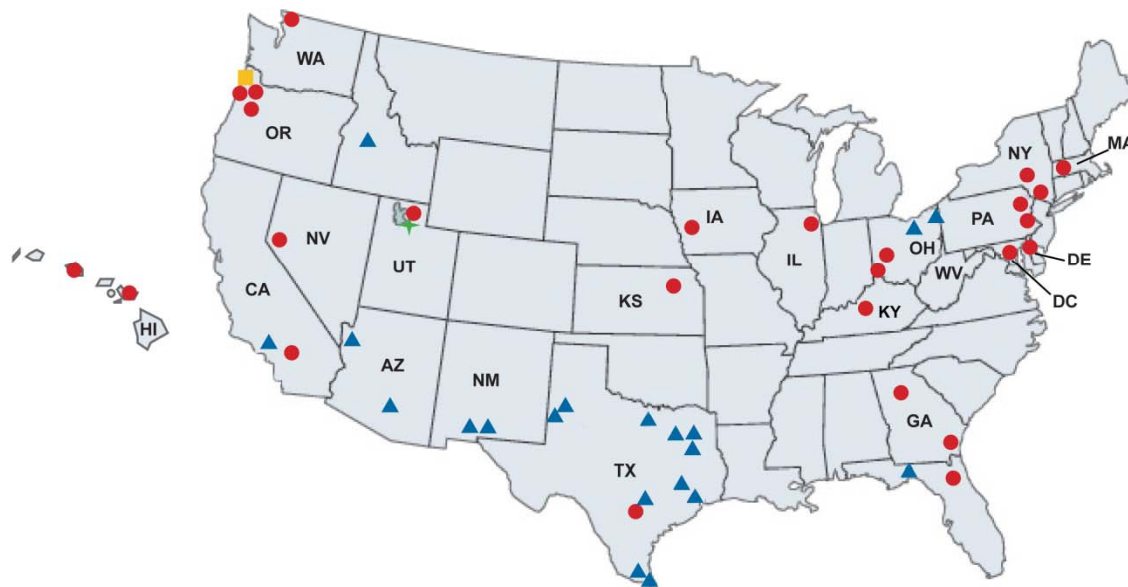


MTC Correctional Facilities

MTC

MTC

Management & Training Corporation Operational Facilities



- ★ Corporate Headquarters
- ▲ Correctional Facilities
- Job Corps Centers
- Workforce Development



MTC's Priorities in Operating a Prison

- Safe and secure operation for staff, community and inmates
- Strong participation in programs that help offenders
- Meeting the requirements and expectations of our customer
- Strong community partnerships and communication
- Commitment to employees



Unique Operations Blending

MTC

**SAFETY &
SECURITY**



PROGRAMS



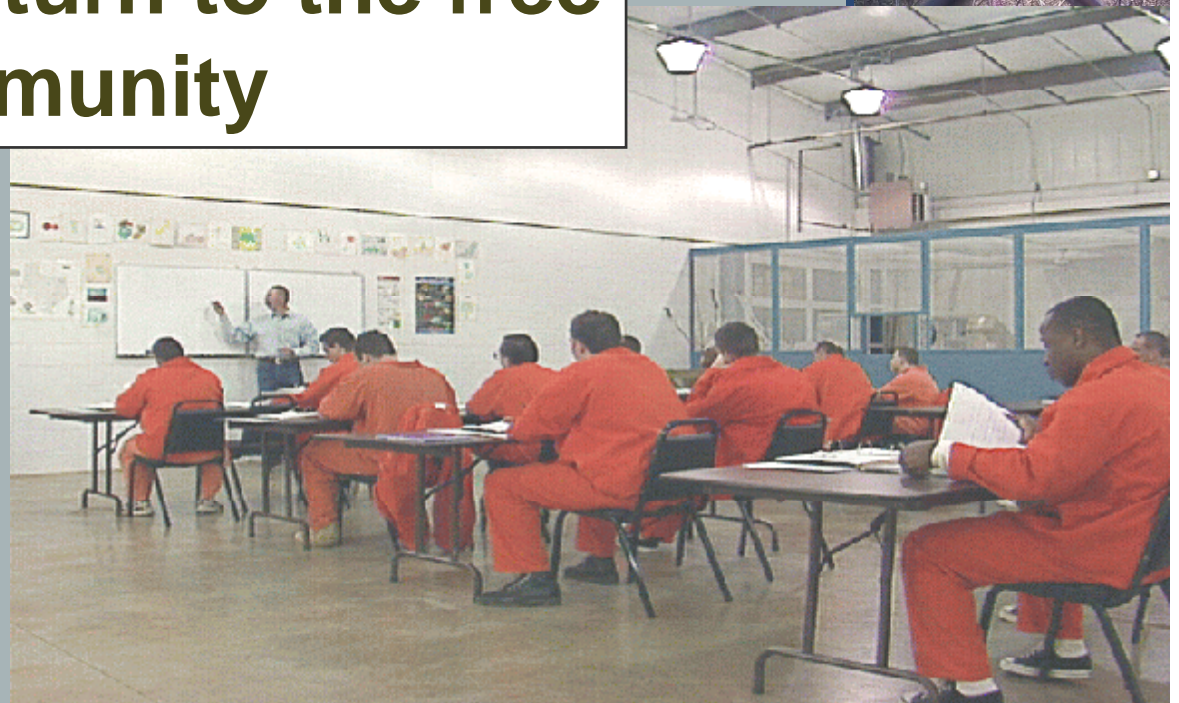
CUSTOMER



MTC's Offender Management Philosophy

To provide every prisoner the opportunity to succeed upon their return to the free community

MTC



Success for Life Program

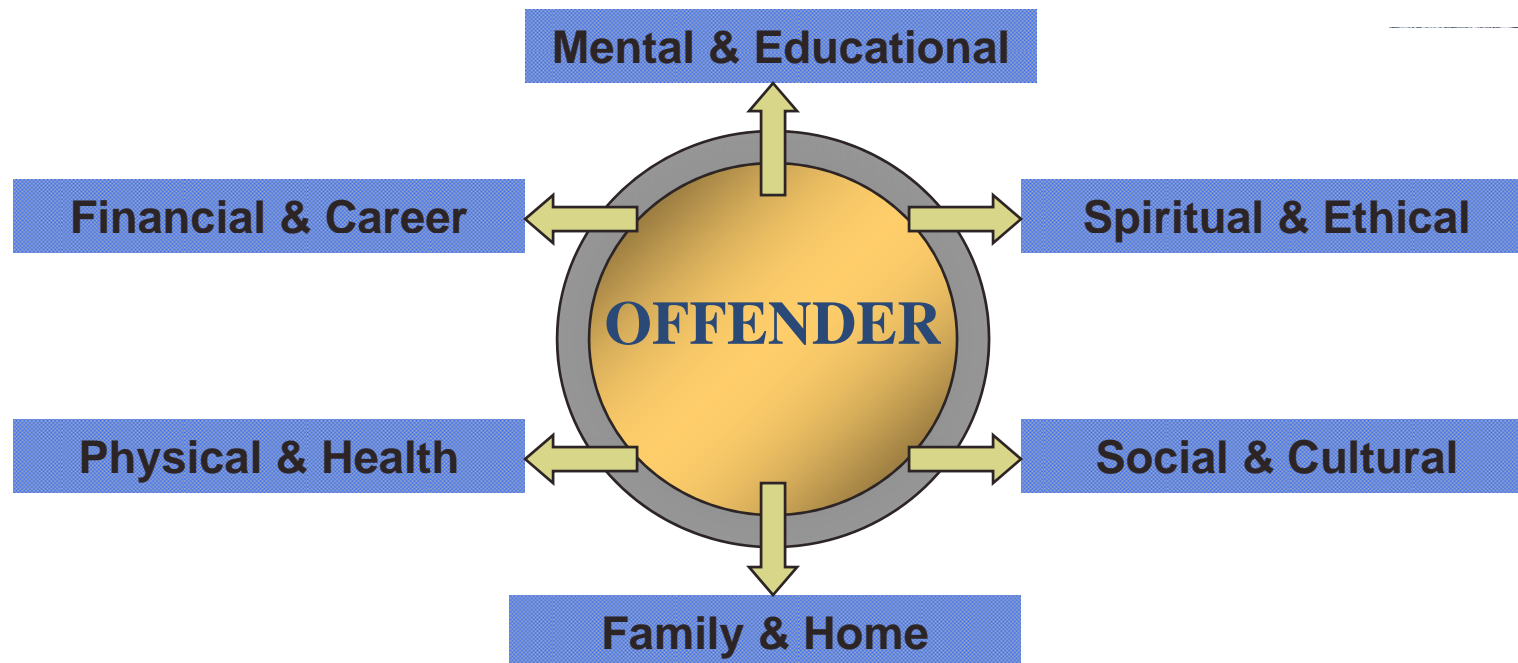
- Gives inmates an holistic approach to life
- Areas involved:
 - Family and family bonding
 - Mentor training
 - Community giving
 - Education
 - Substance abuse education and treatment
 - Religious
 - Cognitive restructuring
 - Life skills
 - Reentry planning and release preparation

MTC



Holistic Offender Programming

MTC



Well-Trained Staff

MTC instills professionalism, integrity and ethics through:

- Pre-service Academies
- On-the-Job Experience
- In-Service Training
- Corporate University
- Experienced Executive Leadership

MTC



Adult Programs

MTC

- Additional programs available to adult offenders may include:
 - 40-hour orientation
 - Anger/stress management
 - Educational programs
 - Employability and/or life skills
 - Reasoning and rehabilitation
 - Shaken baby and parenting skills
 - Spiritual programs
 - Substance abuse education
 - Therapeutic community
 - Victim awareness
 - Vocational training



NCCER Program

- National Center for Construction Education and Research
 - MTC is accredited by NCCER to train inmates in construction occupation programs
 - Inmates who complete the program receive a national certification approved by construction occupation practitioners

MTC



Customer Relations Philosophy

- Exceed customer expectations
- Deliver on commitments
- Provide enhanced value through improved service
- Be responsive, cost effective and accountable
- Provide energetic, consistent leadership
- Change offenders' lives

MTC



Partnership

A partnership between MTC and the Florida Correctional Privatization Commission will provide:

- Joint problem solving
- Sharing innovations
- Performance that exceeds expectations

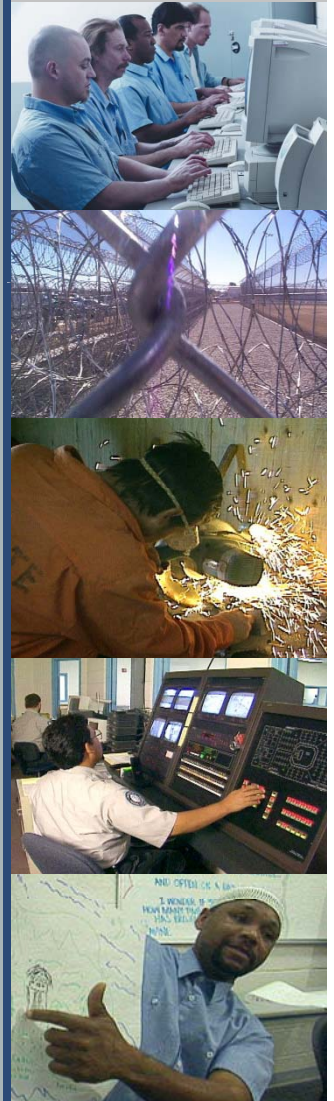
MTC



Summary

- MTC will create a safe and secure prison environment
- Staff will be trained and held to the highest standards of honesty and integrity
- The professionally-trained staff will deliver innovative programs and services
- A good reporting relationship will enable the customer to know expectations have been exceeded

MTC



MTC

Thank You for the opportunity to present MTC's Qualifications



Corrections

Management & Training Corporation