

Pitfalls and Promises

The Real Risks to Residents and
Taxpayers of Privatizing Prisons and Prison Services in Michigan



February 15, 2012

Table of Contents

| | |
|---|----------------|
| Executive Summary | Page 4 |
| 1. Introduction: A Problem with No Easy Solution | Page 8 |
| 2. Learning from Experience: Case Studies and Facts | Page 9 |
| • North Lake Facility for Youth in Baldwin: Michigan’s Costly Experiment with Prison Privatization | Page 9 |
| • Kingman, Arizona: A Frightening Tale of Escape, Kidnap and Murder—and the Failures that Led to It | Page 11 |
| • GEO Prisons: Systemic Problems in the Nation’s Second-Largest For-Profit Prison Company | Page 12 |
| 3. Prison Privatization’s Cost Savings Are Elusive | Page 15 |
| 4. Cost Studies in Arizona, Florida, Ohio and Texas | Page 16 |
| 5. The Big Three Reasons to Be Skeptical of Prison Privatization—Cost Comparisons | Page 19 |
| 6. Twenty Questions to Ask in Evaluating a Private Prison Proposal | Page 20 |
| 7. Corporate and Taxpayer Financial Goals in Conflict | Page 23 |
| 8. Where DOES the Money Go? | Page 25 |
| 9. Problems with Privatization of Specific Functions and Services | Page 26 |
| • Healthcare: Privatization is the Wrong Prescription | Page 26 |
| • Contracting Out Prison Food Service Can Lead to Problems | Page 29 |
| 10. Michigan Prison Privatization Proposals Under Consideration | Page 30 |
| 11. Recommendations | Page 32 |
| Endnotes | Page 33 |

Executive Summary

Pitfalls and Promises

The Real Risks to Residents and Taxpayers of Privatizing Prisons and Prison Services in Michigan

Private prisons look at first like an attractive idea, promising savings to cash-strapped states whose leaders are frustrated by the high cost of corrections. However, 30 years of experience show that when prisons are turned over to for-profit corporations, cost savings are elusive and risks are real.

Case studies exemplify the pitfalls and broken promises inherent in prison privatization.

Michigan's Costly Experiment with Privatization in Baldwin

The North Lake Facility for youth at Baldwin was built on contract in 1997 by Wackenhut Corrections Corp., which later became the GEO Group. Problems started right away:

- North Lake was three times more violent than Michigan's other maximum security prisons. In the first five months of operation, North Lake reported 110 critical incidents, including 46 assaults and 12 attempted suicides.¹
- GEO failed to provide counseling programs or contractually required levels of staff.²
- The state was paying \$75.81 per person per day for confinement that cost \$64.89 per day in sufficiently secure state facilities.³
- When Michigan terminated the contract in 2005, GEO sued the state for \$5.4 million.⁴
- The facility is currently empty, and now GEO could again profit from North Lake under HB 5174 and HB 5177—bills introduced in November 2011 to reopen the facility for the Department of Corrections to incarcerate adults.

Failures Led to Escape, Kidnap and Murder at Kingman, Arizona

In July 2010, three prisoners escaped from a medium security facility operated by a leading private-prison company, kidnapped two truck drivers and murdered two tourists. Arizona's official review found the prison had poorly maintained equipment, insufficient and poorly trained staff, and an alarm system that sounded so many false alarms that everyone ignored it.⁵

GEO Prisons: Systemic Problems in the Nation's Second-Largest Prison Privatizer

- Lawsuits have cost GEO tens of millions of dollars, and liability costs are passed on to other states.
- The U.S. Justice Department sued Wackenhut (now GEO) for "excessive abuse and neglect" in its juvenile detention center in Louisiana.⁶
- An independent audit in Mississippi found inmates left outside in winter for up to six hours and rounds that should have occurred every 30 minutes happening once a day.⁷

Prison Privatization's Cost Savings Are Elusive

The most recent comprehensive meta-analysis across multiple states and multiple years concluded: "Cost savings from privatizing prisons are not guaranteed and appear minimal. Quality of confinement is similar across privately and publicly managed systems, with publicly managed prisons delivering slightly better skills training and having slightly fewer inmate grievances."⁸

Michigan can learn from the results of prison privatization in other states.

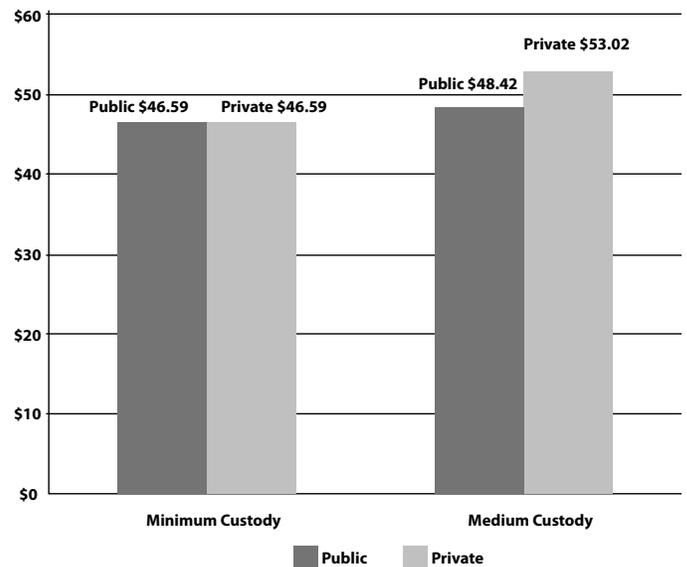
- Ohio has been unable to prove any meaningful savings, despite a statutory requirement of 5 percent. Estimates range from a savings of 4.7 percent to a loss of 3.5 percent.⁹

- Florida requires 7 percent savings—but analysis didn't show savings, only the private prisons were cherry-picking inmates. Because the state became responsible for “a disproportionate share of inmates requiring extra medical or mental healthcare...” the ability to compare costs was “undermined.”¹⁰

- Arizona, a leader in prison privatization, breaks even in minimum security beds (\$46.59 per day in public facilities, \$46.56 in private) and loses money in medium security (\$48.42 per day in public facilities, \$53.02 in private), a cost of more than \$1,600 per prisoner per year.¹¹

- Texas shows that staff cuts come at a price of consistency and stability. The highest salary for corrections officers in private Texas prisons was \$2,000 less than the lowest salary for officers in public prisons, according to the state's Senate Committee on Criminal Justice in 2008. Extraordinary turnover was the result. Fully 90 percent of privately employed corrections officers were found to have left their jobs within one year.¹²

**No Real Savings In Arizona Prisons
Per Diem Costs 2010**



Private prisons tend to be understaffed.

Public prisons average 5.6 inmates per officer, but private prisons average 7.1, according to the U.S. Department of Justice.¹³ The Federal Bureau of Prisons observes “the greater the inmate-to-staff ratio the higher the levels of serious violence among inmates.”¹⁴ Claiming savings simply by reducing staff to dangerously low levels is not a genuine efficiency.

There are three big reasons to be skeptical of privatization cost comparisons.

- **Private prisons can cherry-pick inmates.** Contract prisons can admit only healthy inmates or transfer them out after they get sick or difficult to manage. Costs are shifted to public prisons.
- **Private contractors can bid low and raise costs later.** The history of prison privatization is a history of states being tempted by low bids and disappointed by the actual savings, if not the management or maintenance of the facility.
- **Comparing apples-to-oranges.** Minimum security inmates cost less to confine than high security inmates; healthy inmates require less healthcare than sicker ones. Private prisons often show cost savings by comparing the cost of a low-security facility with healthy young inmates to a full-system average, including costlier individuals. Apples-to-apples comparisons are difficult to make at the outset and to maintain over time.

With privatization, money leaves the prison and the state.

Private prisons cost taxpayers roughly as much as public prisons—but the staff tends to be underpaid. So where does that “savings” go? The answer: out of the prison and out of the state. GEO is based in Boca Raton, Florida; Corizon is headquartered in Tennessee.

In 2010, GEO made \$63 million in net income and paid shareholders \$1.13 per share.¹⁵ In 2010, the CEO of GEO made \$3,484,807.

| Top Six GEO Executives Made \$13.5 Million Total in 2010¹⁶ | | |
|--|---|-------------|
| Wayne H. Calabrese | Former Vice Chairman, President and COO | \$6,471,689 |
| George C. Zoley | Chairman of the Board and CEO | \$3,484,807 |
| Brian R. Evans | Senior Vice President and CFO | \$915,669 |
| John M. Hurley | Senior Vice President, Detention and Corrections Services | \$976,507 |
| John J. Bulfin | Senior Vice President, General Counsel | \$837,974 |
| Jorge A. Dominicis | Senior Vice President, Residential Treatment Services | \$864,267 |

Compensation includes salary, stock options, bonus, etc.¹⁷

The state and the private prison company have different incentives.

- Taxpayers want to save money. Private prisons want to make money. These are inherently opposite interests, since the only way for private prisons to make money is for the government to give it to them. The drive for growth can be counterproductive as a matter of both individual liberty and fiscal responsibility.
- Some worry about private prison companies’ ability to spend money to seek political change, harsher criminal sentences or immigration crack downs. Private prisons have an incentive to keep their cell blocks full, making even an issue such as discipline tricky. If a private prison contractor has a low threshold for disobedience and is strict about penalizing infractions, it can affect an individual’s disciplinary credits and increase length of stay.
- Michigan has been working hard in recent years to find responsible ways to bring the prison population down. Private prison corporations benefit when those efforts fail.

Problems with Privatizing Specific Functions and Services

Healthcare Privatization: Wrong Prescription for Michigan Prisons

- Michigan had bad experience contracting for prison healthcare with Correctional Medical Services (CMS).¹⁸ In 2009, Michigan changed to Prisoner Health Services (PHS)—even as other states were disappointed with PHS and changing to CMS.¹⁹
- States don’t have real market choice in privatizing healthcare CMS bought PHS in 2011, creating a merged company, Corizon, with a virtual monopoly on contract prison health services. Even the theoretical advantage of free-market competition has disappeared.

Contracting Out Prison Food Service Can Lead to Problems

- Contracting can interfere with MDOC’s own efforts to reduce food costs.

- Contracting hurts Michigan's businesses and economy. MDOC has established relationships with more than 50 Michigan vendors, and MDOC food purchasing operations return \$45 million to the state every year. Giant national chains such as Aramark tend to purchase food differently.
- Contracting can put staff, residents, and taxpayers at risk. Food service is fundamental to the stability of institutions. Small cost-cutting measures such as reducing portion size or downgrading ingredients can lead to violence, riots and costly disturbances.
- Contracting creates additional burdens on corrections staff. In 2007, MDOC found that when outside food service staff were used, at least one additional state corrections officer needed to be assigned during operations.

Michigan Prison Privatization Proposals Under Consideration

- **Reopening GEO's North Lake facility.** Michigan doesn't need additional secure capacity at this time, so reopening can't be justified as an expansion. The only explanation is a desire to open a private facility in anticipation of shutting down some public facilities in the short term. Such a swap seems unjustified as a matter of either cost or performance.
- **Privatizing the Special Alternative Incarceration Facility (SAI) at Chelsea.** MDOC has designed this "boot camp" style program as a lower-cost alternative to prison for appropriate individuals, and it is expected to save \$30 million to \$40 million per year. The decision by a House-Senate legislative conference committee to privatize the SAI came as a surprise, and raises important questions for taxpayers and residents.
- **Privatizing the Woodland Center Correctional Facility at Whitmore Lake.** The purposes for privatizing this facility for people with serious mental illness are unclear. High staff turnover, inconsistent operations, understaffing and other problems associated with private prisons would pose a real threat with a population that is already difficult to manage.
- **Privatizing additional prison healthcare functions or food service operations** would court trouble for no real benefit.

Groups such as Michigan's CAPP and the National Council on State Governments have assembled thoughtful recommendations, beginning with cost-savings measures such as transferring geriatric or medically frail individuals from prison to community supervision. Increased transparency and requiring strict adherence to all open records laws should be non-negotiable for any and all future contracting.

Section 1

Introduction: A Problem with No Easy Solution

Everyone is frustrated. Corrections spending just won't come down. The prison population has been reduced, and corrections staff have been cut. Hard choices have been made. Risks have been taken, and sacrifices have been borne—but results remain elusive.

Legislators are looking for new ideas. Private groups such as the Citizens Research Council of Michigan (CRC), the Center for Michigan and the Citizens Alliance on Prisons and Public Spending (CAPPS) have proposed ideas such as establishing a sentencing commission, expediting the parole process, and increased use of medical/geriatric parole—to name a few.¹

Industry groups, meanwhile, are pushing to turn Michigan prisons over to for-profit companies. Privatization, however, is not a promising path. To understand why, this report examines the privatization of prisons and prison functions.

The report begins with Michigan's experience with private prisons then expands to other states' experience. The focus is on costs and performance, paying special attention to the GEO Group, the private prison company most active in the state of Michigan.

The report also reviews contracted correctional healthcare—again focusing on Michigan's own experience, the experience in other states and Corizon, the company currently active in Michigan.

Private prison may look, at first, like an attractive idea. But they're not new and, by now, they should be judged by their results. Case studies exemplify some of the pitfalls and broken promises inherent in prison privatization, as well as systemic problems at GEO, the nation's second-largest private prison company.

North Lake Facility for Youth in Baldwin, Michigan Michigan's Costly Experiment with Prison Privatization

The state of Michigan entered the field early with the North Lake facility for youth in Baldwin in 1997, and exited quickly when it terminated the contract in 2005. The experiment bears examination because of the evidence of:

- Violence;
- Chronic understaffing;
- Unacceptably high turnover; and
- Corporate violations of the contract with the state of Michigan.

The North Lake facility was private from the beginning, built under contract in 1997 by Wackenhut Corrections Corp., which later became the GEO Group. Private prisons were new at the time, and Wackenhut Corrections was just getting started. It had spun off from the parent Wackenhut Corp. a few years earlier, and was first listed on the New York Stock Exchange in 1996. After two years of construction, the North Lake facility opened in July 1999 for 480 youth convicted as adults under Michigan law.

Performance problems started right away. A hearing by the House Appropriations Subcommittee on Corrections in August 2000 revealed the understaffed youth prison was three times more violent than the state's other maximum-security prisons. Teens were assaulting corrections officers, attacking each other and trying to kill themselves.²

North Lake reported 110 critical incidents, including 46 assaults and 12 attempted suicides in the first five months of operation under Wackenhut, now GEO Group.

Further investigation by the *Grand Rapids Press* revealed that Wackenhut had violated its contract with the state by not providing counseling programs and not hiring contractually required levels of staff. Staff shortages and high turnover were forcing the remaining staff to work long hours; sometimes reaching 100 hours of overtime in a month.³

By 2005, operations at North Lake were discontinued. Money was scarce, the secure capacity was proving not to be needed, and the state wanted to reduce corrections spending.⁴ At the same time, a major lawsuit had been filed against both Wackenhut and state officials over conditions of confinement.⁵ The state solved both problems at once by cancelling the contract and closing the facility.

But the story doesn't end there.

Wackenhut, which became GEO Group, sued Michigan for \$5.4 million.

Despite performance problems, contract violations and a cancellation clause, Wackenhut sued the state to keep the facility open—or continue to make lease payments even if it were empty. GEO pursued the claim through complaint after amended complaint, litigating it all the way up to the Supreme Court of Michigan. Eventually the judgment stood: “Defendants [the state of Michigan] were entitled to cancel the lease ... [and] exercise by the state of its contractual right of cancellation does not constitute a government taking of private property.”⁶

The privatized facility cost Michigan more money than it saved.

The facility was built in anticipation of large numbers of exceedingly violent youth criminals—who never materialized. Two-thirds of the juveniles in the facility were Level 1 or 2, low security levels for youth who had committed modest offenses or displayed good behavior while incarcerated. The state was paying \$75.81 per person per day for confinement that cost \$64.89 per day in sufficiently secure state facilities.⁷

The wrong kids were going to the youth prison, concluded Jon Cisky, a former Republican state senator who served on the Appropriations Committee.⁸ Add to that the very serious issues with violence, chronic understaffing, unacceptably high turnover and contract violations, and the state made the prudent decision to serve notice and close the facility. That's the essence of good government and accountability to taxpayers and citizens. The GEO Group sued to make them stop, costing Michigan even more time and money in litigation costs.

GEO Group is still trying to profit from North Lake.

The facility still exists, with GEO maintaining a skeleton staff onsite while trying to find a way to turn around its investment. GEO spent \$60 million to upgrade the facility from 500 juveniles to 1,755 adults to make it more marketable. Still, it is costly to run, and GEO has not been able to find new customers to fill the facility.

- GEO might have landed a federal contract for deportable aliens in the spring of 2010—but the federal Bureau of Prisons withdrew the procurement.⁹
- In June of 2011 GEO succeeded at landing a four-year \$60 million per year contract with the state of California—but by September, California had reconsidered and terminated the contract.¹⁰

The new potential rescue for GEO comes from the state of Michigan in the form of HB 5174 and HB 5177—bills introduced in November 2011 to re-open the North Lake facility for the Department of Corrections to incarcerate adults.¹¹

Before the state of Michigan considers such a move, it needs to re-examine not only its own experience with North Lake but the experience of other states.

Kingman, Arizona: A Frightening Tale of Escape, Kidnap and Murder—and the Failures that Led to It

On July 30, 2010, three inmates escaped from a medium security facility in Kingman, Ariz., operated by Utah-based Management and Training Corp., the third-largest of the three private corrections giants. Using wire cutters one inmate's fiancée tossed over the fence, the inmates escaped, kidnapped two truck drivers and drove away. Three days later, they kidnapped two tourists who stopped to walk their dog at a rest station, killed them both and burned their bodies in their camper.¹²

The crime was frightening enough, but the official review undertaken by the Arizona Department of Corrections is frightening in a whole different way.¹³ Reviewers found the prison had poorly maintained equipment, insufficient and poorly trained staff, and an alarm system that sounded so many false alarms that everyone ignored it. These quotations come straight from the review:¹⁴

The alarm

- “The perimeter system at the Kingman Hualapai unit is not functioning properly, it is not maintained properly, it is not monitored correctly, and it is not tested properly. The procedures currently in place for all aspects of this system have bred a culture of laziness among the staff.”
- “The system alarms excessively throughout the day and night. Staff have become conditioned to the false alarms and react to them with complacency.” The alarm sounded 89 times during the 16-hour study period.
- “The zone alarm system has been malfunctioning for months.”

Monitoring systems

- “Eight (8) light poles were noted with lights burned out.”
- “Cameras, although present in almost every location, are not monitored closely because only two cameras can be viewed from the monitors at any given time.”
- “At the time of the escape, only one perimeter patrol was in place.”
- “The procedures in place for shift relief ... create an unmanned perimeter for extended periods of time, 10 to 15 minutes or longer, at the beginning of each shift.”
- “There is too much traffic (pedestrian and vehicular) in close proximity to the perimeter.”

The staff

- “There is a question of experience. I conservatively estimate that one-third of security employees have less than three months on the job or in their promoted position. Further, there is no FTO [Field Training Officer] program to teach staff new to their job or position.” The warden separately told USA Today that “nearly 80 percent of her staff was new or newly promoted.”¹⁵
- “I found that when there were security deficiencies the prevailing attitude was ‘I reported it, therefore my hands are clean.’ There was no follow-up to ensure that repairs were completed.”

- “Most officers working in the Unit Control Center and Tower lack tenure and familiarity and training with the electronic surveillance and monitoring equipment.”

These operational difficulties may seem far away—a different company in a different state—but they’re not. Similar difficulties appear when the focus is turned solely to GEO.

GEO Prisons: Systemic Problems in the Nation’s Second-Largest For-Profit Prison Privatizer

Gregorio de la Rosa was brutally murdered in a GEO prison in Texas.¹⁶

The victim, an honorably discharged former National Guardsman, was serving a six-month sentence for possession of less than a quarter gram of cocaine. A few days before his scheduled release, he was beaten to death by two other inmates using a lock tied to a sock, while GEO’s corrections staff stood by and watched, and GEO’s wardens smirked and laughed. Additional testimony revealed:

“We find that Wackenhut’s [now GEO’s] conduct was clearly reprehensible and, frankly, constituted a disgusting display of disrespect for the welfare of others and for this state’s civil justice system.”

—Texas Appellate Court Ruling in the case of Gregorio de la Rosa

- The contraband weapon was not detected during a routine pat-down search before all the inmates entered the corridor.
- The assault lasted between 15 and 20 minutes, within view of multiple officers.
- An hour and 15 minutes elapsed before medical personnel arrived, even though medical staff were also employed by GEO and present at the facility at the time.
- Video cameras watch and record the area. The recordings disappeared after the initial investigation.

The jury found “malice or gross negligence” and awarded more than \$40 million in damages, including \$20 million in punitive damages against GEO. Upholding the award of punitive damages and the spoliation of evidence, the Texas appellate court opined, “We find that Wackenhut’s conduct was clearly reprehensible and, frankly, constituted a disgusting display of disrespect for the welfare of others and for this state’s civil justice system.”¹⁷

Ronald Sites was strangled to death in his GEO cell in Oklahoma.¹⁸

Sites was a former law enforcement officer who suffered a traumatic brain injury that left him unable to control his incessant babbling—which annoyed everyone around him, inmates and staff alike. Under standard protocol, an individual like that would be kept in his own cell.

The person who killed him was a convicted murderer with known violent tendencies, including stabbing other inmates with homemade weapons. Nine months earlier, he had been placed in isolation because he told a counselor “he sat on his bunk with a sheet in his hand, fighting off the urge to kill his cellmate.”¹⁹

Professional protocol would place a person like that in an individual cell as well. But GEO Group confined both men in the same cell—likely to save

money—with tragically foreseeable results. The jury returned a \$6.5 million verdict.²⁰

Mississippi’s independent audit found basic custody and mental health treatment inadequate. In an independent report to the Mississippi Department of Corrections in February 2011, Dr. Terry Kupers detailed a three-day visit to the 1,500-bed prison run by GEO.²¹ His report described:

- Understaffing that left inmates outside in winter for two to six hours.
- Rounds that should occur once every 30 minutes happening only once a day.
- Showers and recreation time occurring once a week, with inmates locked down the rest of the time.
- Inmate cells not being cleaned, leaving blood and feces within their cells.
- Mental health staff members who rarely visit inmates, and long waits even when mental health help is requested.
- Inappropriate downgrading of mental-health diagnosis and discontinuing of medicine.

GEO did not provide contractually required levels of staff at New Mexico prisons.²² Under the contract, GEO was subject to penalty when its prisons were understaffed by more than 10 percent for more than 30 consecutive days. New Mexico was forced to sue and reached a \$1.1 million settlement agreement in November 2011. The agreement applied to only one year of operations and was the first such penalty assessed—even though failure to hire contractually required (and paid for) levels of staff were relatively common. The state’s legislative finance committee estimated that \$18 million in penalties could have been assessed from GEO and the Corrections Corporation of America (CCA) over the years.

Juveniles too suffer under GEO management. The U.S. Justice Department sued Wackenhut (now GEO) for “excessive abuse and neglect” in its juvenile detention center at Jena, La.²³ The judge found youth were being physically abused and deprived of adequate food and clothing.²⁴ Louisiana terminated the contract in 2000, similar to Michigan’s termination in Baldwin. At roughly the same time in Bronte, Texas, girls in Wackenhut’s Coke County Juvenile Justice Center alleged they were raped, beaten and otherwise abused by corrections staff.²⁵ Wackenhut settled the suit for \$1.5 million. One of the girls shot herself to death the same day.²⁶

This is only a sampling of problems that have been alleged, reported and legally settled. More cases—such as the November 2010 lawsuit by youth allegedly physically and sexually abused in GEO’s Walnut Grove Youth Facility in Mississippi—have not yet reached their natural conclusions, and it is possible that still more individual actions go unreported.²⁷ All this experience suggests that problems with GEO management extend far beyond Michigan’s firsthand experience at North Lake.



The GEO Group, formerly known as Wackenhut Corrections, is headquartered in Boca Raton, Fla. GEO is the second-largest private prison company, behind the Corrections Corporation of America, and the sixth-largest corrections system in the United States (behind, in order: U.S. government, California, Texas, Florida and CCA). GEO provides confinement services in adult prisons and jails, youth and immigrant detention centers, and treatment in mental health centers.

In 2010, GEO acquired Cornell Corrections Companies for \$730 million, cementing its leadership in U.S. private corrections, and BI Inc. for \$415 million, establishing a presence in the market for electronic monitoring.

GEO's biggest client by far is the U.S. government. The U.S. Marshals Service (19 percent), ICE (20 percent) and Bureau of Prisons (14 percent) together constitute over half (53 percent) of GEO's corrections revenues.²⁸ As state prison populations flatten and state budgets run dry, federal detention has become the growth population for the private prison industry.

Headquarters

One Park Place, Suite 700,
621 Northwest 53rd Street
Boca Raton, Florida 33487-8242
www.theGEOgroupinc.com

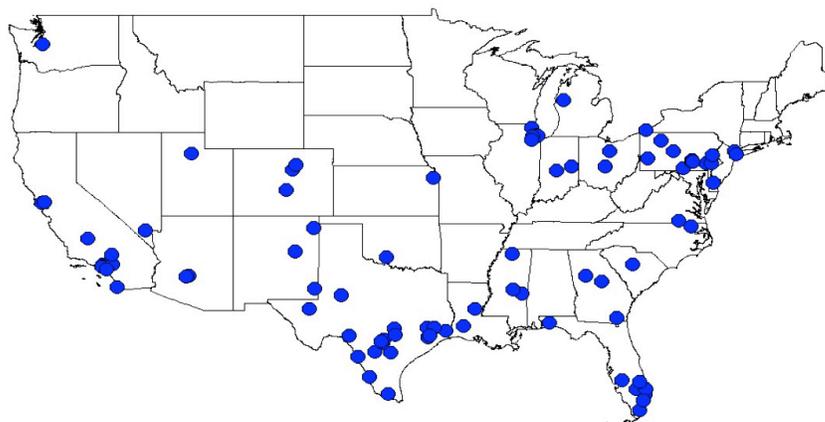
Financial information

- Publicly held, ticker GEO
- Revenues 2010: \$1.3 billion
- Income 2010: \$63 million

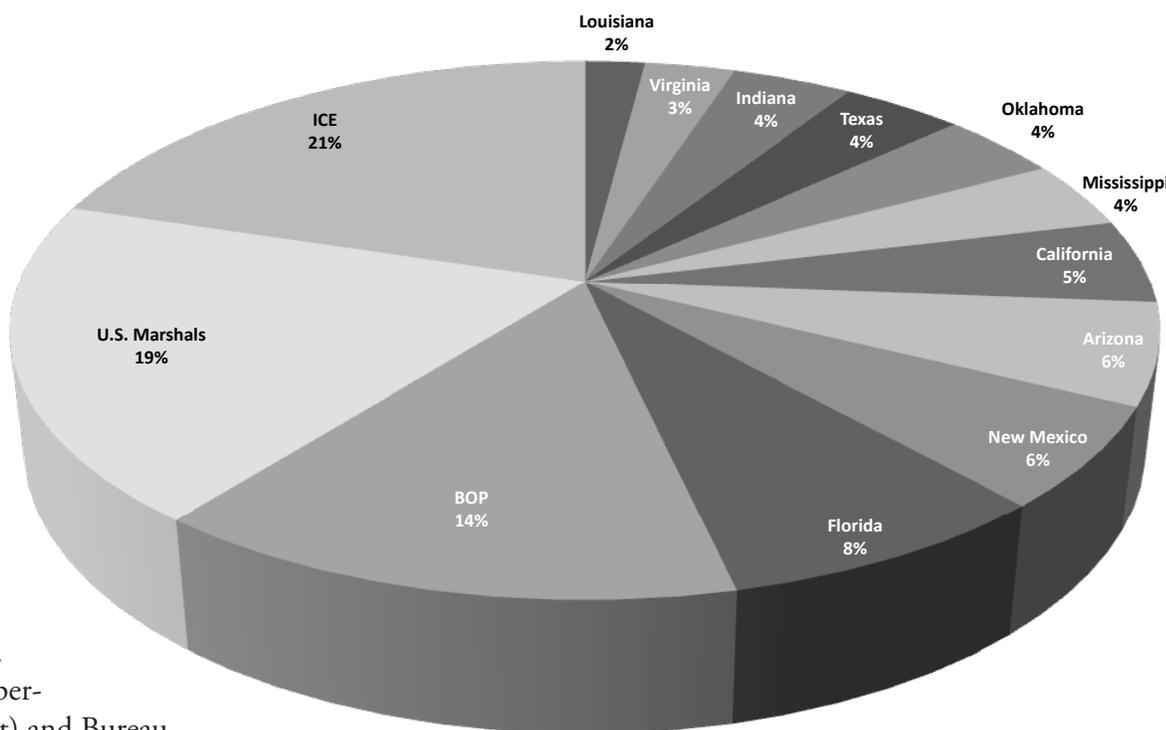
Operations

- 81,000 beds
- 118 facilities
- 19,000 staff

GEO Group Facilities



GEO Customers



Source: 2010 Annual Report

Prison Privatization's Cost Savings Are Elusive Section 3

Public prisons have had plenty of problems, and private prisons promise a better product at a better price. Sadly, they often don't deliver on those promises.

At the same time Michigan was entering the North Lake contract with Wackenhut, the first generation of independent research of private prisons was being published, first a 1996 study by the U.S. General Accounting Office, then a 1998 study commissioned by the U.S. attorney general. Neither study found good evidence that private corrections either reduced cost or raised performance quality.²⁹ The attorney general's review explained:

*"Some proponents argue that evidence exists of substantial savings as a result of privatization. Indeed, one asserts that a typical American jurisdiction can obtain economies in the range of 10 percent to 20 percent. Our analysis of the existing data does not support such an optimistic view."*³⁰

A comprehensive meta-analysis of the cost and quality of private prisons published in 2009 concluded they offer no measurable advantage.

*"Cost savings from privatizing prisons are not guaranteed and appear minimal. Quality of confinement is similar across privately and publicly managed systems, with publicly managed prisons delivering slightly better skills training and having slightly fewer inmate grievances."*³¹

In general, private prisons tend to be understaffed. According to the U.S. Department of Justice, public prisons average 5.6 inmates per officer, but private prisons average 7.1.³² The federal Bureau of Prisons observes "the greater the inmate-to-staff ratio the higher the levels of serious violence among inmates."³³ The California Inspector General's 2010 review of out-of-state contract prisons found numerous places where "custody staffing levels were insufficient to adequately monitor inmates."³⁴

Claiming savings simply by reducing staff to dangerously low levels is not a genuine efficiency. An analysis of government-run and privately managed prisons in Tennessee from 2009 to 2011 found incident rates were consistently higher—34.2 percent higher in 2009—at the state's three private prisons compared to its 11 government-run prisons.³⁵

The dubious outcomes do not end at the prison wall. Research focused on criminal reoffense found "Private prison inmates had a greater hazard of recidivism in all eight models tested; six of which were statistically significant."³⁶

The lessons from experience are twofold. First, calculating savings is a knotty math problem. Facilities are different, inmates are different, and apples-to-apples comparisons are elusive. Any savings are small, nonobvious and subject to dispute. Second, when private prisons offer cost savings, if there are any at all, it's likely by cutting corners—not superior private sector innovation or efficiency. In the words of Ted Strickland, who worked in prisons before he became a Congressman and governor of Ohio, "we get what we pay for."³⁷

"Cost savings from privatizing prisons are not guaranteed and appear minimal."

—A 2009 Meta-analysis of Cost and Quality of Confinement Indicators

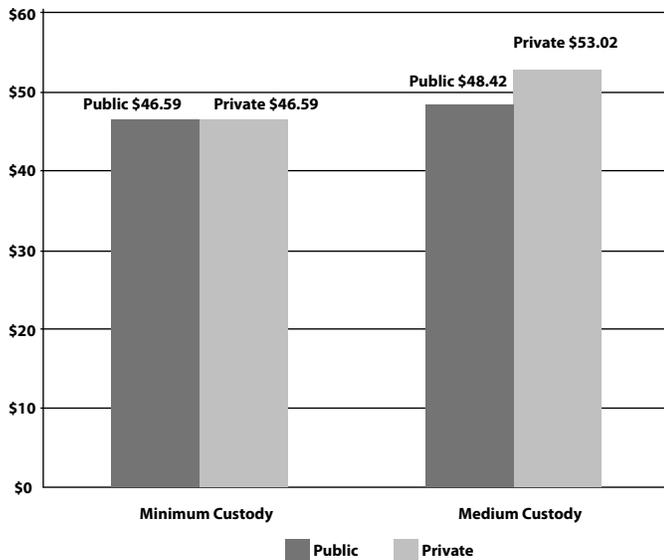
Section 4

Cost Studies in Arizona, Florida, Ohio and Texas

Michigan can learn from the results of prison privatization in other states.

Arizona's results have been disappointing. The state has been a leader in the move to privatize prisons. In 2009, Arizona confined 22.1 percent of its prison population in private facilities, nearly three times the national average of 8.0 percent.³⁸ In 2010, the state of Arizona ordered a comprehensive analysis to determine whether it had accrued any savings as a result.³⁹

**No Real Savings In Arizona Prisons
Per Diem Costs 2010**



The results were disappointing. The state was breaking even in minimum security beds, with public facilities costing \$46.59 per day and private facilities costing \$46.56 per day. But the state was losing money in medium security facilities, where the daily cost of public prisons was \$48.42 per day, cheaper than the private prison cost of \$53.02 per day, a cost of more than \$1,600 per prisoner per year.

A deeper comparison would probably make it worse. The Arizona study focused on prison operations; it did not include the cost of procurement, monitoring and exposure to legal liability, which push overall cost of privatization even higher. Moreover, the individuals in private facilities are often cherry-picked on matters of healthcare and manageability. In the words of the study, "This inequity increases the state per capita cost which in comparison, artificially lowers the private bed cost."⁴⁰ In the words of state Rep. Chad Campbell, "They leave the most expensive prisoners with taxpayers and take the easy prisoners."⁴¹

Florida also provides no evidence of savings. A 2010 analysis by the Florida Center for Fiscal and Economic Policy found no compelling evidence of cost savings, even though state law requires savings of 7 percent. The state—which is required to show the savings—never produced any meaningful evidence at all.⁴²

The closest the state came was a December 2008 audit by the Florida Office of Programming and Policy Analysis.⁴³ The analysis found that even though the state tried to maintain equivalent percentages of inmates with ordinary costs and special needs in both state and private facilities, the private facilities consistently transferred inmates to reduce their special needs populations, thereby lowering their own costs and shifting costs to the state system. The audit concluded "the state is now housing a disproportionate share of inmates requiring extra medical and mental healthcare As a result, the requirement that private prisons operate at 7 percent lower cost than state facilities is undermined."⁴⁴ In addition to no detectible cost savings, the audit found problems with security, healthcare and access to contraband.

The other official analysis was a 2005 audit by the Department of Management Services. This research found that private prison operators GEO and

CCA overcharged the state by \$13 million for unfilled job positions, inflated per diem rates and maintenance overpayments.⁴⁵

At the county level in Florida, jails that tried going private are bringing the work back in house. In the most recent change, in August 2010, Hernando County produced \$1 million in savings on a budget of \$10.9 million in its first year moving back from CCA into public hands. When the new sheriff resumed operations, he upgraded the jail's technology, overhauled security and deployed staff more efficiently—though he still has to fix the leaky roof, rusty doors and long-term water damage. “If they had performed routine maintenance as they should have and as their contract required, this building would look 10 times better,” he said.⁴⁶

The qualitative changes went beyond maintenance. When management changed hands, most of the 177 former CCA employees lost their jobs and were invited to reapply. The sheriff hired only 45 of them. The rest failed background checks or didn't meet his standards. “I don't understand why a few of them weren't *in jail*,” he told the *Tampa Bay Times*.⁴⁷

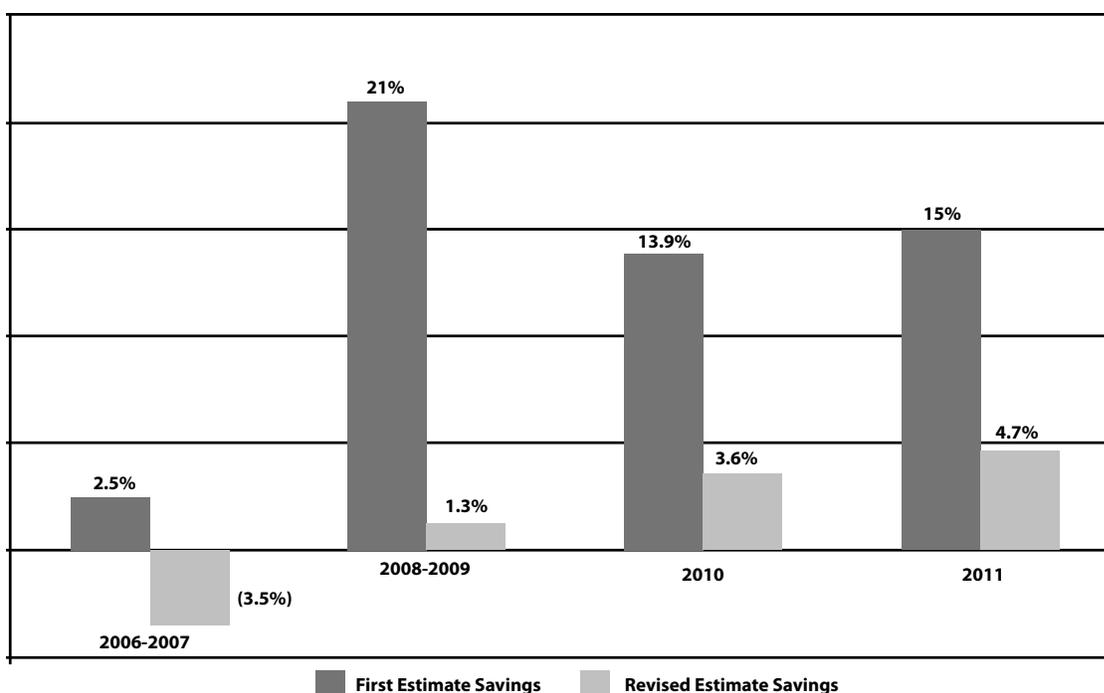
Florida's proposed solution appears to be both tragic and ironic. Legislators introduced two bills in January 2012—one to privatize state prisons, and one to exempt private prisons from the requirement to perform a cost-benefit analysis until after the contract has been executed.⁴⁸

Ohio's efforts to prove savings show only that savings are impossible to prove. Ohio law requires a 5 percent savings—but a detailed examination by Policy Matters Ohio found the state's savings calculations to be “riddled with errors, oversights and omissions of significant data, but also potentially tainted by controversial accounting assumptions that many experts consider deeply flawed.”⁴⁹

Acknowledging the problems, the state retooled the calculations. But the revised calculations—though still riddled with possible errors and complex assumptions—suggest that privatization might have cost Ohio taxpayers *more than* keeping the prisons in the public realm.

For the 2006-07 biennium, the test facility was first calculated to be \$2.4 million less costly each year. After revising the calculations, the facility was estimated to cost an *additional* \$380,000 to \$700,000 annually, so an apparent savings of between 1.1 percent and 2.5 percent became a cost overrun of 1.8 percent to 3.5 percent. For the 2008-09 biennium, savings of as much as 21 percent annually were revised downward to between 1.2 percent to 0.3 percent when errors were corrected and state-proposed revisions made. For 2010, the computed savings drop from 13.9 percent to 3.6 percent. For 2011, the computed savings drop from 15 percent to 4.7 percent.⁵⁰

Ohio Revised Cost Savings Downwards



This is not fiscal and statistical chicanery; the comparisons are genuinely difficult. Matching inmates is tricky when populations flow and health conditions can change at any time. Questions like how to measure one prison's share of the indirect central office costs have no single answer. Kevin Stockdale, the chief budget analyst at the Ohio Department of Rehabilitation and Corrections who oversaw the efforts to revise and improve the analysis, recognized the imprecision. Most importantly, Stockdale also recognized the state did not pay the contractor a per diem rate that guaranteed a savings of at least 5 percent. Instead, the state would negotiate a rate acceptable to the contractor, then run a series of calculations to show that it saves 5 percent.⁵¹

Texas shows that staff cuts come at a price. Texas law requires a 10 percent cost savings in contract facilities. Since the biggest cost in corrections is staff time, one simple way to cut costs is to reduce salaries or benefits—so Texas prison companies went the obvious route and hired people with little experience at low wages. In 2008, the Texas Senate Committee on Criminal Justice found the **highest** salary for corrections officers in private prisons was \$2,000 less than the **lowest** salary for officers in public prisons.⁵²

The result wasn't just low pay but extraordinary turnover. Fully 90 percent of privately employed corrections officers left their jobs within one year. In the words of corrections and private prison expert Judith Green, "It's hard to understand how any organization can operate with 90 percent staff turnover."⁵³ The staffing conditions in the particular prison where Gregorio de la Rosa was murdered were not singled out in the Texas report, but the problems behind the verdict are consistent with a lack of experience. Corrections is hard work and practice is needed to do it well. Consistency and stability are essential to sound corrections management.

Apart from the mathematics, there are three primary problems with cost estimates and mandatory savings: cherry-picking, lowballing, and imprecise matching. All of these have been evident in various ways in examples earlier discussed, but it may be simpler to extract the themes themselves.

First, private prisons can cherry-pick inmates. Contract prisons can admit only healthy inmates or transfer them out after they get sick or difficult to manage. They can deny healthcare procedures, medicines or interventions that would reduce healthcare costs down the road on the reasonable assumption the individual will be in a different facility by the time the cost comes home. Vigorous monitoring and oversight can reduce this ability, but it is far easier to get away with than to detect.

In Florida, the GEO Group's Blackwater River Correctional Facility was built specifically for people with mental health problems or complex medical problems such as HIV but few of them actually stay there. Troublesome or expensive individuals are sent to the state's Santa Rosa Correctional Institution just down the road. "They have the cream of the crop at Blackwater," the warden at Santa Clara told the Tampa Bay Times. "Their inmates are not on any type of psychiatric drugs and do not require any type of psychiatric care If an inmate at Blackwater tries to kill himself, they send him to me."⁵⁴

Second, private contractors can bid low and raise costs later. Ohio requires a 5 percent savings, so the contractor will show a 5 percent savings; if Michigan requires a 10 percent savings, then the contractor will show a 10 percent savings. Obviously, some goal is better than none, but it is essentially a numbers game. Exact costs are too difficult to track to the origins and too many assumptions or estimates are subject to revision. But the history of prison privatization shows states being disappointed by the actual savings or the management or maintenance of the facility. Even if problems can be proven, it's often too late to bring the function back in-house . . . and contractors always promise to fix it next year.

As the chief budget analyst observed in Ohio, the state simply works with the vendor's rate to show that it generates the required savings.

Third, it's impossible to compare apples-to-apples. Minimum security inmates cost less to confine than high security inmates; healthy inmates require less healthcare than sicker ones. Private prisons often show cost savings by comparing the cost of a low-security facility with healthy young inmates to a full-system average, which includes many costlier individuals. Wary of risks, many state contracts with private prison operators are designed to include only lower security individuals; wary of costs, private operators typically put a ceiling on healthcare expenditures, then transfer sick individuals to other (public) facilities when the costs exceed the ceiling. The result is a subtle, invisible skewing of costs in private contractors' favor.

Section 6

Twenty Questions to Ask in Evaluating a Privatization Proposal

Privatizing multi-million dollar public functions with large numbers of employees isn't easy – and determining whether Michigan taxpayers are getting a good deal requires answers to hard questions.

Calculating Costs

Other states' experience shows has proven that simply requiring a 10 percent savings under statute and receiving a contractor proposal that promises that is no guarantee. Lawmakers need to consider how the calculation was made and what the 10 percent baseline refers to.

1. Does 10 percent refer to the average per diem cost in the contract facility compared to the average per diem in the full Michigan system (with its elderly, ailing, extremely violent and generally more expensive individuals) – or does the 10 percent refer to other similar facilities? How is the comparison made; how often; by whom?
2. Do the 10 percent savings include some fair share of the overhead cost of central administration? If so, how much? Or does 10 percent refer only to the operation of one particular facility?
3. Is the private facility 10 percent cheaper than a public facility because it is chronically understaffed and uses considerable overtime?

New and Hidden Costs

Contracting prison functions often leads to new, unexpected public costs: sewer and water, for example. Who pays for them?

4. Who pays for the local police time spent on the compound during a riot or searching for escapees after an escape?
5. Who pays for time the local prosecutor spends prosecuting crimes committed on the inside?
6. Who pays for hidden costs and unforeseen consequences? When the Lorton prison closed in Virginia, the environmental cleanup of the former prison site cost \$15 million.⁵⁵ Contamination was caused by an unlicensed landfill, a diesel fuel spill and bullets in the firing range. It's hard to foresee every variable beforehand and hard to negotiate unknown costs into a contract.

Transitional Costs

Changing from one system to another raises immediate transitional costs.

7. Does the cost calculus include paying accrued leave to staff who lose jobs? Not until far into efforts to privatize state prisons in Florida did lawmakers discover that personnel turnover costs might reach \$25 million.⁵⁶

8. Have costs associated with moving equipment or data from the office presently performing the service to the contractor been accounted for? Items like medical records and institutional histories require sensitive archival transitions.

Contract Management Costs

Privatization doesn't mean writing a check and washing your hands. Contracted systems still require management to start, monitor and maintain.

9. What about the cost of the entire bidding process: holding hearings, performing studies, drafting the request for proposals, and selecting the bidder? In a truly competitive process, many of these costs will need to be incurred again at time of renewal.
10. Who covers the cost of enforcement and monitoring, as well as documenting and publishing results? For functions like prisons and prison services, enforcement likely includes unscheduled visits on evenings and weekends. After six escapes, the City of Youngstown, Ohio actually joined the inmate plaintiffs in a landmark lawsuit against CCA to ensure that its local interests be taken into consideration.⁵⁷ The settlement agreement required CCA to pay the costs of an on-site monitor.
11. How much is the cost of public staff collaboration with private vendors: answering questions, training contractor staff, ensuring continuity?
12. Have decision makers considered the cost of defending lawsuits that can result from alleged contractor failures or procurement problems, and insurance to cover risks?

Community Costs

Prisons play a role in the economy in many Michigan communities. When facilities are privatized or closed, the impact on residents and small businesses must be assessed.

13. How many jobs are lost in the community compared to jobs created in the community? What is the type and quality of jobs lost compared to jobs gained: full time versus part time or temporary; with or without benefits?

Non-Monetary Costs

Contracting for prisons is not just another procurement. The commodity is liberty, which raises troubling questions about the division between public and private responsibility, including...

14. What kind of transparency and accountability can taxpayers expect? Private prison contractors are often exempt or only partly subject to state open records laws. Yet transparency is important in government, and for contractors such as private prison vendors as well. The federal Private Prison Information Act would have made private correctional facilities operating under federal contracts subject to the same open records laws as public facilities. CCA spent over \$3 million to kill the bill in 2010.⁵⁸

15. How might privatizing specific functions affect other ones? The mere presence of outside actors on the inside of a secure facility affects the safety, security and smooth operation of the facility. Whether it is nurses or food service workers, they need to be trained and familiar with work inside a correctional facility. Prison staff and inmates understand the rules, and understand each other; they can interact without unnecessary friction. In 2007, MDOC found that when outside food service staff were used, at least one additional state corrections officer needed to be assigned during operations – even though the time shows up as MDOC costs not vendor costs.⁵⁹
16. How much force can private actors use? How? When? Police officers are issued guns and authorized to shoot to kill, with many rules, restrictions and special training. What about private corrections officers and taser guns? Batons? On the compound? Off the compound? In pursuit after an escape? Hard questions need to be answered in advance and trained in advance – questions that do not even arise in the context of public prisons and purely public responsibility.
17. What are the rules of engagement? If there's a riot in a private prison, can the local public police force enter the compound? Do they need to be searched? Can they bring their weapons? Most prison operators don't want weapons on the compound because weapons ultimately can be used against anybody. When is this negotiated? Hopefully not at midnight on the night of the riot ... but it's far harder when different decision-makers answer to different people, some of whom live in different parts of the country.

Failure Costs

Success is never guaranteed. What is the cost of failure – and who bears that risk?

18. Are savings guaranteed? What if expectations are not met?
19. What is the long term impact of the state losing control over or our ability to perform this function internally?
20. What is the cost of returning the function to the public if contracting proves to be a failure? As a matter of market competition, continuation of the contract cannot be guaranteed in advance.

The state and the private prison company have different incentives. At the end of the day, taxpayers want to save money. Private prisons want to make money. These are inherently opposite interests, since the only way for private prisons to make money in this context is for government to give it to them. The business-model of the for-profit prison is built around government spending. More is better. Less is worse. It's that simple.

As Ted Strickland put it: "Ultimately, private prisons are tempted to do whatever it takes to keep costs down and keep their beds filled, since, like a hotel, a private prison makes more money at full capacity. This may be acceptable when we are talking about hotel/motel management, but it is absolutely intolerable when we are talking about public safety."⁶⁰

Some worry about private prison companies' ability to spend money to seek political change, harsher criminal sentences or immigration crackdowns.⁶¹ Wisconsin has a statutory duty to disclose conflicts of interest, including any and all relationships that might lead to decisions being made in private – not the public – interest.⁶²

There also are subtler pressures.

Simple items such as length of stay require special attention. If the private contractor has a low threshold for disobedience and is strict about penalizing infractions, it can affect an individual's disciplinary credits and increase the length of stay. To its credit, Michigan's HB 5174 considers such difficulties by expressly denying the private vendor authority to calculate release dates or award disciplinary credits, but still the records accumulated while under private control will be considered by authorities making such decisions. The vendor's incentives muddy an analysis that should focus exclusively on the behavior of the individual.

Prison is fundamentally expensive. It costs roughly \$34,600 per year to lock someone up in Michigan.⁶³ Alternative sanctions that reduce recidivism such as drug treatment, mental healthcare or job training cost between \$2,000 and \$12,000 per year, depending on program details.⁶⁴ But regardless of public safety or reduced cost to taxpayers, private prisons will always promote their line of business. It's one way they create profits for their shareholders.

The Corrections Corporation of America is admirably direct. In its annual 10k report to the SEC, it names "fluctuations in occupancy levels" as the No. 1 risk to profitability.⁶⁵

The GEO group is similarly forthright. Its 10k report declares:⁶⁶

"[T]he demand for our correctional and detention facilities and services ... could be adversely affected by changes in existing criminal or immigration laws, crime rates in jurisdictions in which we operate, the relaxation of criminal or immigra-

"Ultimately, private prisons are tempted to do whatever it takes to keep costs down and keep their beds filled, since, like a hotel, a private prison makes more money at full capacity."

–Ted Strickland, former governor of Ohio and nine-year prison psychologist

tion enforcement efforts, leniency in conviction, sentencing or deportation practices, and the decriminalization of certain activities that are currently proscribed by criminal laws or the loosening of immigration laws. For example, any changes with respect to the decriminalization of drugs and controlled substances could affect the number of persons arrested, convicted, sentenced and incarcerated, thereby potentially reducing demand for correctional facilities to house them. Similarly, reductions in crime rates could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities. Immigration reform laws which are currently a focus for legislators and politicians at the federal, state and local level also could materially adversely impact us.

“Recently, in California and Michigan for example, there have been recommendations for the early release of inmates to relieve overcrowding conditions. When combined with relatively fixed costs for operating each facility, regardless of the occupancy level, a material decrease in occupancy levels at one or more of our facilities could have a material adverse effect on our revenues and profitability, and consequently, on our financial condition and results of operations.”

The incentive is ironic. Michigan has been working hard in recent years to bring down the prison population. It worked with groups such as the Center on State Governments and the Pew Center on the States to find safe, responsible ways to get it done.⁶⁷ Local groups such as the Citizens Alliance on Prisons and Public Spending (CAPPS) the Citizens Research Council of Michigan (CRC) and the Center for Michigan have all offered workable, concrete recommendations.⁶⁸ Contracting with GEO means giving state taxpayer money to an organization that benefits if those efforts fail.

Private prisons turn out to cost roughly as much as public prisons—but the staff tends to be underpaid. Where, then, does the money go? Much of it exits the prison in a way that doesn't contribute to operations.

In 2010, GEO made \$63 million in net income and paid shareholders \$1.13 per share.⁶⁹ In 2010, the CEO of GEO made \$3,484,807, including \$6,433 in club dues. The top six GEO executives made \$13,550,913 among them in that year.⁷⁰

While running a billion-dollar corporation is no small job and people are accustomed to CEOs making big money, in this case the executives work directly for taxpayers. The director of the Michigan Department of Corrections supervises nearly as many inmates as the CEO of the GEO Group and manages almost the same number of employees—but the CEO of GEO is paid probably 20 times as much. GEO manages fewer than half as many inmates as the Federal Bureau of Prisons, and in fewer than half as many states—but the director brings home roughly 20 times more every year. It's hard to see the advantage for taxpayers in so much money leaving the prison.

\$3.484 million:

The amount GEO's Boca-Raton, Florida-based CEO George Zoley was paid in 2010

| Top Six GEO Executives Made \$13.5 Million Total in 2010⁷¹ | | |
|--|---|-------------|
| Wayne H. Calabrese | Former Vice Chairman, President and COO | \$6,471,689 |
| George C. Zoley | Chairman of the Board and CEO | \$3,484,807 |
| Brian R. Evans | Senior Vice President and CFO | \$915,669 |
| John M. Hurley | Senior Vice President, Detention and Corrections Services | \$976,507 |
| John J. Bulfin | Senior Vice President, General Counsel | \$837,974 |
| Jorge A. Dominicis | Senior Vice President, Residential Treatment Services | \$864,267 |

Compensation includes salary, stock options, bonus, etc.

The money not only leaves the prisons, it leaves Michigan. The GEO group is headquartered in Boca Raton, Fla. That's likely where the executives buy their millionaire homes and spend their money.

Just reading newspapers shows GEO paid \$40 million to settle the de La Rosa case in Texas and \$6.5 million to settle the death of Ronald Sites in Oklahoma. GEO, however, is not paying those costs itself. It is passing those costs on through insurance costs and per diem rates to its other customers. That's the business.

Section 9

Problems with Privatization of Specific Functions and Services

Healthcare Privatization: Wrong Prescription for Michigan Prisons

Michigan has long experimented with contract healthcare in its prisons. In 1997, Michigan first contracted with a private, for-profit provider of prison healthcare, United Correctional Managed Care, Inc., which got in trouble for failing to pay its bills. In 1998, the company and its Michigan contract were acquired by Correctional Medical Services (CMS), a giant in the field, headquartered in St. Louis.⁷² In 1999, Michigan signed a four-year, \$178.6 million contract extension with CMS.⁷³ In 2000, CMS expanded the contract to include on-site doctors as well for another \$9.4 million per year.⁷⁴

That's where it gets sticky.

First, the contract was awarded without competitive bidding. State Rep. Mickey Mortimer (R-Horton) told the Associated Press the doctors should have had the opportunity to organize and bid against CMS. "We screwed up as a Legislature," he said. "I just think bidding is always the best premise."⁷⁵

Second, the contract reportedly paid CMS \$64.67 per person per month, regardless of what, if any, medical services were delivered.⁷⁶ In other words, if CMS denied people care or gave them as little care as possible, CMS benefitted financially.

Third, at the time of the no-bid contract, CMS was under investigation for a large number of alleged failures in multiple jurisdictions. In the Norfolk city jail in Virginia, the Department of Justice found CMS' care to be "grossly inadequate."⁷⁷ In Nevada, CMS' medical director was suspended from practice as result of his care. In Arkansas, a diabetic prisoner died after CMS personnel denied him insulin for 30 hours after his arrest on a misdemeanor. In North Carolina, CMS and a nurse were indicted for allegedly involuntary manslaughter following the death of a newly arrested inmate suffering from drug withdrawal. Right at home in Macomb County, Michigan, CMS allegedly fired a nurse when she complained about CMS' care and refused to alter medical records.⁷⁸

That put a lot of people in position to say "I told you so" when problems accumulated over the next several years.

- Mentally ill, 21-year-old Timothy Joe Souders, died after spending four days locked in four-point restraints on a concrete slab bed in 100 degree heat in a Michigan prison. Michigan paid \$3.25 million to settle the lawsuit.
- Martinique Stoudemire, 27, lost both of her legs while under care of CMS in a Michigan prison. Suffering from lupus, a chronic disease that can affect the heart, lungs and circulatory system, she'd been prescribed blood thinners since the age of 11. But CMS denied her medication and ignored her severe chest pains and body swelling. A year later blood clots took both of her legs, one after the other.⁷⁹

“You are not cotracts,” declared U.S. District Court Judge Alan Enslin, issuing an order to provide adequate care and threatening to hold in contempt and jail “the malefactors” who fail. He was speaking from frustration in a lawsuit that lasted many years and saw far too many delays, excuses and continuances. His order goes to both CMS, the delinquent contractor, and the Department of Corrections, the delinquent contracting and supervisory authority:

*“Here is the basic message: You are valuable providers of life-saving services and medicines. You are not cotracts who collect government paychecks while your work is taken to the sexton for burial The days of dead wood in the Department of Corrections are over, as are the days of CMS intentionally delaying referrals and care for craven profit motives.”*⁸⁰

Michigan has had problems with CMS at every level. In the Calhoun County jail in Battle Creek, an outbreak of Methicillin-resistant Staphylococcus aureus (MRSA), a dangerous antibiotic-resistant bacteria, was blamed for the death of two people in custody and an infection that led to the amputation of part of a nurse’s foot. “It wasn’t as clean as it should be,” the nurse said. “We didn’t always have the supplies.”⁸¹

By 2009, Michigan had enough and declined to renew CMS’ healthcare contract. Instead the state awarded a three-year, \$326 million contract to CMS’s primary competitor, Prison Health Services (PHS) of Brentwood, Tenn.⁸²

But the cruel ironies continue. Michigan simply became the next in the line of states that had fired one provider and hired the other, in a continuing quest for a contractor who could actually meet their needs. Just before Michigan fired CMS and hired PHS, Alabama did the opposite: fired PHS and hired CMS. Just afterward, Delaware pingponged the other direction: fired CMS and hired PHS. In the whole cruel game of pingpong, patients continue to suffer or die.

Alabama fired PHS and hired CMS in 2006.

From the medical review before the decision:⁸³

- “Prison Health Services lacked follow-up, made mistakes in prescribing drugs and gave substandard care to 19 of 22 prisoners . . . reviewed.”
- “This patient’s underlying medical conditions were grossly mismanaged”: regarding a lupus patient who suffered a brain hemorrhage and died.
- “[T]he record is either incomplete or she was not seen for the duration of her suicide watch until she died.” Regarding a patient who hanged herself on the fifth day suicide watch, without being evaluated by a mental health professional, including the time she spent banging her head on the wall, crying, “Daddy, don’t hurt me anymore.”

Delaware fired CMS and hired PHS in 2010⁸⁴

- 21-year-old Anthony Pierce died when a giant tumor growing out of his neck ate through his skull and killed him. The tumor was so big his fellow inmates nicknamed him the “Brother with Two Heads” though CMS medical staff thought it might be a cyst or an ingrown hair.⁸⁵

The final cruel irony is that none of this matters anyway.

On June 3, 2011, the company that owns CMS completed its acquisition of the company that owns PHS.⁸⁶ Now instead of two bad choices there is only one monopoly, newly named Corizon. Even the theoretical advantage of free-market competition has disappeared.



105 Westpark Drive
Brentwood, TN 37027
www.corizonhealth.com

The privately held Corizon Corp. represents the merger of the publicly held Prisoner Health Services (subsidiary of America Service Group) and the privately held Correctional Medical Services (subsidiary of Valitas). Because Corizon is privately held, information is less available, but Corizon is estimated to have 11,000 employees and independent contractors, to serve more than 400 correctional facilities, and have annual revenue of \$1.4 billion for 2011.⁸⁷

Headquartered in Brentwood Tennessee, near the Corrections Corporation of America, Corizon provides custodial healthcare to state and local governments throughout the United States.

Current Michigan contract with Corizon:⁸⁸

- Contract Period: February 10, 2009, to September 30, 2012.
- Total estimated contract value: \$377,344,397
- Built-in fee escalation: roughly 4 percent annually.

Contracting Out Prison Food Service Can Lead to Problems

Seemingly innocuous, contracting for food service can lead to a host of problems.

Contracting can create additional burdens on corrections staff.

In 2007, MDOC found that when outside food service staff were used, at least one additional state corrections officer needed to be assigned during operations—even though the time shows up as MDOC costs not vendor costs.⁸⁹

Contracting can interfere with the department's own efforts to reduce food costs.

MDOC is currently reducing costs by moving from a centralized operation to decentralized operations, which reduce transportation costs and allow rates to be negotiated with local vendors, in many cases to rates below market value as food nears its expiration date.

MDOC has long-established relationships with more than 50 Michigan vendors, and MDOC food purchasing operations return \$45 million to the state every year. Giant national chains like Aramark tend to purchase differently.

Food service is fundamental to the stability of institutions.

Small cost-cutting measures such as reducing portion size or downgrading ingredients can have explosive consequences. Eight corrections officers and eight inmates were injured in a riot at Kentucky's Northpoint Training Center attributed to dissatisfaction over food served by Aramark. The cost of rebuilding was estimated at \$18.8 million.⁹⁰

Florida experienced the danger of private sector efficiency differently. Aramark kept its "windfall" when it downgraded to cheaper ingredients and when it was paid based on the number of people in custody not the actual number of meals served.⁹¹ But Aramark and another company, Trinity Services Group, both terminated their contracts in 2008 when costs started rising unexpectedly. "It's put us in a position of losing a lot of money," said Trinity President John Varnado.⁹² It also put the state in the position of needing to find new ways to feed the incarcerated population with only a few months' notice.

MDOC has long-established relationships with more than 50 Michigan vendors. MDOC food purchasing operations return \$45 million to the state every year.

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Section 10

Michigan Prison Privatization: Proposals Under Consideration

Despite the evidence and the accumulated experience, privatization retains its allure. Three major corrections privatizations are currently being considered in Michigan: reopening North Lake, the Special Alternative Incarceration Facility (SAI) at Chelsea, and the Woodland Center Correctional Facility for people with serious mental illness. In addition, some associated functions are being considered for contracting, healthcare and food services. None of these proposals are good for Michigan.

The North Lake facility at Baldwin should be easiest to dismiss.

Michigan doesn't need additional secure capacity at this time, so reopening can't be justified as an expansion. The only explanation is a desire to open a private facility in anticipation of shutting down some public facilities in the short term, thus swapping public for private capacity.

Such a swap seems unjustified as a matter of either cost or performance. It also introduces a host of complex issues ranging from logistics, discussed above, to political question of who benefits from the transaction and who's paying for the lobbyists. Keeping the public function public raises no such questions.

Next is the Special Alternative Incarceration Facility (SAI) at Chelsea.

This "boot camp" style program has been estimated to save \$30 million to \$40 million per year.⁹³ Designed to change attitudes and cultivate life skills, the SAI serves up to 500 individuals in 90-day sessions at a cost of roughly \$11 million annually. Most importantly, SAI creates a lower cost alternative for individuals who would otherwise have been sentenced to prison.

To the surprise of many, a House-Senate legislative conference committee decided to privatize the SAI in May 2011, and the idea has been written into the FY 2012 budget.⁹⁴ The House fiscal agency's report presumes a savings of precisely \$1 million, although the basis for the estimate is simply the assumptions in the bills.⁹⁵

Questions immediately arise: why privatize this facility at this time? The SAI is not a program one finds in the Yellow Pages. It has specialized staff and specialized curriculum that took years to develop and hone. Simply writing the scope-of-work will be no small job. Program staff weren't provided opportunity to suggest their own cuts or savings, and the cost needs to be compared to a longer full prison term.

Also at risk is the Woodland Center Correctional Facility in Whitmore Lake, a medical prison designed for people who are seriously mentally ill.⁹⁶ Bids are currently being taken to operate this facility although, again, the move comes as a surprise and the purposes are unclear. In a facility designed for people with serious mental health problems, the stable environment becomes even more important. Staff turnover and inconsistent operations are especially problematic for a population that's already difficult to manage.

Healthcare cannot safely be cut. Some but not all healthcare functions are presently contracted out. Corizon is apparently seeking to privatize the remaining functions and create an entirely contracted prison healthcare system. That would be problematic not only because of Corizon's spotty performance record and the absence of private market competition, but also because it would remove the public sector fallback. Presently the private providers shift more expensive individuals into the public system for care—which is one problem. But without a robust public system, the individuals might receive inadequate care altogether—which is a different problem. With only one private provider and no meaningful public option, there is no system for quality assurance and quality control.

Food Service. Some legislators are also considering contracting for food service.⁹⁷ This, too, courts trouble for no real benefit.

Section 11

Recommendations

This paper focuses on privatization and only scratches the surface for alternative recommendations. Groups such as Michigan's CAPP and the national Council on State Governments have assembled thoughtful recommendations, beginning with obvious cost savings measures such as transferring geriatric or medically frail individuals from prison to community supervision.⁹⁸ Increased transparency and requiring strict adherence to all of Michigan's open records laws should be non-negotiable for any and all future contracting.

In years past, the nearly 7,500 corrections officers and forensic security assistants united in the Michigan Corrections Organization (MCO) has worked cooperatively with the Department of Corrections to identify savings. Both formal and ad hoc efficiency committees have produced successful cost-savings measures. Efficiencies have been achieved in transportation, relating to inmates movements to various prisons, clinics and hospitals, and courts.

In the same spirit, members of MCO, SEIU, the UAW, AFSCME and MSEA have proposed new solutions to help improve Michigan services and lower costs to citizens. In the future, the public servants in Michigan look forward to and fully expect to participate in developing responsible cost-saving measures. Privatization, however, is not among them.

Executive Summary Endnotes

- 1 “Critics not convinced youth prison is fixed; They say prison officials are covering up problems to protect Gov. Engler’s project.” Grand Rapid Press, 24 August 2000.
- 2 “Critics not convinced youth prison is fixed; They say prison officials are covering up problems to protect Gov. Engler’s project.” Grand Rapid Press, 24 August 2000.
- 3 “Punked? Critics challenge savings claimed by privately run youth prison,” Grand Rapid Press. 2 May 2004.
- 4 The GEO Group, et al v. Michigan Department of Corrections, et al. Supreme Court of Michigan, 480 Mich. 991 (December 20, 1997) http://coa.courts.mi.gov/documents/opinions/final/coa/20070621_c273466_33_273466.opn.pdf
- 5 Arizona Department of Corrections, “ASP Kingman, Security Review,” 19 August 2010. http://www.azcorrections.gov/adc/news/2010/081910_ASP_Kingman_Security_Review.pdf
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