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**Document Title:            Changing Prison Management: Strategies in Response to VOI/TIS Legislation**

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**Document No.:              198622**

**Date Received:              January 2003**

**Award Number:              98-CE-VX-0023**

**This report has not been published by the U.S. Department of Justice. To provide better customer service, NCJRS has made this Federally-funded grant final report available electronically in addition to traditional paper copies.**

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# *Changing Prison Management Strategies in Response to VOI/TIS Legislation*

*Susan Turner, Laura J. Hickman, Judith Greene,  
and Terry Fain*

DRU-2721-NIJ

December 2001

*Prepared for the National Institute of Justice*

## ***Criminal Justice Program***

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*The research described in this report was supported by grant #96-CE-VX-0023 from the National Institute of Justice, with funds transferred from the Corrections Program Office, Office of Justice Programs, United States Department of Justice. Points of view are those of the authors and do not*

*expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice or the Corrections Program Office.*

## PREFACE

The Federal Violent Crime Control and Law Enforcement Act of 1994, as amended, provided for federal Violent-Offender Incarceration and Truth-in-Sentencing (VOI/TIS) incentive grants to the states and U.S. territories. These grants are to be used to increase the capacity of state correctional systems to confine serious and violent offenders. Congress and the U.S. Department of Justice agreed to devote some of the committed funds intended for these grants to evaluating the actions they support. This evaluation addresses the impacts of recent sentencing practices on changes in correctional management and the expanded use of privatization, as a complement to RAND's national evaluation of the implementation and early outcomes of VOI/TIS incentive grants to states.

RAND's evaluation tracked and documented changes in sentencing changes, classification, health care, programming, professionalism of correctional employees, and costs. Information on prison management was collected at a national level and through state-level case studies in seven states (California, Florida, New York, North Carolina, Oregon, Texas, and Washington). In addition, detailed case studies of privatization were conducted in three of the seven prison management case study states--Florida, North Carolina, and Texas.

This report is one in a series of RAND studies on the impact of truth-in-sentencing and other "get tough" policies on state and local corrections. Other reports for interested readers include:

Susan Turner, Terry Fain, Peter W. Greenwood, Elsa Chen, and James Chiesa, with Stella Bart, Judith Greene, Daniel Krislov, Eric Larson, Nancy Merritt, and Albert Hyun Yoon (2001), *National Evaluation of the Violent Offender Incarceration/Truth-in-Sentencing Incentive Grant Program*, DRU-2634-NIJ, Final Report to the National Institute of Justice.

Susan Turner, Peter Greenwood, Elsa Chen, and Terry Fain (1999), "The Impact of Truth-in-Sentencing and Three-Strikes Legislation: Prison Populations, State Budgets, and Crime Rates," *Stanford Law and Policy Review*, Volume 11:1.

Joan Petersilia, Susan Turner, and Terry Fain (1999), *Profiling Inmates in Los Angeles County Jail: Risks, Recidivism, and Release Options*, DRR-2136-NIJ, Final Report to the National Institute of Justice.

Nancy Merritt, Susan Turner, Peter Greenwood, and Terry Fain (1999), *Implementation and Impact of Violent Offender and Truth-in-Sentencing Legislation: How Counties Respond to the Challenge*, DRR-2110-NIJ, Final Report to the National Institute of Justice.

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## SUMMARY

### INTRODUCTION

Across the nation, states are joining the growing movement to "get tough" on crime and criminals. Three-strikes, mandatory minimums, and Truth-in-Sentencing legislation are all attempts to keep serious offenders in prison for longer periods of time and promote public safety. Most generally, Truth-in-Sentencing refers to the requirement that offenders serve a substantial portion of their imposed prison sentence. This is in contrast to correctional policies that allow for release of offenders before they have served their full court-imposed sentence. Truth-in-Sentencing laws are intended to both deter offenders from committing crime and help restore the credibility of the criminal justice system in the eyes of the public.

The Federal government recently launched an effort to encourage states to adopt Truth-in-Sentencing and other forms of "get tough" legislation. The Violent Crime Control and Law Enforcement Act of 1994, as amended, provided for Federal Violent-Offender Incarceration and Truth-in-Sentencing (VOI/TIS) incentive grants to the states. This legislation was largely designed to increase the capacity of state correctional systems to confine serious and violent offenders for longer periods of time and to assure the public that these offenders would serve a substantial portion of their sentences (Office of Justice Programs 1996). Specifically, the purposes of the VOI/TIS incentive grants are to provide states with funds to:

- Build or expand bed capacity in correctional facilities for confinement of offenders convicted of a Part 1 violent crimes

or juveniles adjudicated for acts which, if committed by an adult, would constitute a Part 1 violent crime<sup>1</sup>

- Build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, to house convicted nonviolent offenders and criminal aliens, for the purpose of freeing up existing prison space for offenders convicted of Part 1 violent crime
- Build or expand local jail capacity<sup>2</sup>

#### **VOI/TIS INCENTIVE GRANTS**

A state may apply for TIS grants by meeting one of two criteria:

- It has implemented laws requiring convicted violent offenders to serve at least 85 percent of their sentence or resulting in such offenders serving on average 85 percent of their sentence
- It has enacted a law providing that within three years of its grant application it will require convicted violent offenders to serve at least 85 percent of their sentence

The percentage of the total TIS funds that each state is allocated for a given year is equal to the percentage of the nation's violent crimes committed in that state over the three years preceding the allocation. The grant is thus both merit- and need-based, because all states need to show statutory or de facto 85 percent truth in sentencing, but their amount of funding is contingent on "need" for federal assistance to combat violent crime.

For VOI funding, a state need only give assurances that it has implemented or will implement policies ensuring that

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<sup>1</sup> Part 1 violent crimes are defined by the Federal Bureau of Investigation as murder and nonnegligent manslaughter, rape, robbery, and aggravated assault (Federal Bureau of Investigation 2000).

- violent offenders serve "a substantial portion" of their sentences
- their punishment is "sufficiently severe"
- the time served is "appropriately related" to the violent-offender status and sufficient to protect the public

States meeting these criteria are said to be eligible for "Tier 1" funding.<sup>3</sup> A state can receive a greater share of VOI funding (Tier 2) if it can show that since 1993 it has increased any of the following:

- the percentage of convicted violent offenders that have been sentenced to prison
- the average time they have served
- the average percentage of their sentence they have served

A state can also receive a greater share of VOI funding (Tier 3) if it can show it has accomplished either of the following:

- since 1993, increased the percentage of convicted violent offenders that have been sentenced to prison and the average percentage of their sentence they have served
- within the past three years, increased by at least 10 percent the number of convicted violent offenders committed by the courts to prison

RAND recently completed a national evaluation of the implementation and early outcome experiences of the VOI/TIS incentive

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<sup>2</sup> CPO 1999 Application Kit, p. 2.

<sup>3</sup>This terminology has been adopted in implementing the Act; it is not present in the Act itself.

grant program (see Turner et al. 2001). The current study was designed to complement the national evaluation, examining adaptations in prison management made by state correctional agencies in response to VOI/TIS. Specifically, the current study addresses the following research questions:

- What management changes have been made by state correctional agencies in order to deal with the increase in the numbers of violent offenders being incarcerated, many for much longer periods than in the past?
- What additional safety and training procedures have been instituted for correctional staff in order to deal with the increase in violent offenders?
- How does the increase in violent offenders affect the type and extent of programming (e.g., education, prison employment) health care and safety procedures?
- What types of offenders, programs, or services fall within private corrections? What has been the experience of private corrections in terms of inmate and officer safety, infractions, accountability and costs?

#### **METHODOLOGY**

The current study answers these questions using a three-tiered methodology. Nationwide characteristics on prison management were gathered for all states. Case studies on prison management were conducted for seven states (California, Florida, New York, North Carolina, Oregon, Texas, and Washington). Detailed case studies, that included site visits, were conducted on issues related to privatization in three of the seven states--Texas, North Carolina, and Florida.

For purposes of the present analyses, TIS classification is based on funding, not on whether the state passed TIS legislation--although

all but three of the states that received TIS funding also passed qualifying TIS legislation. New Mexico, Wisconsin, and the District of Columbia were not included as TIS states in analyses, since they enacted TIS later than the most recently available data. We separate out Texas, since its effect--particularly for quantitative measures of crime and sentences--swamps the effects of other non-TIS states.

## **FINDINGS**

### **Limitations of the Current Study**

Like our national evaluation of the implementation and early outcomes of VOI/TIS on crime rates, prison sentences, admissions, and time served (see Turner et al. 2001), the current evaluation also operated under several constraints.

First, our evaluation was conducted early in the implementation of VOI/TIS; the full impact of VOI/TIS will not be seen until years from now. States do not have to spend VOI/TIS funds during the year in which they are received--states have up to four years from the year in which funds are awarded. Thus states have not yet built all the beds originally envisioned for VOI/TIS offenders. In addition, the impact of TIS legislation will not be felt until violent offenders begin to serve the portions of their sentences that are beyond that which was historically served. Second, although we can examine the differential effects of states that did and did not receive TIS funding, we cannot determine the impact of VOI/TIS funds overall. This is because all states received funding from the program. We do not have a set of states, for comparison purposes, that did not participate in the VOI/TIS program. Thus, changes we observe over time may be due to other events, sentencing changes, or national trends not associated with VOI/TIS.

### **National Analyses of Prison Management Trends**

Overall, our national analyses suggest one of two patterns. Changes in some measures have been occurring over the past decade and some measures have remained fairly constant. We do not observe sharp changes for TIS states about the time of many states were passing TIS legislation in 1994. In some instances, TIS states show higher levels of prison management concerns (such as percent of inmates at high/close custody, misconduct reports), but for other variables, non-TIS states show higher levels (such as inmate assaults). We did not find strong evidence for our hypotheses regarding the potential impact of TIS on prison management variables. This may be due to several reasons. Averaging over states in these analyses may mask important state level experiences. In addition, data are available only during the first several years after TIS legislation was passed in many states. As we found in our national VOI/TIS evaluation, we may need to wait several more years in order to gauge the impact of such sentencing policies.

### **Prison Management Case Study Interviews**

Based on our case study interviews, it appears the VOI/TIS and other get tough policies have had at least some impact on prison management within individual states. Most of our interviewees reported longer sentences, greater numbers of older inmates, and increased crowding. These conditions were not unanimously considered a direct result of VOI/TIS, but were often considered the result of a rising prison population, to which VOI/TIS has contributed. One consistent theme was the anticipation that VOI/TIS and other get tough policies would have an impact on prison management in the future. TIS and other changes in sentencing policy are relatively new and most of our respondents expect greater impact, in terms of crowding, aging inmates, and costs, will be observed as more inmates are sentenced under the new policies.

### **Privatization Case Studies**

The privatization case studies were designed to examine and document management practices in state correctional systems with more than a few years of experience with prison privatization, and to explore whether the provisions of VOI/TIS, or other elements of the movement promoting "get tough" legislation have affected how states approach the issue of privatization.

For more than fifteen years private prison marketing efforts have been built on assertions that they could deliver higher quality services at a lower price than public correctional agencies. The public debates about whether a state should include prison privatization among the approaches taken to improve or expand the correctional system are usually couched in terms of correctional costs and efficiency, but the evidence to date does not offer solid support for the claims made by proponents. There are other factors, however, that underlie and influence the decision process.

The decision to privatize prison operations is ultimately made in the political arena, by legislators and governors and not by a state's professional correctional managers. Over the course of the fifteen-year history of this industry, all states have faced huge increases in their prison populations but fewer than half have chosen to address this problem by contracting with private companies to build or manage state prisons within their political boundaries.<sup>4</sup> Regional political traditions and the political cultures appear to play a predominant role in determining whether a state will move to privatize its prisons. For example, almost all of the early contracts were for facilities built and operated in traditionally conservative "right-to-work" states, where



correctional labor unions are weak or non-existent, and strong bi-partisan support for private prisons prevailed. Specific VOI/TIS or "get tough" measures that have been incorporated in a state's criminal justice policies and practices do not appear to play a major role.

Our case studies show that private management of prisons is often associated with specific patterns of shortcomings and deficiencies (e.g., higher rates of staff turnover, problems with classification and inmate discipline, deficient provision of basic services, higher rates of violent assaults). Many of these problems can be traced to the primary objective of the industry: to reap profits from the high-risk business of operating prisons. Once the political decision to privatize is made, a state's correctional managers face a number of administrative challenges, as we discuss below.

**Considerations for Private Prisons.** Given the strong financial incentives to cut costs in order maximize profits while remaining "competitive," performance of private prison contractors becomes a key issue. Some have argued that the proper role of public correctional management in these transactions should be to set high performance standards and outcome measures, and then to stand back and let the private sector "innovate" its way toward more efficient ways to do business. Austin's review of the current state of private correctional practice, however, reveals scant evidence of innovation (Austin and Coventry 1999). Private companies have often hired veteran managers from the public corrections systems. In Minnesota, private companies mimicked the public system in some ways, while failing to provide required service delivery in a number of areas (Greene 2000).

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<sup>4</sup> Many states-- e.g., New York and Illinois--have no involvement with prison privatization, though they may contract with for-profit vendors of community corrections, halfway houses and the like. Some states--e.g., Hawaii and Wisconsin--have sent prisoners to be confined in private prisons located elsewhere, but have not yet embraced the concept of privately-operated prisons within their borders.

Given this experience, public managers are wise to provide precisely detailed prescriptions for every aspect of prison operations as they issue requests for proposals and negotiate contracts. A review of the experience with prison privatization in the three case-study states suggests that such administrative practices are essential to managing the risks and help to secure adequate levels of performance from private prison vendors. Specifically:

- Clear and detailed specifications for every aspect of prison operations need to be incorporated in "requests for proposals" for private prison operation to establish comprehensive performance expectations and set an unambiguous framework for contracting, and for management oversight, monitoring, and enforcement of contract requirements. Contracts must incorporate a detailed, enforceable staffing plan, and should specify quantified performance measures for delivery of security services, healthcare, and correctional programs.
- Strict monitoring and enforcement are needed to enforce the terms of the contract. This requires daily onsite monitoring by a dedicated full-time experienced corrections professional; careful documentation of operational deficiencies and problems; and enforcement sanctions with specific monetary sanctions (i.e., per diem adjustments) that will be triggered when explicit performance benchmarks are not met.

A decade and a half of experience with privatization in the U.S. evokes a number of other cautionary principles for approaching correctional privatization:

- A jurisdiction cannot afford to privatize so large a proportion of institutional corrections that the system becomes dependent

on private management and cannot bargain to its best advantage--or finds itself unable to take over prison operations (or absorb the contracted population load) when things go wrong. The proportion of privatized prison operations in a jurisdiction should therefore remain quite low. For the same reason, jurisdictions choosing to privatize prison operations should maintain ownership of the facilities involved. This will help to avoid impediments to converting private prisons to public management if the costs of privatization (financial or political) prove to be too high.

- Jurisdictions should have clear and realistic objectives and expectations. The consensus among credible researchers is that the public cannot expect to obtain much, if any, tax-dollar savings through privatization. Adequate funding for security services and prison programs is essential. Vendors who propose per diems that appear (at least on paper) to produce substantial savings may be bidding deliberately and irresponsibly low. Politicians who make expansive claims of savings through privatization may be ignoring the inevitable hidden costs, such as increased complaints of improper treatment in private facilities.
- Jurisdictions should not contract for prison beds outside of their political boundaries, nor should they allow "spec" prisons to be built or operated within them. The track record amassed by private prison operators that contract for out-of-state prisoners is poor. The logistics of monitoring and enforcing contracts for beds located hundreds or thousands of miles away are difficult. The lack of adequate local and state jurisdictional control over "spec" prisons has given rise to a set of operational, legal, and political problems that

have not been sufficiently addressed by any host jurisdiction to date.

- Private prison contractors should be required to pay prevailing wages and provide comparable benefit levels for private prison staff. At the time of our study, the strains placed by a strong economy on the correctional labor pool were affecting public prison systems adversely--especially in states like Texas, where the prison system expanded at a rate that has stripped an already tight labor market. Private prison operators offering lower compensation for line staff than is afforded them by public correctional agencies (whether to effect savings or to increase profits) found it increasingly difficult to fill staff vacancies and cover key security posts. In many private prisons the result has been a security force that is under-qualified, insufficiently experienced, and exhausted though excessive, involuntary overtime.
- Given the patterns of structural deficiencies mentioned above, the best results with private prison operations may be achieved by limiting contractors to provision of housing and services for the least challenging prisoners. This means restricting the private market to relatively low-security prisoners who are not prone to violence, and who are nearing the end of their prison sentences and therefore have every incentive for good behavior. The track record is poor where public managers have not taken great care in selection of candidates for transfer to private prisons, or where vendors have been willing to accept prisoners beyond their management capacity. This has been especially true in instances where prisoner classification tools were defective or overridden by contingent circumstances, or where prisoners in need of expensive, individualized services (e.g., juvenile offenders, mentally ill prisoners)

were transferred to private facilities that were not equipped to address their needs.

## CONCLUSIONS

Overall, our analyses suggest that VOI/TIS may not be having a major impact to date on prison management issues and privatization. Longer term historical trends have been impacting prison management over the past decade. The use of privatization has been very modest under VOI/TIS and may be related more to political than to administrative correctional decisions.

Although our analyses did not reveal large impacts on prison management at the national level, it is possible to provide more precise information on several prison management topics at the individual state level. For example, by examining differences in offender participation in programming, inmate grievances, as well as assaults in states where portions of similar inmates are sentenced under TIS and non-TIS laws, we may be able to obtain a clearer impact of such policies. Such analyses have been conducted in North Carolina (Memory et al. 1999) and currently being investigated by RAND using data from Washington State.

### ACKNOWLEDGMENTS

We would like to thank a number of individuals who assisted us in identifying interviewees for the prison management case studies presented in this report. These individuals are: Bill Bales, Florida Department of Corrections; John Bereocochea, California Department of Corrections; Tony Fabello, Texas Criminal Justice Policy Council; Paul Korotkin, New York Department of Correctional Services; Virginia Price, North Carolina Department of Correction; Peggy Smith, Washington Department of Corrections; and Pam Teshner, Oregon Department of Corrections. We would also like to extend our gratitude to the individuals within these states' departments of corrections who spent considerable time providing thoughtful insights about prison management issues within their respective states.

Many public officials and professional staff in correctional agencies and policy organizations made extremely generous contributions of both time and information to the privatization case studies. We would like to especially acknowledge the wealth of information, experience, and insights shared by Bill Bales, Byron Brown, James Fonnin, Ken Kopczynski, David Mitchell, Michael Moore, Carl Reynolds, Gregg Stahl, Danny Thompson, and Terri Wilson.

We would like to thank the National Institute of Justice (NIJ) for providing us the opportunity to conduct the work. Jordan Leiter, formerly with NIJ, and Ronald S. Everett, our current grant monitor provided support throughout the project.

## I. BACKGROUND AND INTRODUCTION<sup>5</sup>

Across the nation, states are joining the growing movement to "get tough" on crime and criminals. Three-strikes, mandatory minimums, and Truth-in-Sentencing legislation are all attempts to keep serious offenders in prison for longer periods of time and promote public safety. Most generally, Truth-in-Sentencing refers to the requirement that offenders serve a substantial portion of their imposed prison sentence. This is in contrast to correctional policies that allow for release of offenders before they have served their full court-imposed sentence. Truth-in-Sentencing laws are intended to both deter offenders from committing crime and help restore the credibility of the criminal justice system in the eyes of the public.

The Federal government recently launched an effort to encourage states to adopt Truth-in-Sentencing and other forms of "get tough" legislation. The Violent Crime Control and Law Enforcement Act of 1994, as amended, provided for Federal Violent-Offender Incarceration and Truth-in-Sentencing (VOI/TIS) grants to the states. This legislation was largely designed to increase the capacity of state correctional systems to confine serious and violent offenders for longer periods of time and to assure the public that these offenders would serve a substantial portion of their sentences (OJP 1996). Specifically, the purposes of the VOI/TIS incentive grants are to provide states with funds to:

- Build or expand bed capacity in correctional facilities for confinement of offenders convicted of a Part 1 violent crimes

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<sup>5</sup> Much of the information provided in this chapter is taken from the national evaluation of VOI/TIS conducted by RAND (Turner et al. 2001).

or juveniles adjudicated for acts which, if committed by an adult, would constitute a Part 1 violent crime<sup>6</sup>

- Build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, to house convicted nonviolent offenders and criminal aliens, for the purpose of freeing up existing prison space for offenders convicted of Part 1 violent crime
- Build or expand local jail capacity<sup>7</sup>

The Violent Crime Control and Law Enforcement Act, as amended, authorized over \$10 billion in Subtitle A funds for the years 1995 to 2000. These funds were to be divided equally between two programs: Truth-in-Sentencing (TIS) Incentive Grants and Violent-Offender Incarceration (VOI) Grants. States could apply for and receive funding through either or both of these programs.

#### **ALLOCATION OF VOI/TIS FUNDS**

Between fiscal years 1996 and 1999, nearly two billion dollars were awarded to states under the VOI/TIS incentive grants program, with \$927 million allocated under TIS and \$920 million under VOI. Thirty states and the District of Columbia received TIS funding in at least one of these years. Not surprisingly, the largest total funding amounts under the VOI/TIS program have gone to the most populous states because the TIS funds disbursed are proportional to the total number of violent crimes. California has received the most funds to date--\$289 million; New York and Florida have received over \$150 million each. Eleven less populated states--Hawaii, Idaho, Maine, Montana, Nebraska, New

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<sup>6</sup> Part 1 violent crimes are defined by the Federal Bureau of Investigation as murder and nonnegligent manslaughter, rape, robbery, and aggravated assault (FBI 2000).

<sup>7</sup> CPO 1999 Application Kit, p. 2.



Hampshire, North Dakota, Rhode Island, South Dakota, West Virginia, and Wyoming--received less than \$10 million each.

RAND recently completed a national evaluation of the implementation and early outcome experiences of the VOI/TIS incentive grant program (see Turner et al. 2001). The current study was designed to complement the national evaluation, examining adaptations in prison management made by state correctional agencies in response to VOI/TIS. Specifically, the current study addresses the following research questions:

- What management changes have been made by state correctional agencies in order to deal with the increase in the numbers of violent offenders being incarcerated, many for much longer periods than in the past?
- What additional safety and training procedures have been instituted for correctional staff in order to deal with the violent offenders?
- How does the increase in violent offenders affect the type and extent of programming (e.g., education, prison employment) health care and safety procedures?
- What types of offenders, programs, or services fall within private corrections? What has been the experience of private corrections in terms of inmate and officer safety, infractions, accountability and costs?

The current study answers these questions using a three-tiered methodology. Nationwide characteristics on prison management were gathered for all states; case studies on prison management were conducted for seven states (California, Florida, New York, North Carolina, Oregon, Texas, and Washington). Detailed case studies on issues related to privatization that included site visits, were

conducted in three of the seven states--Texas, North Carolina, and Florida.

We turn first to a review and discussion of prison management in Chapter II. Chapter III follows with a similar presentation for privatization. In Chapter IV, we discuss the potential impacts of VOI/TIS on prison management and privatization. Chapter V presents an overview of the research methodology. In Chapter VI, we present findings from our analysis of national trends; Chapter VII presents management findings from the seven case studies; in Chapter VIII, the three-state case study findings for privatization. Chapter IX presents the summary and conclusions.

## II. REVIEW OF PRISON MANAGEMENT

At the aggregate level, VOI/TIS and related policies are likely to produce changes in the composition of correctional populations and alter management strategies and programs for incarcerated populations. Potential changes produced by VOI/TIS and other "get tough" sentencing policies notwithstanding, correctional management has long been recognized as a challenging task. In addition to the general issues surrounding management of any large organization, correctional administrators face many unique responsibilities associated with the competing demands of incarceration.

One of those responsibilities is to establish and maintain an organization consistent with the purpose of incarceration. This purpose determines the "services" to be delivered (or goals to be accomplished) by correctional managers. At different points in American history, the goal of incarceration has shifted in response to pressure from various social and legal movements. For most of the 1900s, the primary correctional goal was the rehabilitation of inmates (Andrews et al. 1990). The rehabilitation perspective seeks to change individual offenders in a way that prevents future criminality. As Martinson (1974) described it, the rehabilitation perspective views criminal behavior as a disease amenable to cure. Prisons were regarded as houses of "correction" and the institutional environment was thought to promote inmate remorse and reform. Indeterminate sentencing and the possibility for parole were thought to both encourage positive inmate behavior within the institution and allow prison officials the necessary flexibility to monitor the rehabilitative progress of individual inmates.

By the early to mid-1970s a number of influences, including the concerns raised by the Civil Rights and other social movements about discrimination by criminal justice officials, lead to criticism of the

rehabilitation-oriented approach of correctional systems (Feely and Simon 1992). Reformers became concerned about the broad discretion authorities were afforded in managing inmate populations under an indeterminate sentencing structure. In addition, a high-profile review of available evidence on the effectiveness of rehabilitation programs called into question the efficacy of these programs (Martinson 1974), leading to the widespread sentiment that "nothing works" (see Gendreau and Ross 1987).

These pressures contributed to a substantial change in the paradigm dominating corrections over the past twenty-five years. Correctional and sentencing policy shifted from a central focus on processing of individual cases to a concern with the standardization of sanctioning for all offenders (Feely and Simon 1992; Tonry and Hatlestad 1997). Crime control policy has become highly politicized--leading to an increasing emphasis on incarceration as the primary response to both violent and nonviolent criminal behavior (Blumstein 1995). Since 1980, all 50 states and the federal government have established mandatory minimum terms of imprisonment for conviction of various types of crimes that might have otherwise resulted in a non-prison sentence or shorter term of incarceration (Tonry 1996). Data from the Bureau of Justice Statistics show that between 1980 and 1999, the number of state and federal prisoners grew from 329,821 to 1,344,369 (Beck 2000; Beck and Gilliard 1995). During the same time period, the incarceration rate (number of prisoners per 100,000 population) went from 9 to 20 for the federal population and 130 to 272 for state populations (Beck 2000; Beck and Gilliard 1995).

Rather than an increase in offending activity, researchers have identified "get tough" sanctioning policies as the primary explanation for this sizable increase in incarceration (Cohen and Canela-Cacho 1994). In particular, policies related to sentencing for drug offenses have played a substantial role in the dramatic increase in imprisonment. Lengthy mandatory minimum prison sentences have become primary

ammunition of the "war on drugs," drawing large numbers of first-time offenders and low level drug dealers into prison populations at an unprecedented rate (Tonry 1995). The Bureau of Justice Statistics reports that between 1990 and 1998 drug offenders accounted for 19 percent of the growth of sentenced state prisoners. Half of the total growth, however, was attributed to prisoners sentenced for violent crimes (Beck 2000).

The increased use of incarceration means that correctional officials today must manage growing populations of inmates serving longer terms of incarceration. Prison administrators have been forced to focus increased attention on issues of cost control and the distribution of scarce resources, including living space, programming, and supervision by correctional officers (Feely and Simon 1992). The pressure on administrators to adapt to these constraints occurs within an organizational context already recognized for presenting unique challenges to management. Correctional institutions are facilities peopled by unwilling short- and very long-term residents who must be housed, fed, clothed, protected, monitored, and disciplined for disruptive and sometimes violent behavior. Under conditions where inmates often substantially outnumber staff, prison administrators require effective methods for maintaining order and control while protecting the Constitutional rights of inmates and safety of employees (Wright 1994). The increased reliance on incarceration can reasonably be expected to complicate this already difficult management situation. In the next sections, we discuss a number of correctional management issues in the context of prison population and policy changes, including good/gain time and parole, classification, health care, programming,

cost of corrections, professionalism of correctional employees, and crowding in correctional facilities.<sup>8</sup>

#### **EARLY RELEASE**

Two tools traditionally available to correctional administrators to assist in managing the complicated issues of inmate populations are behavioral incentives known as "good time" and parole. Good time, also called gain time, refers to credits inmates earn toward a sentence reduction in exchange for good behavior within the institution. Good behavior consists of following the rules of conduct, but may also include participation in rehabilitative and other programming (Weisburd and Chayet 1996). In the United States, good time laws were adopted largely for the purpose of encouraging positive behavior (without the use of corporal punishment or solitary confinement), active participation in prison employment, and serving as an internal mechanism for relieving overcrowding (Parisi and Zillo 1983).

Similarly, parole is thought to encourage positive, productive inmate behavior within correctional institutions. It was established as an important part of the rehabilitation model. Under parole systems, inmates who could demonstrate their rehabilitation and readiness for life in the community were eligible for early release, at the discretion of a board of respected citizens and professionals. Like good time, parole was intended to serve as a source of motivation for behavioral compliance and productivity but also provided a mechanism for relieving overcrowded conditions (Rhine 1996). Over the past decade or more, a distinctly negative conception of parole has developed among politicians and the public, encouraged by several highly publicized crimes committed

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<sup>8</sup> This is not intended to be an exhaustive list of all important correctional management issues. For example, judicial intervention in correctional facilities has produced sometimes quite radical change in the requirements placed on prison managers (Smith 2000). Discussion and

by parolees. This negative conception lead to what Petersilia (1999: 479) refers to as "the most profound" of the criminal justice reforms undertaken in recent years. In her review of parole and prison reentry in the United States, Petersilia (1999) reports that presently only 15 states maintain traditional parole boards with full discretionary release authority. By 1998, 14 states had abolished parole and 21 had reduced the scope of authority of parole boards.

#### **CLASSIFICATION**

Another tool used by correctional officials to assist in accomplishing the complicated management task is inmate classification. Early forms of inmate classification consisted of the simple physical separation of women from men, juveniles from adults, and mentally ill inmates from others. These broad separations were performed largely for the protection of one category of inmate from another (Craddock 1993). Over the past century, classification schemes have become much more complex, expanded the number of factors employed in grouping decisions, and diversified in the types of inmate groups identified (Solomon and Camp 1993).

The most prominent forms of classification are intended to separate inmates into groups according to security risk, such as the threat of escape from the facility, and custody requirements referring to the level of danger posed by inmates to themselves, staff, and fellow inmates. This sorting assists prison managers in more effectively using available resources by placing more dangerous inmates under higher (and more expensive) levels of security and custody than less dangerous inmates (Craddock 1993). In addition, inmate classification has been used for other purposes including rehabilitative and medical need, identification of vulnerable inmates who require protection, and

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examination of judicial intervention in correctional systems, is complex and beyond the scope of this report.

managing disciplinary problems (Fernandez and Neiman 1998). Classification has become such an important mechanism for the protection and control of inmates that successful law suits have been brought against prison officials for failing to employ or properly use this management tool (Vaughn and del Carmen 1995).

#### **CROWDING**

Since the days of Philadelphia's Walnut Street Jail two centuries ago, American correctional administrators have faced the persistent problem of managing facilities crowded with too many inmates (Mullen 1985).<sup>9</sup> Despite the seemingly obvious nature of the problem, there is no consistent method of determining how many inmates a facility can hold (Beck 2000). In fact, in its survey of correctional facilities the Bureau of Justice Statistics asks states to report facility capacity in three different ways in an effort to capture the major methods (Beck 2000). These methods are referred to as design, rated, and operational capacity. Design capacity is the number of inmates the facility was intended to house by those who planned (or designed) the construction of the prison. Rated capacity refers to the number of inmates that facilities can hold as determined by designated officials within individual states. Operational capacity represents the number of inmates facilities can hold based upon the current availability of staff, programming, and services (Beck 2000). Among the other methods for determining capacity are spatial density (amount of square feet of confinement space per inmate), social density (availability of privacy in living spaces), and mobility (amount of time inmates are locked in their cells) (Mullen 1985).

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<sup>9</sup> Of course, crowded prisons and jails are far from an exclusively American concern. To varying degrees, many other countries experience this problem in their correctional systems (see Tonry and Hatlestad 1997).



However capacity is determined, when the number of inmates exhausts available prison space and/or other resources, crowding becomes a problem for correctional facilities. Some concerns about crowding expressed by correctional officials relate to safety and security risks, reduced access to medical care, programming, and recreational opportunities, understaffing and higher levels of staff turnover, increased law suits citing conditions of confinement, and general deterioration of control over the prison population (Riveland 1999). Among these concerns, threats to safety and security posed by crowding have perhaps drawn the most attention. It is a reasonable and quite common assertion that overcrowding leads to increased levels of violence. While there is some support for this assertion (Harer and Steffensmeier 1996; Gaes and McGuire 1985), the available research evidence on this hypothesis is mixed (Useem and Reisig 1999; Gaes 1994). Some conclude that the level of crowding alone may not have a direct impact on violence but may be depend on other factors, such as individual perceptions (Wooldredge 1997) and management strategies (Ruback and Carr 1993). Others have called attention to the potential for increased gang presence (Harer and Steffensmeier 1996; Pelz 1996) and racial tensions (Henderson, Cullen, Carroll, and Feinberg 2000) to contribute to volatile conditions in crowded correctional facilities.

Concerns about crowded conditions are not restricted to potential impact on inmates, but also relate to the impact on staff. Crowding may exacerbate job stress that has long been recognized as particularly high among correctional employees (Wright, Saylor, Gilman, and Camp 1997). Stress among such employees is associated with staff turnover, which is also disproportionately high for corrections relative to other professions (Finn 2000; Mitchell, MacKenzie, Styve, Gover 2000). Staff turnover is costly and may add additional strain on the remaining workforce.

Recently, a trend in correctional management has sought to reduce the stress of correctional workers (among other goals) by decentralizing

the decision making power within the organizations. In contrast, the classical, or control model of prison management represents a style that maintains a bureaucratic and highly centralized administration (DiIulio 1987). Institutions operating under control model-type leadership utilize a paramilitary organizational structure and require strict adherence to rules and procedures. Little discretion is allocated to non-managerial staff. Paralleling developments in non-prison organizations, the new approach affords correctional line staff more discretion in the performance of their duties and application of policy, and provides opportunities for input into the operation of the facility. This decentralized management styles have been referred to as the Employee Investment Model (Stohr, Lovrich, Menke, and Zupan 1994), Participatory Management (Wright et al. 1997), Total Quality Management (Franklin, Platt, Wheatley, and Bohac 1997), and Strategic Management (Fleisher 1998). This approach is associated with an increase in professionalism among correctional workers, including an emphasis on education and training of line staff. Researchers assessing the impact of decentralized management styles, relative to more centralized styles, have found them to be associated with higher levels job satisfaction for line staff (Stohr et al. 1994; Wright et al. 1997) and supervisors (Reisig and Lovrich 1998), lower rates of disorder within facilities (Reisig 1998), and lower rates of work-related stress (Stohr et al. 1994).

#### **HEALTH CARE**

The U.S. Supreme Court has identified adequate medical care as a right, rather than a privilege for all inmates in correctional facilities (*Estelle v. Gamble* 1976). This requirement has called attention to the major concern that health care can be for administrators. Prisoners are largely drawn from low-income populations with limited access to medical care. Unhealthful habits prior to incarceration, such as poor diet, drug use, and risky sexual behaviors,

make correctional inmates a medically needy population (Marquart, Merianos, Herbert, and Carroll 1997). Moreover, as inmates age their general health condition worsens, requiring more care and physical accommodation than inmates at younger ages (Maruschak and Beck 2001; Neeley, Addison, and Craig-Moreland 1997). In fact, older inmates with special needs present such unique challenges that some jurisdictions have opened specialized assisted-living facilities, such as Washington's Ahtamun View Correctional Complex, to provide care for elderly and disabled inmates (Potterfield 1999). Even while housed with the general population, responding to the needs of aging inmates is expensive. The costs associated with the care of older inmates are expected to grow as more inmates serve longer terms of incarceration under "get tough" sentencing policies (McDonald 1999; Blumstein 1995). In an assessment of the federal system, the General Accounting Office (2000) identifies medical needs of older inmates as contributing to an average annual increase of 8.6 percent in health care costs over the 1990s.

In addition to aging inmates, a major health-related concern in correctional facilities is serious illnesses such as tuberculosis and HIV/AIDS. Because of their life circumstances, inmates are generally drawn from populations with a relatively high rate of these illnesses (Hammett, Harmon, and Maruschak 1999; Vlahov 1990). Once inside correctional facilities, high risk behaviors and close contact between inmates in crowded facilities can produce conditions conducive to spread of infectious diseases (National Commission on AIDS 1991). According to Bureau of Justice Statistics, at the close of 1997 22,338 state prisoners were infected with the HIV virus. During that year, 538 of 2,872 inmate deaths (19 percent) were attributable to AIDS (Maruschak 1999). In a survey conducted by that National Institute of Justice and Centers for Disease Control and Prevention, inmates with tuberculosis infection in responding state and federal facilities numbered 15,033 in 1997 (Hammett et al. 1999). In a recent report sponsored by the National Institute of Justice, the Centers for Disease Control and

Prevention, and the Bureau of Justice Statistics, the researchers conclude that there have been substantial improvements in the control and treatment diseases such as tuberculosis and HIV/AIDS in U.S. correctional facilities but they remain considerable health care concern for administrators (Hammett et al. 1999).

#### **PROGRAMMING**

Although public opinion is regularly portrayed as punitive toward convicted offenders, researchers have found that Americans continue to view rehabilitation as an important function of corrections (Applegate, Cullen, and Fisher 1997). Despite the "get tough" trend evident in corrections over the past twenty years, there remains within jurisdictions varying degrees of interest in rehabilitation (Tonry, September 1999). Most correctional facilities operate at least some rehabilitative programs, available to at least some members of the inmate population. Such treatment programs may target special populations, such as programs for sex offenders, substance abusers, or those with mental health problems. These programs are largely intended to reduce recidivism and generally improve inmates' chances of success in the community upon release. Rehabilitative programs may also serve other goals, such as reducing idleness and identifying inmates (through voluntary program participation and completion) who maybe a lower risk for behavioral problems or future offending relative to non-volunteers and dropouts (MacKenzie 1997).

Since the mid-1970s and the publication of Martinson's work (1974), rehabilitative programming was discounted by many as largely ineffective. However, a number of researchers have continued to assess the performance of treatment program in producing behavioral change in participants. At the start of this century, a growing number of reviewers conclude that correctional treatment programs may in fact reduce recidivism, at least for certain types of offenders under some conditions (e.g. Andrews, Zinger, Hoge, Bonta, Gendreau, and Cullen

1990; MacKenzie 1997; MacKenzie and Hickman 1998; Gaes, Flanagan, Motiuk, and Stewart 1999). These positive findings provide renewed incentive for prisons to establish and maintain inmate access to appropriate treatment programs within correctional facilities. However, the severe limitation placed on resources such as space and funding presented by the ever growing inmate population make providing adequate levels of programming a considerable challenge for prison managers (Riveland 1999).

#### **COST OF CORRECTIONS**

However appropriate and necessary in individual cases, incarceration is an expensive response to crime.<sup>10</sup> Consequently, one of the most obvious impacts of the dramatic increase in the use of incarceration over the past twenty years has been the growing cost of corrections. Between 1980 and 1994, total capital expenses (costs associated with building, renovating, and acquiring land for prisons) for federal and state governments rose from \$538 million to \$2.3 billion (General Accounting Office 1996). Construction of prisons and jails is only part of the cost of incarceration. Day-to-day operation of prisons and jails can far exceed the original costs of construction. According to the Bureau of Justice Statistics, in 1996 (the most recent year for which data are available) states spent 94 percent of their prison dollars on operating facilities, with the remaining 6 percent going to capital expenses (Stephan 1999). In a number of jurisdictions, the share of state budgets allocated to corrections has grown in an effort to keep pace with the need to build and operate prisons for a record number of inmates.

One tool available to correctional agencies to assist in reducing at least some cost is to engage inmates in prison industry programs and upkeep of facilities, such as laundry and janitorial duties. In addition to the potential for offsetting at least some cost, inmate work programs and activity reduce inmate idleness and may produce rehabilitative affects under some conditions (Bouffard, MacKenzie, and Hickman 2000).

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<sup>10</sup> In this report, the term "costly" refers strictly to out-of-pocket expense directly related to incarcerating inmates and does not refer to the cost effectiveness of incarceration relative to other interventions. While the latter issue is important and has been the focus considerable empirical attention (see Zimring and Hawkins 1995), examination of this issue is beyond the scope of this report.

### III. REVIEW OF PRIVATIZATION

Many commentators have remarked that prison privatization is nothing new in the U.S., with roots running back to the "convict-lease" system of the Reconstruction era. At that time, private entrepreneurs leased prisoners to replace slaves that had previously provided labor for road gangs, forestry and mining crews, agricultural plantations, and manufacturing workshops. Private entrepreneurship entered the field of adult corrections again in the early 1980s, as neo-liberal ideas of deregulation and privatization interested reformers intent on reducing the size of "big government." Private corporations would relieve government of the burdens of prison management, charging a per diem fee for each prisoner transferred to private confinement. By introducing innovative management techniques and reducing bureaucracy, proponents of privatization promised that private firms would build facilities faster and cheaper, and operate them at less expense, while delivering higher quality correctional services.

In 1983, the Corrections Corporation of America (CCA) was formed. CCA soon began to flourish, eventually becoming the largest private prison company in the world. The Wackenhut Corporation established a private prison division the following year. CCA and Wackenhut dominate the field, sharing 75 percent of the market between them.<sup>11</sup> No other company exceeds 9 percent of market share. The private prison industry is currently confining approximately 80,000 state and federal prisoners under direct contracts or through intergovernmental agreements.

Despite this sizeable inmate population, a string of operational problems, spotlighted by the national media attention, have plagued the two industry leaders. In July 1998, six prisoners escaped from a CCA facility in Youngstown, Ohio. It later came to light that there had

already been 20 stabbings and two homicides at the facility in little more than a year of operations. An investigation performed for the U.S. Department of Justice reveals that many operational failings had contributed to these events. For example, the classification system failed to screen out maximum security prisoners in what was intended to be a medium security prison. Medical treatment and other programs were inadequate. Also, the prison was operated with a largely inexperienced staff (Office of the Corrections Trustee 1998).

Wackenhut has also experienced problems. From December 1998 through August 1999, there were four prisoner homicides in two Wackenhut prisons in New Mexico and a guard was killed during a riot. During that period, the prisoner homicide rate in the two Wackenhut prisons was one for every 400 prisoners, compared to the average national prison homicide rate in 1998 of one homicide for every 22,000 prisoners. Investigators found indications that Wackenhut had not been meeting acceptable standards for classification of prisoners, staffing, program services, or security procedures.

Two Wackenhut contracts have since been terminated when more problems surfaced. Operation of the Travis County State Jail was taken over by the state after a dozen Wackenhut staff were investigated for alleged sexual misconduct. In Jena, Louisiana, a Wackenhut facility for juvenile offenders was closed after a judge found evidence of human rights abuses and brutality. Reports detailing the problems in these private prisons cited inadequacies in staffing and program operations.

In the wake of these highly publicized events, the industry has suffered in the financial markets. From 1995 through 1997, CCA had ranked among the top five performing companies on the New York Stock Exchange. In the summer of 1997, CCA stock traded at \$45 a share. In mid-December 2000, the stock's value was just 19 cents a share.

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<sup>11</sup> Wackenhut spun off its prison subsidiary in 1988. The company went public in 1994, and is now formally known as "WCC." The Wackenhut



Wackenhut also experienced a decline. After the death of the guard in New Mexico, its stock price dropped 28 percent over two days.

Debate about the causes and remedies for the problems of private prisons has been heated. Opponents of prison privatization maintain that their fears about privatization have been realized--that a profit orientation in as complex and risky business such as prison operation would result in disaster.

While conceding that some facilities have failed to offer safe, humane conditions of confinement, corporate executives have characterized these as exceptional cases in an otherwise successful industry. They charge that the private prison sector is held to a much higher standard than public corrections, and that the media unfairly exposes problems in private facilities that go unnoticed in the public sector.

To date, the body of research literature fails to offer much credible evidence to inform this debate. Few areas of correctional research have been more contentious. Despite the interest in topic of privatization, there are relatively few studies and many of these are lacking rigorous methodology. For example, no study of the quality of prison services has involved random assignment of prisoners. Studies focusing on the costs of private prisons relative to public prisons often fail to examine comparable services or facilities, i.e., they compare "apples to oranges." Finally, there are questions whether findings of various studies can be generalized across time and jurisdiction.

#### **RESEARCH ON COST COMPARISONS**

Research findings on costs and savings of private prisons versus public prisons have been generally inconsistent and contradictory. Some find that privatization can reduce operational costs by 10 to 15 percent

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Corporation continues to hold a 56 percent share of "WCC" stock.

(Moore 1997). In a review of the literature, however, a team of researchers led by Douglas McDonald concluded that "the few existing studies and other available data do not provide strong evidence of any general pattern" of cost-savings (McDonald et al. 1998, p. v). In another synthesis of the literature, Pratt and Maahs conducted a meta-analysis of 24 cost studies. They found that the best predictors of prison per diem costs were facility-related factors, such as size, age, and security level. They concluded that private prisons are not more cost-effective than public prisons (Pratt and Maahs 1999).

There are limitations to this body of research that complicate interpretation of findings. Most studies neglect to take account of additional costs that may be incurred on top of contracted per diem charges. None have adequately traced costs over time to understand how expenditure patterns may shift. In addition, some of the cost savings reported might be artifacts of the methods used to allocate government overhead costs rather than actually savings.

Most studies have failed to account for aspects of public and private prison operations that may render them not truly comparable, including facility design and prison population characteristics. Other differences are that private prison per diem fees may be maintained a lower level when private contractors negotiate a cap on the medical costs per inmate. Thus, inmates requiring more expensive medical care are placed within or transferred to public rather than private facilities. Privatization may produce savings by cutting costs for health services, staff compensation, and by lowering personnel staffing ratios (Nelson 1998). Employee compensation and staffing ratios tend to increase over time, however, as labor market demands become more intense, and as investigation of operational problems and civil rights litigation force changes in programs and policies that affect operational costs.

If cost-savings are possible through privatization, the extent of these savings is likely to vary considerably depending upon the public

correctional system that serves as a comparison. For example, the potential for savings associated with privatization is reduced when compared to a public corrections system that incorporates the fundamentals of cost-effective management, such as efficient facility design, prudent staffing ratios, comprehensive management information systems, streamlined procurement, medical cost controls, and trim administrative operations.

#### COMPARISON OF CORRECTIONAL SERVICES

Cost savings represent only one side of the privatization ledger; the quality of correctional service provided is another point on which the performance of public prisons has been compared to private prisons. Little is known about the quality of private prisons because most studies have focused primarily or exclusively on cost issues. Of the existing studies, most are of limited value because they compare services and programs delivered to dissimilar correctional populations, using non-random comparison groups (GAO 1996; McDonald et. al. 1998).

The Urban Institute (1989) compared the quality of services in three pairs of institutions (one pair housing adults and two pairs housing juveniles). Their findings from adult private and public prisons in Kentucky favored the private facility. The public facility housed a more difficult population, however, and the study has been criticized for lacking a sound theoretical model for specification of appropriate performance measures (Gaes et al. 1998: 4).

Charles Logan (1993) supplied a taxonomy for measuring performance of prison operations. His "confinement model" identifies eight key elements for assessment: security, safety, order, care, activity, justice, conditions, and management. Some however have criticized Logan's model for omitting the elements of education and treatment services. In a comparative study of quality in three women's prisons (one private, one state and one federal prison), Logan analyzed data from operational records and staff and inmate interviews. While staff

interview data favored the private prison, the inmate surveys favored the public prison on all but one measure (activity). Logan nonetheless concluded that the private prison was more effective on six of his eight dimensions. The state public prison scored higher on the care element and was not different from the private and federal women's prisons on the dimension of justice.<sup>12</sup>

Logan's findings have been criticized for over-reliance on staff survey responses, since private prison staff might offer biased responses given that their prospects for continued employment could be at stake. Critics have also charged that he lacked experience and objectivity in the interpretation of several performance measures (Gaes, Camp, and Saylor 1998).

In more recent evaluations, researchers have attempted to overcome the "apples and oranges" problem. A legislative study in Tennessee compared a private prison with two public facilities that were built at nearly the same time, with similar architecture. The research team concluded that the facilities were roughly equivalent on a number of service performance, including safety, personnel, facility conditions, health care, and inmate activities (Tennessee Legislative Select Oversight Committee 1995).

Archambeault and Deis (1996) compared two private prisons with a public prison in Louisiana that were constructed on similar architecture and opened around the same time. Data were analyzed on a number of performance indicators such as escapes, assaults, sexual misconduct, disturbances, deaths, disciplinary actions, grievances, drug tests, communicable diseases, participation in education and vocational training, attainment of General Education Diplomas, and medical care.

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<sup>12</sup> Logan collected data from a public prison in New Mexico and the private prison that succeeded it in the same state (studying essentially the same female population before and after they were transferred from the public facility to the private facility). He added a third comparison with the federal prison for women at Alderson, West Virginia (Logan 1993).

The researchers concluded that the private facilities out-performed the public prison on most measures. The research, however, has received criticism on various methodological issues, e.g., reanalysis of raw serious misconduct data indicated that the comparative rates of serious misconduct were much less favorable to the private prisons (Gaes, Camp and Saylor 1998).

The Washington State Legislative Budget Committee (1996) assessed the feasibility of prison privatization by looking at costs and performance at the same facilities evaluated in Tennessee and Louisiana. The Committee's findings were consistent with the conclusions of Tennessee researchers, but differed with those of the researchers in Louisiana. They concluded that the quality of prison services and performance was generally similar in the private and public facilities.

In Arizona, Thomas conducted a study comparing the operational performance of a private, minimum security "treatment facility" with the average scores of 15 state-operated facilities (Thomas 1997). He concluded that the private facility was superior to this average in such dimensions as public safety, risk of injury or death for staff and inmates, and compliance with professional standards. He found, however, that "one or more individual state-operated prisons had performance records that were equivalent or superior" to the private facility. For example, across at least one critical program dimension--monthly educational program enrollment--five public prisons had monthly enrollment rates that were much higher than had been attained in the private prison.

Researchers from the University of Minnesota conducted a comparison of public and private prison services in that state. The study relied primarily on data from structured interviews of matched sets of medium-security inmates. On most dimensions of prison operations (prison safety and security; availability, quality, and intensity of education and treatment programs; and staff qualifications

and experience) prisoners gave the public prisons significantly higher ratings.

Data drawn from state agency records supported prisoners' perceptions that security staff were less experienced at the private prison. The staff turnover rate at the private facility was more than three times higher than at the public prisons. Prisoners housed at the private prison gave significantly lower ratings to prison educational programs than did their counterparts in Minnesota's public prisons, who attained General Education Diplomas at a 35 percent higher rate (Greene 2000).

Only one study has attempted to assess comparative performance of private and public prisons in terms of recidivism. Using a quasi-experimental design involving matched comparison groups, Lanza-Kaduce and Parker (1998) compared recidivism rates (defined as new criminal offenses) of inmates released from public and private prisons in Florida. They found that private prison releasees had a lower rate of recidivism than released public prisoners. Further, new offenses committed by private prison releasees were found to be less serious than those committed by public prison releasees.

The findings of the Lanza-Kaduce and Parker study have been questioned because of concerns that the public and private prison populations were not comparable, the sampling techniques were flawed, and that there were discrepancies in how recidivism was measured (Florida Department of Corrections 1998).

One of the difficulties faced by researchers in assessing private prisons is the lack of quality data. In partial response to this need, the U.S. Department of Justice sponsored a national survey of private prisons, conducted by Austin. The survey produced data that allowed for comparisons with survey data from public prisons on a range of issues. Sixty-five private prisons participated in the survey, providing data that described both prisoner and facility characteristics, programs offered, staffing levels, and prisoner misconduct.

Austin found relatively few significant differences between private and public operation of prisons. Program participation rates were higher at private prisons, though staff-to-prisoner ratios were 15 percent lower. Levels of violence in private prisons were substantially higher, i.e., there were 49 percent more assaults on staff, and 65 percent more prisoner-on-prisoner assaults (Austin and Coventry 1999). Overall, Austin concluded that in most respects (custody levels, personnel, types of programs) the private prisoners were similar to public prisons, with a modest reduction in labor costs for private prisons.

#### **SUMMARY**

Overall, the body of available research on the costs and quality of private prisons relative to public prisons can lend no solid support to any conclusions. To date, very little research has been conducted. The existing research has yet to overcome a number of difficult methodological issues, such as constructing defensible comparison groups and establishing a means for comparing actual costs associated with private and public prisons. However, available research suggests potential problems that accompany privatization. More high quality research is necessary to provide more conclusive answers.

#### IV. POTENTIAL IMPACT OF VOI/TIS ON PRISON MANAGEMENT AND PRIVATIZATION

The purpose of VOI/TIS funds is to incarcerate more violent offenders for longer periods of time. Changes produced by VOI/TIS occur within the context of the "get tough" movement that has produced numerous similar changes in sentencing and corrections policy. Within a correctional system already strapped for resources to manage an expanding incarcerated population, it is reasonable to expect that further expansion is likely to exacerbate the existing challenges facing correctional administrators. Below we discuss potential impacts of VOI/TIS changes on several major issues of concern for prison operations.

##### **EARLY RELEASE**

Both the VOI and TIS grants are incentives for states to reduce opportunities for early release of violent offenders. TIS grants require states to ensure that violent offenders serve at least 85 percent of their sentence and VOI grants require lengthy sentences (along with other stiffening of penalties).<sup>13</sup> Correctional administrators have long regarded early release as an important tool to motivate compliant behavior (Proctor and Pease 2000; Parisi and Zillo 1983). It is possible that the removal of such opportunities may complicate the task of maintaining an orderly prison environment. In a recent study, Memory and colleagues found evidence in favor of this hypothesis in North Carolina. The researchers examined the impact of a transition from a sentencing structure allowing good time and parole eligibility to a structure removing these early release mechanisms. Among those inmates not eligible for early release, the researchers found more, and more serious, disciplinary infractions than among



inmates whose behavior might influence their release date (Memory, Guo, Parker, and Sutton 1999). Thus, implementation of VOI/TIS policies may result in a reduction of compliant behavior within the correctional population.

Another potential outcome is that VOI/TIS policies may contribute to further expansion of prison populations. Early release and parole have been regarded by some scholars as mechanisms for control of the size of the correctional population (Blumstein and Cohen 1973). The stability of the prison population for most of last century, despite demographic shifts and major historical events (such as the Great Depression, several wars, and periods social unrest), has been attributed to policies allowing correctional administrators to control the timing of release (Blumstein 1995). With the advent of the "get tough" movement in the late 1970s and early 1980s, this authority was reduced or eliminated in many states. This restriction of early release authority has contributed to the dramatic growth in the prison populations (Blumstein and Beck 1999). A further reduction of release authority under VOI/TIS and other "get tough" policies can be expected to produce more of the same, in terms of prison population growth.

#### **CLASSIFICATION**

Another potential impact of VOI/TIS policies on prison management is in the area of inmate classification. In determining initial custody level, most states rely on objective classification schemes that take into account factors associated with potential risk (Austin 1993). One important factor associated with higher risk under these schemes is severity of the crime of conviction (Austin 1993). Consequently, inmates sentenced to prison for violent crimes are likely to be assigned to higher levels of custody than comparable non-violent inmates.

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<sup>13</sup> See Chapter I for a full description of the requirements for TIS and VOI incentive grants.

Classification systems in some states also include the length of sentence as a factor in classification, i.e., longer sentences are associated with higher classification (Fernandez and Neiman 1998). To the extent that VOI/TIS policies increase the number of violent offenders in prisons and the length of time these offenders spend in prison, it is reasonable to expect an increase in the number of inmates classified at high custody levels. This is particularly likely as violent offenders spend more time incarcerated, thus reducing the rate of turnover of available beds. This issue may be of concern to states because of the elevated costs associated with constructing and operating higher custody prison environments relative to lower levels (Fernandez and Neiman 1998; Solomon and Camp 1993). In addition, correctional systems may attempt to accommodate more violent offenders by increasing release of lower level property offenders. This would serve to decrease the share of low risk inmates in prisons. This may prove problematic, in that these low risk inmates are frequently utilized for staff positions within institutions that require mobility and independence, such as office assistance or fire crew duty.

#### **CROWDING**

Perhaps the most frequent prediction about the impact of policies intended to incarcerate more violent offenders for longer periods of time and establish truth in sentencing is that they are likely to exacerbate the crowded conditions that currently exist in many correctional facilities (e.g. MacKenzie 2000; Caplow and Simon 1999). One explanation for how prison crowding might be produced is offered by Wooldredge (1997). In a study assessing the impact of state policies on prisons, he describes an indirect relationship between prison crowding and policies that limit early release discretion. Wooldredge finds that such policies produce more long-term inmates. In turn, a larger share of long-term inmates reduces the rate of prison population turnover. Thus, increasing numbers of long-term inmates contribute to prison

crowding by holding prison beds out of circulation. VOI/TIS policies are intended to create long-term inmates and therefore can reasonably be expected to increase prison crowding.

Increased crowding conditions may have influences in other areas of prison operation as well. One concern about crowding is that it may reduce safety for both staff and inmates. As discussed in the previous chapter, at least some evidence links crowded conditions to violence within prisons (Harer and Steffensmeier 1996; Gaes and McGuire 1985). General misconduct rates may increase as a related manifestation of crowding (Ruback and Carr 1993). In addition, conditions of confinement produced by crowding have given rise to many inmate grievances and law suits (Gaes 1994). An exacerbation of these conditions related to VOI/TIS can be expected to result in an increase in inmate initiation of internal and external legal proceedings. Crowding may also negatively impact staffing levels and turnover. To the extent that hiring of correctional officers falls short of the rate of growth in the prison population, the ratio of inmates to staff could be expected to increase. This may lead to reduced inmate control and greater stress among a workforce already characterized by high levels of job stress and turnover (Finn 2000; Mitchell et al. 2000). In sum, implementation of VOI/TIS policies may have the affect of exacerbating crowded conditions in correctional facilities which may, in turn, lead to higher rates of assault on both staff and inmates, higher rates of general inmate misconduct, increases in inmate filing of grievances and law suits, and increases in inmate to staff ratio and staff turnover.

#### **HEALTH CARE**

To the extent that VOI/TIS policies increase terms of incarceration and crowding within prisons, inmate health care may be impacted. Gaes (1994) argues that the available research attempting to link illness and correctional crowding is too methodologically weak to support sound conclusions about the existence or nature of this link.

Despite the lack of empirical evidence, it is reasonable to suspect more sophisticated research may identify such a relationship. In the case of communicable diseases, such as TB and HIV, many suggest that closer contact between inmates under crowded conditions may facilitate the spread of illness (Hammett et al. 1999). Others suggest that crowded conditions may also make inmates more susceptible to such diseases due to a stressful, generally unhealthful environment (Marquart et al. 1997). Increases in sentence length may also impact correctional health care. According to the Bureau of Justice Statistics' most recent inmate survey, longer-term prisoners reported suffering more injuries and illnesses than inmates incarcerated for a shorter period of time (Maruschak and Beck 2001).

One possible consequence of longer sentences may be higher rates of TB and HIV/AIDS. Longer sentences may expose individual inmates to these diseases over a longer time period, thus providing more opportunity for transmission. Thus, another potential impact of VOI/TIS policies may be an increase in TB and HIV/AIDS among the correctional population. As discussed in a previous chapter, another health care issue relates to aging inmates. VOI/TIS and other get tough policies that lengthen sentences and restrict early release are likely to increase the share of older inmates in the prison population. This group of inmates requires more medical care and accommodation than younger inmates (Neeley et al. 1997). It is reasonable to expect that an increase in this segment of the prison population will place a greater demand on health care services and raise the overall cost of these services as a result.

#### **PROGRAMMING**

Implementation of VOI/TIS policies may also serve to reduce participation of inmates in rehabilitative programming. Early release incentives have been considered by many correctional administrators as effective in motivating inmates to voluntarily participate in

rehabilitation programming (Parisi and Zillo 1983). In the absence of early release incentives, inmates may be less inclined to willingly engage in rehabilitation programs. Programming participation may also be impacted in an indirect way. Inmates without early release incentives may engage in higher levels of non-compliant behavior (Memory et al. 1999). This may result in greater use of disciplinary techniques that isolate inmates from others or restrict their activities, including participation in programming. Another factor related to VOI/TIS and other "get tough" policies that may decrease participation in programming is increased crowding. Under crowded conditions, the availability of rehabilitation programs for all inmates may be reduced because programs are unable to increase their capacity to serve a growing prison population. Moreover, under crowded conditions, space is at a premium. Areas previously used for programming, such as gymnasiums and classrooms, may be converted to living space to accommodate additional inmates.

#### **COST OF CORRECTIONS**

While VOI/TIS is a program that provides states with money for correctional systems, it is also likely to increase the cost of those correctional systems. Correctional budgets are broadly categorized into funds for building and equipping facilities (capital budget) and funds for operation of facilities (operating budget). The latter may be many times larger than the former. For example, in 1999 the average capital budget of the state and federal systems was approximately \$78 million and the average operating budget was roughly \$580 million (Camp and Camp 1999). VOI/TIS funds may increase state correctional costs because the federal dollars may be used to build capacity, but not to fund the much more costly operation of prison facilities. In fact, the General Accounting Office (1998) identified cost as the leading reason why states elected not to seek TIS federal funds. In interviews with state officials, 23 states were identified as lacking legislation that would

ensure TIS eligibility. Officials in the majority of these states (16 of 23) reported that the federal funds were forfeited because of concerns about increases in state expenses that would not be offset by TIS funds. Most of the management issues discussed above impact prison operational cost. To the extent that VOI/TIS impacts these issues, it is reasonable to expect operational costs to increase. For example, a larger share of older inmates and higher rates of TB and HIV/AIDS are likely to lead to increased health care costs (GAO 2000; Hammett et al. 1999). Operational costs are likely to be an increasing burden on states implementing VOI/TIS policies as these correctional systems experience the numerous related impacts of incarcerating more offenders for longer periods of time.

#### **PRIVATIZATION**

States receiving VOI/TIS funds can use them for renting beds in private prison and jails and to finance the construction or operation of private prisons or jails. Given that VOI/TIS money is otherwise only available for "bricks and mortar" and cannot be used for operational uses, privatization becomes an attractive option to obtain additional beds without having to use funds from other sources for operations.

## V. METHODS OF THE STUDY

The purpose of this study was to assess whether and how VOI/TIS policies have impacted the management and privatization of prisons in the United States. A multi-tiered research design was employed that utilized three major methodologies: nationwide analyses of available data, seven state-level prison management case studies, and three in-depth state-level privatization case studies. These three methods are discussed below.

### NATIONAL DATA SOURCES

#### *Corrections Yearbook*

The *Corrections Yearbook* is a publication produced annually by Camille Graham Camp and George Camp of the Criminal Justice Institute. The publication is a compilation of annual results from surveys distributed by the organization to state correctional agencies in all 50 states, the District of Columbia, the Federal Bureau of Prisons, along with other criminal justice agencies. Among other things, the *Corrections Yearbook* provides state-level data on prison population profile, facility characteristics, budgets, programming, and correctional staff. The bulk of the data for the national analyses were conducted on a database constructed from data published annually in the *Corrections Yearbook* for the years 1986 through 1999.

Because of the nature of the publications, *Corrections Yearbook* data must be interpreted with caution. Response to the annual surveys is voluntary, a lack of standardized definitions means that individual correctional agencies may vary widely in types of data they report, and the publishers do not independently verify reported data. Thus, the *Corrections Yearbook* is not an ideal source of data. Despite these limitations, we include these data in our analyses because there is no

other source of national data that gives us an indication of key prison management trends over time.

#### **American Correctional Association (ACA) Survey of State Correctional Officials**

To supplement existing data sources as part of its national evaluation of VOI/TIS (Turner, et al. 2001), RAND contracted with the American Correctional Association (ACA) to conduct a special survey among state correctional officials. The ACA fielded a survey of state departments of correction in all 50 states and the District of Columbia in the summer of 1998. Thirty-seven states (including the District of Columbia) returned surveys (72 percent). States were asked to indicate the extent of changes in a number of prison operations and activities since 1996, when VOI/TIS funds became available, including the types of offenders in prison, inmate activities and programs, prison staffing, and effects on operations (including use of gain/good time, parole, etc.). See Appendix B for a copy of the survey and a list of the states that responded.

#### **National Analyses**

For the purpose of examining trends in correctional management issues, we conducted analyses by comparing states by two major characteristics that are of policy interest in understanding the impact of VOI/TIS:

- states receiving TIS funds versus those that did not
- states that have "structured" sentencing--determinate sentencing or voluntary or presumptive guidelines--versus indeterminate sentencing states

We would expect that those states receiving TIS funds, all things being equal, would experience the most pressures on prison management.



This is because they are the ones that have passed 85% sentence requirements for violent offenders. We include the "structured vs. indeterminate" dimension because it represents one of the major distinctions in state sentencing practices in the U.S. States with indeterminate sentencing may be able to adapt more readily to VOI/TIS and other "get tough" policies due to greater flexibility in the length of sentence imposed and served.<sup>14</sup>

Table 5.1 shows how the states are distributed on these characteristics.

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<sup>14</sup> In these states, terms for violent offenders would be constrained; however, terms for property offenders might be adjusted.

Table 5.1<sup>15</sup>

TIS and Structured Sentencing, by State

| State          | Truth-in-Sentencing | Structured Sentencing |
|----------------|---------------------|-----------------------|
| Alabama        |                     |                       |
| Alaska         |                     |                       |
| Arizona        | X                   | X                     |
| Arkansas       |                     | X                     |
| California     | X                   | X                     |
| Colorado       |                     |                       |
| Connecticut    | X                   |                       |
| Delaware       | X                   | X                     |
| Florida        | X                   | X                     |
| Georgia        | X                   |                       |
| Hawaii         |                     |                       |
| Idaho          |                     |                       |
| Illinois       | X                   | X                     |
| Indiana        |                     | X                     |
| Iowa           | X                   |                       |
| Kansas         | X                   | X                     |
| Kentucky       |                     |                       |
| Louisiana      | X                   |                       |
| Maine          | X                   | X                     |
| Maryland       |                     | X                     |
| Massachusetts  |                     |                       |
| Michigan       | X                   | X                     |
| Minnesota      | X                   | X                     |
| Mississippi    | X                   |                       |
| Missouri       | X                   | X                     |
| Montana        |                     |                       |
| Nebraska       |                     |                       |
| Nevada         |                     |                       |
| New Hampshire  |                     |                       |
| New Jersey     | X                   |                       |
| New Mexico     |                     |                       |
| New York       | X                   |                       |
| North Carolina | X                   | X                     |
| North Dakota   | X                   |                       |
| Ohio           | X                   | X                     |
| Oklahoma       | X                   | X                     |
| Oregon         | X                   | X                     |

(continued on next page)

<sup>15</sup> This table is taken from Turner et al. (2001).

Table 5.1 (cont'd)

TIS and Structured Sentencing, by State

| State          | Truth-in-Sentencing | Structured Sentencing |
|----------------|---------------------|-----------------------|
| Pennsylvania   | X                   | X                     |
| Rhode Island   |                     |                       |
| South Carolina | X                   |                       |
| South Dakota   |                     |                       |
| Tennessee      | X                   | X                     |
| Texas          |                     |                       |
| Utah           | X                   | X                     |
| Vermont        |                     |                       |
| Virginia       | X                   | X                     |
| Washington     | X                   | X                     |
| West Virginia  |                     |                       |
| Wisconsin      |                     |                       |
| Wyoming        |                     |                       |

NOTE: Classification of states having structured sentencing is based on Bureau of Justice Assistance, *National Assessment of Structured Sentencing* (1996).

Defining "truth-in-sentencing" for federal truth-in-sentencing awards is somewhat complex. Determinate sentencing states can qualify for funds if they have passed legislation requiring persons convicted of a Part 1 violent crime to serve not less than 85 percent of the sentence imposed or have passed TIS laws that result in persons convicted of a Part 1 violent crime serving on average not less than 85 percent of the sentence imposed. Indeterminate sentencing states can qualify for TIS funds if, based on existing policies, offenders serve on average 85 percent or more of their maximum sentence (or prison term established under the state's sentencing and release guidelines) in prison. These determinations were made during the state's application process for TIS funds under the Federal Violent Crime Control and Law Enforcement Act of 1994. Other states adopted versions of truth-in-sentencing legislation with less than the federal requirement of 85 percent or with variants of an 85 percent criterion that did not meet federal requirements for TIS funding.

For purposes of the present analyses, TIS classification is based on funding, not on whether the state passed TIS legislation--although all but three of the states that received TIS funding also passed qualifying TIS legislation. Thus, the distinction between TIS funding and passage of TIS legislation is small.<sup>16</sup> We separate out Texas, since its effect, particularly for quantitative measures of crime and sentences, swamps the effects of other non-TIS states.

#### **PRISON MANAGEMENT CASE STUDIES**

The second tier of the research design consisted of case studies in seven states. The purpose of the case studies was to gain more detailed information about how VOI/TIS policies may have impacted prison management. The case study states were selected to provide a mix of sentencing structures. These states were California, Florida, New York, North Carolina, Oregon, Texas, and Washington. The data collection consisted primarily of a detailed phone interview conducted with a key individual within each state's prison system. In order to identify appropriate interviewees, we utilized existing contacts within the respective departments of corrections. We called upon individuals (often working in a research capacity) with whom RAND had established a previous relationship through the VOI/TIS national evaluation. These individuals were asked to identify potential interviewees within their state departments of correction with extensive present and historical knowledge of the state's prison system, including daily management issues, departmental policy, and historical trends. The potential interviewees identified through this process were all senior personnel, primarily division directors, who had worked within state corrections for many years and in a number of capacities.

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<sup>16</sup> New Mexico, Wisconsin, and the District of Columbia were not included as TIS states in analyses, since they enacted TIS later than the most recently available data.

Each potential interviewee was mailed a letter describing the study and requesting their participation in a one-hour telephone interview. We enclosed with the letter the list of questions that would be discussed during the semi-structured interview and several graphs of state-specific data from the *Corrections Yearbook* relevant to the interview questions. The potential interviewees were contacted one week after receipt of the letter and all seven individuals agreed to participate. In two cases, the interviewees enlisted the assistance of other staff to prepare written responses to the interview questions, which were then submitted in lieu of a telephone interview.<sup>17</sup> Many of interviewees requested that their names be withheld to allow them to answer our questions more candidly. In honor of this request, the names and position titles of all individuals are not being provided.

Questions for the semi-structured interview were designed to cover the major issues of interest in prison management and privatization (see Appendix A for the list of research questions). Interviewees were also prompted to elaborate on some state-specific issues introduced during the interview. In some cases additional data were requested to supplement the information provided by the interviewee.

In addition to information gathered from interviews for the case studies, we have also utilized responses from the five study states (California, Florida, New York, Texas, and Washington) that responded to the ACA survey to supplement information for the prison management case studies.

#### **IN-DEPTH PRIVATIZATION CASE STUDIES**

Most states in the Southern United States embraced prison privatization as one avenue for expanding prison capacity to accommodate

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<sup>17</sup> In one instance, our contact within the research unit directly secured the cooperation of potential interviewees within the department and participated in the preparation of written responses to our interview questions.

prison population growth trends both before and after the passage of the 1994 Crime Act. The focus of the case studies was to examine the challenges that face public correctional administrators in initiating and managing prison privatization, and to examine the experience gained in coping with the risks this entails. Three states were selected for in-depth privatization case studies: Texas, Florida, and North Carolina.

Searches were conducted of in-state newspaper databases to collect news items that provided background information on the development and performance of private prison operations in each state. Site visits were made in all three states to conduct facility tours and conduct in-depth interviews of government officials involved with privatization of prisons. Six private and three public prison tours included interviews with facility managers, monitors, and key program staff. Interviews were conducted with senior correctional administrators involved with contracting, managing, and assessing private prison operations. Officials from other state agencies who are currently engaged in assessment of prison costs and/or performance in two states (Texas and Florida) were also interviewed.

Requests for a wide range of documents were made, including requests for proposals, private prison contracts, monitoring reports, and facility audits. All available assessments or evaluations comparing costs and/or performance between private and public prisons were collected and reviewed. DOC research staff in Florida were willing to provide summary profile data from the computerized management information system to allow for a limited comparison of the types of prisoners held in roughly comparable public and private facilities, and of their involvement with prison programs.

After review of the collected documents and data, follow-up telephone interviews were conducted with key DOC managers to elicit further information and encourage interviewees to elaborate on a variety

of critical issues. The findings from the three state in-depth case studies which follows below includes:

- a brief discussion of the history of private prison developments in each state
- a description of how responsibilities for management and oversight for private prisons is allocated and executed
- how private prison operations are contracted and monitored and the types of operational problems encountered
- what has been learned to date about the effects of privatization on correctional costs and performance

## VI. NATIONAL TRENDS IN PRISON MANAGEMENT

In this chapter we present national trends on the key prison management issues that are addressed in more detail in our case studies. We begin with the analysis of prison management conducted for the National VOI/TIS evaluation. For this evaluation, correctional administrators were asked a number of questions regarding prison management changes that have occurred since 1996, the year during which VOI/TIS funds were made available to states and territories. This analysis revealed a number of interesting findings, particularly with respect to those states that did and did not pass TIS legislation. This discussion is followed by analyses of nationwide trends using *Corrections Yearbook* data over time, starting before the 1994 Crime Act, as amended, was enacted and before passage of TIS legislation by many individual states. Analyses are presented for TIS, non-TIS states, and Texas. We also discuss results of analyses (often not graphed) for states with structured versus indeterminate sentencing structures.

### **VOI/TIS IMPACT ON PRISON OPERATIONS: FINDINGS FROM THE NATIONAL VOI/TIS EVALUATION<sup>18</sup>**

As part of the national VOI/TIS evaluation, we surveyed state correctional administrators regarding the effects of VOI/TIS on prison and jail admissions, characteristics of the prison population, effects on prison inmate activities and programs, prison staffing, and operations since 1996, when VOI/TIS funds became available<sup>19</sup>.

TIS states, non-TIS states, and Texas all reported increases in prison populations since 1996, as shown in Table 6.1. Texas reported

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<sup>18</sup> Material in this one section, "VOI/TIS Impact of Prison Operations" was taken from Turner et al. (2001); the remaining material in the chapter is newly conducted analyses.



significant increases in virtually every category of inmates. The only significant difference between TIS and non-TIS states occurred in the number of juveniles tried as adults, with TIS states experiencing a steeper increase.

Table 6.1  
Changes in Prison Population Since 1996

|   | TIS | Non-TIS | Texas |
|---|-----|---------|-------|
| Violent offenders                       | 3.5 | 3.2     | 4.0   |
| Property offenders                      | 4.0 | 3.7     | 4.0   |
| Drug offenders                          | 3.4 | 3.4     | 5.0   |
| Other offenders                         | 3.6 | 3.6     | 5.0   |
| Adults                                  | 3.6 | 3.4     | 5.0   |
| Juveniles sentenced as adults           | 4.1 | 3.6*    | 3.0   |
| Juveniles                               | 3.6 | 3.3     | 3.0   |
| Males                                   | 3.3 | 3.5     | 5.0   |
| Females                                 | 3.9 | 3.8     | 5.0   |
| Offenders 50+                           | 3.8 | 3.6     | 5.0   |
| Offenders with drug/alcohol needs       | 4.0 | 3.5     | 3.0   |
| Offenders with physical health problems | 3.4 | 3.7     | 5.0   |
| Offenders with mental health problems   | 3.5 | 3.2     | 5.0   |

\*  $p < .05^{20}$  (1=substantially decreased; 5=substantially increased)

Many inmate activities and programs have also increased since 1996, though the increases are, for the most part, relatively small. TIS states had significantly more inmates housed in secure units than non-TIS states, while Texas saw large increases in inmate gang activity, infractions, and assaults on staff, as well as in inmates housed in secure units. Details of changes in inmate activities and programs are given in Table 6.2.

<sup>19</sup> States were asked to rate increases/decreases since 1996, and to attribute the percent of the change attributable to VOI/TIS. Unfortunately, due to missing data, we were unable to use the latter.

<sup>20</sup> Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

**Table 6.2**  
**Changes in Prison Inmate Activities and Programs Since 1996**

|                                     | TIS | Non-TIS | Texas |
|-------------------------------------|-----|---------|-------|
| Inmates who work regularly          | 3.6 | 3.4     | 3.0   |
| Inmates being educated regularly    | 3.4 | 3.3     | 3.0   |
| Inmates with outside recreation     | 3.3 | 3.1     | 3.0   |
| Inmates with visitation privileges  | 3.2 | 3.0     | 3.0   |
| Inmate drug treatment programs      | 3.9 | 3.6     | 4.0   |
| Inmate drug testing                 | 3.9 | 3.8     | 3.0   |
| Inmates who test positive for drugs | 3.3 | 2.8     | 3.0   |
| Inmate gang activity                | 3.4 | 3.4     | 5.0   |
| Inmate appeals                      | 3.2 | 3.2     | 3.0   |
| Inmates housed in secure units      | 3.8 | 3.2*    | 5.0   |
| Inmates double-bunked               | 3.4 | 3.4     | 3.0   |
| Inmates triple bunked               | 3.2 | 3.1     | 3.0   |
| Inmate infractions                  | 3.4 | 3.3     | 5.0   |
| Inmate assaults on staff            | 3.1 | 3.2     | 5.0   |

\*p < .05<sup>21</sup> (1=substantially decreased; 5=substantially increased)

With the increase in inmates has come a corresponding need for more staff, as illustrated in Table 6.3. At the same time, staff training has increased very slightly if at all, and Texas admitted that staff qualifications have actually decreased since 1996.

**Table 6.3**  
**Changes in Prison Staffing Since 1996**

|                       | TIS | Non-TIS | Texas |
|-----------------------|-----|---------|-------|
| Number of staff       | 3.9 | 3.7     | 5.0   |
| Male staff            | 3.8 | 3.5     | 5.0   |
| Female staff          | 3.9 | 3.5     | 5.0   |
| Staff qualifications  | 3.1 | 3.2     | 2.0   |
| Hours worked by staff | 3.1 | 3.4     | 3.0   |
| Hours of training     | 3.2 | 3.4     | --    |
| Security training     | 3.2 | 3.2     | --    |
| Physical training     | 3.2 | 3.2     | --    |
| Other training        | 3.2 | 3.1     | --    |

NOTE: (1=substantially decreased; 5=substantially increased)

Texas claims no changes in prison operation since 1996, and other states report relatively small changes, as well, as shown in Table 6.4.

<sup>21</sup> Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

The use of good time/gain time has declined in both TIS and non-TIS states, as has use of parole in TIS states only.

Table 6.4  
Changes in Operations Since 1996

|  | TIS | Non-TIS | Texas |
|--|-----|---------|-------|
| Use of good time/gain time                   | 2.3 | 2.7     | 3.0   |
| Use of parole                                | 2.5 | 3.1*    | 3.0   |
| Post release supervision (other than parole) | 3.2 | 3.5     | 3.0   |
| Inmate classification                        | 3.3 | 3.1     | 3.0   |
| For risk                                     | 3.3 | 3.2     | 3.0   |
| For programming needs                        | 3.2 | 3.2     | 3.0   |
| For prison management                        | 3.3 | 3.3     | 3.0   |

\*  $p < .05^{22}$  (1=substantially decreased; 5=substantially increased)

Our analyses show that in the last few years, prisons have seen increases in all types of offenders, not just violent offenders. Although positive prison activities (such as inmate work, education, and recreation) have been increasing, so have negative behaviors such as gang activity, infractions, and assaults on staff. Housing has been affected with more offenders in double- and triple-bunking and more offenders housed in secure units. Prison staffing has increased as a likely result, but training and staff qualifications remain about the same over the past few years. The use of gain/good time is already declining, as is parole in TIS states (although other forms of post-release supervision have increased). It is not possible for us to determine what percent of these changes are due to TIS legislation itself; however, we see many similar changes in both TIS and non-TIS states, suggesting these some of the changes are the result of laws and policies in place other than TIS.

Over the course of the past few years, states reported relatively modest use of VOI/TIS funds for private beds. Table 6.5 presents the numbers of beds built with VOI/TIS funds by the end of 1999 and the

number of privately leased beds. Fewer than 10 states used VOI/TIS funds to add beds for violent offenders using this mechanism.

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<sup>22</sup> Texas was not included in significance testing, which applies only to TIS states versus non-TIS states.

Table 6.5  
State Uses of VOI/TIS Funds Through December 31, 1999

| State          | Beds        |                    |        | Total |
|----------------|-------------|--------------------|--------|-------|
|                | Constructed | Under construction | Leased |       |
| Alabama        | 200         | 95                 | 373    | 668   |
| Alaska         | 20          | 0                  | 213    | 233   |
| Arizona        | 1240        | 0                  | 0      | 1240  |
| Arkansas       | 0           | 332                | 0      | 332   |
| California     | 175         | 1164               | 0      | 1339  |
| Colorado       | 0           | 580                | 0      | 580   |
| Connecticut    | 48          | 0                  | 150    | 198   |
| Delaware       | 600         | 1310               | 0      | 1910  |
| DC             | 0           | 0                  | 0      | 0     |
| Florida        | 212         | 5730               | 0      | 5942  |
| Georgia        | 576         | 755                | 0      | 1331  |
| Hawaii         | 400         | 168                | 0      | 568   |
| Idaho          | 0           | 0                  | 0      | 0     |
| Illinois       | 0           | 70                 | 0      | 70    |
| Indiana        | 0           | 0                  | 0      | 0     |
| Iowa           | 196         | 256                | 0      | 452   |
| Kansas         | 400         | 17                 | 0      | 417   |
| Kentucky       | 0           | 80                 | 0      | 80    |
| Louisiana      | 200         | 310                | 0      | 510   |
| Maine          | 0           | 0                  | 0      | 0     |
| Maryland       | 394         | 0                  | 0      | 394   |
| Massachusetts  | 0           | 0                  | 0      | 0     |
| Michigan       | 0           | 2060               | 301    | 2361  |
| Minnesota      | 0           | 223                | 0      | 223   |
| Mississippi    | 15          | 0                  | 0      | 15    |
| Missouri       | 3825        | 4280               | 0      | 8105  |
| Montana        | 144         | 0                  | 0      | 144   |
| Nebraska       | 0           | 960                | 0      | 960   |
| Nevada         | 320         | 0                  | 0      | 320   |
| New Hampshire  | 0           | 0                  | 0      | 0     |
| New Jersey     | 0           | 0                  | 500    | 500   |
| New Mexico     | 180         | 0                  | 0      | 180   |
| New York       | 3450        | 1500               | 0      | 4950  |
| North Carolina | 0           | 192                | 0      | 192   |
| North Dakota   | 0           | 240                | 0      | 240   |
| Ohio           | 22          | 1226               | 46     | 1294  |
| Oklahoma       | 499         | 121                | 126    | 746   |
| Oregon         | 0           | 50                 | 0      | 0     |
| Pennsylvania   | 0           | 296                | 0      | 296   |
| Rhode Island   | 68          | 20                 | 0      | 88    |
| South Carolina | 768         | 1164               | 0      | 1932  |
| South Dakota   | 161         | 0                  | 0      | 161   |
| Tennessee      | 170         | 256                | 0      | 426   |

(continued on following page)

**Table 6.5 (cont'd)**  
**State Uses of VOI/TIS Funds Through December 31, 1999**

| State          | Beds          |                    |              | Total         |
|----------------|---------------|--------------------|--------------|---------------|
|                | Constructed   | Under construction | Leased       |               |
| Texas          | 0             | 382                | 379          | 761           |
| Utah           | 64            | 720                | 0            | 784           |
| Vermont        | 0             | 161                | 0            | 161           |
| Virginia       | 0             | 0                  | 0            | 0             |
| Washington     | 128           | 0                  | 0            | 128           |
| West Virginia  | 186           | 116                | 0            | 302           |
| Wisconsin      | 659           | 314                | 0            | 973           |
| Wyoming        | 0             | 96                 | 0            | 96            |
| Amer. Samoa    | 66            | 0                  | 0            | 66            |
| Guam           | 0             | 0                  | 0            | 0             |
| N. Marianas    | 12            | 0                  | 0            | 12            |
| Puerto Rico    | 0             | 0                  | 0            | 0             |
| Virgin Islands | 64            | 0                  | 0            | 64            |
| <b>TOTAL</b>   | <b>15,462</b> | <b>25,244</b>      | <b>2,088</b> | <b>42,794</b> |

Source: CPO semi-annual state reports. Hawaii and New Hampshire data are from June 2000, Texas data from June 1999, Wyoming data from June 1998. Table is from Turner et al. (2001).

**HISTORICAL TRENDS IN PRISON MANAGEMENT ISSUES**

We turn now to an historical presentation of these major issues in prison management. These data are from the *Corrections Yearbook*, described in more detail in Chapter 5.

**Long Sentences**

Our respondents from the national VOI/TIS survey indicated greater numbers of offenders being sentenced for longer periods of time. Figure 6.1 shows that this has not translated, however, into greater percentages of offenders having prison sentences of the longest length--20 years or more. In fact, the trend seems to be fairly flat over the past 10 years, with some decreases overall, and for TIS and non-TIS states since the mid 1990s. Texas shows a far greater percentage of offenders with sentences of 20 years or more than the national average. Indeterminate states generally show lower percentages of prisoners with the longest sentences.

It may be that the increases reported by states are for sentences less than 20 years. This is supported by the fact that the average sentence lengths imposed has ranged between about 60 and 80 months over the past decade (Turner et al. 2001) based on data on prison releases from the National Correctional Reporting Program.

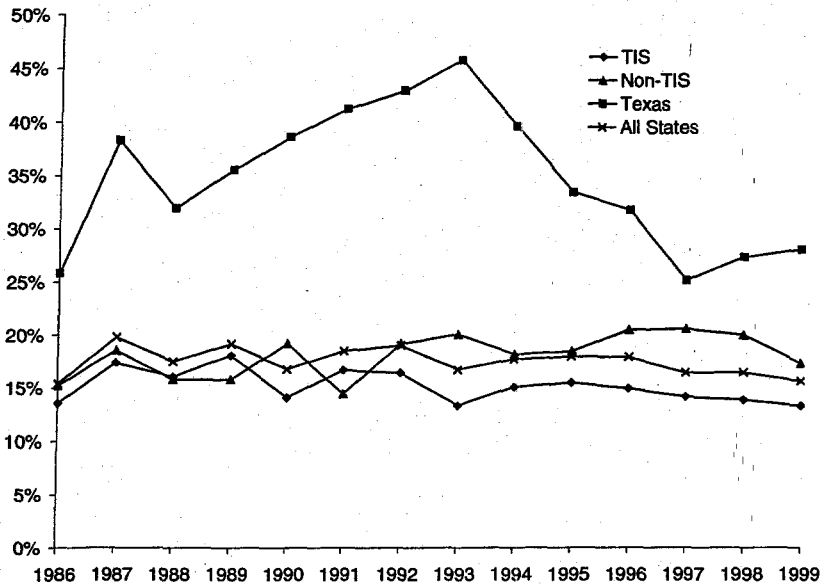


Fig. 6.1 - Percentage of Prisoners with Sentences of 20 Years or More

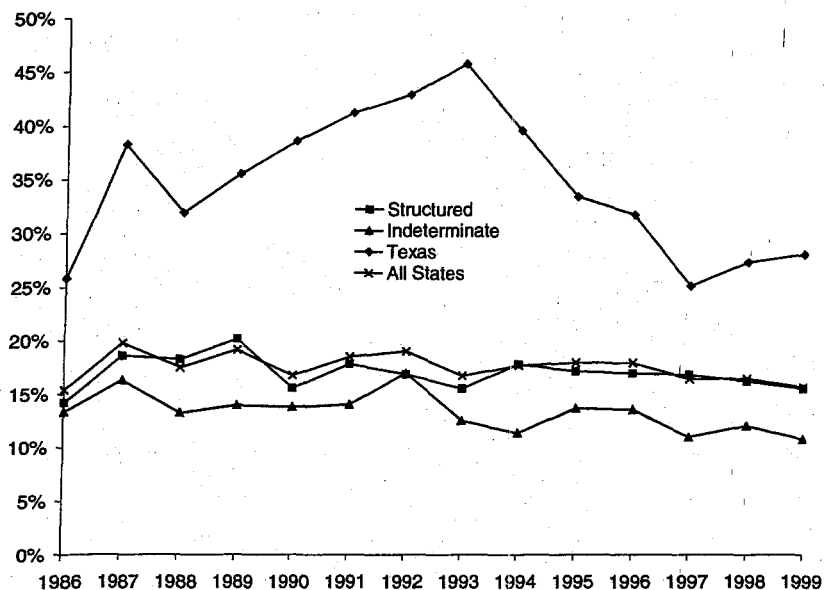


Fig. 6.2 - Percentage of Prisoners with Sentences of 20 Years or More, by Structured Sentencing

### Special Populations

One of the concerns about longer sentences is that they will lead to a "graying" of the inmate population. Information on the percentages of inmates aged 50 or older reveals increases over the past decade, starting before TIS legislation was enacted in many states. Patterns for TIS and non-TIS states, as well as for structured and indeterminate sentencing states are very similar, suggesting this trend may be due to factors other than sentencing structures (such as the aging of the population). Data on the number of offenders with tuberculosis at intake, per 1000 inmates shows larger increases in the past several years for all states.



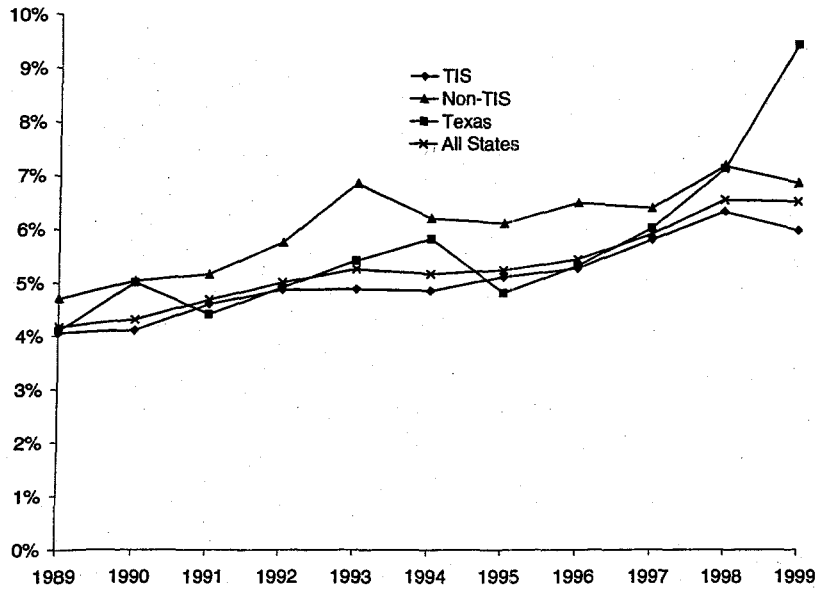


Fig. 6.3 - Percentage of Offenders Aged 50 and Older (on January 1)

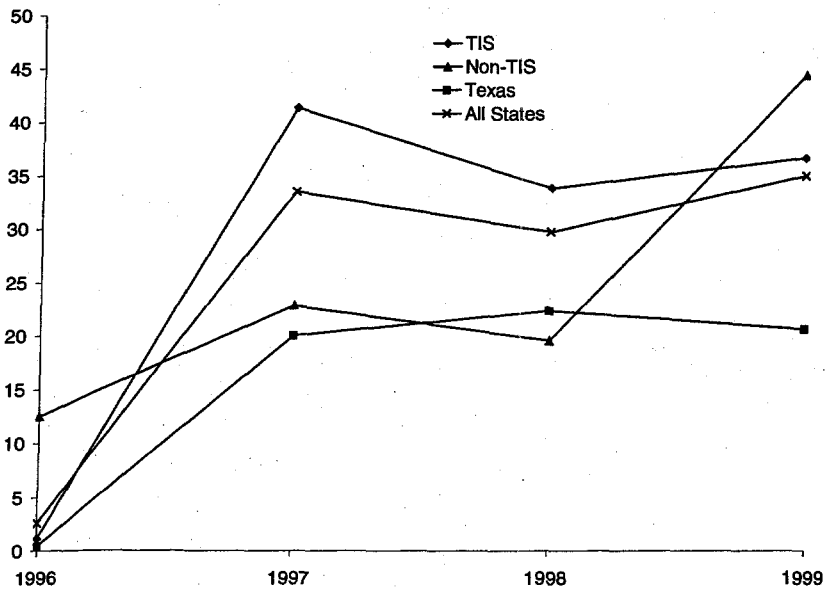


Fig. 6.4 - Inmates with Tuberculosis at Intake

### Inmate Classification

Over the past decade, the percentage of offenders at high/close custody level has decreased overall, as well as for TIS and non-TIS states. Since 1994, the levels have been fairly constant. TIS states generally have larger percentages of offenders in high/close custody than do non-TIS states. Similarly, structured sentencing states generally have higher percentages of offenders in high/close custody than do indeterminate sentencing states.

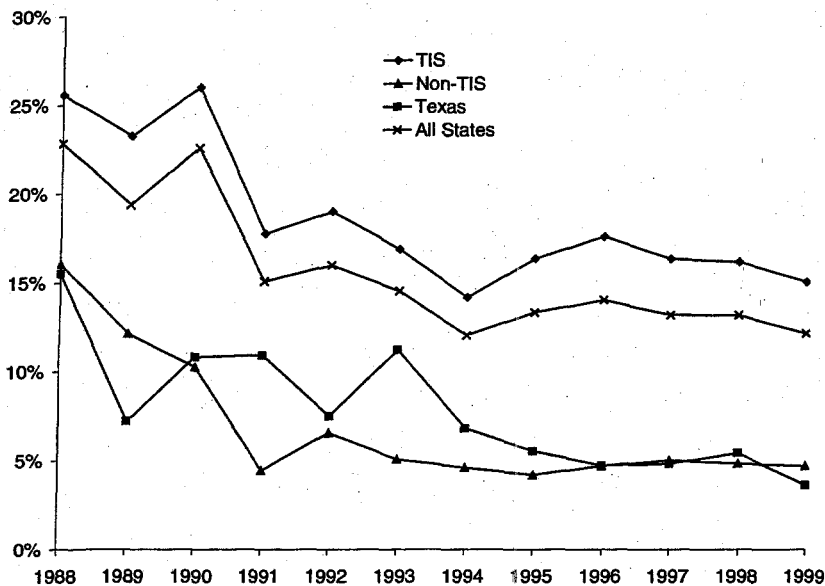


Fig. 6.5 - Percentage of Inmates at High/Close Custody Level

### Costs

Costs have risen for prisons over the past decade, with the exception of Texas, which has seen decreases in the reported average total cost per inmate per day since the mid 1990s. TIS states report the highest costs per day; indeterminate states report higher costs per day than structured states; however reported costs are fairly similar for all states except Texas.

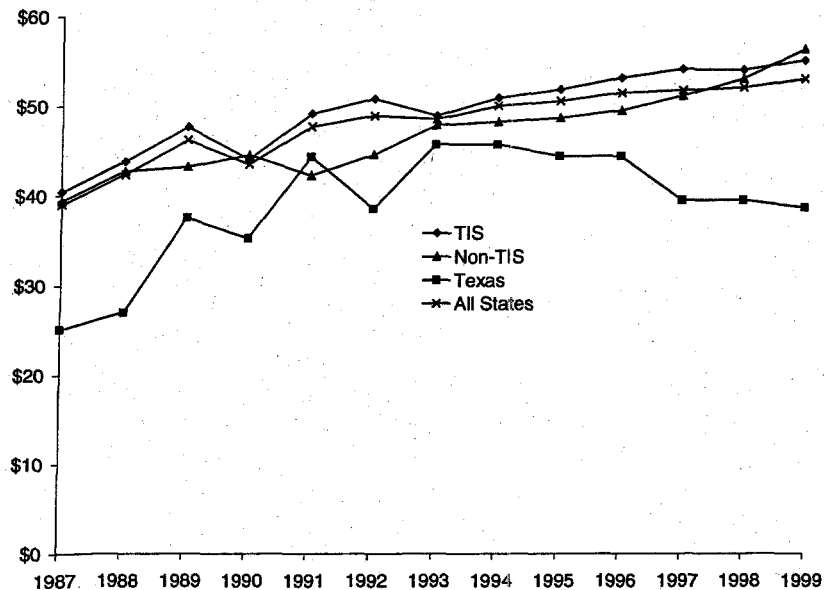


Fig. 6.6 - Average Total Cost per Inmate per Day

### Crowding

Prisons are operating over rated capacity, particularly over the past several years. In Figure 6.7 we present the prison population as a percentage of rated prison capacity. Texas shows the lowest crowding. Since 1995, structured and indeterminate sentencing states show similar patterns, despite differences in the early 1990s.

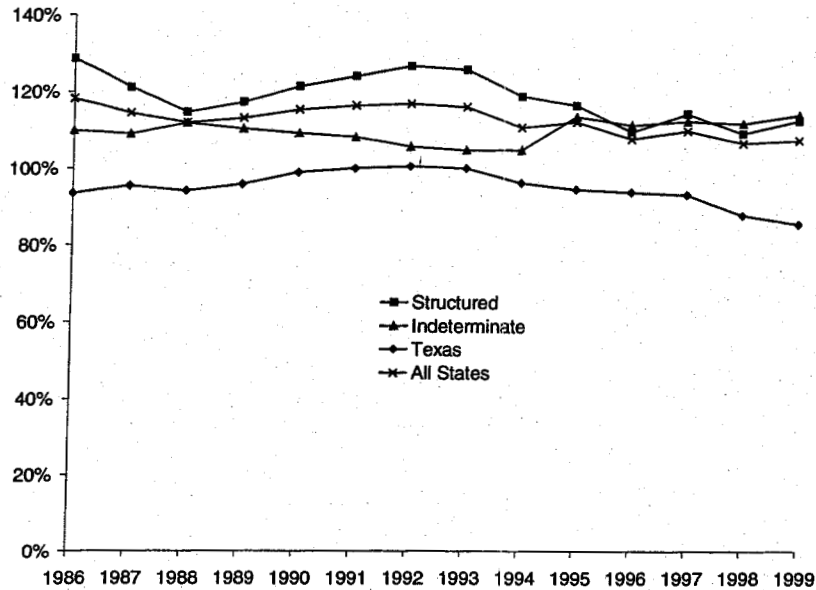


Fig. 6.7 - Prison Population as a Percentage of Rated Prison Capacity, by Structured Sentencing

### Safety

We examined safety by the numbers of inmate misconduct reports, assaults of inmates on inmates, and assaults on staff by inmates. The number of inmate misconduct reports per inmate has remained relatively flat since 1995, except for non-TIS states. For the latter, misconduct reports fell from 1994 to 1997 and have been increasing in the past two years. The patterns for inmate assaults on staff have dropped dramatically for non-TIS states but have remained relatively flat for TIS states. Inmate assaults on other inmates have remained relatively flat since 1995 for TIS states. Similar to the pattern for inmate assaults on staff, non-TIS states have shown large decreases in inmate assaults on each other.

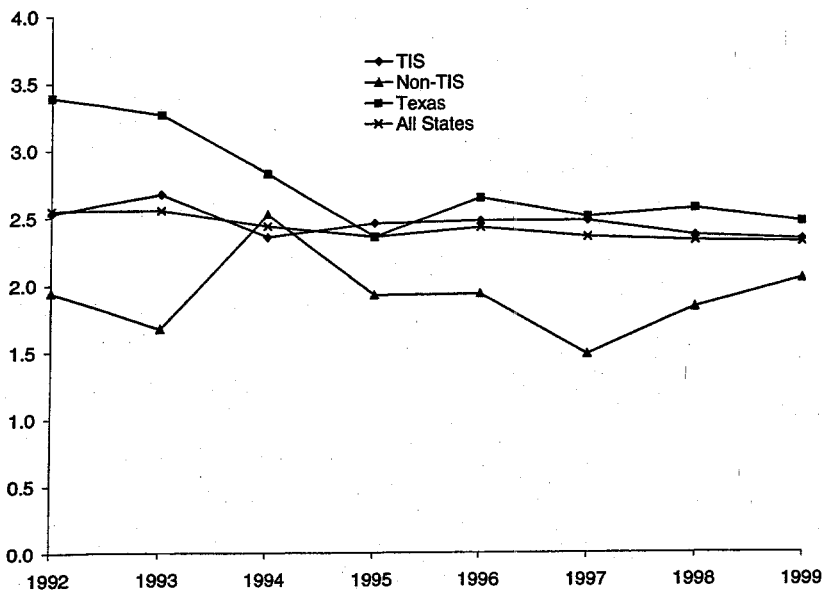


Fig. 6.8 - Number of Inmate Misconduct Reports, per Inmate

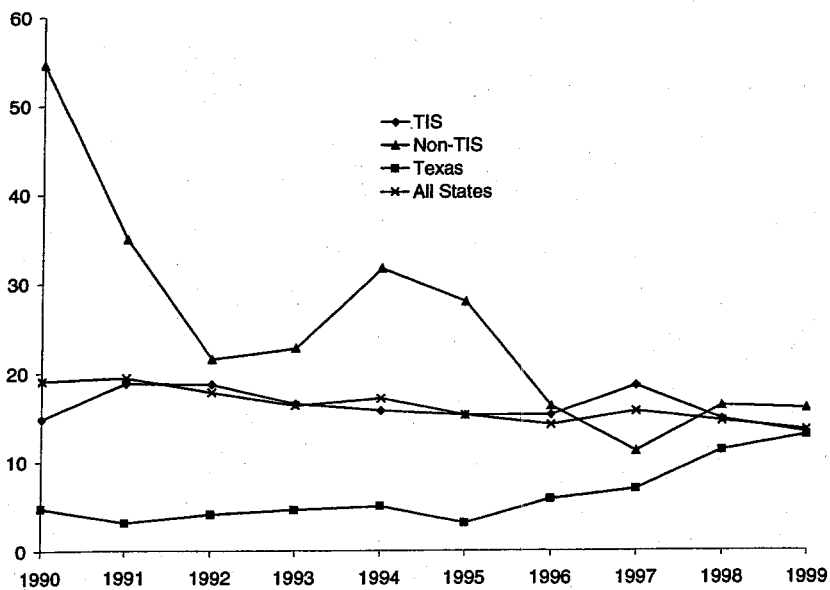


Fig. 6.9 - Inmate Assaults on Staff, per 1000 Inmates

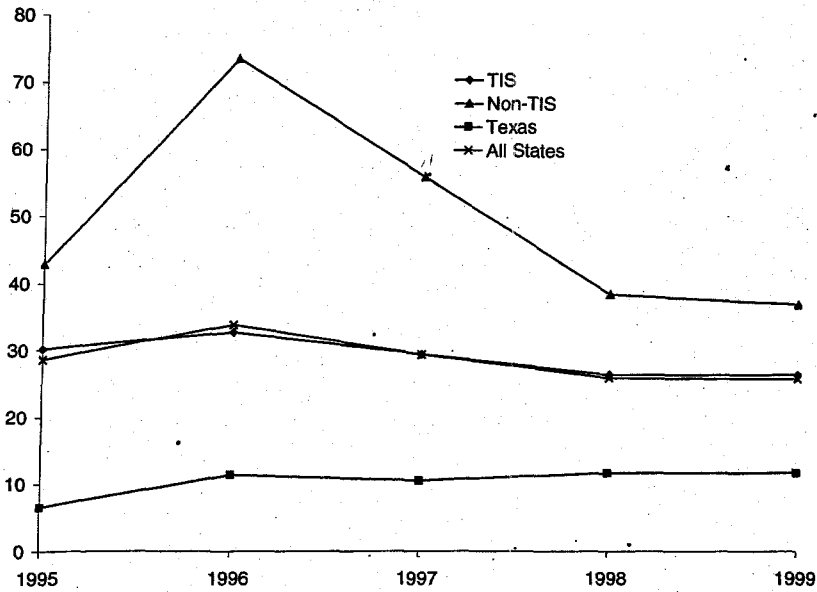


Fig. 6.10 - Inmate Assaults on Other Inmates, per 1000 Inmates

### Grievances

Similar to assault, the pattern of inmate grievances has remained relatively flat since 1996. Texas reported grievance rates several order of magnitudes larger than the national average. TIS states show the lowest rates of grievances filed.

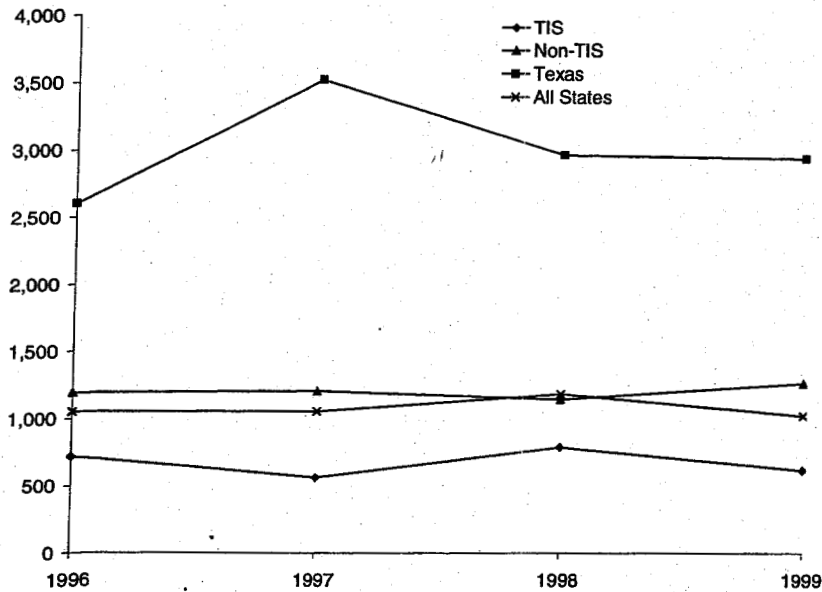


Fig. 6.11 - Grievances Filed, per 1000 Inmates

#### Staff Response

Correctional staff turnover has shown dramatic increases over the past decade, nationally, for TIS and non-TIS states, as well as Texas. Non-TIS states show the highest rates of correctional staff turnover. In recent years, structured sentencing states (figure not shown) have shown the highest rates of turnover--from 12 percent in 1997 to almost 20 percent in 1999. In contrast to turnover, the extent of initial correctional officer training appears to have remained relatively flat, with some increases during the past few years. Hours of in-service correctional officer training (figures not shown here) indicate approximately 40 hours of training over the past decade nationally.

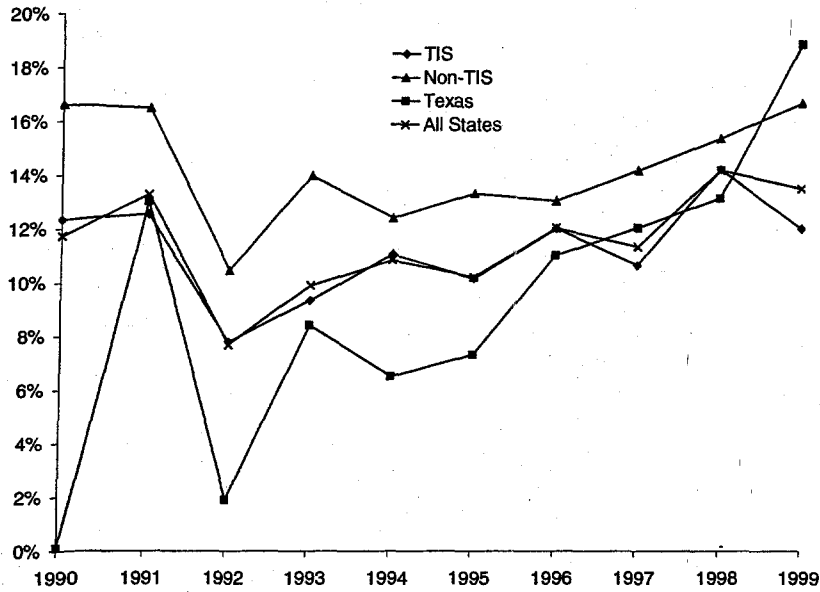


Fig. 6.12 - Percentage of Correctional Officer Turnover

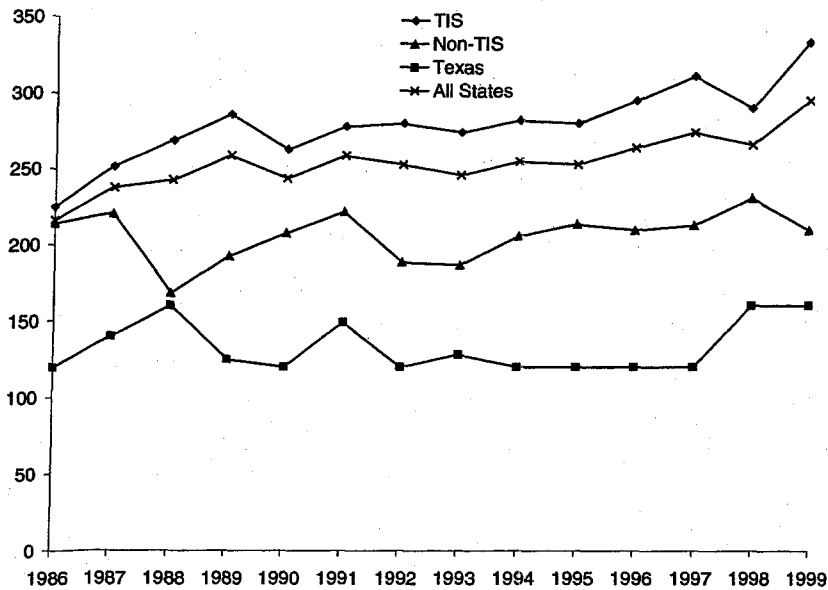


Fig. 6.13 - Hours of Initial Correctional Officer Training Required



### Health Care

Extensive measures of health care were not available in our database; however, in addition to the measures of TB mentioned above, we were able to examine reported levels of inmates who tested positive for HIV as well as those with AIDS. Figure 6.14 shows the rate of inmates who tested positive for HIV, per 1000 inmates. From relatively high rates in the early 1990s, rates nationally have been declining over the past five years or so. However, rates in Texas have increased during the past several years. States with indeterminate sentencing structures generally show higher rates of HIV as well as AIDS.

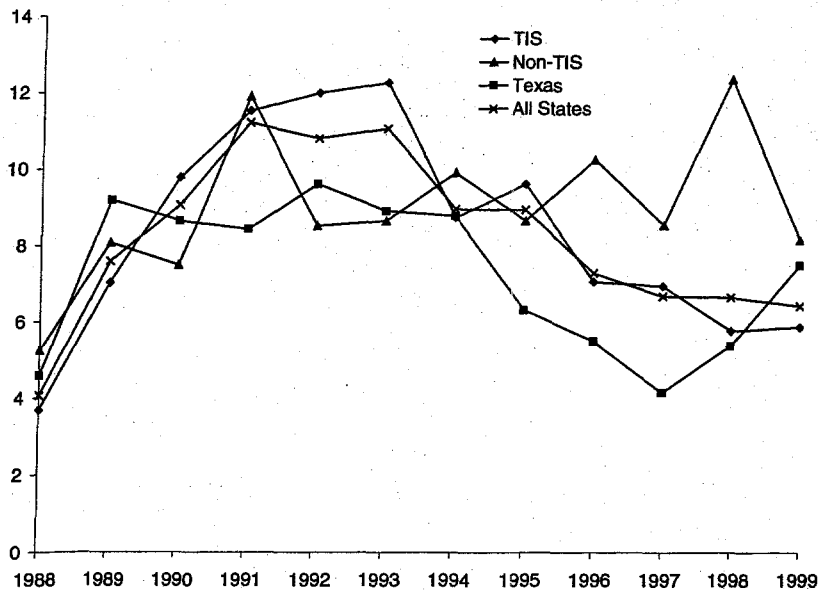


Fig. 6.14 - Inmates Who Tested Positive for HIV, per 1000 Inmates

### Inmate Programming

The percentage of inmates assigned to full-time or part-time academic or vocational training has fluctuated during the past decade, however, the trend appears to be slightly downward. TIS states generally show slightly lower rates of participation than non-TIS states. Texas shows the lowest rates of participation, with a sharp drop

in 1999. The percentage of inmates assigned to prison industry (figure not shown) has decreased steadily over the past 10 years, from under 10 percent to just over 5 percent. TIS states generally show slightly lower percentages of offenders assigned than non-TIS states.

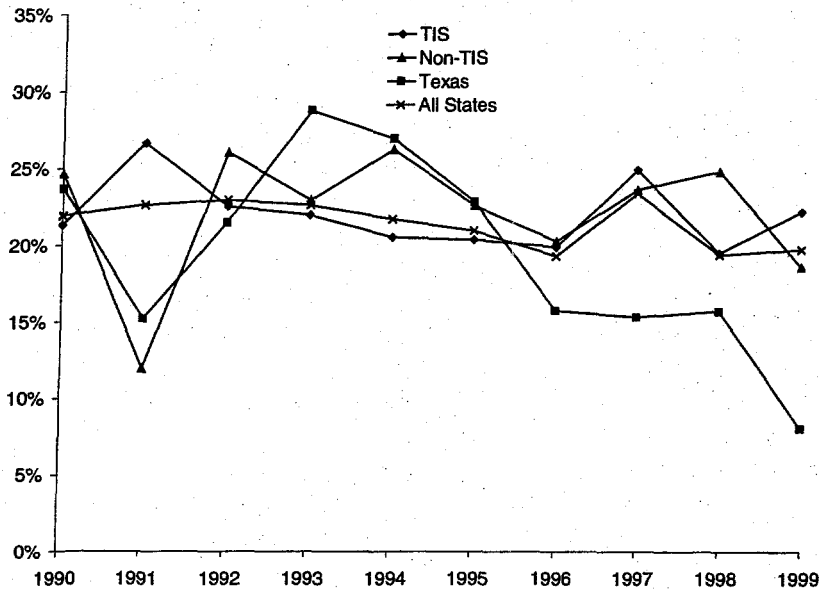


Fig. 6.15 - Percentage of Inmates Assigned to Full-time or Part-Time Academic or Vocational Training

#### Summary of National Trends

Overall, our national analyses suggest one of two patterns. Changes in some measures have occurring over the past decade and some measures have remained fairly constant. We do not observe sharp changes for TIS states about the time of many states were passing TIS legislation in 1994. In some instances, TIS states show higher levels of prison management concerns (such as percent of inmates at high/close custody, misconduct reports), but for other variables, non-TIS states show higher levels (such as inmate assaults). We did not find strong evidence for our hypotheses regarding the potential impact of TIS on prison management variables. This may be due to several reasons.

Averaging over states in these analyses may mask important state level experiences. In addition, data are available only during the first several years after TIS legislation was passed in many states. As we found in our national VOI/TIS evaluation, we may need to wait several more years in order to gauge the impact of such sentencing policies.

## VII. CASE STUDY PRISON MANAGEMENT FINDINGS

In this chapter, we synthesize the information gained from the seven case study interviews. We also include selected responses from five study states (California, Florida, New York, Texas, and Washington) that responded to the 1998 American Correctional Association (ACA) survey to supplement information from the interviews.<sup>23</sup> Findings are presented for the major research areas asked of respondents.

### LONG SENTENCES

States were asked whether they experienced an increase in the number of inmates required to serve long sentences with restrictions on early release. If so, they were asked to indicate the cause of this increase in long-term inmates and whether these inmates share particular characteristics, such as youth, violent convictions, or drug convictions.

All seven of our interviewees reported that sentences had indeed become longer within their states.<sup>24</sup> The majority of these indicated that sentencing lengthening came as the result of either changes in sentencing or release policies. For example, Oregon, California, and Washington are among the states that have enacted legislation lengthening sentences for violent and repeat offenders. Texas has seen sentences lengthen largely from a reduction in parole and other early release compounded by additional get-tough legislation. In 1994, North Carolina adopted structured sentencing, which has actually worked to

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<sup>23</sup> North Carolina and Oregon did not respond to the ACA survey, and New York responded only to a subset of questions. When reporting on ACA survey responses in this chapter, we include only those states that responded to a particular question.

<sup>24</sup> In response to the question about length of sentences, our California interviewee referred us to data reported by the state to the U.S. Department of Justice. These data indicated that sentences had been lengthening in California.

reduce overall admissions because of a reduction in incarceration of less serious offenders. Violent and repeat offenders are receiving and serving longer sentences than prior to the reform. California, Florida, New York, and Washington also reported longer sentences in the ACA survey, particularly for violent offenders.

In fact, all of the interviewees who responded to this question indicated that violent offenders were the category of inmates most impacted by lengthening sentences.<sup>25</sup> In North Carolina, there has been a shift to a "more potent" prison population because the share of violent offenders has been steadily growing since the adoption of structured sentencing. Texas has experienced an increase in youthful violent offenders, due in part to legislation lowering the age at which juveniles may face adult penalties. However, in the ACA survey, Texas reported no overall increase in youthful or juvenile offenders. In addition to increases in violent offenders in general, Florida has seen a dramatic increase in female inmates convicted for violent and other offenders. Our Florida interviewee viewed this partly as a result of a greater willingness of judges to send women to prison. Texas and Washington also reported an increase in female offenders in the ACA survey, while California reported a decrease.

In sum, our interviewees consistently reported that inmates in their states are now serving longer sentences than in the past, that these changes are largely due to changes in sentencing and early release policies, and that violent offenders represent the category of inmate most impacted by these changes. These trends are echoed in ACA survey responses.

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<sup>25</sup> The California interviewee did not provide an answer to this question because no analyses of changes in characteristics have yet been conducted to inform the response. Our New York interviewee did not provide a response to this question.

### SPECIAL POPULATIONS

States were asked whether there had been an increase in inmates with special needs, such as physical or mental health care, or drug treatment. In addition, respondents were asked whether their state experienced or is anticipating an increase in older inmates. If so, respondents were asked if any preparations or plans were being made for the medical care, housing, and/or management of this group of inmates.

All but one of our interviewees (New York) reported that there has been an increase in the number or share of inmates with special needs. Inmates with mental health needs were described as a major concern by most of the interviewees (Oregon, California, Florida, and North Carolina).<sup>26</sup> Texas reported in the ACA survey a large increase in inmates with mental health problems. Some respondents (California and Florida) suspected that improved methods of screening and identification of mental health needs might account for at least some of the observed increase in need. In the remaining states (Texas and Washington), the special needs population showing the most growth is older inmates. In the ACA survey, Florida reported an increase in inmates with physical health problems, and Texas reported a substantial increase.

When asked specifically about older inmates, all of our respondents reported that the share of older inmates in the prison population had either increased (California, Florida, New York, Oregon, Texas, Washington) or is expected increase in the future (North Carolina). In the ACA survey, Texas reported a substantial increase in the population of older prisoners. This growth in older inmates was explained by all interviewees who responded as a result of sentencing policies lengthening sentences and restricting early release.<sup>27</sup> The

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<sup>26</sup> Our North Carolina respondent classed mental health needs as a subcategory of general health care--the need for which has increased in recent years.

<sup>27</sup> No explanation for the increase in older inmates was provided by our New York respondent.

most common accommodation undertaken or planned in response to the change has been special housing for older inmates. Our Texas and Washington interviewees reported that their states have already established special housing facilities for older inmates and our Florida interviewee stated that legislation authorizing the construction of such a facility had been recently passed. These facilities may provide assisted living services and programming appropriate to the abilities of aged inmates. Such facilities have been informally discussed in both Oregon and North Carolina, but the present size of the older population does not yet warrant a separate facility. Our California interviewee reported that internal assessment has been underway in recent years in preparation for continued growth in the older inmate population. Plans have been made for the establishment of a "task group" to address the issue.<sup>28</sup>

#### **INMATE CLASSIFICATION**

States were asked if Truth in Sentencing (TIS) or other "get tough" sentencing policies have impacted inmate classification, such as how it is conducted, factors considered in determining classification, number of classification hearings, or amount of paperwork involved in the process. They were asked if there had been a change in the share of inmates at each classification level, such as more inmates classified at higher custody levels.

Less than half of our interviewees (three of seven) reported that classification has been impacted at least somewhat by TIS and other "get-tough" sentencing policies. Our California, Texas, and Washington interviewees reported that these policies have impacted classification because length of sentence is used in determining classification level. This has increased the need for space in more secure facilities and at

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<sup>28</sup> Our New York interviewee did not report any specific preparations or plans for responding to the growing number of older

higher custody levels within these facilities. Our California interviewee reported a change in the procedures and factors that are taken into account in classification committee reviews, such as the establishment of different eligibility criteria for earned credit and program participation based upon the sentencing status of the inmate. Paperwork has also increased as a result of additional requirements for tracking inmates' status and eligibility for privileges. In the ACA survey, none of the study states reported changes in inmate classification.

#### **COSTS**

States were asked whether there had been an increase in the cost of incarceration due to TIS or other "get tough" sentencing policies. If so, they were asked to indicate in what categories costs have increased (for example, total dollars, health care, segregation, administration, and programming).

Most of our interviewees did not directly implicate TIS and other "get tough" policies for increased costs within their state's correctional system. Generally, the respondents indicated that recent policy changes have occurred within a context of an increasing prison population, making it difficult to sort out independent influences. Several interviewees (California, Florida, North Carolina, and Washington) mentioned the potential for future cost increases, particularly due to the health care and other special needs of older inmates incarcerated due to "get tough" sentencing policies. Our Washington interviewee described one potential method for controlling costs associated with aging inmates, termed extraordinary medical placement. This method is to grant medically needy inmates who are eligible for other sources of support (such as social security) a form of furlough that allows them to receive care in a less-costly community

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inmates in that state.



setting. This option is available for only some categories of long-term inmates, but is expected to produce some overall cost savings.

The need for new construction was also a cost that was discussed as relating either directly or indirectly to changes in sentencing policy. Our Florida, Oregon, New York, and North Carolina interviewees mentioned that recent sentencing policy changes have contributed to the need for more prison space or are projected to do so in the future.

#### **CROWDING**

States were asked whether prisons had become more crowded in recent years. If so, they were asked how much of the crowding they felt was due to TIS or other "get tough" policies. They were asked how these policies make prisons more crowded (for example, limiting early release, sentencing more inmates to prison, sentencing inmates to longer terms). They were also asked whether it has become necessary to grant (or has consideration been given to granting) early release to some inmates to make room for long-term or higher risk inmates.

All but two of our respondents (California and New York) reported that crowding was either currently a problem or is expected to grow in the future due to "get tough" sentencing policies. Our New York interviewee described an effort over the past six years to add maximum security capacity and divert lower risk offenders that is viewed as successful in controlling crowding. Our California respondent reported that California prisons are currently operating above capacity, but indicated that state data did not reveal a relationship between crowding and TIS and other sentencing policies. Washington reported in the ACA survey that double- and triple-bunking had increased by about 2 percent because of VOI/TIS.

Oregon, North Carolina, and Washington are currently experiencing a reprieve from crowding. Both our Oregon and Washington respondents described recent construction efforts that have alleviated crowding problems the states had been experiencing. In North Carolina, according

to our respondent, the reprieve is due to a structured sentencing scheme adopted by the state in 1994. Under it, low-level offenders are no longer sentenced to prison so many previously used prison beds are currently available. All three states consider the present situation to be temporary and anticipate increased crowded conditions as more inmates are sentenced under TIS and related policies.

In Texas, our respondent reported a struggle with crowding throughout the past decade. New capacity and use of private facilities has reduced the problem somewhat, but the present sentencing policies are expected to produce a return to the high levels of crowding the state experienced prior to the new construction. Within Florida, crowded conditions are a particular problem within facilities that house special populations. Our respondent reported that get-tough policies have added to the numbers of females and youths in the prison population--groups requiring separation from the rest of the population. Construction has not kept pace with the growth in these populations and crowded conditions are expected to worsen in the future with the addition of more inmates.

Most of our interviewees (California, Florida, North Carolina, Oregon, Texas, and Washington) reported that early release is not granted to some inmates to make room for long-term or higher risk inmates. Our North Carolina respondent added, "the public would not stand for that." In response to questions on the ACA survey, California, Florida, and Washington reported a decrease in good time/gain time, while Texas reported no change. Some interviewees did report efforts to divert some inmates from prison beds. Our New York respondent described the diversion of "low level" drug offenders from prison to treatment programs and the availability of a boot camp program for qualifying non-violent first-time offenders. Washington also operates a diversionary boot camp program and a "work ethic" camp. Our respondent reported that the programs are not currently operating at

full capacity, due to a lack of inmate volunteers who meet program eligibility requirements.

#### **SAFETY**

States were asked whether there has been a change in the safety of prisons, such as an increase in inmate-on-inmate or inmate-on-staff assaults. If the level of safety has changed, respondents were asked how much of this seems to be related to TIS or other "get tough" policies. They were also asked if additional safety and training procedures or policies regarding the use of force have been considered or implemented.

Our interviewees were split in their responses about safety. Both our New York and Oregon respondents reported safer facilities today relative to the past. In New York, this was attributed to construction that increased the capacity to segregate disruptive inmates. Our Oregon interviewee stated that the state has yet to determine why assault rates have decreased over the past two years. One possible explanation is that in the past, inexperienced staff, particularly those in new institutions, had not yet acquired the skills necessary to control inmate behavior. The declining rates of assault may indicate increases in staff ability to maintain order.

Both Florida and Washington have not generally experienced any change in prison safety. Our Florida respondent reported that state data do show an increase in both inmate-on-inmate and inmate-on-staff assault, but these can be attributed to the adoption of a standardized reporting format, rather than a reflection of inmate behavior.

Safety has declined in the prisons of California, North Carolina, and Texas, according to our interviewees and the ACA survey.<sup>29</sup> Inmates

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<sup>29</sup> Our California respondent did not provide a response because there have been no analyses of the relationship between safety and sentencing policies. In the ACA survey, California reported an increase in assaults on staff but declined to attribute the change to VOI/TIS.

in both North Carolina and Texas were described as more violent and difficult to control. Our Texas interviewee attributed this to get tough policies that remove early release incentives for good behavior within prisons. In the ACA survey, Texas reported a substantial increase in assaults on staff.

Additional safety and training procedures or policies regarding the use of force have been implemented in some states. Our California, Oregon, and Washington respondents reported that safety training has increased as a component of general training in response to the growth of the prison population--not in response to concerns about a more violent population. Conversely, respondents from North Carolina and Texas stated that training for staff has increased as a result of concerns about the nature of the prison population. For example, Texas has increased its training in hostage negotiation, and North Carolina has expanded training in extracting non-cooperative inmates from cells.<sup>30</sup> Florida reported in the ACA survey that staff training had increased.

#### **GRIEVANCES**

States were asked whether there has been an increase in inmate grievances. They were asked to indicate to what extent TIS and other "get tough" policies might be responsible for this.

In the majority of states, the number of grievances was described as unchanged (Florida, North Carolina, Oregon, and Texas) or down from previous years (New York). Only our California and Washington interviewees reported an increase in inmate grievances. Both respondents did not consider TIS and other get-tough policies to be responsible of the increase. Our Washington respondent stated that there is a relationship between change in the routine maintained within

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<sup>30</sup> Our Florida and New York respondents did not provide information about staff training on use of force.

a facility and grievances. Thus, greater times of change generate higher levels of grievances.

#### **STAFF RESPONSE**

States were asked to indicate whether staff workloads or schedules changed as a result of TIS or other "get tough" policies. They were asked whether changes in the composition of the prison population have affected staff morale, stress levels, absenteeism, attitudes, turnover, disability claims, or retirement levels. In addition, respondents were asked whether correctional officers' associations or unions sought to make any changes, such as increased safety training or staffing levels.

While changes in workloads and schedules for staff working within state prisons were reported, no interviewees attributed these changes to TIS or other get-tough policies. Heavier workloads were reported (North Carolina, Oregon, Texas, and Washington), but these were attributed to high vacancy levels and staff turnover brought on by strong state economies and low pay for correctional officers.<sup>31</sup> Requirement of overtime work was a factor mentioned by our North Carolina and Texas interviewees that increases staff stress and increases turnover. In an effort to address this issue, North Carolina is pilot testing a new work schedule in some of its facilities. Shifts have been extended to 12 hours in order to condense the workweek, which reduces the number of times staff must commute per month and makes it easier for staff to secure a second job to supplement low pay. To date, staff response has been very positive and no adverse impact on facility operation has been observed.

In Florida, our interviewee described inmate idleness as a major cause of low staff morale and increasing stress levels. Since the

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<sup>31</sup> Our Oregon respondent described this as a regional issue. Filling staff vacancies and reducing staff turnover is more of a challenge in the rural Eastern region of the state than in the urban and suburban Western region.

legislature prohibited the purchase of recreation equipment, boredom has become a problem for both staff and inmates. As a result, the latter were described as more difficult to control. The correctional union in Florida lobbied against the legislation in anticipation of these problems, but was unsuccessful. Correctional unions in both Oregon and Washington have lobbied for increased staffing levels. The remaining states did not report special activities on the part of correctional unions or associations. Texas reported in the ACA survey that staff qualifications had decreased, while the number of staff had substantially increased.

#### HEALTH CARE

States were asked to indicate the major health concerns among the state's prison population. They were asked whether they felt TIS or other "get tough" policies have influenced these concerns (for example the availability of, or access to, care or treatment for assault injuries). They were also asked to indicate the state's policies for testing inmates for TB and HIV, and whether there had been an increase in the share of inmates infected with TB or HIV.

The major health concerns described by our interviewees were hepatitis C (California, Florida, Oregon, North Carolina, Texas),<sup>32</sup> HIV (Florida, Oregon, Texas), tobacco (North Carolina), mental illness (Florida, Washington), dental hygiene (Washington) and special needs of older inmates (Florida, Oregon, Texas, Washington).<sup>33</sup> Our California and Washington interviewees view TIS and other get tough policies as contributors to health concerns because these policies lengthen the

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<sup>32</sup> Though it is considered the major health care concern, our North Carolina respondent stated that hepatitis C has not yet become a problem within the prison population. Based on the experience of other states, North Carolina expects to face the disease in the near future and is taking proactive steps to reduce its impact.

<sup>33</sup> Our New York respondent did not provide information on the state's major inmate health concerns.

sentences of inmates with chronic conditions. None of our interviewees saw any other implications of get tough policies for inmate health care.

All respondents reported that inmates are tested at intake for TB.<sup>34</sup> Our California respondent stated that inmates are also routinely tested for TB before being transferred between institutions. With the exception of Oregon, all respondents reported that HIV testing occurs at the request of an inmate or medical personnel. Our Oregon respondent reported that all inmates receive HIV testing at intake.

#### **INMATE PROGRAMMING**

States were asked whether changes in sentencing policy or changes in prison populations (if any) have affected the type or availability of programming, such as work, education, and treatment opportunities.

Only one respondent (Oregon) indicated that the type and availability of programming has been impacted in recent years by changes in the prison population. Dramatic growth has outpaced the ability of the state to establish meaningful programming for large numbers of new inmates. Efforts within the state have focused on increasing programming designed to improve release preparation and to involved inmates in statutorily mandated work programs. In the ACA survey, however, Washington reported increases in the percentage of inmates who work regularly and those being educated regularly. All four states that responded (California, Florida, Texas, and Washington) reported an increase in inmate drug treatment programs, with California reporting a substantial increase. Except for Texas, the same states also reported an increase in drug testing, as did New York, and again California's increase was described as substantial. Texas reported no change in drug testing. Washington estimated that VOI/TIS accounted for a 5 percent

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<sup>34</sup> Our Texas respondent did not provide information on the state's policy for TB testing.

increase in drug testing. No other state attributed any of the programming changes specifically to VOI/TIS.

#### **UTILIZATION OF PRIVATE PRISON FACILITIES**

AS noted in the previous chapter (see Table 6.5), in our national evaluation of the VOI/TIS Incentive Grant Program, we found that the use of leased beds has been relatively small. By the end of 1999, over 15,000 new beds had been constructed and an additional 25,000 were under construction, while only about 2,000 beds had been leased. Eight states (Alabama, Alaska, Connecticut, Michigan, New Jersey, Ohio, Oklahoma, and Texas) reported using VOI/TIS funds for leasing beds.

Moreover, from our ACA survey, we find little relationship between VOI/TIS and other "get tough" policies and the use of VOI/TIS funding to lease beds from private correctional facilities. Texas reported a substantial increase (more than 50 percent) in leasing of beds at the state level due to the utilization of VOI/TIS funds. Yet Texas was not a TIS state, and as will be seen in the next chapter, its use of leased beds was atypical. No other study state reported an increase in leased beds, nor did any (including Texas) report leasing beds for local correctional facilities, e.g., jails.

In the next chapter we utilize case studies of three states (Florida, North Carolina, and Texas) to explore in more detail the use of private correctional facilities.



## VIII. PRIVATIZATION CASE STUDY FINDINGS

### DEVELOPMENT OF PRIVATE STATE PRISONS

Privatization of state prisons was initiated in Florida, North Carolina, and Texas during periods when the prison systems in all three case-study states were struggling with high rates of population growth and serious problems with overcrowded facilities. Policy-makers in these states expected that privatization would provide speedy expansion of prison capacity, and would do so at a lower cost for both prison construction and operation.

The fledgling private prison industry entered two states, Texas and Florida, early on. CCA received its very first government contract from the Immigration and Naturalization Service in 1984 to operate a private INS "processing center" in Houston, Texas. Privatization by CCA of the local jail in Panama City, Florida in 1985 was hailed, nationally, as one of the first private sector success stories. Contracts for privately-operated state prisons would come later in these states. The first four private prisons in Texas opened in 1989. The first in Florida, a prison for women, was opened in 1995. It was not until late in 1998 that the first private state prison in North Carolina would be ramped-up for business.

### THE HISTORY OF PRIVATE PRISON DEVELOPMENT IN TEXAS

The Texas legislature enacted legislation to authorize privatization of prisons in 1987 during a period when both the prison population and correctional costs were skyrocketing in the state. After a massive class action lawsuit was brought in federal court near the end of the 1970s to challenge prison conditions, the state had been obliged to increase spending on correctional services. The per diem cost for prison operations in Texas was just \$13 in 1980; by 1990 per diem costs

surpassed \$40. Many state policymakers saw privatization as an avenue to expanded prison capacity at a lower cost.

The legislature authorized four private state prisons, and appropriated \$30 million for this purpose. In 1991 the legislature voted to expand the scope of privatization, authorizing construction of an additional 2000 beds. Texas Department of Criminal Justice (TDCJ) officials negotiated contracts for two new 500-bed prisons, and 500-bed expansions were provided at existing institutions. The Institutional Division is currently responsible for 79 of 105 TDCJ facilities. Of these, private vendors under contract to the Institutional Division operate six facilities.

#### **The Texas State Jail System**

A new round of private prison contracting by TDCJ was initiated when, in 1993, the "State Jail" system was created. The Texas legislature had adopted sweeping sentencing law revisions that year which established a new category of criminal offenses designated as "State Jail Felonies." The intention of the reform was to divert offenders who might otherwise end up in regular state prisons, and to keep them close to their homes and community support systems. State Jails are completely distinct from local county jails, having been established by Texas policy-makers specifically for confinement of State Jail Felons--relatively less serious drug and property offenders with little or no prior criminal records who could be sentenced to up to two years in these new minimum-security facilities.

The State Jail system currently consists of 17 facilities, ranging in size from 667 to 2216 beds. Of the 17 State Jails, five are privately operated. The Wackenhut Corrections Corporation and the Management and Training Corporation operate two facilities each, with the remaining facility operated by the Corrections Corporation of America.

#### **Other TDCJ Contracts for Private Prison Beds**

In addition to the private prisons discussed in this report--the six private prisons under contract with the Institutional Division, and the five private State Jails under contract with the State Jail Division--TDCJ maintains contracts for other private prison beds. The Parole Division has contracts for 4,711 private beds in nine facilities, including one private prison operated by Wackenhut at Lockhart, Texas. The Institutional Division also leases 3,578 private beds in seven local private facilities in order to avoid crowding in the state institutions. Taken together, the 19,245 private beds under contract with TDCJ comprise 12 percent of TDCJ capacity, which currently totals 155,512 beds (Texas Department of Criminal Justice February 28, 2001; Texas Department of Criminal Justice December 20, 2000).

#### **DEVELOPMENT OF PRIVATE PRISONS IN FLORIDA**

Seeking to attain "truth in sentencing" and to reduce sentencing disparity, the Florida Legislature adopted a system of determinate guideline sentencing in 1983 and ended parole release, although sentences were still reduced one-third through "gain time." Admissions to prison began to rise dramatically in the late 1980s, nearly doubling from 22,512 in FY87 to a high of 43,330 in FY90 (Florida Economic and Demographic Research 2000). In 1988 new sentencing laws were introduced to provide tougher penalties for "habitual" and violent offenders. But until 1994, prison population growth was somewhat controlled through a series of administrative mechanisms for early release (administrative gain time, provisional credits, and control release). In 1994 the sentencing guidelines were restructured in an effort to conserve prison bed space. Gain time was eliminated, and by the end of the year, control release was almost eliminated.

Faced with a steep prison population growth curve in 1989, the legislature moved to authorize the Florida Department of Corrections

(DOC) to contract for both private construction and private operation of prisons. Chapter 89-526 specified that private prisons would have to produce "substantial savings" but the legislature did not set a specific benchmark for cost savings. Reluctant DOC officials moved very slowly toward contracting for construction of the state's first private prison.

Frustrated that the private prison contracting process had remained mired for so long in a myriad of difficulties, the legislature set up a completely separate private prison contracting agency. Chapter 93-406 of Florida statutes, enacted in 1993, created the Correctional Privatization Commission (CPC), a five-member board appointed by the Governor. While the CPC is housed within the state Department of Management Services, it is functionally independent of that agency, and from the DOC.

The Florida prison system currently consists of 128 correctional facilities comprised of prisons, work and forestry camps, work release centers, and drug treatment centers. Currently the prison system houses more than 71,000 prisoners but has excess capacity and is maintaining a huge bed surplus. Specifically, 6,317 prison beds are being held in reserve without staffing to reduce per diem costs and increase operational efficiency. The institutional system includes 52 prisons managed by the Department of Corrections and five that are privately contracted through the CPC.

#### **PRIVATE PRISON DEVELOPMENT IN NORTH CAROLINA**

In 1988, under a federal court order to reduce overcrowding, an emergency release law had been enacted by the North Carolina legislature in order to limit the state's prison population level within a population "cap." The prison cap bill called for early release of prisoners to keep the population under agreed-upon capacity limits. Under the emergency release system, some of the state's prisoners would serve as little as one-eighth of their sentence.

In 1989 the legislature had directed an ambitious program of prison expansion, authorizing use of bonds to fund prison construction. Between 1990 and 1999, North Carolina would spend \$336 million on prison expansion. By 1993 the state's policymakers were also poised to introduce a sweeping reform designed to replace the early-release provisions with a sentencing structure designed to keep prison populations within the expanding prison capacity limits.

North Carolina's "Structured Sentencing Law" was enacted in 1993, and took effect in October of 1994. The new system incorporated truth-in-sentencing by requiring that prisoners serve at least 85 percent of the sentence imposed. The sentencing guidelines were designed to take account of the anticipated expansion through use of a computer simulation model. The sophisticated program was used to set sentence ranges designed to ration the states correctional resources in a fashion consistent with the added confinement capacity authorized by the legislature.

But before the sentencing reforms could bring prison population growth under control, the highly-publicized murder of basketball star Michael Jordan's father in the summer of 1993 by a parolee shocked North Carolinians and brought the early-release practice under intense fire. Managers at North Carolina's Department of Corrections (DOC) responded by tightening the release valve. The prison construction program was moving too slowly to absorb the resulting population increase and so DOC managers began a search for private prison beds located in other states to house the overflow of prisoners (Associated Press October 23 1993).

After North Carolina had shipped hundreds of prisoners to private out-of-state prisons, the concept of prison privatization within the state jumped to the foreground. During the 1995 legislative session House leaders injected privatization into the administration's already-robust prison building effort. Funding for two 500-bed medium-security private prisons was approved that year. The two private prisons were embraced by the administration as a "pilot project," a

chance to test whether they would save tax dollars (Associated Press January 2, 1996).

Out-of-state housing was seen as both a stopgap and a trade-off that would solve the temporary prison-bed short-fall. At the height of the prison population crunch, North Carolina exported upwards of 2,000 prisoners to four private prisons in other states at an annual cost of \$20 million (Rawlins October 17, 1999). The state's experience with contracting for out-of-state prison beds was mixed, at best. Correctional services obtained from Cornell Corrections in Rhode Island were satisfactory, but very expensive compared to costs in North Carolina. Contracts with CCA for beds in Hinton, Oklahoma and Mason, Tennessee were more economical, but presented other difficulties.

#### **MANAGEMENT OF PRIVATE PRISONS**

A review of the management experience in the case study states brings to light many interesting issues about the risks inherent in the undertaking, and suggests the difficulties that public correctional administrators face as they struggle to manage those risks.

#### **Responsibility for Management of Private Prisons**

As is the case in all the states that contract for private prison beds except Florida, private prison contracting and management has been the responsibility of the agencies that manage public state prisons. As has been discussed above, Florida legislators became frustrated with the level of resistance to privatization they encountered within the state's Department of Corrections, and set up a separate, independent agency, the Correctional Privatization Commission, to facilitate the contracting and management of the state's private prisons.

The North Carolina Department of Corrections channeled responsibility for private prisons to an already-existing contracts administration unit within the Division of Prisons. Direct responsibility for management and oversight fell to the Assistant

Director of Auxiliary Services--who carried these responsibilities from the initiation of the first contracts with private prisons in Rhode Island, Texas, Oklahoma, and Tennessee to hold overflow prisoners in the early 1990s, to the conversion to public management of two North Carolina CCA-managed prisons on October 1 2000.

In addition to the Assistant Director, a variety of other central DOC staff carried responsibilities related to operation of the CCA prisons. DOC staff would schedule the transfer of prisoners to and from the private prisons. They monitored case management functions as well as the maintenance of accurate and prompt entry of data in the Offender Population Unified System (OPUS). Grievances filed by prisoners would be investigated and resolved by DOC staff if they were not quickly settled. All classification-level promotions and demotions required approval by DOC central staff. DOC staff performed pre-employment background investigations including criminal history checks for all prospective private prison employees.

The Texas Department of Criminal Justice had split up responsibility for these functions, with the Assistant Director for Contract Management in the Institutions Division carrying responsibility for contracts with six private prisons holding general population prisoners, as well as for extra capacity beds in seven privately-operated local facilities. Until recently, contracting and managing the five private State Jails was handled by staff in the State Jails Division who also managed those directly operated by TDCJ.<sup>35</sup> Nine more private facilities hold prisoners under the authority of the Parole Division, which has a "Specialized Programs" unit that has managed contracts with both for-profit and non-profit companies to provide pre-parole transfer facilities, intermediate sanction facilities, multi-use facilities, halfway houses, work program facilities, county

jail beds, residential substance abuse services, and a variety of non-residential services. Our report is focused on the Institutions Division and State Jail contract facilities.

Florida remains the only state that has created a body entirely separate from their correctional services agency for the sole purpose of contracting for private construction and operation of prisons. According to the executive director of the Correctional Privatization Commission (CPC), the "politics of privatization" have impeded replication of the model elsewhere.

The CPC has been a lightning rod for controversy in Florida. Exclusion of any representation from the DOC on the Commission means that the state's correctional services agency has no input as to where private prisons will be built, or for what custody levels they will be designed. The CPC effectively obligates the DOC to place prisoners in private facilities without review or agreement as to their design specifications or staffing plans (Office of Program Policy Analysis and Government Accountability 1995).

The decision to establish a separate CPC has resulted in dual corrections administrations. The CPC is seen by many state officials as a "mini DOC," and is widely perceived as an avid proponent for privatization.

#### **Contracting for Private Prisons at TDCJ**

Fourteen years of experience with contracting and oversight of private prisons by TDCJ's Institutions Division has produced a highly professional team of managers and a model set of procedures for managing the risks inherent with the undertaking. The Institutional Division contracting process is framed by a highly detailed request for proposals

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<sup>35</sup> In a major reorganization currently underway, this responsibility is now being shifted to the Institutions Division, as is responsibility for the secure facilities that have until now been contracted and managed by staff in the Parole Division.



that is drafted by TDCJ staff to specify the exact provisions that will be required in the contract.

The contracting philosophy is that private prison vendors should "do it our way." The contracting strategy is to hold them accountable to clear and precise standards for contract performance. TDCJ contractors are obliged to maintain conformity with every applicable TDCJ policy, as well as the policies established by the Windham School District (educational program from inmates), unless prior written approval of proposed alternative policies is obtained from TDCJ.<sup>36</sup> Requests for approval of optional policies have not occurred during the contracting process, but arise later as particular operational issues crop up.

Bidders for contracts are requested to propose a level and quality of program services at least equal to those provided in public prisons, and to provide these at a lower cost than incurred by public operation. Bidders are instructed to provide detailed information about all operational costs they would propose (direct, indirect, and profit margin). Detailed operational plans are also required covering all aspects of proposed prison operations, as well as procedures for self-monitoring; proposed procedures for turning over of operations in the event of bankruptcy or inability to perform contract duties; emergency security procedures; an organizational chart and staffing plans with accompanying job descriptions, salary ranges, qualifications, and job duties required.

The contractor cannot retain upper level management staff for employment without prior approval by TDCJ officials. The staff training curriculum for private prisons must be approved, and the number of hours of academy and in-service training must be equivalent to those provided to public prison staff.

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<sup>36</sup> Contractors are free to establish their own operational and management procedures to accomplish TDCJ's established goals as expressed in its policy statements.

To safeguard the liberty interests of prisoners, Texas statutes limit the delegation of authority from TDCJ to private prison contractors in certain areas. For example, TDCJ retains the responsibility for computation of release and parole eligibility dates; the awarding of "good time" credits; the approval of furloughs or pre-parole transfers; and classification decisions that would place a prisoner in less restrictive custody status.

Determination of routine disciplinary matters may be delegated to the private prison staff. However, private prison staff are obligated to report disciplinary infractions (and as well, good behavior) to TDCJ officials. The private prison officials may make recommendations, but hearings on major disciplinary violations (those which might affect the duration of a prisoner's time in prison) are conducted only by TDCJ staff.

When a prisoner is suspected of a major disciplinary infraction, the specifics of the case are provided to the TDCJ monitor who determines if the case is major, i.e., one that might result in administrative segregation or affect the length of the prisoner's term of incarceration. When cases such as these arise, the prisoner transferred to a public prison for a hearing, where he or she likely to remain, regardless of the outcome. If the infraction is not determined to be major, a variety of sanctions may be imposed at the discretion of private prison staff, including restricted access to recreation, commissary, or visitation.

Enforcement of policies given particular importance by TDCJ are in areas that have given rise to inmate grievances and legal action. Contracts delegate limited powers to private prison staff. Use of force by contract employees is restricted to that which is necessary for self-defense; for restraining prisoners who present an "imminent and immediate threat" to others; to prevent serious damage to property; to maintain or regain control "in the event of a mutiny, rebellion, riot, or disturbance," or to isolate or confine a prisoner in enforcement of

prison rules and regulations, "where lesser means have proven ineffective." Deadly force (use of firearms) is restricted to situations presenting threat of serious injury to an individual; to prevent escapes; or where lesser means have failed to quell a mutiny, rebellion, riot, or disturbance.

Access to state and federal courts, to legal counsel, and to public officials and agencies is intended to be available for all private prisoners. Prison law libraries must contain all resources required under court orders and TDCJ rules. Services are to be provided to prisoners by a licensed attorney under a sub-contract with the private prison company. Private prison contractors are obliged to implement TDCJ's grievance procedure and provide all necessary resources.

#### **SELECTION AND TRANSFER OF PRISONERS TO PRIVATE PRISONS**

Texas' recent experience with the private prisons has been relatively problem-free. TDCJ officials believe that the key factor in managing the risks associated with private prison contracting is careful screening and selection of private prisoners. While medium custody prisoners may be confined in private prison under Texas statutes, the Institutions Division Administrator for Contract Facility Operations reports that TDCJ officials have never contracted private beds for prisoners above the minimum custody level, believing that safe management of medium custody prisoners requires a more labor-intensive staffing plan than private vendors offer.

To be considered for transfer to a private prison, an inmate must be classified at the minimum custody level, with no recent major disciplinary infractions. Mental health status is taken into account in screening, since TDCJ officials believe that private prisons do not provide the best environment for such inmates.

In Florida, most of the prisoners transferred to private prisons are classified to the medium or minimum custody levels. The DOC

managers that handle this function also stress the necessity for careful screening of candidates for transfer. The CPC-contracted private prisons are perceived by most state officials to be more program-rich than DOC institutions, functioning more or less as pre-release facilities for lower custody-level prisoners who are closer to release than the general population in DOC institutions (Florida Corrections Commission 1996). For example, many prisoners may be assigned to private prisons for less than one year before being sent to work release or being released to their home communities.

Decisions about what prisoners to transfer to private prisons, their classification levels, the disciplinary actions taken against them, application of gain time rules, or any other matters that would affect the custody or release of prisoners are determined by DOC staff, who retain responsibility under Florida law for any decisions affecting the liberty interests of the prisoners transferred to private prisons.

Transfer decisions are made according to available bed capacity at appropriate classification levels, determination of medical and psychological needs, and treatment and training requirements. Medical treatment needs also considered, since medical costs are capped in private facilities. In addition, Florida DOC makes an effort to "cluster" prisoners with certain types of medical problems (e.g., heart conditions) in public institutions where they can provide a concentration of medical specialists and provide treatment and medications at the least cost (Florida Corrections Commission 2000).

Generally, if prisoners develop costly health problems, or engage in behavior resulting in classification to a higher custody level, they are transferred to the public prison system. According to Florida DOC classification staff, major differences between public and private prison operations in result from dissimilarities in the prisoner population. The private prisons house healthier, better behaved, lower-cost inmates.

The North Carolina DOC contracted with CCA for operation of the two private prisons. All prisoners sent to CCA's prisons would be screened and selected by central administrative DOC staff to assure that DOC institutional managers did not attempt to transfer problem inmates. Selection of prisoners for transfer to and from private prisons was done according to established criteria that were shaped by their prior experience with contracting for private prison beds in other states.

To be eligible for transfer to private prisons, medium custody prisoners had to be able to work or maintain a program assignment on a full-time basis. They must have maintained a good behavioral record, pose no escape risk, and have no serious medical or psychiatric treatment needs. Eligible prisoners were allowed to volunteer for transfer.

Significant misconduct, such as serious violence and attempted escape, would normally result in transfer back to a North Carolina public facility. Transfer would also occur if a prisoner was reclassified to a higher or lower custody status, or if they developed a serious medical or psychiatric need. After six months of assignment to a private prison, prisoners with a good institutional behavior record may request to transfer to a public facility.

#### **MONITORING AND CONTRACT ENFORCEMENT**

The most artfully written contract may be undermined in the absence of close oversight and effective enforcement of the terms. The experience in the case study states reveals how much effort may be required to execute these challenging functions.

#### **Oversight in Texas**

Five of six private prisons under contract in Texas have a full-time on-site monitor responsible for assessing contract

compliance.<sup>37</sup> The monitor functions under TDCJ-devised procedures for monitoring and auditing all prison operations. Monitoring is designed to cover contract compliance issues as well as compliance with policies, ACA standards, state laws, and applicable court orders. Reports cover all aspects of prison operations.

Detailed plans for self-monitoring of operations and assessing the success of rehabilitation programs must be submitted for TDCJ approval. The program assessment plan is supposed to contain clearly defined goals, outputs, and measurable outcomes related to the objectives of the program. A private prison contractor must develop an information system capable of tracking and evaluating the achievement of outcomes.

An extensive schedule of reports is also required to document operational performance and service delivery, ranging from a weekly "Vacant Position Report," and a monthly report on delivery of healthcare services, down to a quarterly "Aluminum Can Sales Report."

Private prison contracts establish TDCJ's right to audit, inspect, and test all operations and services required under the contract, and require "reasonably prompt" access to all financial, employee, and prisoner records maintained by the contractor without limitation. Monitoring may also include audits by TDCJ administrative staff and representatives of the Windham School District. The contractor must allow entry to the prison facility at all times for state legislators and executive officials, members of the judicial branch, and all authorized investigators, auditors, employees or agents of TDCJ and the Texas Board of Criminal Justice.

In event of non-compliance with contract provisions, a private prison contractor is notified of the specifics, and given 20 days to resolve the issue. Within that time limit, private prison managers must

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<sup>37</sup> The B.M. Moore Correctional Center in Overton is located about ten miles from the privately-operated Bradshaw State Jail in Henderson. Both facilities are managed by the same contractor and the two facilities share a single monitor.

file a written response, detailing the steps and methods that have been taken to come back into compliance.

While monetary sanctions are available to enforce contract requirements, TDCJ managers do not conceive of these as liquidated damages or penalties taken against vendors. They are unwilling to pay for services that have not been delivered, however, and have sometimes withheld significant amounts of money where this has occurred.

Failure to meet contract obligations within defined timeframes will result in specified monetary withholdings, absent extensions granted by TDCJ officials. Money may also be deducted by TDCJ when the contractor fails to meet and maintain acceptable performance standards.

#### **Oversight in Florida**

Responsibility for monitoring and contract enforcement in Florida currently rests with the Correctional Privatization Commission. Chapter 957 of Florida Law requires that private prisons must seek and obtain accreditation under American Correctional Association (ACA) standards, as well as all state laws and applicable court orders. The CPC set up a system of on-site monitoring in each of its contract facilities. CPC monitors are provided with an office at the facility, and are expected to submit monthly reports. Until recently, these reports were augmented by annual monitoring visits by an independent contract monitoring team.

Authority for monitoring Florida's private prisons has been a bone of contention between the DOC and the CPC. The DOC Office of the Inspector General conducts biennial management reviews of public prisons that cover a wide range of issues. In 1997 the DOC announced it would also conduct management reviews at private prisons but CPC managers resisted, arguing that such reviews would be redundant. They pointed out that under Florida law, their facilities were not subject to DOC rules or policies to the extent that such were "inconsistent with the mission of the commission to establish cost-effective, privately

operated correctional facilities" (Florida Corrections Commission 1996).<sup>38</sup> The DOC retains limited authority for audits and inspections.

Early in 2000 the Florida Corrections Commission (FCC) became concerned about whether an adequate level of monitoring was being conducted by CPC staff at the private prisons. FCC investigators requested copies of the monthly monitoring reports for all facilities operating under CPC contracts. The primary concern they raised after review of these documents was about large gaps in reporting during periods of many months' duration at three facilities due to on-site monitor positions being vacant.

FCC staff has also raised a number of other issues related to inconsistent reporting formats from facility to facility that made facility comparisons difficult. They also cited data errors and discrepancies regarding security staff vacancies and prisoner disciplinary hearings. On the basis of their review, the FCC recommended to the Governor that the CPC be abolished and that the contracting and monitoring function should be transferred back to the Department of Corrections.

#### **Oversight in North Carolina**

Managers at the North Carolina Department of Corrections (DOC) also assigned full-time contract-compliance monitors to work onsite at each of the two CCA prisons. The monitors reported directly to a member of the senior executive team at the DOC Division of Prisons responsible for management of the CCA contracts. In addition to daily onsite monitoring, a team of DOC operational specialists was appointed and charged with conducting an annual internal audit of all aspects of private prison operations.

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<sup>38</sup> The provision of law that exempts CPC facilities from DOC rules and policies is viewed as allowing a "double standard" by some state officials.



A detailed set of ethical standards was established for private prison monitoring staff to govern issues like conflict of interest; maintenance of professional relations with private prison staff, inmates, their families and associates; and handling of confidential information.

The monitors tracked compliance with contract requirements and applicable DOC policies and procedures on a "Compliance/Concern Tracking Log." Each issue was summarized and dated, with documentation of prompt notification of private prison staff. When an issue was resolved, a summary narrative and date was entered. When no resolution was obtained within a mutually-agreed time frame, monitors filed a corrective action plan with identified requirements for resolution. When no resolution was reached, the monitors made formal recommendations to the DOC's senior management team for addressing the failure with formal sanctions.

After embarking on privatization of state prison facilities, one of the case study states also garnered extensive experience with the business of private prisons through involvement with facilities that had been built "on speculation." Once built, contracts for housing prisoners would be forthcoming from government agencies. These "spec" prisons have had a history containing incidents of prison homicides, escapes, riots, political corruption, and other ethical issues.

#### **"SPEC" PRISONS**

Texas was once the world capitol of "spec" prisons. Over the decade after the Institutional Division established the first four TDCJ contracts in 1987, the business of prison privatization exploded in Texas. A compensation agreement forged in 1991 between the state and local jails being used to house thousands of "state-ready" prisoners awaiting transfer to TDCJ facilities turned the state prisoner backlog into a local economic development opportunity. Some counties expanded their jails beyond local needs to create space that could be leased out. Other counties issued bonds to build new jails specifically for private

operation. Eight private jail facilities were financed across the state in 1991 through such bonds.

While local jail authorities were seeking contracts with TDCJ to house transfer prisoners, the private jail developers were also beginning to exploit more lucrative opportunities to import prisoners from overcrowded prison systems outside the state. By 1994 the backlog population of state prisoners warehoused in local facilities peaked at 30,000 but a massive TDCJ prison expansion plan was beginning to produce a new prison beds at the state level. Local officials began to feel a financial pinch. Many counties had become dependent on the large state funding stream (\$260 million in 1993) that housing state-ready prisoners were providing (Ward November 17, 1994). If the local beds remained empty, massive layoffs of jail staff would be required. Thus, Texas counties were soon scrambling to secure contracts to house out-of-state prisoners.

By 1996 there were 38 private prisons either operating or soon to open in the state, including 21 facilities contracted with TDCJ to operate as state prisons, parole facilities, or "state jails." Others were operating under contracts with federal agencies. But some were operating completely free of oversight from either Texas or federal correctional officials. And by 1997, local private facilities were housing nearly 5,500 prisoners from other states.

The operational problems associated with private "spec" prisons became evident when a series of events began to draw attention from the media. In 1996, two sex offenders from Oregon were apprehended 200 miles from Houston 11 days after they escaped from CCA's 411-bed Houston Processing Center. State and local authorities had been told by CCA that the facility was being used by the INS to hold immigrants facing deportation. Criminal offenders were also being confined in the facility and the Oregon Department of Corrections had leased 240 beds from CCA to house sex offenders. After the arrest of the escapees, the

local prosecutor determined that the inmates could not be prosecuted for escape because CCA had no statutory authority to detain them.

When asked by Houston reporters, a CCA spokesperson insisted that the company was under no obligation to notify state or local authorities about what prisoners were held at the facility. "We designed and built the institution. It's ours" (Walt August 30, 1996). Concern about the problems in "spec" prisons further escalated after a riot involving 400 detainees at CCA's Eden Detention Center. In response, the Texas legislature enacted new laws pertaining to operation of "spec" prisons and the practice of importing prisoners from other states. The new provisions made it a crime to escape from a private prison. In addition, private prison operators were required to have some contractual relationship with local authorities and private guards would have to be licensed by the state.

Despite these reforms, the difficulties in "spec" prisons persisted. There were problems of escapes and disturbances, and complaints (by both prisoners and by out-of-state contracting agencies) about inadequate food service and medical care, poor security and classification procedures, and inexperienced, inadequately trained staff. Public concerns were raised again when it came to light in the media that the deputy director at the Commission on Jail Standards (an agency given charge of monitoring the private facilities) was being paid \$42,000 a year in addition to his state salary to moonlight as a consultant for one of the private prison companies whose facilities he oversaw (Walt November 12, 1997).

Caught in an intense media spotlight, Texas backed away from its role as the leading "host state" for prisoners imported from other states' prison systems. By January 2001 there were no longer any prisoners housed in private facilities in Texas under contracts from other states.

#### PRIVATE PRISON OPERATIONAL PROBLEMS

Most of the operational difficulties encountered with private prison contracting in the case study states have occurred during the early years of facility operations. The problems associated with activation of new prisons are also familiar in the public sector but these difficulties are exacerbated within in the private prison industry due largely to structural personnel issues.

When public prisons are activated, corrections managers are able to build a staffing plan on a platform of experienced personnel. A sizable group of experienced correctional officers are typically transferred from other facilities within the state, under leadership of a qualified, seasoned management team. Even the largest private prison companies cannot afford this flexibility. The industry leaders are national companies (two are transnational). Transfer of large numbers of staff to new facilities built in isolated rural areas is not a financially attractive proposition. Moreover, the industry is still quite new, with most private facilities operating for less than a decade. Given that turnover among the staff is generally three times higher than that for the public corrections field, those who maintain private prison employment may be promoted at a level of experience below that required in the public corrections system.

The current labor market for correctional workers is extremely tight, making it very difficult for private prison companies to keep wages low and continue to fill vacancies. The result has been high rates of position vacancies at private facilities. Supervising a relatively inexperienced staff that is working long hours of mandatory overtime in order to keep the security posts covered, many private prisons managers are finding themselves contending with high levels of staff burn-out and exhaustion.

### Problems in Texas

Within a year of activation of the first four private prisons under contract with the Institutions Division, state officials found that the private operators were failing to provide the level of education programs and medical care required under the contracts. In May 1990, a TDCJ audit gave low marks to both CCA and Wackenhut. Wackenhut was cited for inadequate school programs, low enrollment for substance abuse treatment, and deficient delivery of medical and dental care. CCA had instituted just one of seven vocational training courses required by state contracts and was deficient in provision of medical care. Both companies were cited for use of excessive force by staff (Ward May 16, 1990).

For the past few years, private prison operations under TDCJ Institutions Division contracts have seemed relatively uneventful. Private operations of State Jail facilities in Texas have been far from problem free, however. At the Travis County State Jail, staffing issues were the main problem. Job turnover was extremely high and under-staffing soon became a chronic problem. TDCJ audits documented that Wackenhut was failing to fill vacant positions and staff in accordance with the approved staffing plan. Auditors found that staffing records had been falsified. Shift rosters did not agree with payroll timesheets. Programs were not fully staffed and many teachers were uncertified. Vocational classes had not been implemented. There was a shortage of uniforms, underwear, shoes, blankets, and towels. TDCJ officials responsible for managing the state jail system held back \$625,000 in payments to Wackenhut over two years in connection with unfilled staff positions (Quin September 1, 1999; Ward and Quin September 2, 1999). The take-over by the State Jail Division occurred at the beginning of November. TDCJ officials found that Wackenhut had not been performing necessary maintenance to the TDCJ-owned facility plant.

Problems have recently developed in a second privately-operated State Jail located north of Austin. In late August 2000, two prisoners escaped from CCA's Bartlett State Jail. TDCJ investigators found that closed-circuit surveillance monitors were not being watched when the two made their way out of the prison and the perimeter fence alarm was ignored (Texas Department of Criminal Justice, State Jail Division September 7, 2000).

#### **Problems in Florida**

If there are serious operational problems in CPC contracted facilities, they have not risen to a level sufficient magnitude to draw sustained media attention of the sort found in many other states. Because the private prisons in Florida are air conditioned and allow amenities (such as television) not present in Florida's public prisons, most prisoners would probably prefer them to the public prisons. Moreover, according to DOC officials, violent behavior is likely to result in a prisoner's transfer back to the public system. These factors, coupled with the fact that many private prisoners may be nearing their release date, create a strong incentive for good behavior at the private prisons.

Start-up problems at CCA's Lake City Correctional Facility included high turnover and extended vacancies in counselor and instructor positions. The facility has been under the management of at least three warden since its opening. One facility did not receive a license to operate its drug treatment program for 10 months after they began providing these services. State and federal regulations regarding special education services were not met until intervention by the State Department of Education. With the assistance from the DOC, a corrective action plan was developed and implemented over a period of 18 months.

News reports have recounted at least two escapes from Wackenhut's South Bay facility (Office of Program Policy Analysis and Government Accountability March, 2000).

### Problems in North Carolina

North Carolina's private prisons were activated after the wide publicity surrounding the many types of problems that have plagued private facilities, including some of those that had been used to house the state's overflow prisoners. Anticipating that operational problems might arise, DOC managers negotiated separate contracts for each facility. Under one contract, the prison facility was leased by the state. The second contract covered prison operations. Echoing the Texas approach, contract specifications for these facilities required the private contractor to manage operations strictly in line with the DOC's policies for publicly operated prisons.

The contracts specified that all private prison security staff would be required to possess the same qualifications as are required for employment at DOC prisons. Starting salary levels were roughly comparable but benefits were more limited at CCA compared to the DOC. The same basic educational programs and medical services were to be provided at the private prisons as at medium-security state facilities. In addition, each private prison was to incorporate a 63-bed "therapeutic community" drug treatment program and each was supposed to provide 100 "market-wage" jobs for prisoners by recruiting private businesses to set up industry shops within the prisons.

From the start, there were issues of compliance with contract requirements at both facilities. High levels of turnover were particularly problematic at the supervisory level because it was resulted in the promotion of relatively unseasoned, inexperienced staff. One marked difference in personnel practices between CCA and the public prison system pertained to promotion of security staff. While state prison correctional officers are required by civil service rules to gain many years of seniority and experience before they can qualify for promotion, some staff at CCA's prisons were reported to receive much more rapid promotions. Apparently CCA personnel were eligible to

advance to a management position comparable to a DOC captain within a matter of months, rather than years.

Prison work assignments were also not meeting contractual levels. The monitor assigned at one facility observed that many prisoners receiving a work assignment were not constructively engaged in full-time work. The lack of adequate work assignments produced more than just the problem of idle time. Under North Carolina laws, prisoners' "gain time" is dependent on their having an assignment.

Another frequent issue raised was non-compliance with the DOC inmate grievance process. Grievance complaints were being filed at roughly double the normal rate at DOC facilities. Audit results showed that many CCA personnel practices were found to be non-compliant with DOC policies. The facility's employment roster was out of date, showing a number of staff that were no longer employed at the facility, while omitting the names of others who were employed. Employees filling senior positions did not appear to meet the standards for education, experience, or training required of their counterparts at the DOC. Counselors had received just half of the required hours of training. Many personnel files lacked the records required to verify educational credentials, or documentation that they had met requirements for background checks, medical examinations, or urinalysis.

CCA was found to be non-compliant in a variety of fiscal administrative matters, such as lacking proper procedures for the handling of negotiable instruments, lacking an adequate inventory control process, and failing to provide monthly financial reports to the DOC. Canteen records were inaccurate at one facility. Prisoner medical records were not being properly maintained at another facility, and a variety of discrepancies were found in the handling of drugs in the prison pharmacy. There were few controls over processing of receipts or payment of invoices at the facility. There was no internal inventory control. At the same facility, education programs were found to be severely deficient.



Problems with staffing and services continued to plague the CCA operations and DOC managers worried that more severe difficulties might lie ahead if CCA did not bring both facilities into compliance. DOC managers were holding back payments to CCA due to unfilled positions. Each vacancy in the Education Department was costing CCA an amount equal to the entry-level salary paid teachers at the local community college. Responding to the job shortfalls at both CCA prisons, DOC managers began withholding an amount equal to the specified daily "room and board" deduction from per diem payments to CCA for each industry job that was not provided. By June 2000, managers at the DOC had withheld \$1 million in payments because of chronic staff vacancies and the failure to provide most of the contracted industry jobs for employment of prisoners.

CCA's managers seemed to be unable to satisfy the contractual obligations. They approached the executive staff at the DOC to discuss the problem, warning that unless some financial adjustments could be made to provide CCA with more leeway, the company might not be able to continue operations on such an unprofitable basis. DOC managers decided to negotiate an amicable termination of the two private prison management contracts with CCA. After less than two years, the DOC announced it would terminate CCA's five-year management contracts. DOC managers moved to assume all aspects of operations while continuing to lease the prison facilities from CCA. On October 1 2000, the state assumed management of both facilities.

#### **ASSESSMENT OF CORRECTIONAL COSTS AND PERFORMANCE**

The burgeoning expense of prison expansion in the U.S. appeared to drive privatization of correctional services forward for a decade and half of fast growth. While the debate on the matter of cost savings has been vigorous, the body of rigorous, credible research on performance quality is extremely limited. And to date, credible evidence of significant savings is scant.

Texas has yet to produce an "apples to apples" comparison of private and public prison costs, relying instead on comparisons of private prisons with "hypothetical" or "prototype" public institutions. In North Carolina, a planned research project to examine the costs and performance of private prisons was abandoned when the state took over their operations. Of the three case study states, only in Florida has a substantial effort has been undertaken to examine these issues in sufficient detail to produce findings on which policymakers can rely.

#### **Costs in North Carolina**

While the per diem fees paid to CCA totaled about \$50,<sup>39</sup> state officials were aware that comparing these figures with the average daily cost of \$67 at state-operated facilities gave a deceptive impression of cost savings. Medical costs were capped under CCA's contract, and DOC managers made sure that only healthy, tractable prisoners were sent to the private prisons. Other hidden costs (e.g., transportation, monitoring, central administration) boost the actual expenditures for privatization (Rawlins November 17, 1999).

Plans for a comparison study of cost and quality conducted by researchers at North Carolina State University were set aside when it was determined that the management contracts would be terminated. Consequently, adequate data to compare either the quality or the true costs of CCA's operations with public prisons in North Carolina is not available.

#### **Cost Issues in Texas**

There are many elements of private prisons management in Texas that result in a private prisoner population that should be both easier

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<sup>39</sup> The state paid separate fees for operation of prison services and for lease of the facilities. At one facility, the per diem for services was \$36.14, while the annual lease fee of \$2,865,600 adds an extra \$14.87 per prisoner per day; at another the per diem was \$35.94, and the lease fee (\$2,757,522) adds \$14.31.

and cheaper to manage than the general population in public prisons. While the Texas legislature specified that both medium and minimum custody prisoners could be housed in private prisons, TDCJ officials have restricted use of these prisons for minimum custody prisons only. Private prisons under contract with TDCJ do not operate close custody or administrative segregation units. If prisoners are charged with serious misconduct, they are transferred to public prisons. Private prison facilities also lack the capacity to provide "in-patient" medical or psychiatric care, so prisoners who develop a need for such services are also transferred to public prisons. Prisoners with HIV may be transferred to private prisons, but if they do not require hospitalization.

According to information available from various state agencies that track correctional costs in Texas, the average per diem costs at private prisons have actually declined slightly since the early days of contracting. The negotiations were conducted within a framework that set a contract limit of \$38.28 for 1989--a figure that was 10 percent less than the cost estimate (\$42.53) determined by the Legislative Budget Board for operation of "hypothetical" state-run units of the type to be contracted. The per diem costs for the first four contract facilities were negotiated at \$34.79 for the biennium ending August 31 1989 and \$35.25 for the biennium ending August 31 1991 (Sunset Advisory Commission 1991).

Although per diem costs have not risen, it is by no means clear how much savings--if any--is being realized through private operation of prisons in Texas. The Texas Sunset Advisory Commission (SAC) was initially charged by the legislature with determining if the first four private prisons to be contracted were meeting a ten-percent cost-savings benchmark. The SAC had been created by the legislature in 1977 to identify and eliminate waste, duplication, and inefficiency in government agencies. In 1991 analysts at the SAC reported that Texas' private prisons were operating at close to the 10 percent benchmark, and

that after accounting for "money paid in lieu of tax revenues," the cost savings reached 14 percent (SAC 1991).<sup>40</sup>

The SAC study was not an "apples to apples" comparison, however. Since the TDCJ operated no comparable public prisons, they constructed a hypothetical model prison for comparing costs, the same methods that had been used initially to determine the cost benchmark for contracting purposes. Although their legislative directive included comparing the quality of services, without actual public prisons at hand, the SAC analysts were unable to meet this mandate (Texas Comptroller of Public Accounts 1991).

While security costs may be less in the private prisons in part because of a more compact, efficient facility design, they are also likely to be lower due to the nature of the confinement population. Minimum-security prisoners at the pre-release stage may not require the same level of security staffing as the general prison population confined in public facilities. Moreover, the cost estimate for private prisons did not include all of the types of costs absorbed by TDCJ (Texas Comptroller of Public Accounts 1993).

The most recent cost estimates available from the Criminal Justice Policy Council indicate that privately contracted State Jail facilities were operating at a per diem cost of \$28.64 in fiscal year 2000, compared to \$32.08 at the public state jails. A per diem estimate of

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<sup>40</sup> While the initial plan had been for the facilities to be constructed and owned by the vendors, it was later decided that costs would be less if the state took over this function. Because the state owns the facilities, property taxes are not assessed. But by contract, the vendors pay local governments an annual amount in lieu of the taxes that would be owed if they owned the properties. In 1998 CCA withdrew from its TDCJ contract for operation of the Cleveland facility after failure to resolve a dispute over payments due to the city. In 1995 CCA had slashed a \$180,000 payment-in-lieu of taxes to \$80,000 in order to pare costs in the face of stiff competition when its contract was re-bid by TDCJ. The Cleveland school district filed a lawsuit that was settled in 1998 when CCA agreed to pay the \$300,000 arrears, but when the school board requested an independent audit of CCA's financial condition, CCA pulled out of the state contract. Wackenhut agreed to take over management at an increased per diem fee of \$5 more than CCA had received, and to pay the full amount required (Horswell November 24, 1998).

\$37.25 was reported for private prisons operated under contract with the Institutions Division. This figure included housing costs, minor medical services, transportation and leases. Costs for TDCJ administrative services, monitoring, major medical costs, and diagnostic and classification services were not included. The estimate reported for a 1000-bed public institution housing general population prisoners was \$37.34. Average per diem costs for additional capacity contracted by the Institutional Division in local county facilities was reported to be \$39.96 (Criminal Justice Policy Council 2001).

#### **Cost and Quality Assessment in Florida**

The most comprehensive set of comparison studies of public and private prison performance and costs has been undertaken in Florida. Section 957.07 of Florida Statutes mandates a savings of at least 7 percent for private prisons that confine an adult population. Determination of whether the private prisons are meeting this requirement has proved to be a difficult and contentious enterprise. The public and private prisons are not comparable in terms of either facility design or level of program services. State legislators have charged that private prisons contain costs by "cherry-picking" healthy and well-behaved prisoners (Croft March 15, 1998).

Addressing the challenge of providing an accurate comparison of public and private correctional costs in their state, Office of Program Policy Analysis and Government Accountability (OPPAGA) analysts have struggled to overcome the lack of fully comparable facilities by making their best judgments about how to adjust costs to account for differences in the size of institutions, the types of prisoners they confine, and the programs they offer. Over a period of six years they produced a series of studies that, taken together, chronicle the development of prison privatization in Florida and give a wealth of detailed information about their operations.

In 1998, OPPAGA analysts conducted a comprehensive review of both construction and operational costs for two privately run facilities. They concluded that cost savings goals were not being met, and that only one of the private prisons produced any cost savings in FY 1996-97 (OPPAGA 1998).

To compare private construction costs with public costs OPPAGA selected three public prisons opened in the same year (1995) as the private facilities. The public prisons were built on land donated by local governments, yet site preparation costs for roads, sewage treatment, and other infrastructure development exceeded the combined site acquisition and preparation costs for the private prisons. Construction costs per bed, however, were comparatively lower for the public prisons.

At least in part, the lower site costs for the private prisons were attributed to their more compact design, less accessible location of the more spread-out "campus" style public facilities. The DOC is able to utilize the labor of prisoners for some aspects of construction, reducing costs by an estimated 16 percent. The higher per-bed construction costs at CCA's Bay Correctional facility reflect a design that provides two-person cells for all prisoners, while Wackenhut's design included dormitory housing for many prisoners. Florida's public prisons also rely largely on dormitory housing and so CCA's Bay Correctional Facility proved to be the most expensive of all to construct, costing 1 percent more per bed than the most expensive public prison in the comparison.

OPPAGA analysts determined that neither prison was meeting the statutory requirement of 7 percent savings. CCA's operations at Bay Correctional Facility had produced no cost savings at all, while Wackenhut operated its Moore Haven Correctional Facility at a savings of 4 percent.

Comparing the quality of correctional services, analysts at OPPAGA concluded that correctional service performance at the private prisons was roughly consistent with performance reported by the public prisons. The two private facilities reported lower rates of assaults and disciplinary incidents, while reporting higher levels of attainment of GED certificates and completions for education and treatment programs. But the analysts noted that the profile of the prisoners selected for transfer to private prisons might account for these differences. Reviewing contract requirements for education and treatment services at the private prisons, the analysts observed that after both vendors encountered difficulties fulfilling program participation obligations, the CPC managers sought amended contracts to reduce these requirements by more than half: from 765 prisoners to 325 at the CCA facility, and from 1519 to 606 at Wackenhut. Contract payments to the vendors were not reduced, however (Office of Program Policy Analysis and Government Accountability 1998).

In 1999 OPPAGA undertook a review of the newest contract facility, a prison for youthful offenders operated by CCA. OPPAGA analysts noted that this facility does not provide a greater variety or number of programs than the four other youthful offender institutions run by the DOC (Office of Program Policy Analysis and Government Accountability 2000). Comparing the education programs at the private facility with those at the DOC-run prisons, the analysts determined that by the middle of 1999 enrollment levels at the private prison were favorable, especially for vocational training programs. Youthful offenders in the private facility earned GED certificates at a higher rate, compared with juveniles in public facilities. A review of operational costs indicated that while costs at the larger state youthful offender facilities were lower due to economies of scale, the per diem costs for the private institution fell within the range of comparably-sized public facilities.

Finally, OPPAGA analysts compared Wackenhut's close-custody prison, South Bay, with the state-operated Okeechobee. After adjusting

for a variety of different factors to account for important differences in how the facilities were operated (e.g., the public prison had fewer education and treatment programs and prisoner work crews provide community services outside the prison compound), it was determined that a 6 percent cost savings had been achieved by the private prison in FY 1998-99, nearly meeting the statutory cost-savings benchmark of 7 percent.



## IX. SUMMARY AND CONCLUSIONS

The current project used a multi-level analysis to answer key questions related to the impact of VOI/TIS on prison management and privatization experiences. Analyses of national data for the past decade, case studies of prison management and privatization were conducted to answer the following questions:

- What management changes have been made by state correctional agencies in order to deal with the increase in the numbers of violent offenders being incarcerated, many for much longer periods than in the past?
- What additional safety and training procedures have been instituted for correctional staff in order to deal with the increase in violent offenders?
- How does the increase in violent offenders affect the type and extent of programming (e.g., education, prison employment) health care and safety procedures?
- What types of offenders, programs, or services fall within private corrections? What has been the experience of private corrections in terms of inmate and officer safety, infractions, accountability and costs?

### LIMITATIONS OF THE CURRENT STUDY

As we noted in our national evaluation of the implementation and early outcomes of VOI/TIS on crime rates, prison sentences, admissions, and time served (see Turner et al. 2001), the current evaluation also operated under several constraints. First, the current evaluation was conducted relatively early in the implementation of VOI/TIS. The impacts of TIS legislation will not be felt until violent offenders begin to serve the portions of their sentences that are beyond that

which was historically served. Second, although we can examine the differential effects of states that did and did not receive TIS funding, we cannot determine the impact of VOI/TIS funds overall. This is because all states received funding from the program. We do not have a set of states, for comparison purposes, that did not participate in the VOI/TIS program.

First, our evaluation was conducted early in the implementation of VOI/TIS; the full impact of VOI/TIS will not be seen until years from now. States do not have to spend VOI/TIS funds during the year in which they are received--they have up to four years from the year in which they are awarded. Thus states have not yet built all the beds originally envisioned for VOI/TIS offenders. In addition, the impact of TIS legislation will not be felt until violent offenders begin to serve the portions of their sentences that are beyond that which was historically served. Second, although we can examine the differential effects of states that did and did not receive TIS funding, we cannot determine the impact of VOI/TIS funds overall. This is because all states received funding from the program. We do not have a set of states, for comparison purposes, that did not participate in the VOI/TIS program. Thus, changes we observe over time may be due to other events, sentencing changes, or national trends not associated with VOI/TIS.

In fact, this was often mentioned in our interviews for the prison management case studies--states are experiencing many changes in legislation that increase penalties--not just TIS legislation.

#### **NATIONAL ANALYSES OF PRISON MANAGEMENT TRENDS**

We conducted analyses over time for states who received TIS funding vs. those that did not, and for states with structured sentencing--determinate sentencing or voluntary or presumptive guidelines--versus indeterminate sentencing states, in order to identify patterns that might differ among states with different sentencing policies.

Overall, our national analyses suggest one of two patterns. Changes have been occurring in some measures over the past decade, but some measures have remained fairly constant. We do not observe sharp changes for TIS states about the time of many states were passing TIS legislation in 1994. In some instances, TIS states show higher levels of prison management concerns (such as percent of inmates at high/close custody, misconduct reports), but for other variables, non-TIS states show higher levels (such as inmate assaults). We did not find strong evidence for our hypotheses regarding the potential impact of TIS on prison management variables. This may be due to several reasons. Averaging over states in these analyses may mask important state level experiences. In addition, data are available only during the first several years after TIS legislation was passed in many states. As we found in our national VOI/TIS evaluation, we may need to wait several more years in order to gauge the impact of such sentencing policies.

#### **PRISON MANAGEMENT CASE STUDY INTERVIEWS**

Based on our case study interviews, it appears the VOI/TIS and other get tough policies have had at least some impact on prison management within individual states. Most of our interviewees reported longer sentences, greater numbers of older inmates, and increased crowding. These conditions were not unanimously considered a direct result of VOI/TIS, but were often considered the result of a rising prison population—to which VOI/TIS has contributed. One consistent theme was the anticipation that VOI/TIS and other get tough policies would have an impact on prison management in the future. TIS and other changes in sentencing policy are relatively new and most of our respondents expect greater impact, in terms of crowding, aging inmates, and costs, will be observed as more inmates are sentenced under the new policies.

## PRIVATIZATION CASE STUDIES

The privatization case studies were designed to examine and document management practices in state correctional systems with more than a few years of experience with prison privatization, and to explore whether the provisions of VOI/TIS, or other elements of the movement promoting "get tough" legislation have affected how states approach the issue of privatization.

For more than fifteen years private prison marketing efforts have been built on assertions that they could deliver higher quality services at a lower price than public correctional agencies. The public debates about whether a state should include prison privatization among the approaches taken to improve or expand the correctional system are usually couched in terms of correctional costs and efficiency, but the evidence to date does not offer solid support for the claims made by proponents. There are other factors, however, that underlie and influence the decision process.

The decision to privatize prison operations is ultimately made in the political arena, by legislators and governors, not by a state's professional correctional managers. Over the course of the fifteen-year history of this industry, all states have faced huge increases in their prison populations but fewer than half have chosen to address this problem by contracting with private companies to build or manage state prisons within their political boundaries.<sup>41</sup> Regional political traditions and the political cultures appear to play a predominant role in determining whether a state will move to privatize its prisons. For example, almost all of the early contracts were let for facilities built and operated in traditionally conservative "right-to-work" states, where

correctional labor unions are weak or non-existent and strong bi-partisan support for private prisons prevails. Specific VOI/TIS or "get tough" measures that have been incorporated in a state's criminal justice policies and practices do not appear to play a major role.

Our case studies show that private management of prisons is often associated with specific patterns of shortcomings and deficiencies (e.g., higher rates of staff turnover, problems with classification and inmate discipline, deficient provision of basic services, higher rates of violent assaults). Many of these problems can be traced to the primary objective of the industry: to reap profits from the high-risk business of operating prisons. But once the political decision to privatize is made, a state's correctional managers face a number of administrative challenges, as we discuss below.

#### **Considerations for Private Prisons**

Given the strong financial incentives to cut costs in order to maximize profits while remaining "competitive," performance from private prison contractors becomes a key issue. Some have argued that the proper role of public correctional management in these transactions should be to set high performance standards and outcome measures, and then to stand back and let the private sector "innovate" its way toward more efficient ways to do business. As has been pointed out by Austin, a review of the current state of private correctional practice reveals scant evidence of innovation (Austin and Coventry 1999). Private companies have often hired veteran managers from the public corrections systems. In Minnesota, private companies mimicked the public system in

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<sup>41</sup> Many states, e.g., New York and Illinois, have no involvement with prison privatization, though they may contract with for-profit vendors of community corrections, halfway houses and the like. Some states such as Hawaii and Wisconsin, have sent prisoners to be confined in private prisons located elsewhere, but have not yet embraced the concept of privately-operated prisons within their borders.

some ways, while failing to provide required service delivery in a number of areas (Greene 2000).

Given this experience, public managers should provide precisely detailed prescriptions for every aspect of prison operations as they issue requests for proposals and negotiate contracts. A review of the experience with prison privatization in the three case-study states suggests that such administrative practices are essential to managing the risks and help to secure adequate levels of performance from private prison vendors:

- Clear and detailed specifications for every aspect of prison operations need to be incorporated in "requests for proposals" for private prison operation to establish comprehensive performance expectations and set an unambiguous framework for contracting, and for management oversight, monitoring, and enforcement of contract requirements. Contracts must incorporate a detailed, enforceable staffing plan, and should specify quantified performance measures for delivery of security services, healthcare, and correctional programs.
- Strict monitoring and enforcement are needed to enforce the terms of the contract. This requires daily onsite monitoring by a dedicated full-time experienced corrections professional; careful documentation of operational deficiencies and problems; and enforcement sanctions with specific monetary sanctions (e.g., per diem adjustments) that will be triggered when explicit performance benchmarks are not met.

A decade and a half of experience with privatization in the U.S. evokes a number of other cautions for approaching correctional privatization:

- A jurisdiction should not privatize so large a proportion of institutional corrections that the system becomes dependent on private management and cannot bargain to its best advantage--or finds itself unable to take over prison operations (or absorb the contracted population load) if things go wrong. The proportion of privatized prison operations in a jurisdiction should therefore remain quite low. The private prison beds contracted by TDCJ comprise just 12 percent of the total TDCJ bed capacity.<sup>42</sup> While a state system as large as Texas may be able to handle a risk of that magnitude, a smaller state might find it hard to manage the risks of privatizing that large a share of their system. For the same reasons, jurisdictions that chose to privatize prison operations should maintain ownership of the facilities involved. This will help to avoid impediments to converting private prisons to public management if the costs of privatization (financial or political) prove to be too high.
- Jurisdictions should have clear and realistic objectives and expectations. The consensus among credible researchers is that the public cannot expect to obtain much--if any--tax-dollar savings through privatization. Adequate funding for security services and prison programs is essential. Vendors who propose per diems that appear (at least on paper) to produce substantial savings may be bidding deliberately and irresponsibly low. Politicians who make expansive claims of savings through privatization are probably ignoring the inevitable hidden costs, such as increased complaints of improper treatment in private facilities.

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<sup>42</sup> The total number of private prison beds is 19,245, but that figure is for "secure facilities," and does not include halfway-house or community-based drug treatment beds.

- Jurisdictions should not contract for prison beds outside of their political boundaries, nor should they allow "spec" prisons to be built or operated within them. The track record amassed by private prison operators that contract for out-of-state prisoners is especially poor. The logistics of monitoring and enforcing contracts for beds located hundreds or thousands of miles away are difficult. The lack of adequate local and state jurisdictional control over "spec" prisons has given rise to a set of operational, legal, and political problems that have not been sufficiently addressed by any host jurisdiction to date.
- Private prison contractors should be required to pay prevailing wages and provide comparable benefit levels for private prison staff. At the time of our study, the strains placed by a strong economy on the correctional labor pool were affecting public prison systems adversely--especially in states like Texas, where the prison system expanded at a rate that has stripped a labor market that was already extremely tight. Private prison operators that offer lower compensation for line staff than is afforded them by public correctional agencies (whether to effect savings or to increase profits) found it increasingly difficult to fill staff vacancies and cover key security posts. In many private prisons the result has been a security force that is under-qualified, insufficiently experienced, and exhausted though excessive, involuntary overtime.
- Given the patterns of structural deficiencies mentioned above, the best results with private prison operations are achieved by limiting contractors to provision of housing and services for the least challenging prisoners. This means restricting the private market to relatively low-security prisoners who are not



prone to violence, and who are nearing the end of their prison sentences and therefore have every incentive for good behavior. The track record is not encouraging where public managers have not taken great care in selection of candidates for transfer to private prisons, or where vendors have been willing to accept prisoners beyond their management capacity. This has been especially true in instances where prisoner classification tools were defective or overridden by contingent circumstances, or where prisoners in need of expensive, individualized services (juvenile offenders, mentally ill prisoners) were transferred to private facilities that were not equipped to address their needs.

#### **CONCLUSIONS**

Overall, our analyses suggest that VOI/TIS may not be having a major impact to date on prison management issues and privatization. Longer term historical trends have been impacting prison management over the past decade. The use of privatization has been very modest under VOI/TIS and may be related more to political than to administrative correctional decisions.

Although our analyses did not reveal large impacts on prison management at the national level, it is possible to provide more precise information on several prison management topics at the individual state level. For example, by examining differences in inmate participation in programming, inmate grievances, and assaults in states where portions of similar inmates are sentenced under TIS and non-TIS laws, we may be able to observe a clearer impact of such policies. Such analyses have been conducted in North Carolina (Memory et al. 1999) and currently being investigated by RAND using data from Washington State.

**APPENDICES**

**A. RAND STUDY TELEPHONE INTERVIEW QUESTIONS**

## PRISON MANAGEMENT

1. Long Sentences. Is your state experiencing an increase in the number of inmates who are required to serve long sentences with restrictions on early release? If so, what do you think is the cause of this increase in long-term inmates? Are there any particular characteristics these inmates share, such as youth, violent convictions, or drug convictions?

2. Special Populations. Has there been an increase in inmates with special needs, such as physical or mental health care, or drug treatment? Has your state experienced or is it anticipating an increase in older inmates? If so, are any preparations or plans being made for the medical care, housing, and/or management of this group of inmates?

3. Inmate Classification. Does it seem that Truth in Sentencing (TIS) or other "get tough" sentencing policies have impacted inmate classification, such as how it is conducted, factors considered in determining classification, number of classification hearings, or amount of paperwork involved in the process? Has there been a change in the share of inmates at each classification level, such as more inmates classified at higher custody levels?

4. Costs. Has there been an increase in the cost of incarceration due to TIS or other "get tough" sentencing policies? If so, in what categories have costs have increased (for example, total dollars, health care, segregation, administration, and programming)? What do you think is the cause of this increase in costs?

5. Crowding. Have prisons in your state become more crowded in recent years? If so, how much of this do you think is related to TIS or other "get tough" policies? How do these policies make prisons more crowded (for example, limiting early release, sentencing more inmates to prison, sentencing inmates to longer terms)? Has it become necessary (or has consideration been given) to granting early release to some inmates to make room for long-term or higher risk inmates?

6. Safety. Has there been a change in the safety of prisons, such as an increase in inmate-on-inmate or inmate-on-staff assaults? Have there been increases in infractions or other disciplinary actions taken against inmates for disruptive behavior? If the level of safety has changed, have much of this seems to be related to TIS or other "get tough" policies? Have additional safety and training procedures or policies regarding the use of force been considered or implemented? If so, what do you think brought about these changes?

7. Grievances. Has there been an increase in inmate grievances or lawsuits? If so, has there been an increase in any particular types of grievance or law suit, such as issues related to crowding, classification, programming or medical services? To what extent does it seem that TIS and other "get tough" policies are responsible for this?

8. Staff Response. Have staff workloads or schedules changed as a result of TIS or other "get tough" policies? Have changes in the composition of the prison population affected staff morale, stress levels, absenteeism, and attitudes? Has staff turnover, disability claims, or retirement levels changed? Have correctional officers' associations or unions sought to make any changes, such as increased safety training or staffing levels?

9. Health Care. What are the major health concerns among your state's prison population? Do you think TIS or other "get tough" policies have influenced these concerns (for example the availability of or access to care or treatment for assault injuries)? What are your state's policies for testing inmates for TB and HIV? Has there been an increase in the share of inmates infected with TB or HIV?

10. Inmate Programming. Does it seem that changes in sentencing policy or changes in prison populations (if any) have affected the type or availability of programming, such as work, education, and treatment opportunities?

## PRIVATIZATION

1. Number of Private Facilities. How many private facilities operate in your state and who operates them? Were any of them "spec" facilities? How many inmates are housed in these facilities? Do these populations include inmates from different jurisdictions? Do you think that private facilities have been used to accommodate changes in the prison population resulting from TIS or other "get tough" sentencing policies?

2. Inmate Characteristics and Programming. What process is used to assign inmates to private or public facilities? What types of programs and services are available in private facilities? How do these programs and services compare to those of public facilities?

3. Out of State Private Placements. Are inmates being held at out-of-state private facilities? How are these facilities selected? Have out-of-state facilities been utilized in the past? How were they selected? What was the experience with this type of contracting?

4. Staff Qualifications. How do the staff working in private facilities compare to staff at public facilities in terms of training, experience, salary and benefits, turnover, and morale?

5. Physical Plant. How do the physical accommodations, medical services, amenities, and inmate activities compare between public and private facilities?

6. Security. How do security and safety levels compare between public and private facilities?

7. Costs. How do the costs compare between public and private facilities? If they are different, how are they different and why do you think that is so?

**B. AMERICAN CORRECTIONAL ASSOCIATION (ACA) SURVEY OF DEPARTMENTS OF  
CORRECTIONS**

**RAND / AMERICAN CORRECTIONAL ASSOCIATION EVALUATION  
OF VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING GRANTS**

RAND, a non-profit research organization in Santa Monica, California, is conducting an evaluation for the National Institute of Justice on the Violent Offender Incarceration and Truth in Sentencing (VOI/TIS) grants awarded as part the 1994 Federal Violent Crime Control and Law Enforcement Act. The grants provide funds to state and local correctional systems to expand their capacity to incarcerate violent offenders with more certainty, and to impose longer and more determinate sentences. As a means of determining how individual states respond, RAND is tracking legislative, policy, and operational changes at the state and local level.

In collaboration with RAND, the American Correctional Association is surveying state departments of corrections to gather information about implementation and expectations concerning VOI/TIS funding, as well as the impact of Truth-in-Sentencing laws, and other recent legislation, on state correctional populations. The survey includes items on recent changes in the types and numbers of prison beds added with VOI/TIS funds, the length of sentences imposed and served, the effects on jail and prison admissions and population characteristics, inmate activities and programs, prison staffing and prison operations.

The next page gives a summary of VOI/TIS funding for your state. Please answer the questions on the pages that follow as accurately as possible, as they apply in your state. This survey is being mailed to all fifty states and to U.S. territories. Your answers will be analyzed along with responses from other departments of corrections.

Please fax your completed survey form to (301) 918-1900, to the attention of Bob Levinson. If you prefer to mail your response to us, please send the completed form to:

**American Correctional Association  
Attention: Bob Levinson  
4380 Forbes Blvd  
Lanham MD 20706**

If you have questions about this survey, please call Bob Levinson at (301) 918-1800 x1876.

| YOUR NAME AND ADDRESS |  |
|-----------------------|--|
| Name:                 |  |
| Title:                |  |
| Jurisdiction:         |  |
| Address:              |  |
| Telephone:            |  |
| Fax:                  |  |



# I. VOI/TIS Budgets and Bed Capacity

Of the total VOI/TIS funds your state has received since 1996, how much has been spent to date?

\$

How many beds of the following types have been added in your state using VOI/TIS funds? (Enter the number of beds in the appropriate boxes.)

|                               | Adult                | Juvenile             | Total                |
|-------------------------------|----------------------|----------------------|----------------------|
| <b>Prison</b>                 | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Minimum security              | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Medium security               | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Maximum security              | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| SuperMax facilities           | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Leased from private companies | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Other _____                   | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| <b>Local</b>                  | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Jail                          | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Leased from private companies | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Other _____                   | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Other _____                   | <input type="text"/> | <input type="text"/> | <input type="text"/> |

How much of the increase in beds was accomplished by VOI/TIS funds in each of the following ways?

|   | None                     | Between 1-49%            | About 50%                | Between 51-99%           | 100%                     |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Building new facilities                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Retrofitting existing institutions          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Expanding capacity in existing institutions | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Leasing beds from private companies         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other _____                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

# II. Sentencing and Time Served

What is the average prison *sentence length imposed* today and in 1993?\*

|                              | 1993                 | Expected 1998        |
|------------------------------|----------------------|----------------------|
| Length of sentence Overall   | <input type="text"/> | <input type="text"/> |
| (in months) Violent offenses | <input type="text"/> | <input type="text"/> |
| Property offenses            | <input type="text"/> | <input type="text"/> |
| Drug offenses                | <input type="text"/> | <input type="text"/> |
| Other offenses               | <input type="text"/> | <input type="text"/> |

What is the prison *time actually served* today and in 1993?\*

|                              | 1993                 | Expected 1998        |
|------------------------------|----------------------|----------------------|
| Length of sentence Overall   | <input type="text"/> | <input type="text"/> |
| (in months) Violent offenses | <input type="text"/> | <input type="text"/> |
| Property offenses            | <input type="text"/> | <input type="text"/> |
| Drug offenses                | <input type="text"/> | <input type="text"/> |
| Other offenses               | <input type="text"/> | <input type="text"/> |

\* If 1998 data are not available, use the most recent year for which data are available.

### III. VOI/TIS Effects on Prison/Jail Admissions

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

|  | Substantially<br>Decreased | Decreased                | No<br>Change             | Increased                | Substantially<br>Increased | Attributable<br>to VOI/TIS |
|--|----------------------------|--------------------------|--------------------------|--------------------------|----------------------------|----------------------------|
| Number of beds available to <i>state</i> corrections | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Minimum security                                     | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Medium security                                      | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Maximum security                                     | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| SuperMax facilities                                  | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Leased from private companies                        | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Other  | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| <hr/>  |                            |                          |                          |                          |                            |                            |
| Number of beds available to <i>local</i> corrections | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Minimum security                                     | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Medium security                                      | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Maximum security                                     | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Leased from private companies                        | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Other  | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| <hr/>  |                            |                          |                          |                          |                            |                            |
| Prisoners newly admitted                             | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| For violent offenses                                 | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| For property offenses                                | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| For drug offenses                                    | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| For other offenses                                   | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Adults   | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Youths sentenced as adults                           | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Juveniles  | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Males  | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Females  | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| Aged 50 and older                                    | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| With drug or alcohol treatment needs                 | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| With physical health problems                        | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |
| With mental health problems                          | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | _____ %                    |

#### IV. VOI/TIS Effects on Prison Population

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred within the overall prison population in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

|  | Substantially Decreased  | Decreased                | No Change                | Increased                | Substantially Increased  | Attributable to VOI/TIS |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------|
| Violent offenders                              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Property offenders                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Drug offenders                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Other offenders                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Adults   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Youths sentenced as adults                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Juveniles                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Males  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Females  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Offenders aged 50 and older                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Offenders with drug or alcohol treatment needs | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Offenders with physical health problems        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Offenders with mental health problems          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |

#### V. VOI/TIS Effects on Prison Inmate Activities and Programs

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

|   | Substantially Decreased  | Decreased                | No Change                | Increased                | Substantially Increased  | Attributable to VOI/TIS |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------|
| Inmates who work regularly                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmates being educated regularly                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmates with outside recreation (yard privileges) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmates with visitation privileges                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmate drug treatment programs                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmate drug testing                               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmates who test positive for drug use            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmate gang activity                              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmate appeals                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmates housed in secure units                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmates double-bunked                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmates triple-bunked                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmate infractions                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmate assaults on staff                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |

## VI. VOI/TIS Effects on Prison Staffing

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

|                         | Substantially Decreased  | Decreased                | No Change                | Increased                | Substantially Increased  | Attributable to VOI/TIS |
|-------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------|
| Number of staff         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Male staff              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Female staff            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Staff qualifications    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Hours worked by staff   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Hours of staff training | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Security training       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Physical training       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Other training _____    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |

## VII. VOI/TIS Effects on Operations

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

|  | Substantially Decreased  | Decreased                | No Change                | Increased                | Substantially Increased  | Attributable to VOI/TIS |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------|
| Use of good time/gain time                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Use of parole                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Post-release supervision (other than parole) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| Inmate classification                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| For risk                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| For programming needs                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |
| For prison management                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ %                 |

## VIII. Additional Comments

Please list any obstacles or issues that have arisen in your state in the implementation of VOI/TIS: \_\_\_\_\_

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What changes in your state's response(s) to VOI/TIS would you like to see?

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Thank you!

<< You may elaborate your reply to any question >>

States Responding to the ACA Survey

| TIS            | Non-TIS              | Texas |
|----------------|----------------------|-------|
| Arizona        | Alabama              | Texas |
| California     | Arkansas             |       |
| Connecticut    | Colorado             |       |
| Florida        | District of Columbia |       |
| Illinois       | Idaho                |       |
| Iowa           | Indiana              |       |
| Kansas         | Kentucky             |       |
| Louisiana      | Massachusetts        |       |
| Maine          | Montana              |       |
| Minnesota      | Nebraska             |       |
| Mississippi    | Nevada               |       |
| Missouri       | New Hampshire        |       |
| New York       | Rhode Island         |       |
| North Carolina | South Dakota         |       |
| Ohio           | Vermont              |       |
| Oklahoma       | Wisconsin            |       |
| Tennessee      | Wyoming              |       |
| Utah           |                      |       |
| Virginia       |                      |       |
| Washington     |                      |       |

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