



**U. S. Department of Justice
National Institute of Corrections**

**PROCEEDINGS
OF THE
LARGE JAIL NETWORK
MEETING**

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**Proceedings of the Large Jail Network
Meeting**

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NATIONAL INSTITUTE OF CORRECTIONS

LARGE JAIL NETWORK MEETING

JULY 11-13, 1993

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NATIONAL INSTITUTE OF CORRECTIONS
JAIL CENTER

LARGE JAIL NETWORK MEETING
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This meeting of the Large Jail Network focused on two main topics: the privatization of corrections and special needs of women offenders in jails. Presentations on privatization, from both the local and federal levels, addressed the common practice of contracting out specific services as well as the more controversial issue of full-scale management of correctional facilities. Women offenders' health care needs were addressed by two physicians who direct jail health services. Other major presentations pointed to the need for special programming for women in jail. Finally, a spokesperson from COSMOS Corporation spoke to encourage jail administrators to respond to a major national survey to identify mental health services provided by jails,

MEETING HIGHLIGHTS

Session 1: Development, Present Status, and Future Potential of Correctional Privatization

Dr. Charles Thomas, Director of the Private Corrections Project at the Center for Studies in Criminology and Law, University of Florida, emphasized ten benefits of full-scale correctional privatization:

- o *speed of construction;*
- o **cost savings;**
- o *the ability to reduce legal liability exposure;*
- o *the ability to protect prisoners' constitutional rights;*
- o *savings in operating costs;*
- o *quality improvements;*
- o *flexibility;*
- o *accountability;*
- o *budget control; and*
- o *the creation of a healthy competition between public and providers of the same services.*

Dr. Thomas' presentation established the basis for a lively discussion and question-and-answer period on the privatization issue. Meeting participants expressed the following critical views of privatization, which ranged from the practical to the philosophical:

- o private companies succeed because they have the best inmates;

- o privatization does not address the real criminal justice issues or reduce the need for prisons and jails;
- o private companies should be more active in programs designed to divert offenders from prison and jail;
- o private vendors may be intervening in the political process by contributing to policymakers whose decisions will affect their business;
- o the competition between the public and private sectors in corrections may create a “brain drain” as skilled managers move from to jobs with private companies.

Dr. Thomas emphasized the importance of evaluating privatization based on a specific context. He also pointed to the importance of having a full-time contract monitor whose role is to represent the government in any full-scale facility operation contract. In addition, he noted that contractors must be given flexibility in terms of how deliver the agreed-on services.

Session 2: Contracting for Individual Services vs. Full Scale Private Management

Quaslim Inham, Santa Clara, California, focused on the increasing external pressures to privatize and the inability of correctional administrators to influence elected officials’ decisions relating to privatization. Joe Stancari, Westchester County, New York, described his agency’s experience in developing and initiating a contract to operate Westchester County Jail’s commissary. Bob Maher, Denver Sheriffs Department, reported on Denver’s positive experience in contracting for temporary food services, the commissary, and other services. The ensuing discussion emphasized the following:

- o Costs to inmates are often increased under contracting arrangements because of private companies’ concern for profit.
- o If cost savings are the real issue, then correctional administrators need to look not only at contracted services but at full-scale facility management.
- o It is difficult to privatize in a sensitive labor environment.
- o Although food services can often be provided at less cost through contracting, quality sometimes suffers. Write into the contract standards for quality.
- o Current employees can be protected in a contracting arrangement by specifying in the RFP that the contractor must respond to a preferred hiring plan.
- o It is important for administrators to be as informed as possible; county officials need to get real information rather than rigid positions from those who run the jail.

Session 3: Effectiveness, Efficiency, Accountability and Control: Private Sector or Government Management

This panel touched again on basic issues in the controversy over private vs. public management of correctional facilities. Tom Allison, Director of Orange County (Florida) Corrections, called for correctional leaders to challenge themselves to define and enact a vision for the field. Lafayette Briggs, Fulton County, Georgia, Sheriff's Department, focused on the reasons to limit private companies' involvement in facility operation. The discussion emphasized the following points:

- There is still no consensus about local corrections' mission; this lack of agreement and commitment is what makes privatization possible. The government should define the focus of local corrections and involve the public in decisions.
- It is difficult to judge jails' success. Taxpayers judge jails by what doesn't happen rather than by what does. Although corrections has a product no one wants, the field needs better measures of effectiveness.
- In today's economic climate, the public reacts negatively to the fact that jails treat offenders well. They are ignorant of how jail programs and recreation are funded.
- There was some disagreement over the idea that jails are responsible for releasing offenders to the community better than when they were incarcerated.
- Once privatization has been introduced, it is there to stay. The political involvement of private vendors influences decisions that may not be in the best interest either of offenders, the jurisdiction, or taxpayers.
- Jails need to educate the public and policy makers.
- One role of national correctional associations should be to influence legislation relating to corrections.

Session 4: Women Offenders' Medical/Mental Health Needs

This session introduced the second major topic of the meeting, women offenders. Dr. John Clark, Medical Director, Los Angeles County Sheriff's Department, and Ernest Williams, Medical Director, Orange County Sheriff's Department, Orange County, California, provided information on women's health and mental health needs during this session.

- Women inmates' problems are often related either to pregnancy or substance abuse. Sixty-seven percent of women offenders' crimes were directly or indirectly related to substance abuse;

one-fourth of women in jail are either pregnant or post-partum.

- o Eighty percent of women in jail have children; 85% of these had custody of their children prior to being incarcerated.
- o Crowded conditions and dormitory housing in jails facilitate the transmission of many diseases.
- o Co-ed infirmaries in jails could improve cost efficiency.
- o Tuberculosis is a serious problem in jails around the country. Approaches to screening for TB vary, but Dr. Clark suggests that jails that do more than 200 screenings a day might find it cost effective to use screening x-rays rather than skin tests.
- o Los Angeles provides abortions for inmates who request them if they are less than sixteen weeks pregnant.
- o The most serious mental health problems of female inmates in LA County are experienced by those who are both substance abusers and mentally ill. Orange County is dealing with a number of paranoid schizophrenics among female inmates.
- o For a variety of reasons, jail medical directors are now questioning the physical examination at fourteen days called for by the national health care standard.
- o LA County has had difficulty recruiting nursing staff but not physicians. Orange County has had no difficulty recruiting physicians or nurses, but has problems finding nurse practitioners and physician's assistants.
- o A California medical association committee, along with many others, continues to debate the issue of fees for services.

Session 5: innovative and Equitable Programs for Women Offenders

LaMont Flanagan, Commissioner of the Division of Pretrial Detention and Services, described women offenders' needs and explained Baltimore's extensive programming for women. These programs include the following:

- o *Family planning;*
- o *Prenatal health;*
- o *Education program for pregnant inmates and inmate mothers;*

- o *Substance Abuse Treatment Program;*
- o *Program for addicted mothers and their children;*
- o *Other programs, such as literacy training, partnerships with social service agencies, and traditional education and counseling programs.*

Mr. Flanagan emphasized that it does not require jail funds to initiate programs for women inmates. A range of programs can be funded by cooperating with state and local agencies and by writing grant proposals seeking funds from private foundations and federal agencies.

Session 6: Bureau of Prisons Use of Contract Detention Centers and Local Jails

Jim Zangs, Detention Administrator, of the Federal Bureau of Prisons, reviewed the Bureau’s role in detention, especially in contracting for detention services from governmental entities.

- o The Bureau of Prisons contracts with local jails to house short-term prisoners for the Marshals Service and also places some regularly sentenced offenders in contract facilities, including three in Texas and one in Oklahoma.
- o The BOP changed from its usual non-competitive form of contracting with a project in Eloy, Arizona, which was the result of an extensive competitive bid process. The facility will serve both the Bureau and the Immigration and Naturalization Service.
- o Although the Bureau has not fully utilized its halfway houses in the past because of a reluctance to place higher risk offenders in the community, their use of halfway houses is likely to increase in the future.

Survey of Men&I Health Services in Local Jails

June Sivilli, COSMOS Corporation, Center for Mental Health Services of the U.S. Department of Health and Human Services, spoke to encourage jail administrators to respond to a major national survey designed to identify mental health services provided by jails. The overall intent of the survey is to:

- o Survey each jurisdiction in the United States
- o Document the availability of mental health services
- o Provide information at the state and national levels about mental health services availability, staffing, and funding sources.

MEETING PROCEEDINGS

Session #1: Development, Present Status, and Future Potential of Correctional Privatization

Dr. Charles W. Thomas, Director, Private Corrections Project, Center for Studies in Criminology and Law, University of Florida

Background

During the recent special legislative session in Florida, the House minority leader introduced a bill that I assisted in drafting. The new Chapter 957 creates a Correctional Privatization Commission of five governor-appointees. Members will be charged with preparing an RFP and awarding by January 1994 two contracts for the private financing, construction, and management of two 750-bed medium security facilities. The legislation specifically excludes the Florida Department of Corrections (DOC) in that no member of the commission may be employed by the DOC nor for the past two years have been employed by that department, and no member within two years of leaving the commission is eligible for employment by the DOC. The commission will be housed departmentally within the Florida Department of Management Services; no RFP issued by the commission can require or recommend adherence to any DOC prototype or design or oblige the private vendor to be in compliance with any DOC rules, regulations, or policies.

Florida's legislature has become disenchanted with its own state corrections agency because it has systematically torpedoed any legislation encouraging privatization. The legislature has responded by simply taking the DOC out of the loop.

The appeal of full scale correctional privatization at the federal, state, and local levels has increased dramatically for several reasons. As you know better than I, from roughly 1975 to now the number of prisoners housed in federal, state, and local facilities has absolutely exploded, increasing by more than 100% during just the 1980s. This unprecedented growth, as well as the changing profile of prisoners coming into corrections systems, has put more strain on the system than it was ever designed to handle. Unfortunately for you, at substantially the same time the prisoner population explosion took place we also began to see shortfalls in revenue and the ability to collect revenue on the part of governmental entities. That put these entities in the position of having to do more with less. There was simply no choice.

Finally, in terms of forces of driving the privatization engine, people had the opportunity by the 1980s to reflect back on two decades of privatization in other service delivery areas. Privatization most commonly was in the form of contracting out--of data

processing, street and highway maintenance, solid waste collection. The list of services contracted out with some significant success in terms either of cost or service, was substantial. All of this recommended the consideration of correctional privatization. And this was enhanced even if you turned the clock back to 1980 a time when there was no privately managed secure facilities anywhere in the U.S., roughly half of the juvenile justice system had already been privatized without much controversy and with at least acceptable levels of success.

About 1980-81, some firms on the west coast received small contract awards from the U.S. Immigration and Naturalization Service and the U.S. Marshals Service. It is not a coincidence that these contracts were from federal agencies because in 1980 not one state had by law expressly authorized contracts with private management firms for the full-scale management of correctional facilities.

Partly for that reason, things got off to a slow start. If I were to pick one date to mark the beginning of the private corrections industry, it would be 1983 when the Corrections Corporation of America was formed. From the beginning, CCA had a significant amount of capital, a sophisticated set of business people, and a group of experienced corrections professionals. Once that company was at the table things began to move rapidly. The first local award was in 1984 in Chattanooga, Tennessee, followed very closely by the award of a contract in Bay County, Florida, for two jails with a population of 600-700 beds. The first state contract was by the state of Kentucky for the Marion Adjustment Center, which is operated by the U.S. Corrections Corporation.

After these facilities began operating, things developed quickly. Today, for example, approximately twenty-five jurisdictions in the U.S. have specific statutory authority to contract. There are now seventy-one facilities for which contracts have been awarded; fifty-eight of these facilities are now operational. Thirteen have begun or are about to begin construction. By the end of this calendar year, there will be about 40,000 beds under private operations, nationally and internationally. I also noted from the list of attendees that nineteen people here today are from jurisdictions that within the last year have contacted me with an interest in privatizing their corrections systems in whole or in part.

Key Privatization issues

I'd like to review what some of the evaluation research tells us about the potential value of privatization and its potential limitations.

I'll give you ten advantages of privatization, which I think you in your management positions have a fiduciary obligation to the public to take into account as you either contract or refrain from contracting. I will be dealing not with "partial privatization," which is a means of privatizing particular services like education, medical, vocational training, or food services. I expect most, if not all, of you have some experience with these partial

services, which are well-entrenched features of public correctional facilities. Although reasonable people differ as to the benefits of partial privatization, it is not by and large a controversial topic. What I am interested in here is “full privatization,” where a unit of government has contracted with the private sector for the full scale private management of a correctional facility.

Although there are good, bad, average, superlative stories about privatization, the preponderance of evidence supports the following benefits of privatization in typical jurisdictions:

1. *Speed of construction.*

For example, a recent contract award by the Federal Bureau of Prisons for a 1000-bed medium security facility in Eloy, Arizona, south of Phoenix, specifies exactly 210 days from the date of the contract award to the day they accept the first prisoner. The site is at present a large cactus. You may have seen facilities of that magnitude and security classification go up in 210 days or less, but certainly not recently.

2. *Cost savings.*

There is a fairly sizable body of research documenting cost savings where part of the private vendor’s responsibility is to construct or provide for the construction of a facility. It is not uncommon to see estimates of cost savings in the 15-25% range. In the Eloy project, for example, hard construction costs including site preparation are just over \$30 million. In terms of operating costs, the CCA Metro facility provides for a maximum rated capacity of close to 1,000; the facility has been in operation for about two years for about \$17.8 million.

3. *Ability to reduce legal liability exposure.*

All contracts include liberal “hold harmless” and indemnifying clauses protecting the contracting unit of government and its employees from all liability, including civil rights liability and the recovery of attorney fees. The practice is to require that these indemnification clauses be backed by per occurrence insurance coverage, generally in the amount of \$5-10 million. This is particularly important for those of you working at the local level because, unlike your counterparts at the state level, you can be sued for money damages. Although provisions of Section 1983 and the Eleventh Amendment preclude a prisoner from bringing an action against a state correctional agency for money damages, that is not true at the local level. With indemnification and hold harmless clauses, however, you can reduce your liability exposure and your costs for litigation and damage awards. To the best of my knowledge, no contracting unit of government involved in corrections has yet lost a dollar on legal liability exposure issues.

4. *Ability to protect prisoners' constitutional rights.*

The fact that the private sector is more exposed to legal liability is a powerful motivator for companies to provide the highest caliber services. If they don't, they will get sued. Private vendors are acutely sensitive to the fact that their exposure is greater. They must either conform the nature of their operations to meet that higher level of exposure or they will not be in business for long.

5. *Savings in operating costs.*

In studies conducted independent of the private corrections industry by academics or by government audits in New Mexico, Texas, Louisiana, Kentucky, Florida, and other places, savings in operating costs are usually in the 10-15 percent range. A few are higher, a few lower, but studies suggest that you can reasonably expect a 10 percent savings in operating costs with no reduction in the caliber of services if you contract for the management of an existing facility, and closer to 15 percent if you contract for the financing, design, and construction, followed by the management of a new facility. You all could probably achieve at least a five percent savings if you had the opportunity to design a facility in your own jurisdiction.

Perhaps the best illustration comes from Texas, which mandates a cost savings in contracted facilities of at least 10%. In March 1991, the Texas Sunset Advisory Commission was charged by the state legislature to do a full-scale audit on four 500-bed facilities to determine if the mandated cost savings had been achieved for contracts awarded in 1988. The audit compared actual operating costs with costs projected by the Texas Department of Criminal Justice (TDCJ) if it operated those four facilities. The Sunset Advisory Commission study, to date the most careful and detached analysis, estimated a 15 percent savings. On the strength of that analysis, which indicated savings per year of \$4.5 million, the TDCJ was authorized to award four more contracts, each for a 500 bed facility, three for males and one for females.

6. *Quality improvements.*

You can expect an improvement in the range and sophistication of services offered, despite the cost savings, in privately operated facilities. Examples are all over the country. To the degree that you take ACA accreditation as a "soft proxy" for quality, Texas is a case in point. The TDCJ institutional division, stridently opposed to contracting, required each contracted facility to receive ACA accreditation within 24 months after it opened. All four are now ACA-accredited facilities, the only ones so accredited in the state of Texas.

The best study was jointly funded by NIC and the National Institute of Justice; a

summary analysis will appear in the Journal of Criminal Law and Criminology by Charles Logan. Logan had an NIC/NIJ grant to look at the treatment provided incarcerated adult females in New Mexico. Originally, all of incarcerated women in the state were held in a state-operated facility. In 1989, New Mexico awarded a contract to design and operate a new women's facility. Logan collected data in the state facility before the women were moved and then collected identical data from staff and prisoners in the new facility. Comparing both data with comparable data from the U.S. Bureau of Prisons, he found that on multiple points of quality, the contracted facility ended up with higher scores than either the state facility or the BOP facility.

7. *Flexibility.*

As managers of correctional facilities, it is difficult for you to move with the flexibility you deem appropriate because you are buried in rules, regulations, policies, and labor union agreements. One of the benefits of contracting is you loop around all the obstacles and achieve flexibility through the work done by a contractor on your behalf.

8. *Accountability.*

It is hard for public agencies to account for what they do and to get a valid fix on what each service costs taxpayers. Some things are on the budget as a line item, others are not. On the other hand, with contracting you can keep track because you know how much each check was for and what it bought.

9. *Budget control.*

This advantage has to do with the anticipation of future costs. It is difficult for public agencies to do even intermediate planning, which means that these agencies tend to reactive instead of proactive. However, it is possible to put terms into contracts that will allow you to predict the peaks and valleys of costs.

10. *A healthy competition.*

Finally, I want to mention the greatest, but least frequently considered, advantage of contracting--the fact that it creates a healthy competition between public and private providers of the same services. Both types of providers perform best in the context of some degree of competition.

I am not an advocate of contracting with the private sector. However, I believe that we have a fiduciary obligation to the public to provide for the highest caliber services possible at the lowest possible cost. If that ultimate public objective can be best achieved through business as usual, so be it. If it can best achieved through contracting, fine.

There is nothing inherently better about either approach. What prisoners are concerned with is the quality of their experience; they don't care whether it is provided by a public or a private agency.

What that recommends to you is that as managers, rather than providers, of correctional services, you consider what is in the best interest of your communities. In Great Britain, where they are going to privatize approximately thirty remand centers (jails and prisons), it is their intention in the RFP process to allow public employee groups to submit proposals to compete with private sector providers. Whoever offers the best service at the lowest cost will get the contract.

Questions and Group Discussion, Session 1:

Comment: What about unionization?

Response: One common objection from opponents to privatization is that contracting will do irreparable damage to the ability of existing employees to do collective bargaining, to form unions, to or be represented. However, the National Labor Relations Board (which has now considered about half a dozen requests from the private employees of several private corrections management firms) has consistently held that those employees do enjoy the right to engage in collective bargaining and to unionize. My judgment is that what we are seeing is mostly a turf battle between the public and private employee unions. In the last quarter century, the percentage of employees represented by public unions has increased. But if many public employees move to private unions, groups like AFSCME lose the ability to organize employees. But the law is unequivocal and preempts any state law to the contrary.

Comment: What about the big picture? Are we treating the symptoms rather than the disease? I've heard nothing about criminal justice factors, about reducing the need for prisons and jails. Why don't we talk about private programs that would reduce risk, such as rehabilitation or treatment programs? I also want to comment on the contracts that allow the private contractors to control flow. I look at what the private sector did to mental health programs, where they did "creaming," took the best patients. I'd like to see someone take on the whole ball of wax--not just institutions, but the whole offender population.

Response: I agree that anyone who thinks we can build our way out of this craziness, either through the public or the private sector, is wrong. There is simply not that much concrete, not that much steel. By the same token, we cannot attribute that systemwide problem to the emergence of a private corrections industry. They're simply responding to a public need, providing a service that can either be purchased or not be purchased. With regard to the private involvement in rehabilitation programs, there are certainly instances in which the private sector has moved very swiftly and meaningfully on the rehabilitative front. In the state of Texas, Governor Richards wanted a major initiative in

the Texas Department of Criminal Justice to address substance abuse problems. The initiative surfaced in a facility operated in Kyle, Texas, by Wackenhut. Originally designed as a pre-release facility, it was transformed in a period of six months into the largest therapeutic community for prisoners with histories of substance abuse or addiction in the U.S.

What troubles me is that, in the interest of saving money, some contracts are written to preclude the private corrections firms from delivering more than the most rudimentary services. Texas at present has a backlogged prisoner population in excess of 20,000. These are sentenced felons who but for the absence of space would be housed in state facilities operated by the TDCJ state facilities but are held in local facilities. Texas is now writing contracts that deal with these prisoners as though they were very short-term jail prisoners. They strip out of the contracts any services other than medical services. In terms of programs that might have an intermediate or long term effect on recidivism, the government is sometimes penny wise and pound foolish.

Comment: My issue is in what we're contracting for, not with contracting itself. Why not contract with the private sector to divert offenders who would otherwise be in prison or jail?

Response: I don't think we do nearly enough of this. Contracting with the private sector for work release programs, restitution centers, community corrections facilities, was done prior to the first contract for secure facility management. I think we could also get a bigger bang for the buck if we injected into the mix some of the technologies such as electronic monitoring.

Comment: What are the disadvantages of privatization?

Response: The biggest single disadvantage is that it is absolutely essential to have in place a full-time contract monitor who represents government, who is not hired or paid by the private firm. This person's core responsibility is to provide an absolute guarantee that you are getting what you were promised, so that if there are problems you can intervene as early as possible to correct them. The cost of doing that monitoring then ought to be added into the cost of running that facility. You need to compare the total contracting cost with that transaction cost included against your present cost.

Another long-term negative effect on the success of contracting begins with the RFP process itself. Some of you are accustomed to being service providers as opposed to managers of the providers of services. It is easy to bring to the table the mind-set of a service deliverer rather than a middle or upper manager. It is then tempting to put yourself in a competitive stance with respect to the private vendors. RFPs are likely to say, in effect, you promised you can do it better and cheaper so I'll give you the chance. You will deliver exactly the same services we do with exactly the same facility design and same staffing patterns.

If you consider contracting, you need to be absolutely confident that you have isolated the services you want and the means you are going to use to evaluate their delivery. Tell contractors what your objective is, but don't tell them exactly how they have to deliver the service. They are just as professional as you are. Leave them flexibility in terms of the means of delivering services.

Provide reasonable protections. For example, it makes good sense to require a consequential construction performance bond with penalties. However, it makes no sense to require huge professional performance bonds. The cost of performance bonds for delivering professional services is very costly. If you don't do business with a qualified, experienced firm, you are opening yourself to more problems than you know exist, including a level of legal liability exposure that doesn't have a cap.

Comment: Because private contractors require prisoners to generate business there is a potential that they will not seek to remove themselves from business by diminishing the need for their services. Your research ought to look at to what extent they are intruding on the political process. For example, are they contributing to legislative officials who will make decisions on contracts or impact sentencing? This seems to me simply a product of the business environment.

Response: As a matter of constitutional law you ought not ever give a private vendor any control over in-out decisions. They cannot determine who is to be confined or for how long. Nor can they determine major changes in conditions of confinement. A private vendor has the authority to place a prisoner in administrative segregation following a dirty urine test but not to transfer the prisoner after a disciplinary hearing from administrative segregation to disciplinary segregation. Because that is a punishment, it is the prerogative only of the state.

With regard to the issue of influencing the political process, there is lobbying on both sides. The single most powerful lobbying entity in criminal justice today is probably AFSCME. It represents a huge number of public employees lobbying for more staff, higher benefits, higher salaries, and so forth. The lesson I've learned is that whether correctional services are provided by the public or the private sector there is the opportunity for aggressive lobbying by vested interest groups in protection of their rights. If NIC's budget were to be diminished, you would act to be sure that a valuable resource is not lost. Is that improper? I would say no. But is it an effort by the public sector to influence public sector expenditures? Yes, of course.

Comment: A purely personal ethical issue for me is that there is going to be increasing competition between the private and public sectors for resources and talent. I hope that we don't make career decisions on the basis of what post-government experiences will be open to us. I'm not asking for an answer; I think the field will have to develop its own ethical principles to regulate the movement between the public and private sectors.

Response: I've thought about this issue because I've seen a lot of movement. Not only is there a fear of a brain drain from the public to the private sectors. The private sector now fears a reverse brain drain, with the public sector wanting to bring effective private sector managers back. I don't know whether this is a good or bad thing or whether it should be regulated.

Comment: Tell us what we need to do to compete more effectively with the private sector.

Response: There is nothing inherently better about the private sector. The problem is that the public sector has over a long period of time developed a set of habits, rules, accounting systems, regulations, union contracts, pay scale arrangements that are burdensome and costly. I would be amazed if there is one of you that could compete on a flat playing field with the private sector. The reason is not that you're doing a bad job. Most of you are doing the best job you know how to do. You simply cannot run as fast with your hands cuffed behind your back and leg irons on your legs as your ex-colleagues in the private sector can run unencumbered. Therein is the answer to your question.

If I hated the private sector's involvement in corrections, I would privatize a part of my system immediately. Then I would monitor the operation and determine how they are beating me in terms of cost. I would then go to the appropriate group and say, "Listen, has it ever dawned on you that the reason they can save you all this money is that you leave them free to do their jobs--to hire and fire, and promote, and increase salaries, and avoid procurement rules? If you let us do business they way they do business, you could get the best of both worlds."

Session 2: Contracting for individual Services vs. Full Scale Private Management

Quaslim Inham, Santa Clara County, California

Some years ago we all had a closed shop--the "grey bar hotel chain"--with no competition. Offenders had to stay with us. We then began to have private vendors gently knocking on the door to do food services, commissary, health care. As the industry continued to grow, the knock on the door disappeared. Suddenly, six strong men showed up with a battering ram.

We are where we are not because we have not done a good job. Given the constraints, we have all done well. However, we have become somewhat complaisant. We have to remember how we were trained. Most of us grew up in the criminal justice arena--as officers or deputies, probation officers. We were not trained as CEOs or CFOs. Some in this room are attorneys, some have graduate degrees in business administration, but most of us don't have the same mind set as the private sector person, who has the sole goal of making money.

- o *Who makes the decision?* --I'm preaching to the choir today, but who really has the authority to make the decision to privatize? Someone, usually an elected official, tells you what to do about privatization. It makes no difference how well you are doing, how much money you are saving, or how you are downsizing or "rightsizing," someone will tell you for a political reason that you will privatize. We don't have much control.
- o *Barriers to entry* --We operate in a closed shop. We've always controlled our environment and don't want to lose control. We don't want strangers in our environment. It's hard to convince correctional administrators that they are not being visited by snake oil salesmen: "I have all the answers, I'm going to do it for you cheaper." They want to get in to make more money.

Will those who do have authority make tough decisions? The elected official must make the call and will tell you, the person who manages the jail system, whether you will or will not privatize the system. Will they be fiscally responsible? It depends on how close it is to election day; elected officials get amnesia about January 1.

- o *Responsibility*-- If you were the mayor or governor, and the private vendor went out of business, one way or the other you would step into the breach. You can contract out authority, but not responsibility. While it is important to consider the quantifiable values of moving towards privatization you must move cautiously because the road is full of mines.

Joe Stancarl, Westchester County, New York

I want to share Westchester County's experience in privatizing one segment of its operation, its commissary. One of the things I found in looking at privatization was that very little information was available. NIC had no copies of RFPs, no contracts; I want to save you from reinventing the wheel.

Steps in considering contracting:

1. *Investigate*--*You* must do your homework. It took me more than a year to get to the point where I could start a commissary operation. Look at your organization to see what you might privatize. You must also look at your geographical area. It would not make sense to consider privatizing a service you couldn't get in your area. I also think you should start with something easy. The commissary was easy for us although it took a year to sell to our county administrators, who were very resistant to privatization. I chose the commissary in part because it wouldn't cost the county any money.
2. *Evaluate*--Ask yourself what your expectations are, what improvements you are

looking for. We were interested in increasing the services in the commissary operation and in saving money.

3. *Prepare*--It is crucial to identify your needs. Before you can develop an RFP, you must know exactly what you want. This is your chance to do things a better way, so don't just write down what you are already doing. Write a very specific RFP that defines exactly what you want. We sent the RFP to five vendors and got four responses, with surprising variance among them. For example, we specified in the RFP that we wanted a minimum of 15 percent of gross sales. One vendor offered 22 percent and one offered 3 percent.
4. *Select a vendor*--We formed a four-member selection committee to look at the proposals that came back.
5. *Prepare a contract*--The contract should be very close to your RFP because you put in the RFP what you expected of the vendor. We wrote the contract directly from the RFP and add some additional services that the vendor agreed to provide.
6. *Develop Standard Operating Procedures*--From the point of signing the contract, it is very important to work closely with the vendor. Leave the details to the vendor, don't develop standard operating procedures based on what you have been doing. You need a high quality product, but you do not need to be involved in the details. One reason for having a contractor is that you don't want to be in the commissary business.
7. *Purchase equipment and supplies*--This also must be done jointly with the contractor. Last year we started a new computerized jail management system, Tiburon, which includes a segment on the commissary. The vendor's computer system must also be compatible with yours.
8. *Identify and resolve problems*-- One of the problems we had to overcome was the union's objection. Initially, it looked as if five corrections officers would lose their jobs, but they were absorbed elsewhere. Those five officers had cost us \$245,000 a year plus fringe benefits, so that was a savings. We had to be careful to do it in such a way that officers didn't turn the inmates against us. The approach was to say, "This is like working in a candy store; you're security officers and too good for this position."

Other problems you must monitor include the level of service and the price. We have written into our contract that pricing has to be a joint venture.

9. *Implement*-- You must first deal with your present inventory. Our contract required the vendor to purchase any useable products, which was a big help. We had about \$50,000 of products left, and the vendor bought all but about \$6,000 worth

of partial cases and things that couldn't be sold. The rest will be given to indigent inmates. Once accounts were reconciled, we started all money accounts with a zero balance. Any old problems are ours, any new ones the vendor's.

10. *Convert the operation--Fix* a date when the vendor will come in and start operating the commissary. So far, in the first week, there have been no problems.
11. *Review operations--Make* sure that the contractor is doing what was called for. All you have to do then is sit back and watch the money come in.

Bob Maher, Transition Coordinator, Denver Sheriff's Department

My responsibility has included supervising the transition into privatizing several services, including the commissary and food services, as well as the transition into a new direct supervision jail.

- o *Food Services--Our* challenge was that we had to close down the kitchen while we remodeled a facility that held about 1500 inmates. We still had to feed the inmates. We found a contractor willing to do that job. They beefed up the capacity of another county facility and cooked for us.

The vendor used Hertz rental trucks to bring hot and cold food from the other county. The food came in Styrofoam trays, some hot, some cold. We had some complaints about quantity, but not about quality. In such a situation, you need a back-up system. We were concerned about snow days, so we had a back-up supply of sandwiches for emergency purposes.

Because the vendor wanted to take over our food services after the facility was built, we got a very good bid for the transition services.

- o *Commissary--We* were behind everyone else in terms of looking at contracting for the commissary. We did not want to give it up. Many groups were willing to make pitches to us, but we were just not interested. Finally, after the director of facilities kept inviting contractors, our division commander broke down and said, "Let's take a look at it." We've had very good services. The bottom line was that we were getting about \$10,000 a week that we could control through the inmate welfare fund and we wanted to continue to get that amount. The eventual pricing was based on that objective.

We eventually developed a four-part form on which inmates check off what they want. We had two staff who did nothing but the commissary. One of those officers was absorbed, the other was kept to resolve problems and ensure that the private vendor did not concede too much to inmates.

Additionally, we did not want to give up full control of the money. We have a separate banking system for the commissary and filter everything through the inmate welfare fund. Inmates turn in their orders one night; they come back the next night. A major advantage was in terms of storage. We didn't have enough space in the facility for the inventory, but the vendor has an off-site place. They come in every morning, go through the money, take the orders away, fill them in the warehouse, and bring them back in plastic bags. Right now, we have 110-120 items from which inmates can choose.

Besides the commissary items they sell, the contractor has been assisting us with other items on which they don't actually make any money. For example, inmates buy pop through machines that take tokens, and we allow inmates to wash their own underwear and socks, also using tokens. The commissary vendor supplies the tokens to inmates without any cost to us.

The laundry machines have worked well. We have nearly offset our cost by charging the inmate welfare fund for the machines. We have taken in enough tokens that there is no longer any cost either to the facility or the inmate welfare fund. Our employees' club gets the profits from lobby machines. They have subcontracted the servicing out so that staff are no longer filling the pop and candy machines.

- o *Other contracted services* --We also contract out phone systems and maintenance that cannot be done by our staff. We have also subcontracted extraditions and use them as a perk for employees. We send two officers on extraditions, one who is familiar with the area--in a sense, sending that officer back home--and another officer.
- o *Trash removal* -- Although we could have our trash removed by the City and County of Denver, we found that a private vendor could perform the service for less than one agency would charge another. So we subcontract out trash removal services from our county facility.
- o *Medical services*--We do not subcontract out medical services. You must have a strong rapport with the people dealing with medical issues. Decisions are too closely tied to security issues to subcontract medical services.

Highlights of Group Discussion, Session 2: Contracting for Services

- o *Goods vs. services*--Are necessary services provided? Is the private sector going to address recidivism? Even if you pass on the services, you're still ultimately responsible for what is provided.
- o *Difficulty of downsizing private operations*--Once privatization is in the door, it is

there to stay. In Louisville, we tried to downsize private contracts, but failed. Because the private entities were politically involved, they went to judges, commissioners, and they contributed to their campaigns. One contractor is housing inmates at \$27.59 a day who could be on home incarceration at \$3.50 a day. But the private vendor is insisting that these offenders need to be kept in jail. The vendor is going to district court judges, who are refusing to allow these inmates to be released to home incarceration. It is simply a waste of taxpayers' money to have these private contractors in charge. It has become a wholly political process.

- o *Dispensing over-the-counter medicines*-- In one facility, over the counter medicines are dispensed through the commissary, a practice that seems to reduce sick call.
- o *Medical services* --There seems to be a direct relationship between the size of the facility and the quality of medical services, with a clear decrease in contracted services serving more than 1500 inmates.
- o *Cost vs. Quality* -All of us have some experience with contracted services. When you raise the question of cost savings, it is hard to have it both ways. If cost savings are important for individual aspects of our organization, we should be willing to push the boundaries for the whole system. Because none of us is really willing to do this, it raises the question of whether we are talking about pure cost or about quality and efficiency. There may be a justification for privatizing certain sectors of our work that has nothing to do with cost savings, but once the cost issue becomes preeminent, if you're honest, you have to consider the whole operation.
- o *Privatizing in a sensitive labor environment*-- Both DC and Seattle have highly unionized systems. Both jurisdictions are considering privatizing food services, but how far do you go down the road in a sensitive labor environment before knowing where elected officials will come out on the question? You have to know how much support you'll have to see a project through to fruition.
- o *Importance of context* --It is clear that privatization is neither good nor bad, but that it depends on the context in which it takes place. What works in one place may not work in another.
- o *Importance of contractors' management*-- The quality of a contract is highly dependent on local management and on the emphasis a corporation puts on the services they are providing and the profit they want to make. One county had a long term food service contract that was very successful. However, they were bought out by another contractor; although the management remained the same, the quality of services declined.

- o *Maximizing use of beds*--It is always cheaper on a per capita basis to have every bed filled. What a number of contractors do is come in with a secondary contract to INS or some other agency to fill those beds. Then they can offer the county a rebate. I'm not sure that anyone here would agree that is a good strategy.
- o *Apartments for inmates*--Vermont rents apartments for inmates. The DOC has 100 bed facilities spread over the state, costing a total of \$5000 a day. Everyone in the apartment complexes watches out for inmates, a thousand eyes. Whether it works or not depends on personalities, staff.
- o *Price increases in commissary*--Nashville found that the private vendor operating its commissary increased prices to inmates. They made a deal with the vendor to keep the price low. Vending machines and phones are operated by credit card; no money is handled. Fulton County also investigated contracting for its food services but found that the vendor would be more, rather than less, expensive than the county.
- o *Displacing existing employees*--If contracting will displace existing employees you want to protect, make it clear in your RFP that the contractor must respond to a preferred hiring plan. Don't focus only on the right of first employment; it is also important to include a retirement system in which employees are vested. The right of employment and retirement can be protected if the RFP is written carefully.
- o *Role of information*--It is important to be as informed as possible. If county commissioners are looking for direction and get informed information rather than positions from jail administrators, the administrators will be kept in the loop. You have to have real information to address issues on a point by point basis.
- o *Legislative back/ash*--In Hawaii union representatives threatened to call a strike of all public employees if legislation enabling privatization was passed. Legislators were so offended by the threat of a strike that even those who were against privatization may push for it during the next legislative session.

Session 3: Effectiveness, Efficiency, Accountability and Control: Private Sector or Government Management

Tom Allison, Director, Orange County Corrections Division

We in corrections actually work for the U.S. Constitution, which is, in essence, about the individual. Our product is the inmate who returns to society, but we often use the term "garbage" to refer to these individuals. As long as we talk about inmates that way, we can't win the privatization contest.

Private companies will take over corrections because we don't have a vision. It is not the fault of private contractors, but our own. They are only picking off the bones we leave. Can we do something about the product that we return to the community? Can we stand up and say, "I am willing to take responsibility for the condition of the inmates returned to my community"? If you can't say that, you can't defeat privatization.

If all that is at stake is running an institution, the private sector can do it better. But the cost of running an institution is not the issue. "Vision" is. We haven't begun to challenge ourselves on our purpose for being.

We need to become leaders on the issue of crime. We are dealing the most negatively prone group in this nation, criminals. We won't have all success cases. If we look only at housing and storing inmates more efficiently, we haven't challenged ourselves. We must continue to challenge ourselves to return a better person to society.

We also have to challenge ourselves on efficiency, on the size of institutions, which in turn affects the size of staff. In my state, when someone tries to economize, the state tries to sue you. We civilianized 117 officer positions, saving \$2.5 million, but I had a year-long battle with the state.

There are many things we can do, but the crucial issue is: What do we believe in? If we don't change corrections in the U.S. within ten years, the U.S. won't exist as we know it. We need to make the decision to challenge ourselves.

Lafayette Briggs, Chief, Fulton County Jail, Atlanta, Georgia.

Can private sector management be as effective and efficient as governmental management? My answer to that is "no." The motivation behind private jail management is profit, and I find it difficult to believe that injecting profit into a system does not affect the quality of services.

It is to the advantage of a private corporation for the incarceration rate to remain high because their profits depend on how many inmates they keep. For private prison operators, it would be useless to initiate community-based corrections. Private interests would also be inclined to exert political pressure to keep their beds filled to capacity.

Incarceration is the state's most intrusive control over a citizen's life. Giving this power to an organization operating with profit as its goal is inappropriate. To keep full jails, private companies will not simply dispense punishment ordered by the courts. They will make decisions every day that touch the most intimate concerns and basic needs of inmates. Private jails will be free to distribute good time, affecting prisoners' chances for earning parole, yet their main concern will be maximizing profits and minimizing costs.

For a state to abdicate its responsibility for punishment to the lowest bidder will seal off prisons from constitutional and popular control.

Privatization also severs any connection between justice and punishment, transforming the terms of the debate from retribution, deterrence, and rehabilitation, to productivity and profit. In a letter to the *Philadelphia Inquirer*, a gentlemen who had sewed seventeen years of a forty year prison term wrote, "Corrections is already too much in the business and needs to become less so. Too many people are already making a living from our misery." Until citizens and public officials recognize that unrestrained expansion of the marketplace will aggravate rather than resolve the crisis in corrections, entrepreneurs will continue to capitalize on crime.

Privatization's cost savings can be achieved only at the expense of humane treatment. Private firms, it is reasoned, have no incentive to reduce profit by searching for less expensive alternatives to incarceration. Privatization can neither minimize the liability of federal civil rights laws nor relieve the government from its duty to administer the criminal justice system.

Highlights of Group Discussion, Session 3: Effectiveness, Efficiency, Accountability and Control: Private Sector or Government Management

- o *Cutback management.* Cutback management was an important issue in the late '70s. One study of the topic found Maryland was able to develop successful cutback management strategies in local corrections because of a lack of consensus about what local corrections was really for. That question has persisted. From a national perspective, what is the mission of local corrections? Although many people have opinions, there is still no agreement.
- o *Public reaction.* The public reacts negatively to the fact that jails treat offenders well. That's a commentary on our society, but it's true. In today's economic climate, the public wants corrections to spend less money. The public is ignorant and doesn't know that the inmate welfare fund pays for tv, cards, and recreational programs. When we go to ask for money for social workers, recreational equipment-for anything other than incarceration--we face ignorance.
- o *Judging Success.* How do taxpayers know they got what they paid for? If there are no fires, riots, escapes, then we are successful. Industry is measured by performance, while jails are measured by what doesn't happen. We need to incorporate industry principles into government.
- o *Rehabilitation.* We tend to think of the inmate only while he/she is in the institution. But safe and secure holding is not the only point. Even though the public mindset is "punish," we also need to release offenders to the community

better than we got them.

- o *Lobbying.* In California, the Correctional Peace Officers Association is essentially a political lobbying group and contributes a large amount to politicians. The association was the only area of criminal justice in the state to get funding.
- o *Need for marketing.* Jails only have a short period of time to reverse all of society's ills; we are not really the responsible parties. But we don't have good marketing plans, so the public doesn't what goes on in the jail.
- o *Growth a result of "creaming."* Private companies will grow as long as they take the cream of the inmate population. Those left to the public sector will be more difficult.
- o *Discipline decline.* The reduction in numbers of men enlisting in the military has resulted in a decline in discipline among both staff and inmates. Corrections is now trying to fill that void through boot camps.
- o *Secrets of private jail operators.* We need to study what private companies do to run jails more efficiently; if we could eliminate red tape, we could do the job as well as private vendors. The private jail operators are our ex-colleagues; why do they now seem so much smarter than when they were in government?
- o *Public safety.* Is the community interested in rehabilitation, or only in cost savings? Our real mission is public safety. Because we have inmates only for a short time it is difficult to have a meaningful impact on their long-term problems.
- o *Effectiveness measures.* We need ways to measure effectiveness: what works and what doesn't? How do we evaluate our product? We need some form of quality control or audits. We also need to sell our successful products to the larger community. We also need to make sure we are dealing only with serious offenders. We should be involved in getting those who don't need to be in jail out into the community.
- o *Competition.* The private sector stimulates competition. We need to look at it in that way, which might encourage public agencies to perform better.
- o *Role of National Associations.* National leadership in corrections, through the American Jails Association, American Corrections Association, and National Sheriffs Association could provide more leadership to influence legislation throughout the country. However, organizations such as AJA are 501 3c organizations and thus cannot lobby.
- o *Role of volunteers.* Volunteers provide the cheapest public relations in the world.

Volunteers in the jail are strong supporters of the jail to the rest of the public.

- o *Lack of planning.* The problem is the way the correctional system does business; there is no strategizing, no planning. We don't target violent offenders or repeat offenders. We continue to use strategies of the '50s and '60s to attack problems of the '90s. We need to plan, as business does.

Session 4: Women Offenders' Medical/Mental Health Needs

Dr. John Clark, Medical Director, Los Angeles County Sheriff's Department

I have some strong feelings about the medical problems of female offenders. In addition to being involved in a legislative task force on female health care issues in state prisons, I am also an obstetrician and gynecologist by training.

The reason problem in jails are in the small jails; I believe that we need a networking system for small jails comparable to this one for large jails, perhaps facilitated by NIC. As part of the Large Jail Network, we may have some responsibility to help make that possible.

I would first like to identify some issues and problems:

- o the female jail population has increased--about 113 of women who are incarcerated are in jails;
- o 60-70% women offenders' crimes were directly or indirectly related to substance abuse;
- o one in four women in jail or prison are either pregnant or post-partum;
- o 40% of women prisoners report sexual or physical abuse in childhood;
- o 74% were unemployed prior to being incarcerated; most of them were heads of households;
- o 44% of women in jail also have a relative in jail;
- o 80% of women in jail have children; 85% had custody of dependent children prior to being incarcerated.

Medical conditions of incarcerated women

- o Many women entering jail have medical conditions, including drug addiction, HIV, pregnancy, sexually transmitted diseases, and mental illness.
- o Overcrowding exacerbates these medical problems, and dormitory housing makes transmission of diseases likely.
- o Many inmates are arrested on prostitution charges; many are also substance abusers, which causes changes in the menstrual cycle. An individual may be pregnant and not know it. We are also seeing growing numbers of women who are pregnant, drug-addicted, and HIV positive.
- o Other medical problems may also be related to chemical substance abuse.
- o To improve cost-efficiency, jails with inpatient hospitals should consider co-ed infirmaries. We try to duplicate services and facilities for females, but it is not cost efficient. Los Angeles has begun to discuss co-ed infirmaries.

Female Inmates in Los Angeles County Jails

The female inmate population represents between 10-13% of the total population in LA County Jails. This proportion is fairly consistent, but is likely to increase.

In-custody deaths in LA. County Jail:

- o Of an average 250,000-300,000 bookings a year, there were a total of 1252 deaths; 235 males, 17 females; an average of 42 deaths a year in the jail system.
- o 30-31 deaths in 1991 and 1992; this includes hospital deaths of those in the custody of the sheriff even if they were never booked into jail.
- o The largest proportion of deaths among male inmates were related to cardiovascular disease; many have medical bodies much older than their chronological ages; average age at death: 38.
- o In 1990 there were twelve deaths from HIV; LA has four to five deaths related to HIV every year
- o Female deaths in custody: a total of 17: 4 suicides; 3 seizure disorders; 3 sepsis from intravenous drug abuse; 2 HIV-related; 1 cardiovascular disease; 1 cerebral-vascular accident; 1 asthma; 1 renal failure, and 1 gastrointestinal disease.

- o Females' average age at death is 39.7 years.
- o Cancer is the leading cause of death in prison systems (as opposed to suicide among female inmates in jail). It is important to pick up on diseases while women are in the jail system because it is harder to do once they are in prison.

Dr. Ernest Williams, Orange County, California

When I first came to Orange County from Philadelphia I found that alcohol problems were dealt with by Public Health and drug programs were under Mental Health, but people with both problems came to the jail. I worked hard to get these groups together to talk about inmates' drug and alcohol problems.

Of our annual population in five jails of 8,000, about 10 percent are women. Fifty percent of the population is hispanic; 56 percent of the female population in the jail is white.

The average length of stay is about eighteen days; 49.2 percent are out within fifteen days. This means that we have only a short period of time to provide health care.

Orange County's services include urgent care, which is provided twenty-four hours a day, seven days a week. Physicians are available sixteen hours a day. We also have an infirmary, which is usually full.

Screening of Female Inmates

Inmates are screened at intake by an RN and referred appropriately:

- o those with medical problems are referred to a nurse practitioner;
- o those who are pregnant, see a nurse practitioner to fill out a questionnaire and begin health care;
- o those who are not ill or pregnant go directly to a general housing unit;

Pregnant Inmates

Ten percent of the female inmates are pregnant at intake; at any point in time, 40 percent of the population is pregnant.

A nurse practitioner, in association with Ob-Gyn specialists, is responsible for the health care of pregnant inmates. The nurse practitioner does a complete prenatal exam and lab work. An Ob-Gyn physician comes to the jail twice a month. We also work with

local agencies to assist pregnant inmates, especially with discharge planning. Inmates with problems associated with pregnancy are sent to the local hospital.

Sick Call

We tracked sick call for one month and found that pain medication were given most often, followed by antibiotics and decongestants. Vitamin and iron were also given frequently.

Emergencies

Orange County has a contract with a local hospital to provide emergency room care and hospitalization. Our study showed that 40-60% of emergency room visits could have been taken care of during regular hours. We have addressed this problem, which should mean a decline in costs.

Conclusion

I think there will be a continuing increase in female inmates, which will require a corresponding increase of medical services and other programs. I also support co-ed facilities for men and women to reduce cost and provide equal treatment. In addition, I would like to see more women as administrators of jails.

Highlights of Group Discussion, Session 4, Women Offenders' Medical/Mental Health Needs:

- o Tuberculosis--at Orange County, the medical history at intake identifies those who might have TB; a skin test is done at fourteen days. If the skin test is positive, medical personnel do a chest x-ray. The inmate is isolated at the hospital if the chest x-ray is positive.

In Los Angeles, every inmate gets a screening x-ray at intake; if the screening test is positive, a full chest x-ray is done. If it is positive, the inmate is placed in isolation. There are thirty isolation beds in the male facility, five in the women's facility.

TB is a serious problem in jails around the country. It takes approximately 400 contact hours to contract the disease; it is not transmitted easily. Skin testing should be done between intake and the fourteenth day. If you wait until the fourteenth day, there could already been a significant amount of exposure. Orange County is trying to find a way to do x-rays at intake, but has so far been unsuccessful.

According to Dr. Clark, if a jail is doing more than 200 screenings for TB a day, it

may be cost-effective to do screening x-rays rather than skin tests; for fewer than 200, he recommends the skin test because of the cost of the equipment.

- o *Diseases specifically related to* immigrants--hepatitis and intestinal parasites.
- o *Counseling for women* inmates--LA provides counseling on health issues such as self-examination for breast cancer. LA also has groups for pregnant women, but, in general, there are not enough mental health services for female inmates.
- o *Abortions*--LA County provides abortions for inmates who request them if they are less than sixteen weeks pregnant.
- o *Mental health* issues--The most serious mental health problems of female inmates in LA County are experienced by those who are both substance abusers and mentally ill. Orange County sees a number of paranoid schizophrenics.
- o *Inmates keeping babies*--Although Rikers Island has had success in keeping babies with their inmate mothers, the issue hasn't been resolved. While it is important to encourage mother-child bonding, Dr. Clark believes that babies do not belong in the jail environment. Setting up a system to allow mothers to keep their babies also requires a physical space separated from other inmates. LA's TALK program is a compromise, as it allows some interaction between mothers and their visiting infants.
- o *In-custody deaths*--It is important to track statistics on in-custody deaths; it would be useful to see statistics on deaths for both male and female inmates for all the large jails in the country. Dr. Clark noted that LA County's trend analysis of its deaths has been valuable in identifying disorders such as post-alcohol syndrome and seizures where aggressive treatment could save lives.
- o *Physical examinations for female inmates*--The national accreditation standard calls for a physical examination at fourteen days. It is difficult to encourage higher participation among female inmates to get the full physical at fourteen days. LA does full physical exams only of pregnant inmates. The fact that LA is not doing 14-day exams is one of the barriers keeping the jail from ACA accreditation. The California Medical Association is looking at the issue of the fourteen day exam, which may be eliminated. There is a real question of whether there is value in doing a 14-day exam, given the level of screening now taking place. A physician sees inmates as they are coming into the facility.
- o *Staff recruiting*--LA County has had difficulty recruiting nursing staff, but no problem recruiting physicians. The biggest problem is in recruiting qualified psychiatrists. Orange County has no problems recruiting physicians or nurses, but finds it difficult to recruit nurse practitioners and physician's assistants.

- o *Fees for services*--A California medical association committee has had some discussion of fees, but at this point is neither for nor against the concept of collecting from inmates. There are several areas of concern, including the fact that it may be appropriate to charge for some types of services and some for which it is inappropriate to charge. One concern is that an inmate with a headache without money who doesn't go to sick call may be the one with spinal meningitis. In addition, it is difficult to generate any considerable amount of money. If a jail begins to charge, the money usually goes into the budget of the county. Alternatively, if the jail does collect get the money, the county reduces your budget. A larger issue is that perhaps health care should be free for everyone, whether incarcerated or not. The problem in this view is with the free community, not the jail system.

Session 5: innovative and Equitable Programs for Women Offenders

LaMont Flanagan, Commissioner, Division of Pretrial Detention and Services, Baltimore

Corrections is the most discriminatory system in America with respect to women, both in terms of female colleagues and female inmates. If you look around the country you will note that there are not many women in positions as jail wardens, very few women commissioners, and only one head of a state department of public safety.

The system is even worse in terms of discriminating against female inmates. For example, we often provide education programs for men that meet five times a week, while offering only two-a-week programs for women. Industry programs are provided for men, but women are given "female" tasks such as cooking or laundry detail.

The problem is that male administrators are not aware of the special needs of female inmates. Incarceration is often a traumatic experience for women, as it disrupts their lives and separates them from their children. Most incarcerated women are single heads of households; their incarceration has a substantial negative effect on their families. They are often not given adequate time to arrange for their children to be cared for or to explain to the children why they are going away and when they will return.

Background--The Pretrial Detention Center

The only state-run pretrial detention center is in Maryland. In 1991 the state took over the large pretrial detention center for a number of reasons, including escapes and a deteriorated physical plant. The facility had been under court order since 1972, and the federal court was getting ready to impose fines and contempt charges. Inmates virtually ran the institution. The state government decided to take it over and passed legislation

to create a new division for pretrial detainees.

We are now building a central booking facility that will eliminate police precincts. When a person is arrested, he/she will come straight to the facility which, by 1995, will be receiving about 85,000 arrestees a year.

Problems of Female Inmates

Female inmates are often uneducated and in distress. They are often addicted, in poor health, and unemployed. Women come to your facility in this condition because there is nothing for them outside the walls.

Women are perfect subjects for whom to start programs. They present less security risk and are more manageable because they are a smaller population. They are also more receptive than men to changing their lifestyles and tend to be less violent and brighter.

Funding Programs for Female Inmates

You can start pilot programs without any money. To do this, you need to establish partnerships with other agencies. Break down the barriers between you and other agencies and open the doors. Give your partners an intense security orientation. Volunteer agencies will adhere to your rules and regulations. Partnerships and linkages with outside agencies, community agencies, and non-profit foundations that award grants are very important.

You can also locate a staff person with good writing skills and start pursuing state, federal, and foundation grants. You can also use grant funds to hire such a person, or a college student will be happy to work for you on contract without any benefits.

Programs for Female Inmates at Baltimore

- o *Family planning*-- A nurse practitioner and a counselor conduct the program, which is designed for drug abusers, post partum and pregnant inmates. It provides family planning, birth control, information on sexually transmitted diseases.
 1. The Norplant birth control device is implanted in the arms of female offenders who are about to be released. Participation is voluntary; participants sign a waiver releasing the state from liability. A local hospital will remove the Norplant device free of charge for any participant who wants to have it removed. Only one of the 150 people who has received Norplant since the program began in November 1992 has requested that the device be removed.

2. Each participant receives an initial assessment from a health care perspective.
 3. Group classes and individual counseling about birth control are provided.
 4. A study of women offenders leaving the program is being conducted. Women's attitudes toward birth control will be assessed.
- o *Healthy Start*--This is a demonstration project of the Baltimore City Department of Health to address infant mortality and low birth weight among infants in Baltimore. The program mandated that within a five year period there would be a 50 percent change in the mortality rate in the city. In 1992, the jails division became a partner. The program serves both pregnant and non-pregnant women in the detention center.
 1. The program encourages women to understand and practice good health habits, provides pregnancy counseling and counseling to non-pregnant women when released. Classes are held twice a week for pregnant women and once a week for women who are not pregnant.
 2. Inmates are educated on stress management, planning for a positive future, establishing a support system, developing positive relationships with their baby, understanding the needs of the infant and the role of the parent. They also receive education on alcohol and other substances, diet and the importance of vitamins, budgeting, bonding, ways to involve the father, the importance of keeping clinic appointments, and how to hold your temper.
 3. After they are released, *Healthy Start* involves the women in a program in the community. People from the neighborhood are hired to bring ex-inmates to the *Healthy Start* Center. The program has been proclaimed a model program for the nation. It costs the jail no money because it comes from the health department.
 - o *Baby Talk*--This program was started by a University of Baltimore professor who was studying health care and parenting among poor women. Her research found that these women frequently abuse drugs and have little access to emotional support within the community. They enter the correctional facility at severe disadvantages. It is a weekly education program for pregnant inmates and inmate mothers. It covers prenatal care, development of fetus, dealing with second and third children, post-partum information, infant diet, and interacting with infants. Again, it is free, from the local health department.
 - o *Substance Abuse Treatment* Program-This is a pilot jail-based program using acupuncture. It is funded by the Governor's Commission on Alcohol and

Substance Abuse from a federal grant. It is estimated that 55% of the female population is involved in substance abuse. This program provides for these inmates both traditional substance abuse treatment such as counseling and non-traditional treatment such as acupuncture. Acupuncture has been demonstrated to reduce the craving for drugs and to create a mild attitude.

- o *Center for Addiction and Pregnancy (CAP)*--Offered by the Francis Scott Key Center of Johns Hopkins Health Care Center, this program uses an innovative approach to helping addicted mothers and their children deal with the physical, emotional, and social problems caused by addiction. CAP is an ambulatory residential programs that uses a comprehensive multidisciplinary approach to drug-dependent mothers and their drug-affected babies. It uses a sixteen bed dormitory at the hospital; they take inmates about to deliver to Francis Scott Key, where they give birth.
- o *Family Freedom Literacy Program*--We have recently applied for a grant for this program and expect a positive response. This innovative program for women features a three-tiered approach to literacy and life skills. While incarcerated, inmates receive one-on-one computer assisted literacy training specifically designed to meet their academic needs. For five hours a week they work in the computer lab on academic skills and life skills training. The use of the computer familiarizes the inmate with modern technology. Inmates also participate in at least one hour a week of parenting training through the Baby Talk program.

The program also makes it possible for preschool students to visit their mothers for special, education-oriented time. During these sessions, parents read to their children or play an educational game with them. These activities reinforce the role of the parent as the first teacher.

- o *Partnership with Social Services Departments*--City and state social workers help inmates qualify for social services when they leave the detention center. They help inmates get access to a support system by qualifying them for medical care and income maintenance. The program is a pilot but is working well. The Social Services Department is encouraged because it takes a substantial load off their workers because the women are already pre-qualified.
- o *Other programs*--These include arts and crafts, AIDS awareness, parenting workshop, speakers bureau, book club, civil/legal workshop, workshop on temporary guardianship, a writing workshop.

I recommend that you start with a substance abuse education program if you are looking to secure additional funding. On the basis of that program, you can attract dollars.

Highlights of Group Discussion, Session 5, innovative and Equitable Programs for Women Offenders:

- o *Mental health needs of females--Forty percent of female inmates in Baltimore have mental health problems. The detention center's mental health program includes counseling inmates and providing aftercare in the community.*
- o *Birth control in juvenile detention centers--Baltimore City Health Department wanted to start birth control in the schools, but the city council opposed.*
- o *Norplant--There is some medical concern about Norplant because we do not yet know what happens after five years. Although there are some short term clinical studies we are not sure of long-term effects. To some degree, having Nor-plant also allows individuals to return to a lifestyle they had before being incarcerated. Although Norplant can't replace values, the program has merit. Mr. Flanagan noted that Baltimore is dealing with the question of basic values.*
- o *Differential treatment of female inmates--Female inmates are treated differently because there are so few of them, but also because they are worse offenders than men. The percentage of felony offenders in jail is higher among females than among males.*
- o *Cultural diversify--Officers have more trouble dealing with other cultures than with women offenders. For example, African-Americans are having trouble dealing with Latinos. Corrections has not developed the relevant education and training programs to respond to cultural, ethnic, and sexual diversity.*
- o *Sexual misconduct--In Hawaii sexual misconduct has become a serious management problem. A number of straight women officers have developed lesbian relationships with female offenders. Because of the strong unions, the department cannot get rid of these officers. However, in some jurisdictions, rules and regulations require that officers engaging in any kind of sexual misconduct receive an alternative career adjustment. Despite rules, Hawaii's department always loses in arbitration.*
- o *Evaluation component--A large terminal study is being done in Baltimore. The University of Maryland and Johns Hopkins Medical Center are tracking the programs' success through longitudinal studies.*

Session 6: Use of Contract Detention Centers and Local Jails, Jim Zangs, Federal Bureau of Prisons

Historically, the Bureau of Prisons (BOP) ran a prison system; it only became

involved in the detention business the '70s to house Marshals prisoners. The BOP has become very good at running prisons but is new to the jail business. It is therefore important for the Bureau to get involved with the Large Jail Network.

As most of you know, the Marshals Services has responsibility for pretrial detention at the federal level. Right now they have 18,000-20,000 prisoners in that status. Currently, there are six major detention centers around the country. We also coordinate with the Immigration Service, and the Detention Branch of the BOP is housing about 1100 Cuban prisoners in jails and an additional 500-600 detainees in immigration detention centers.

We are also responsible for contract detention. Growth in the Bureau of Prisons has exploded recently; we have about thirty-some institutions in some stage of construction, or planning, or site preparations. Nevertheless, we have been getting more prisoners than we had institutions to put them in. As an interim measure we started looking for ways to contract out our prisoners.

Historically, the Bureau has had about 1000-1100 prisoners serving short sentences in local jails. The Marshals Service found that it was not cost effective to move short-term prisoners to federal prison, so we paid local jails to house them. This practice is continuing. We would like to get the numbers down, but we will probably always have prisoners in local jails.

The new practice has been to take some of the regular sentenced population and place them in contracted facilities because Bureau does not have space. At present, there are about 2400 prisoners in contract facilities for this reason. The Bureau has four large contracts, three in Texas and one in Oklahoma, each with 500-700 beds. The Bureau enters into intergovernmental agreement with the local governmental entity, either the city or the county, rather than contracting with the facility operators directly. We are allowed to do intergovernmental contracts without competitive bidding. The cities and counties themselves have used different approaches. One facility is completely county-operated; two are privately-run; one is mostly city-run, with the management itself private but city employees.

Highlights of Discussion, Session 6, Bureau of Prisons' Use of Contract Detention Centers and Local Jails:

- o *Mandatory sentencing* - Attorney General Janet Reno has expressed dissatisfaction with mandatory sentencing. Do you anticipate that this will change?

Response: There has been a lot of discussion about this; I anticipate that there will be some change, but I don't know how to predict it.

- o 1992 GAO study--A recent study indicated that 56% of the Bureau's halfway houses are half or less than half full. What are your eligibility criteria for halfway houses?

Response: The Bureau doesn't operate any halfway houses directly; all are contracted for, and it's true that they are not full. The statute says that inmates are eligible during the last six months or for the final ten percent of their sentences. There has been some reluctance on the part of the Bureau to use halfway houses for higher risk offenders, but that is changing and the use of halfway houses is likely to increase.

- o *Why do contracts for secure facilities originate with the community corrections division?*

Response: Community Corrections handles contracts because contract oversight specialists are housed in that division.

- o *What was the reason for changing from the non-competitive form of contracting that the BOP usually used to the competitive bidding in Eloy, Arizona?*

Response: Eloy, Arizona, was a true experiment in privatization. Both the BOP and the Immigration Service needed additional bed space. I don't know the origination of the idea of getting a 1,000 bed facility in the Southwest and giving each agency 500 beds. The project has been in the works for about three years. This was the first competitively bid, except for halfway houses, we were ever involved in. It was very time-consuming, in part because of Federal Acquisition Regulations and in part because of politics.

The BOP's plan has been to phase out contracted facilities after the Bureau's own capacity increased; whether or not this will take place is not known. The philosophy behind that is that they can do it better and cheaper; some of our contracts are more expensive than it would be if we were operating the facilities ourselves.

- o *With the pre-conceived idea that BOP facilities are the "Hi/tons" of corrections, how do prisoners feel when they are sentenced to a contract facility instead of a BOP facility?*

Response: Some offenders complain that they are not getting programs or services in contract facilities. However, a lot of the prisoners in the facilities are there because of immigration violations, and they don't know any better. Actually,

our overcrowding is so bad--in one place, there are four prisoners to a single cell--that our facilities certainly don't count as "Hiltons" if they ever did.

Session 7: Survey of Mental Health Services in Local Jails

June Sivilli, COSMOS Corporation, Center for Mental Health Services, U.S. Department of Health and Human Services

NIC is asking everyone to participate in the survey, which is taking place the same year as the national jail census. Information from both will help create a complete picture of jails today.

The Center for Mental Health Services (CMHS) is an agency within the Department of Health and Human Services. CMHS has contracted with COSMOS, which does policy research and evaluation for a number of federal agencies. This project will involve counting all mental health services in jails.

CMHS recognizes the difficulty of this effort. We understand that jails are often burdened with surveys, including the Bureau of Justice Statistics' annual survey and its census. The difference with this project is that it is a one-time opportunity for corrections administrators to explain to policy makers and constituents their jail's role in providing mental health services to the community.

Data drives policy, and data drives dollars. If you can show your local policymakers the extent of resources you are committing to mental health services delivery, it should provide some arguments for additional support.

The overall intent of the inventory is to:

- o Survey each jurisdiction in the United States
- o Document the availability of mental health services
- o Provide information at the state and national levels about mental health services availability, staffing, and funding sources.

The results of the survey can lead to a number of outcomes, including:

- o Better collaboration between jails and mental health agencies
- o Better technical assistance for the provision of mental health services
- o Better understanding of the role that jails play in the delivery of mental health care.

The questionnaire identifies seven mental health services:

- o Crisis intervention
- o Mental Health Screening During Intake
- o Follow-up Mental Health Evaluation
- o 24-Hour Mental Health Care
- o Formal Mental Health Therapy
- o Psychotropic Medication Prescription/Monitoring/Dispensing
- o Case Management Services

The questions for all services follow the same basic format:

- o How is a detainee referred to a service; who approves placement or access to that service?
- o Who provides the service?
- o Where is it provided?
- o What is the number of detainees receiving this service for the month of September?
- o Are any other agencies involved in the provision of mental health services to detainees?

This effort is part of the National Reporting Program, a vehicle through which CMHS is mandated to collect and report data on mental health service delivery throughout the country.

Traditionally, CMHS has collected data from mental health service agencies; clients now have moved from mental health hospitals, for example, to universities, schools, and adult correctional facilities. Four years ago, COSMOS did a survey of adult correctional facilities; this year we are doing jails. If this effort is successful, there will be tables and data from this study in two years.

Most importantly, we will for the first time have data that is a complete enumeration. The difference between this survey and any others is that we are interested only in numbers. We are just collecting data to help drive and form federal policy.

The instrument will be mailed out between August 10 and August 16. We are giving you a window of two weeks to receive the instrument, review it, determine who should collect the required data. Then you will need to collect data on one item for each of the seven identified services identified by the panel for thirty days. We know that this goes against all social sciences research, which suggests that you get information back from the field as quickly as possible. But in order to be consistent between small and large jails, we are asking everyone to collect data for thirty days during the month of September. Although larger jails should not have any problem with this, the smaller jails may, so we are giving a week and a half and two week window at the end. We would like the survey returned by October 15.

The panel spent more than a year identifying services, defining services, identifying, and rewriting questions. The degree of burden was an issue, but we do need all the data we are asking for. We may also need to call you to clarify anything that doesn't make sense. We will then have to enter it into databases by state. It will take some time.

Highlights of Discussion, Session 7:

- o *Was the survey pre-tested?*

Response: Yes, it was pre-tested in jails in Fairfax County, Boulder, and Colorado Springs.

- o *Will this cover each facility or each agency?*

Response: We will send a survey instrument for each facility to the jurisdiction. If the central office has the data to fill out the *survey*, that office can provide the information for all facilities.

Recap and Close-Out

Mike O'Toole, Chief, NIC Jails Division

I would like to thank everyone for being here and for the quality of the discussions. I would also like to thank the panelists and, in addition, Dr. Thomas for laying out the issues and providing the framework for a very good discussion.

I would like to thank our staff as well, particularly Richard Geather and Ann Trevaskis. What I liked about this session is that we got the series of questions that need to be answered in addressing the issues. It's impossible to come up with answers in such a meeting, but it is important at least to identify the questions. I think we did that.

As I have watched the group since its inception, I just want to say that I don't think there is any danger we will lapse into "group think" any time soon.

Responses to Participant Questions

prepared by

Charles W. Thomas
Professor & Director

Private Corrections Project
Center for Studies in Criminology & Law
University of Florida
Gainesville, Florida 32611

August 15, 1993

Question #1 : *Why do you believe that the full-scale privatization of state and federal correctional facilities is so much more common than is the privatization of local facilities?*

This is a difficult question. Much of the appeal of privatization flows from a growing body of evidence which shows that contracting for facility management can yield significant cost savings. Because the fiscal problems now confronting local units of government are acute and because economy of scale influences generally imply greater potential cost savings to local units of government than to their larger counterparts at the state and federal levels, my opinion of a decade or more ago was that the prospects for local-level privatization were almost limitless. Although the validity of my opinion has yet to be proven, I am even more persuaded of its accuracy today than I was when the correctional privatization movement began to take form in the early 1980s.

In any event, the key variables that I believe have resulted in only modest numbers of local-level privatization initiatives would certainly include the following.

Private firms must be profitable if they are to be viable. Financial viability is a consequence of many factors, but one rule of thumb firms in the private corrections industry often apply has to do with the size of correctional facilities. Whether prudently or otherwise, many firms will not pursue contracting possibilities if the facility in question has a capacity of less than 250. A very large proportion of jails having smaller capacities, corporate interest in considering local-level privatization is often not great.

Private firms have an understandable interest in their growth prospects. If they

discharge their state- or federal-level obligations efficiently and effectively, the magnitude of their growth prospects in a given jurisdiction are often considerable. Similarly sound performance on local-level contracts does not have as high a probability of yielding equivalent growth prospects. Consider, for example, the experience the private firms have had in Texas. Positive assessments of the initial decision in 1988 to privatize 2,000 beds gave rise to a decision to privatize an additional 2,000 in 1993. Equivalent performance on local-level contracts would very seldom yield the same result.

Private firms must adopt means of keeping their general and administrative costs (including their marketing costs) under control. Marketing costs can easily create a six-digit debit on corporate balance sheets. A common belief within the firms which comprise the private corrections industry is that local-level marketing efforts have a consequentially greater risk-reward ratio than those aimed at states or at federal agencies. The realities of geography as well as of politics tends to support this view. Put in more practical terms, for example, it is far easier and less expensive to travel back and forth to a state capitol in an effort to develop access to a state-wide market than it is to develop a relationship with each and every county in the same state.

Organized opposition to contracting at the local level is often more immediate and more powerful than it is at the state or federal levels. Sheriffs often are responsible for the operation of local jails. They tend to be politically powerful opponents of contracting and almost always can depend on the support of their state organizations, the National Sheriffs' Association, and the American Jail Association. They also can almost always depend on strong opposition from public employee unions. Generally speaking, these

opposing groups seem better able to influence local political processes than to influence decision-making processes at the state or federal levels.

Question #2: *Would it be possible to contract for the management of a only a portion of a county jail system?*

This question warrants both a positive and a negative answer. Many local-level correctional systems are so small that it would make little or no sense for government to manage one segment and the private sector to manage another. In larger local systems, however, the appeal of contracting out for only a fraction of existing operations could be considerable. As a practical matter, for example, it might well be advantageous to contract for the management of one or more facilities designed to house such “special offender” populations as women and/or one or more facilities designed to house sentenced offenders. Decisions to privatize only a fraction of a local correctional system would necessarily depend in part on a detached evaluation of the quality of the working relationship one anticipated between a private management firm and the public agency which would retain control over some portion of the system. If the assessment pointed to a cooperative arrangement, then virtually any division of labor would be worth considering. If the assessment pointed to a cool or adversarial relationship, then one would seek a division of labor that presupposed the minimum number of opportunities for conflict to materialize.

Question #3: *Is it true that there are no documented instances of contracting yielding cost savings?*

I do not recall ever testifying before a county commission or a legislative committee without someone claiming that no private firm could possibly manage a facility at a cost lower than government---at least not do so without a major reduction in the caliber of correctional services that would be provided. The question, which is often intended to serve a rhetorical purpose rather than a means of soliciting research evidence, is by far the weakest element in the position advanced by opponents of privatization. Indeed, I simply and honestly do not believe that there is a public corrections employee or manager in the United States who could not *both* improve the caliber of the services his or her agency provided and decrease his or her cost of operation by 15-25 percent if *he or she* enjoyed the same flexibility in such areas as personnel selection/retention, employee salaries and benefits, and procurement as do his or her private sector counterparts.

The fact of the matter is that the examples of cost savings are growing rapidly and should come as no surprise to anyone. Here I will simply provide one local- and one state-level illustration.

The local-level example comes from Bay County, Florida. The Corrections Corporation of America has been responsible for the management of the Bay County Jail and the Bay County Annex since 1985. Mr. David Miller serves as the Contract Monitor for the Bay County Board of County Commissioners. I interviewed Mr. Miller after returning from the Large Jail Network Meeting and learned that he regularly and routinely

compares Bay County contract costs with the costs of other Florida counties of roughly similar size. Perhaps more importantly, he also compares contract fees with Bay County estimates of what correctional costs would be were government (whether in the form of a County Department of Corrections or as a function of the Bay County Sheriff) to resume operating these two facilities. His most recent assessment reveals that Bay County is saving approximately \$353,000 per year if attention focuses exclusively on employee cost comparisons. Although Mr. Miller indicated that he could not be similarly specific regarding cost savings over and above this employee cost differential, he felt that the additional savings realized by Bay County on an annual basis were substantial.

The state-level illustration comes from Texas. In March of 1991 the Texas Sunset Advisory Commission released a report to the legislature in which it compared the actual cost of operating four 500-bed contract facilities (two of which are operated by the Corrections Corporation of America (CCA) and two of which are operated by the Wackenhut Corrections Corporation (WCC)) with the projected cost of having the Texas Department of Criminal Justice (Institutional Division) (TDCJ-ID) operate the same four facilities. The actual cost for the contract facilities was \$36.76 per prisoner per day. The anticipated cost for the same facilities were the TDCJ-ID to operate them was \$42.70 for the two CCA facilities and \$43.13 for the two WCC facilities. The average contract per diem cost was thus \$36.76 and the projected TDCJ-ID average per diem cost was \$42.92, which yields a cost savings estimate of \$6.16 per prisoner per day. Thus, the conclusion of the Texas Sunset Advisory Commission was that the State of Texas was saving \$4.5 dollars per year by contracting for these four facilities (or a savings of 16.75

percent).

Question #4: *Is it true that most cost savings contracting can achieve are achieved at the expense of the salaries and benefits of employees?*

There really is not a good answer for this question. The basic salary packages made available by private firms vary rather considerably from firm to firm. The same is true of fringe benefit packages. My experience suggests that the interest of the private management firms in attracting qualified employees as well as in controlling the costs associated with the high employee turn-over rates one often encounters in public agencies results in their offering salaries that are equal to and often a bit above what are mandated by prevailing economic conditions in the localities where they operate facilities.

If there is a single variable that allows one to distinguish between public and private facilities, it is probably in the area of retirement benefits. The defined benefit retirement programs characteristic of government agencies often are or at least appear to be more generous than those of private management firms. Indeed, some interesting facts regarding point came to my attention when I read a front-page story by Chris Warden in the August 17 issue of *Investor's Business Daily*. Drawing on a March, 1992 survey of total compensation by private industry, state governments, and local governments published by the Bureau of Labor Statistics, Mr. Warden reported that overall nonwage compensation for public sector employees was 64% higher than for private workers, or \$7.09 compared with \$4.55 per hour. The biggest differential came in retirement benefits, with public workers typically costing employers \$1.82 an hour to

the average private retirement benefit of 46 cents an hour.”

Having said that existing fringe benefit programs typically reveal larger total compensation packages in the public sector, I will hasten to add that there are at least two reasons why I am not sure what this will mean when it is looked at over the long term. First, if the private corrections industry continues to grow at a rapid pace, it is altogether possible that the flexibility a private firm enjoys regarding such items as bonus incentives, profit sharing, retirement plans tied to stock performance, stock option allocations, and the like will yield total compensation packages that are more attractive than the more predictable defined benefit plans one associates with government employment. Second, the cost to government of existing non-salary employee benefits has become very troublesome because of the immediate pressure it places on existing fiscal resources, because the cost of some elements of those benefit packages have proven to be almost impossible to predict or to control, and because present expenditures typically cover only a fraction of the long-term costs that are anticipated. Many observers--including me--believe that all of this will cause a growing number of governmental entities to review and to reduce significantly the magnitude of those non-salary benefits.

The compensation issue, of course, can be looked at in quite a different way. Any contracting governmental entity that wished to do so could release a request for proposals which mandated a total employee compensation package that was equal to the existing total compensation package for existing employees. On a purely economic level, choosing this option has little to recommend its selection. In the real world, however,

some variation on this theme is not uncommon. This is particularly the case when government plans to contract for the management of an existing rather than a new correctional facility and, consequently, when commitments made to existing employees must be taken into account. For example, it is both possible and reasonable to require that existing employees be accorded a right of first employment by an independent contractor and that the independent contractor take steps to preserve whatever retirement benefits such employees may have earned prior to moving from the public to the private sector.

Question #5: Do you have suggestions for encouraging competition between private vendors?

The number of suggestions are nearly limitless. Here, however, are a few that immediately come to mind.

- Always expend a bit of effort to obtain a current and complete list of potential vendors. I do my very best to maintain such a list in my role as Director of the Private Corrections Project, and I distribute it to units of government both in the United States and abroad at no charge. Despite my efforts, I continue to encounter complaints from vendors who did not receive RFPs or did not receive them until very close to or even after submission deadlines.
- Avoid unnecessary requirements that increase the expenses of vendors

who might wish to submit proposals. For example, mandatory attendance at pre-bid conferences seldom if ever serves a useful purpose. Similarly, there is no need to require compliance with each and every regulatory requirement prior to the submission of proposals (e.g., full-scale environmental impact studies). Many if not the vast majority of such items are more reasonably ones with which contracts require compliance within some period of time following contract awards.

- Refrain from injecting minimum vendor requirements into RFPs that decrease competition or, in their very worst forms, essentially guarantee that only one or two firms could possibly submit responsive proposals. For example, it is not uncommon to see RFP requirements which mandate that vendors provide proof of successful prior management of a facility comparable to the one described in the RFP. Depending on the nature of the facility for which a management contract is to be awarded, such requirements can greatly reduce the pool of eligible vendors and automatically disqualify proposals from new management firms even if the experience and qualifications of those in the new firm are superior. The better strategy is to address important concerns like qualifications and experience in the evaluation of responses to RFPs.
- Do not impose unreasonable requirements on vendors that increase their cost of doing business---and that decrease the cost savings you might otherwise have realized. Payment bonds and construction performance

bonds, for example, are generally a good idea, but costly performance bonds aimed at assuring the delivery of sound professional services are seldom or never an equally good idea. Similarly, proof of adequate insurance coverage makes absolutely good sense, but unnecessarily large insurance requirements are anti-competitive and unnecessarily costly.

- Draft RFPs that are as specific as they can be regarding the objectives you hope to achieve by contracting but that are as non-specific as they can be regarding how those objectives are to be achieved. If you approach a contracting initiative with a firm commitment to continuing to provide correctional services in precisely the same way as they are presently being provided, it necessarily follows that your release of an RFP will almost certainly be a total waste of time.
- Do not play a “hide the pea” game with regard to the benchmark price you want vendors to meet or beat. Take the time to establish your actual costs---being carefully to include all on-budget and all off-budget costs---and announce the benchmark price in your RFP. Doing so will have two consequences. Private firms will quickly be able to determine whether you are sophisticated as well as serious about contracting. Credible benchmark prices also do much to clarify the nature of the services vendors will be obliged to provide.
- Announce fair and reasonable standards for the evaluation of responses to RFPs that assure vendors of your commitment and ability to evaluate

proposals fairly and objectively.

- Especially when you anticipate the design and construction of a new facility that is to be financed by a vendor, do whatever you reasonably can do to assure that the terms of your contract are sufficient to inspire the confidence of those in the financial industry from whom funds must be obtained. I have seen a significant number of RFPs that yielded few or no proposals merely because vendors believed the anticipated contract terms would make financing impossible.

Question #6: *Isn't it true that the scope and sophistication of services provided in privately managed facilities are decreased because of the need to both produce cost savings and maintain profit margins?*

There is no matter-of-fact answer to this question. To be sure, there is a good deal of variability in both public and private providers of correctional services when one examines the range and quality of the services they provide. The real issue, however, is not whether private management firms can or cannot provide the desired range and caliber of services. As is at least implied by a far larger proportion of private facilities receiving ACA accreditation when the accreditation experience of the public and private sectors is compared, it is easily established that they can.

The key variable, of course, is not the public or private identity of those who operate our jails and prisons but the expectations operators are obliged to satisfy.

Regarding the private sector, the key is thus the terms of the contracts government enters into and the care with which government discharges its contract monitoring responsibilities. In this regard I have encountered some problems, but they generally are not problems that have been caused by private management firms.

Recently, for example, I was asked to comment on the caliber of a proposed private facility that was dedicated to providing housing space for Texas “backlog” prisoners (i.e., sentenced felons committed to terms of imprisonment in the Texas prison system who are housed in county jails because the Texas Department of Criminal Justice-Institutional Division has no available space). I was critical of the paucity of both program space in the proposed facility design and a related paucity of program personnel in the proposed facility staffing pattern. I then learned that the private management firm had been told that the State of Texas simply would not provide payment for anything beyond basic custodial and essential medical services. The private firm was thus put in the position of doing what the State of Texas was willing to pay for or doing nothing at all.

These kinds of situations give me more than a moderate case of heartburn. If they result in private management of correctional facilities, critics of privatization will surely use them as examples of how private firms ignore programming needs in the hope of expanding profit margins. What they really reflect is government being penny wise and pound foolish. The more reasonable tactic would be to call for whatever level of programming is deemed to be appropriate and at least equal to what is found in existing public facilities, to demand that this array of services be provided at a total cost less than

the cost of a “business as usual” approach, and to refrain from contracting unless doing so allows one to obtain equivalent or enhanced services at a decreased cost.

Importantly, this does not mean that I have seen no problems in how some private management firms have discharged their contractual obligations. I am aware of more than one example of less than exemplary contract performance. If, however, government is doing its job by drafting properly sophisticated contracts and meeting its contract monitoring obligations, these problems should be ones that can be addressed with relative ease. Although one cannot terminate a government agency, one surely can terminate an independent contractor that fails to perform satisfactorily. The result of termination can be either a resumption of the providing of the necessary services by government itself or the execution of a new contract with another management firm. One or both of these results can be achieved with relative ease.

So much for questions and answers for now. I will close by saying that I very much enjoyed and benefited from participating at the Large Jail Network Meeting. I hope I will be invited to participate in the future. Additionally, a part of the mandate of the Private Corrections Project of which I am the Director is to disseminate information about correctional privatization. As some of you know, I’m always happy to share any information I have and do so at no cost to those who call with questions or requests for documents. Thus, if you have any questions that remain unanswered, please feel free to contact me.

APPENDIX

**NATIONAL INSTITUTE OF CORRECTIONS
JAILS DIVISION**

LARGE JAIL NETWORK MEETING

**STAPLETON PLAZA HOTEL
DENVER, COLORADO**

JULY 17-23, 1993

AGENDA

SUNDAY

JULY 11, 1993

6:00 pm - 8:00 PM

INFORMAL DINNER

Welcome

Larry Solomon
Michael O'Toole

Introductions and
Program Overview

Michael O'Toole

MONDAY

JULY 12, 1993

7:30 AM - 8:30 AM

BREAKFAST

8:30 AM - 9:45 AM

Development, Present Status
and Future Potential of
Correctional Privatization

Charles W. Thomas

Questions and Answers

9:45 AM - 10:00 AM

BREAK

10:00 AM - 11:45 AM	Contracting for Individual Services vs. Full Scale Private Management	<ul style="list-style-type: none"><i>o Quaslim Inham</i><i>o Carlos Jackson</i><i>o Joseph Stancari</i>	<i>Santa Clara County, CA</i> <i>Denver, CO</i> <i>Westchester County, NY</i>
	Group Discussion		
11:45 AM - 1:00 PM	LUNCH		
1:00 PM - 3:15 PM	Effectiveness, Efficiency, Accountability and Control: Private Sector or Government Management	<ul style="list-style-type: none"><i>o Tom Allison</i><i>o Joe Schmitz</i><i>o Lafayette Briggs</i>	<i>Orange County, FL</i> <i>Hamilton County, OH</i> <i>Fulton County, GA</i>
	Group Discussion		
3:15 PM - 3:30 PM	BREAK		
3:30 PM - 5:00 PM	Women Offenders Medical/Mental Health Needs	<ul style="list-style-type: none"><i>o Dr. John Clark</i><i>o Dr. Ernest Williams</i>	<i>Los Angeles County, CA</i> <i>Orange County, CA</i>
	Group Discussion		
6:00 PM - 7:00 PM	DINNER		

TUESDAY

JULY 13, 1993

7:30 AM - 8:30 AM

BREAKFAST

8:30 AM - 10:00 AM

Innovative and Equitable Programs
For Women Offenders

o Charles Foti
o LaMont Flanagan

Orleans Parish, LA
Baltimore

Group Discussion

10:00 AM - 10:15 AM

BREAK

10:15 AM - 10:45 AM

Use of Contract Detention
Centers and Local Jails

Jim Zangs
Bureau of Prisons

10:45 AM - 11:15 AM

Survey of Mental Health
Services in Local Jails

June Sivilli
COSMOS Corp.
Ctr. for Mental Health Svcs.
US Dept. of Health & Human
Services

10:45 AM - 11:30 AM

RECAP AND CLOSEOUT

Michael O'Toole

**NATIONAL INSTITUTE OF CORRECTIONS
JAILS DIVISION**

Large Jail Network Meeting

Denver, Colorado

July 11-13, 1993

- PARTICIPANT LIST -

Commander Tim Ryan, Alameda County Sheriff's Department
1225 Fallon Street, Room 103
Oakland, CA 94612 (510) 268-7757

Warden Charles Kozakiewicz, Allegheny County Jail
440 Ross Street
Pittsburgh, PA 15219 (412) 255-0100

Earl Waid, Director, Bernalillo Department of Corrections
415 Roma Northwest
Albuquerque, NM 87102 (505) 764-3502

Mr. Thomas White, Connecticut Department of Corrections
340 Capitol Avenue
Hartford, CT 06106 (203) 566-3717

Sheriff Warren Rupf, Contra Costa County Sheriff's Dept.
651 Pine Street
Martinez, CA 94553 (510) 646-2231

Mr. Lonnie Lawrence, Director, Dade County Correction & Rehab. Dept.
8660 West Flagler Street
Miami, FL 33144 (305) 229-7592

Mr. Bob Knowles, Dallas County Sheriff's Office
133 North Industrial Blvd.
Dallas, TX 75207 (214) 653-2901

PARTICIPANT LIST

Mr. Don Crownover, Davidson County Sheriff's Dept.
506 Second Avenue, North, Admin. Office
Nashville, TN 37201 (615) 862-8288

Mr. Walter Ridley, Director, D.C. Department of Correction
1923 Vermont Avenue, NW
Washington, DC 20001 (202) 673-7316

Mr. Carlos Jackson, Denver Sheriff's Department
P.O. Box 1108
Denver, CO 80201 (303) 375-5664

Commissioner LaMont W. Flanagan, Division of Pretrial Detention & Services
401 East Madison Street
Baltimore, MD 21202 (410) 637-1319

Ms. Sara Gross-Holbrook, Duval County Sheriff's Office
500 East Adams Street
Jacksonville, FL 32202 (904) 630-5794

Captain Alma R. Cornish, Escambia County Corrections Division
P.O. Box 17789
Pensacola, FL 32522 (904) 436-9813

Mr. Mike Jackson, Fairfax County Sheriff's Office
Adult Detention Center
10520 Judicial Drive
Fairfax, VA 22030 (703) 246-4432

Sheriff James A. Karnes, Franklin County Corrections Center
370 South Front Street
Columbus, OH 43215 (614) 462-3360

Chief Jailer Lafayette Briggs, Fulton County Sheriff's Department
137 Peachtree Street
Atlanta, GA 30318 (404) 853-2034

- PARTICIPANT LIST -

Mr. D.V. McKaskle, Harris County Sheriff's Department
1301 Franklin Street
Houston, TX 77002 (713) 755-8411

Ellena M. Young, Hawaii Department of Public Safety
677 Ala Moana Blvd., Suite 1000
Honolulu, HI 96813 (808) 587-1341

Captain Michael Jalma, Hennepin County Sheriff's Office
350 South 5th Street
Minneapolis, MN 55415 (612) 348-8358

Colonel David M. Parrish, Hillsborough County Sheriff's Office
P.O. Box 3371
Tampa, FL 33601 (813) 247-8310

Mr. Joe Payne, Jefferson County Corrections Dept.
730 West Main St., Suite 101
Louisville, KY 40202 (502) 574-2167

Art Wallenstein, Director, King County Department of Adult Detention
500 5th Avenue
Seattle, WA 98104 (206) 296-1268

Mr. Paul Conner, Las Vegas Metro Police Department
330 South Casino Center
Las Vegas, NV 89101 (702) 455-3951

Chief Paul Myron, Los Angeles County Sheriff's Department
441 Bauchet Street
Los Angeles, CA 90012 (213) 974-4901

Dr. Donald J. Amboyer, Macomb County Jail
43565 Elizabeth Road
Mt. Clements, MI 48043 (313) 469-5024

- PARTICIPANT LIST -

Deputy Chief Larry Wendt, Maricopa County Sheriff's Office
102 West Madison Street
Phoenix, AZ 85003 (602) 256-1801

Warden Rudolph Johnson, Middlesex County
Department of Adult Corrections
P.O. Box 266
New Brunswick, NJ 08903 (908) 297-8839

Mr. John T. Lagowski, Milwaukee County Jail
949 North Ninth Street, Room LO1
Milwaukee, WI 53233 (414) 226-7059

Mr. John Schweitzer, Multnomah County Sheriff's Department
1120 Southwest 3rd Avenue, Room 307
Portland, OR 97204 (503) 248-5088

Mr. Ernest C. Weber, Nassau County Sheriff's Department
C.S. 1072
Hicksville, NY 11802 (516) 572-4101

Captain Bill Miller, Orange County Sheriff's Department
550 North Flower Street
Santa Ana, CA 92702 (407) 688-4400

Tom Allison, Director, Orange County Corrections Division
P.O. Box 4970
Orlando, FL 32802 (407) 836-3573

Major Harold Wilber, Pinellas County Sheriff's Office
14400 49th Street North
Clearwater, FL 34622 (813) 464-6336

PARTICIPANT LIST

Mr. Milton M. Crump, Prince Georges County
Department of Corrections
13400 Dille Drive
Upper Marlboro, MD 20772 (301) 952-7014

Mr. Ken Golden, Riverside County Sheriff's Department
P.O. Box 512
Riverside, CA 92502-0512 (909) 275-2413

Chief Deputy Robert N. Denham, Sacramento County Sheriff's Department
711 "G" Street, room 401
Sacramento, CA 95814 (916) 440-5686

Deputy Chief Phillip Danna, San Bernardino County Sheriff's Department
655 E. Third Street
San Bernardino, CA 92415-0061 (909) 387-3636

Quaslim Inham, Director, Santa Clara County D.O.C.
180 West Hedding Street
San Jose, CA 95110-1772 (408) 299-4005

Chief Inspector E. Benson, Shelby County Sheriff's Office
201 Poplar Avenue
Memphis, TN 38103 (901) 576-2408

Mr. Ken Manier, Superintendent, St. Louis County
Department of Justice Services
18199 Chesterfield Airport Road
Chesterfield, MO 63005 (314) 537-5717

Ms. Alice F. Pollard, St. Louis Division of Corrections
Department of Public Safety
124 So. 14th Street
St. Louis, MO 63103 (314) 622-4741

- PARTICIPANT LIST -

Francis T. Moore, Corrections Director, Volusia County Dept. of Corrections
Caller Service Box 2865
Daytona Beach, FL 32120 (904) 254-1552

Mr. Joseph Stancari, Chief of Operations, Westchester County DOC
P.O. Box 389, Elmwood Hall
Valhalla, NY 10595 (914) 347-6011

Mike O'Malley, Director of Security and Supervision, Vermont Department of Corrections
103 South Main Street
Waterbury, VT 05671-1001 (802) 241-2316

Mr. Larry Ard, Bergen County Sheriff's Department
160 South River Street
Hackensack, NJ 7601 (201) 488-1190

Mr. James A. Zangs, Federal Bureau of Prisons
320 First Street, NW, Room 506
Washington, DC 20534 (202) 514-8585

Mr. Charles Thomas, University of Florida
509 Hume Library
Gainesville, FL 32611-2039

Ernest R. Williams, MD, MPH, CCHP,
Medical Director, Correctional Medical Services
550 North Flower Street
Santa Ana, CA 92702

Dr. John Clark, Los Angeles County Sheriff's Department
441 Bauchet Street
Los Angeles, CA 90012

PARTICIPANT LIST

Bruce Tyndall, County Commissioner,
Pinellas County
315 Court Street
Clearwater, FL 34616

Mr. Hank Risley, Chief, Bureau of Prisons
Delaware Department of Corrections
80 Monrovia Avenue
Smyrna, DE 19977-1597 (302) 739-5601

Ms. Betsy Robson, Assistant Director,
Alaska Department of Corrections
2200 East 42nd Avenue
Anchorage, AK 99508-5202 (907) 561-4426

Mr. Albert Gardner, Acting Warden,
Rhode Island Department of Corrections
Intake Service Center
75 Howard Avenue
Cranston, RI 02920

