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Private Sector Corrections: The Promise of the Future

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INTRODUCTION

“I firmly believe that any organization, in order to survive and have success, must have a sound set of beliefs on which it premises all its policies and actions... Beliefs must always come before policies, practices, and goals.”¹

Thomas J. Watson, Jr.
IBM Founder

The private corrections industry has emerged, in recent times, as a new and efficient alternative to state and local operation of facilities and services. Within the past decade, the industry has grown to include secure facility design, construction and management; non-secure residential and non-residential services; a full range of juvenile services and placements; and a wide variety of community-based interventions for both adults and juveniles. In one place or another, almost every type of correctional operation has been contracted to a private provider.

Growth in this area had been stimulated by the necessity of cost reduction, the tremendous increase in required capacity, and the need for specialized services outside the usual scope of governmental operations. These three driving forces are not likely to change in the immediate future. In fact, projections indicate a geometric increase in potential privatization occasioned by increasing populations and a larger proportion of private sector contracting within those populations.

This paper is intended to examine the current state of this burgeoning industry, explore emerging trends and issues critical to the field, and suggest directions to assure a healthy and productive pattern of growth and service within the industry. Given the diverse nature of the services provided, the populations it serves, and the business and governmental environment within which it must survive, private corrections is a complex industry. If it is to prosper, the field must have leadership to define the dimensions of the business and to thoughtfully respond to critical needs and issues as they emerge. Further, the industry must define its beliefs, from which will flow its actions, policies and its goals. It is in this spirit that the CORNELL PAPERS have been established, to serve as a vehicle for stimulating a lively exchange within the industry and between the public and private sectors.

This first paper in the series will examine the current workload of private sector corrections, projections for its growth, and a number of key issues that are critical to the enhancement and success of the industry. Specifically, the paper will examine private corrections as good business, as a system of interventions, and as a good partner. In each of these areas, the beliefs of Cornell Corrections will, obviously, be central to the discussion. It is an opportunity to “go on record” both internally and externally about the principles that are governing the operation and growth of the company. It is in these beliefs, and those presented in subsequent papers, that the vision of Cornell is to be found.

THE NUMBERS

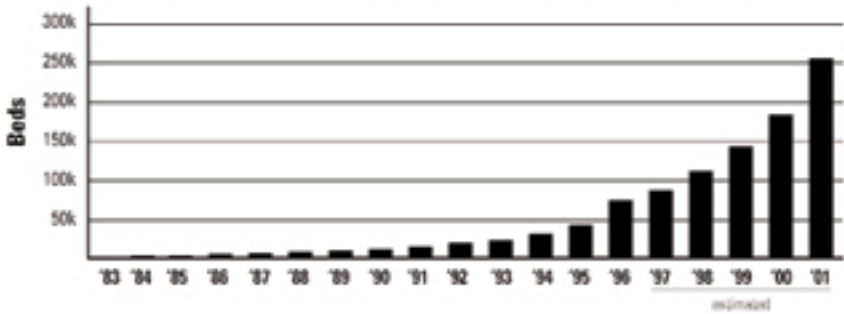
“The art of progress is to preserve order amid change, and to preserve change amid order. Life refuses to be embalmed alive.”²

Alfred North Whitehead
Philosopher

Private sector adult institutional corrections is, in 1998, still a relatively small but growing proportion of the corrections enterprise in the United States, operating only about 5 percent of all adult correctional beds. Its growth in the past decade, however, foreshadows an immense expansion potential for the next decade and beyond. With this growth comes inevitable change and a need for leadership to guide that change. It is an industry that is, in many ways, as much about managing growth as it is about managing corrections.

According to the Bureau of Justice Statistics, the number of privately managed adult correctional beds in the United States has grown from 350 beds in 1983 to 70,000 in 1996. With relatively conservative assumptions, that number is expected to grow to more than 250,000 by 2001. Chart 1 clearly demonstrates not only the magnitude of growth in the industry but also the accelerating pace of that growth.

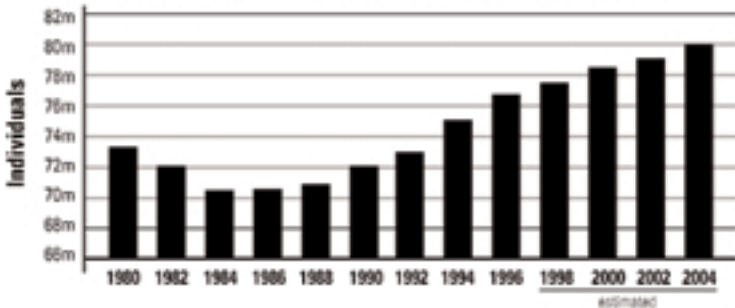
Chart 1: Privately Managed Adult Correctional Beds (1983-2001)³



Because private adult corrections is a new industry, even small changes produce large increases in the numbers. The same cannot be said for juvenile corrections which has a long history of private sector interventions as a direct disposition from the court. Working from a set of operational beliefs different from adult corrections in that the harm committed, accountability, *and* the best interests of the offender are considered, individual juvenile dispositions are often made to private providers for care and treatment. This has been the case since the dawn of the juvenile court nearly a century ago.

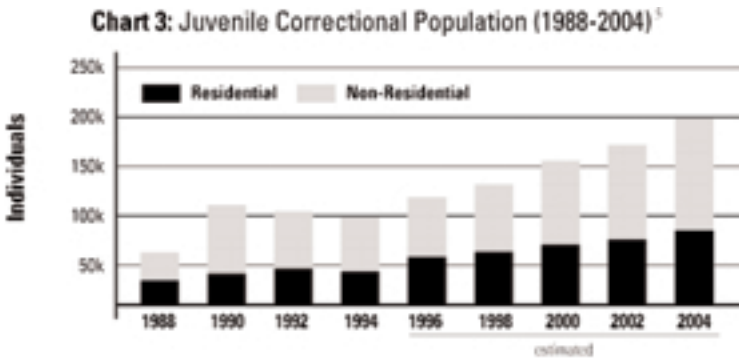
In recent years, however, three factors have impacted the growth of private juvenile corrections in a way that parallels that of adult corrections. First, there has been a massively increasing youth population coming before the juvenile court, caused, in turn, by widening arrests of juvenile offenders and, most importantly, by the pure increase in the eligible youth population. As seen in Chart 2, the number of youth in the United States aged 19 and under has grown from 72 million in 1990 to about 77 million in 1996. This growth, while slowing, is expected to continue. The increase in the youth population has led, in turn, to an increasing utilization of private providers

Chart 2: Youth Population Aged 19 and Under (1980-2004)⁴



as state-operated institutions have become full and have not been able to expand rapidly enough to meet the need. Finally, private sector juvenile corrections has grown, like its adult counterpart, by the need to provide a good service at an economical cost. To accomplish this, some states have given over entire previously owned and operated state facilities to private providers.

The combination of these three factors, i.e., increasing referrals to the juvenile court, full operations of public facilities, and the need for cost-effective services, has led to the expectation that the private correctional youth population will increase by 50 percent in the next 6 years. This trend is displayed in Chart 3 which shows the historical and projected increase in residential and non-residential juvenile corrections through the year 2004. Added to this growth potential is a quickly widening array of potential private services, including non-residential mental health and educational programs, community-based residential programs for abused and neglected youth, and specialized interventions for specific populations such as drug offenders, sex offenders and arsonists.



In sum, the private corrections industry currently operates a relatively small proportion of total adult corrections and a larger share of juvenile corrections. In both arenas, the potential for growth is tremendous, as a rapidly increasing proportion of public funds are required to build and operate correctional facilities, thus leading to a need for more cost-efficient alternatives.⁶ There is little doubt that the private corrections industry will increase significantly in the near term.

PRIVATE CORRECTIONS MAKES GOOD BUSINESS SENSE

“A business that makes nothing but money is a poor kind of business.”⁷

Henry Ford
Ford Motors Founder

Amid the tumult accompanying the birth and rapid growth of an industry, there have been a number of enduring issues that have become central to discussions about the value of private corrections and its potential for the future. First and foremost of these is the *heartfelt belief* in the industry that private corrections makes good business sense.

In many ways, the proof of this statement is in the viability of the industry itself. Were it not good business for private companies to design, build, operate and manage correctional facilities and programs, they would have long since ceased to do so. While some reasons for this are obvious, there are a number of business principles at play in private corrections that contribute to its success as a good expenditure of public monies.

1. Competition saves money and improves quality.

“Anybody can cut prices, but it takes brains to produce a better article.”⁸

P. D. Armour
Food Producer

In a competitive environment, every contestant must *always* come to the table balancing the cost of its services with the quality and quantity of services presented. To do otherwise would quickly lead to business failure. Most important in this adage is that all competitors know beforehand that the lowest cost is often the most desirable to the customer. Private companies are therefore forced, on a daily basis, to be innovative in providing more for less, to maintain or improve services in an atmosphere of fixed costs, and to earn the respect of the customer for quality services while saving public dollars.

This is a twofold benefit: Costs are decreased or maintained and the product provided by the company is constantly upgraded. In the final analysis, it is probably the latter, innovation in practice, rather than mere savings in cost that is the more important advantage of private sector involvement. To be cost-effective, private corrections must be able to demonstrate not only cost savings but also quality service provision and that the services provided are effective. There is a growing body of information that bolsters the complete equation of cost relative to effectiveness in private sector corrections.

There are data that clearly indicate that private corrections is an economical alternative to public operation of adult institutional facilities. In a recently released publication of the Reason Public Policy Institute, data are reviewed that demonstrate that private prisons save money:

*"...10 to 15 percent average savings on operations costs, based on fourteen independent cost comparison studies."*⁹

That same publication presents support for the second component of cost effectiveness, improved practice. In reviewing the quality of private prisons, the report states:

*"As with cost savings, comparative studies and the experience of public officials with existing private prisons support the conclusion that private prisons offer at least the quality that government prisons do. Add to that the pressure to excel that we know competition puts on private prisons, their success at getting accredited by the ACA [American Correctional Association], and their greater vulnerability to legal action by prisoners, and the evidence is overwhelming that private prisons provide quality services."*¹⁰

In juvenile corrections, where data have historically been better and more complete, there is additional evidence that not only the process of operating private correctional facilities is equal to, or better than, public facilities, but also that the *outcomes* of those receiving services may be substantially better. The best private programs report recidivism rates below the national average for juvenile offenders and often for less than it costs the state to run similar programs.¹¹ Once again, the challenge of competition results in both cost savings and innovations leading to better outcomes.

2. Private companies can respond quickly to emerging needs.

*"A wise man will make more opportunities than he finds."*¹²

Francis Bacon
Philosopher

In order to be competitive, private sector companies must be organized so as to be able to respond quickly and effectively to emerging needs presented by changing times. To be successful, the corporate structure and practice must be designed to quickly assess a newly presented need, develop a range of options to respond, and take whatever action is necessary to meet the need in a minimum of time. A key corporate decision to develop a new service can be made in an afternoon meeting with implementation plans laid by the following morning. This flexibility is a cornerstone of private corrections, not only in entering niche markets that appear from time to time, but also in rapid response to demand for program change, expansion,

contraction or termination. Further, flexibility is enhanced for the contracting agency as well. As Charles Logan points out in summarizing the work of Robert Behn:

*“In any case, if a particular contract turns out to be too costly or unsatisfactory, it is always possible to terminate it or fail to renew it. In contrast, how feasible is it to replace or halt the activities of government agencies, staffed by tenured and unionized civil servants, whose services are found to be unsatisfactory? It may not always be easy to terminate a contract, but experience has shown that it is nearly impossible to terminate a government agency...”*¹³

The flexibility of a company to respond to needs and the flexibility rooted in the contracting process both combine to make for good business. In a rapidly changing environment, this is an essential component of success.

3. Private sector companies have capital.

*“A speculator is a man who observes the future, and acts before it occurs.”*¹⁴

Bernard M. Baruch
Financier

The process by which government meets the needs of its citizens is often delayed or never happens because funds are not made immediately available to respond. In a political environment, factors other than the urgency and coherence of the need are sometimes at play. To raise the necessary funds to open a program, build a prison, or renovate a facility for a new purpose often requires layers of executive branch involvement, leading to legislative activity, followed by more executive action. This process is usually measured in years, rather than months.

In contrast, the private sector often has access to, and motivation to commit, capital funds to improve its business position and to expand its operations. The worth of a capital project is measured both by the projected need and by the fiscal soundness of the plan. After successfully passing those two analyses, the project can soon be underway.

The availability of capital is an essential feature of the private sector's ability to speculate on future trends, emerging needs and business potential. In at least two states, California and Tennessee, private capital has built, or is building, prisons with no firm contract to operate those prisons. In other instances, private capital has been used to open new juvenile facilities and community-based non-residential programs. In many of these cases, programs, services and facilities are operating which would never have seen the light of day with public funding.

In recent years, the development of capital has been at the forefront of activities for almost every major corrections company. The flexibility and

opportunity that a capital reserve affords is an essential component of corporate growth. In a recent review, Equitable Securities Research stated:

*“The best capitalized private companies will prevail. We believe the most experienced and best capitalized private providers will garner a larger percentage of future business.”*¹⁵

The growth in venture capital, as well as the increasing willingness of private corrections companies to invest in the design and construction of future facilities, is a boon to the public and good business for both the company and the government.

4. Consolidated companies benefit from efficiencies of scale.

*“Make no little plans. They have no magic to stir men’s blood and probably themselves will not be realized. Make big plans. Aim high in hope and work. Remembering that a noble, logical diagram once recorded will not die.”*¹⁶

Daniel H. Burnham
Architect

The cost and the quality of services offered by private corrections companies are positively impacted by efficiencies of scale. This is particularly true in the juvenile arena.

In 1998, it is estimated that there are between 10,000 and 15,000 individual providers of services to youth-at-risk, either in a correctional, educational or child welfare setting.¹⁷ While this diversity of programs has value, it is certainly not an efficient and cost-saving way to conduct business. Stemming from the history and tradition of service in juvenile justice, many of these providers are non-profit companies and organizations serving a specialized population in a single setting. To compete in the national juvenile justice arena, there will need to be considerable consolidation of this multitude of individual programs, thus leading to effective and efficient business operations. Consolidation serves the dual purpose of increasing operational efficiency while, at the same time, expanding the range of possibilities for each consolidated component.

This fragmented picture of juvenile correctional services is reversed in adult corrections, where 97 percent of all private correctional beds are distributed across just 8 companies.¹⁸ In this instance, economy of scale becomes a relevant and powerful cost saving component. Purchasing, administration, training and management information are but a few of the internal functions for which consolidation can improve the quality of company business while saving money. Inevitably, private corrections, both in the juvenile and adult fields, will continue to consolidate separate companies and functions within companies.

5. Sound business practices run companies.

“Managers at visionary companies simply do not accept the proposition that they must choose between short-term performance or long-term success. They build first and foremost for the long-term while simultaneously holding themselves to highly demanding short-term standards.”¹⁹

James C. Collins and Jerry I. Porras
Business Authors

Private corrections companies are, first and foremost, businesses. As such, they require a mission, a commitment to quality, and sound business management in order to survive and prosper. Business professionals rather than operations professionals usually staff top management in these companies. The individual programs and facilities, in turn, are operated by corrections veterans who know their part of the business. This internal partnership of business and practice expertise is unmatched in the public sector, where the senior manager in the department of corrections is commonly a seasoned and long-tenured corrections professional who may not have a business counterpart with whom to interact. The daily interchange between business and operational professionals is unique to the private sector and sets the stage for efficient and effective performance.

The two ingredients of private corrections, know-how and business acumen, while sometimes at odds in decision-making, generate a final product that benefits from both perspectives, rather than detracting from either. A corporate decision must make both business and program sense. As Peter Drucker has described the role of management:

“...one of the most crucial jobs in the entire decision-making process is to assure that decisions reached in various parts of the business...are compatible with each other, and consonant with the goals of the whole business.”²⁰

In sum, private corrections makes good business sense because it is less costly, produces better service and better outcomes, can be responsive quickly to emerging needs, can raise capital to invest in projects, benefits from economies of scale, and is managed by sound business practices. The growth of private corrections in the past decade is testimonial to these realities. The challenge for private corrections in the future is to maintain and improve on the technology of the industry while continuing to provide services at a reasonable cost. If the past decade of growth and innovation is indicative, the future appears exciting, optimistic and challenging.

THE VALUE OF DIVERSIFICATION

Any basic text in business management or personal finance will support the notion that diversifying one's investments, portfolio and products has the advantage of risk reduction, increased market potential, and growth opportunities. This is no less true in the private corrections industry than in the business of manufacturing or retail. In private corrections, however, there are additional benefits to be found in diversification that support both business and service motives.

1. The business advantage.

The neophyte field of private adult corrections has grown primarily around the needed expansion of secure correctional capacity as states and localities found their prison bed space inadequate and their ability to maintain and increase it short on available funds. The business was founded by companies with pre-existing expertise and interest in either facility management or building design and construction. Within a very short period of time, however, the industry discovered and quickly moved to provide integrated services that capitalized on private sector expertise and resources. Specifically, major corrections companies moved to internally develop or acquire the skills needed to design, build *and* operate secure institutions. This diversification propelled the industry into "full-service" facility responsibility. It widened the business worthiness of private corrections and set the stage for independent capital investment, facility acquisition and renovation, and speculative construction. This strategy also consolidated existing private corrections entities, bringing under one roof an often-fragmented array of planners, engineers, architects, construction managers, general contractors and corrections professionals. The business advantage for companies adopting this approach was immediately apparent as new market opportunities became available and the expanded product offerings buffered downturns in any single area of business.

For some companies, the strategy of diversification has been largely satisfied by expanding the range of services relating to adult secure facilities. For others, however, diversification extended not only to other services within adult facilities but also to pre-release programs as well as juvenile services, including correctional institutions, non-secure residential facilities, and non-residential community-based programs. This mode of diversification benefits from a greatly expanded array of products that broadens the market base of a company significantly beyond that of adult prisons alone. It is in these expanded companies that the new role of private corrections is being forged.

To accomplish the development of a full-range corrections enterprise requires not only capital and expertise in managing expansion but also a

strategy for incorporating new ventures without a protracted “learning curve” and period of errors due to inexperience. One demonstrably effective way to achieve this goal is through a program of strategic acquisitions that incorporates existing organizations, each with expertise in its own sector along with a client base, seasoned professional staff, and pre-existing relationships in the industry. Rather than attempt to learn everything about all facets of corrections from “the ground up”, a system of planned acquisitions allows a corrections company to incorporate new industry components quickly, knowledgeably, and with a minimum of startup risk. It is a blueprint that maximizes the business advantage associated with diversification while ensuring a continuity of solid performance and expertise.

2. The company advantage.

Diversification within a corrections company enriches internal communication, problem solving, planning, and the correctional programs themselves. Unifying a diverse group of corrections professionals around a mission and common set of values and business goals adds new dimensions to a company’s perspective on corrections. Rather than a sole focus on security *or* treatment *or* re-integration, a programmatically diversified company must heed and incorporate a much wider range of opinion and expertise into its core competencies. This is not always simple or pleasant but is always rewarding. A *complete* corrections company moves forward when the planning process benefits from the diverse experience of many, with as much joint agreement as possible on a common approach.

A further internal advantage to building a diversified professional staff is the opportunity to stimulate thinking “outside the box”. No matter the issue, within each of the potential divisions (adult prisons, juvenile operations, community-based programs, etc.), there are always preconceived notions, conventional wisdom and prior experience that may limit the ability to view a challenge from a clear perspective. In a diversified corrections company, these pre-dispositions are often put on the table and examined through interactions with professionals from other sectors, leading to a compound product that is greater than the sum of its parts. The discussions within a diversified corrections company are often ardent, rich, extensive and vitally necessary to innovation within the company.

3. The corrections advantage.

Perhaps most important to a diversified corrections company is the potential for building a “system of corrections”, rather than simply operating individual disconnected correctional components. Especially in juvenile corrections, it has long been recognized that success with individual youth is enhanced

when interventions are organized sequentially, from courtroom to release, within a consistent system of overarching principles.²¹ It is also clear that progress with youth is improved when the social systems surrounding the youth (e.g., school, family, court, community and peers) can also be included in the overall intervention. Diversification within a private corrections company allows for this consistency among program components and across the various stakeholders. Adult correctional programming can also benefit from similar connections. Within a diversified company, the pre-release or aftercare component can specify favorable conditions and characteristics of those discharged from incarceration, leading to improved programming within a closed institution. Conversely, an educational program operating within a secure facility can be assured that gains made during incarceration will be supported by subsequent activities within pre-release centers or aftercare programs.

While it has not yet been feasible to develop a complete continuum of correctional services within a given jurisdiction, the field is moving in that direction. This is only possible in an environment of diversified services.

A final advantage to diversification in the industry involves the movement towards outcome-based contracting, where program fees and allowable costs are tied not only to the level and quality of the correctional *process* but also to the *impact* of that process. This mode of contracting for correctional services is not common in this country (largely due to a lack of relevant data and data collection capacity) but has been introduced in Australia and Puerto Rico.²² It is surely to be an issue in the future of the industry in the United States. The extent to which a company can control its program from start to finish will affect its ability to impact outcome. A company participating in only one phase of a sequence of correctional interventions, such as institutionalization, will be hard pressed to claim the eventual outcome, as that outcome may be strongly impacted by another phase, such as pre-release, for which it is not responsible.

Diversification within individual private corrections companies addresses the existing fragmentation in the field. By consolidating an array of corrections services under a single business entity, small, diverse and scattered operations can be assimilated to produce a comprehensive, innovative and effective system of corrections. A healthy future for private corrections is contingent on the development of these systems.

PRIVATE CORRECTIONS MAKES GOOD PARTNERS

The private corrections industry is built on a primary belief that formerly public correctional operations can be more economically managed, with no reduction in the quantity or quality of services, if private companies are made responsible for their administration. The competition and the contracting process described earlier are the primary vehicles to transfer this

administrative responsibility. However, these enterprises will fail if there is not reciprocity, mutual respect and common support between the private companies and the public sector. The real “glue” of a public-private partnership is the trust and respect that can be developed between the partners. The partnership prospers when both parties understand what each brings to the table, come to value that diversity of contributions, and purposefully use the other’s strengths in planning and implementing new ventures.

To build a new industry that, by definition, requires the funding and involvement of the public sector demands that close attention be paid to nurturing the partnering relationship. This includes attention to the needs of one another, mutual respect for the inherent abilities (and limitations) of each, a willingness to “stretch” to accommodate the partner, and a system of formal and informal communication that will engender trust and confidence over time.

Central to the success of partnerships in private corrections is an understanding of the roles for private and public partners that build on their strengths and makes the partnership stronger than the sum of their individual contributions. Partnerships in corrections should make life easier and better for each, rather than more burdensome and contentious.

It is abundantly clear that there is enough corrections “business” to go around. Thus, there is little advantage in efforts to undermine, criticize or suppress the corrections initiatives of either the public or private sectors. Rather, through meaningful and honest dialogue, better partnerships can be created when the tasks are distributed between the partners consistent with their talents and resources.

Private corrections companies can be, and in most cases are, good partners. The future and well being of the industry demands that this continue.

THE FUTURE

“Our moral responsibility is not to stop the future, but to shape it... to channel our destiny in humane directions and to try to ease the trauma of transition.”²³

Alvin Toffler
Futurist

The future of private corrections is bright. The industry is blessed with circumstances that favor its continued growth and prosperity. Early experience and “hard knocks” have led to strategic innovations that portend success. If the industry commits to remaining responsive to the needs of the public, delivering a solid product, valuing the public-private partnership, and maintaining a commitment to innovation and quality, the public will benefit not only from savings in cost but from the value of a safer community. It is an endeavor well worth the effort.

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