



Partners in Public Service

NEWS FROM THE ASSOCIATION OF PRIVATE CORRECTIONAL & TREATMENT ORGANIZATIONS

Fall/Winter 2002

IN THIS ISSUE:

Inside APCTO

Detention Trustee Addresses APCTO Members	2
APCTO Business Meeting Update	3
APCTO Selects Executive Director	3
New APCTO Leaders Named	3
DeLay, Cannon Discuss Privatization with APCTO	4

In The News

Award of Valor Given to CCA Correctional Officer	4
UK Competition Commission OK's Group 4/Wackenhut Merger	4
Peru Plans Seven Private Prisons	4
State of Mexico Turns to Privatization	5

On The Hill

Congressional Update	5
----------------------------	---

In the Community

Good Community Relations are Good Business	6
--	---

Accreditation Update

CEA Recognizes Four Private Facilities	7
--	---

A Bit of APCTO History

We're With You, APCTO!	7
------------------------------	---

Harvard Law Review Article Supports Correctional Privatization

Private prisons are "a promising avenue for the future development of the prison system," concludes a recent Harvard Law Review article about the benefits of the private-public partnership in corrections. The article makes a compelling case for outsourced corrections management.

Published in the May 2002 edition of the Harvard Law Review and entitled *A Tale of Two Systems: Cost, Quality and Accountability in Private Prisons*, the article contends that private management services produce cost savings, while maintaining or exceeding quality and accountability levels in comparison to public corrections agencies.

Citing comparative studies done in Arizona, Florida and Louisiana, the article concluded that, "the most rigorous studies find clearly positive cost savings [from privatization]." While recognizing that comparisons as to quality are tricky, the article went on to state that "none of the more rigorous studies finds quality at private prisons lower than quality at public prisons on average, and most find private prisons outscoring public prisons on most quality indicators."

Private sector saves money

The Harvard Law Review article notes that the private sector saves money in three ways. First, money is saved in design and construction. "[The private sector] can typically design and build prisons in half the time required for governments to do so, because they can avoid the layers of red tape that play a role in safe-guarding against government corruption, but are arguably unnecessary when the government purchases a service from the private sector." Because private firms are also usually free of purchasing restrictions and subcontracting quotas, design and construction costs can be reduced by 15 to 25 percent and supplies can be purchased at a lower price.

Second, private companies save money in operation, primarily through reducing labor costs. "A private firm that had a role in designing a facility would be likely to use innovative

(continued on page 2)

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design techniques that could minimize the number of guards required to monitor inmates,” the article noted. Reduced costs are also attributed to the use of fewer administrative personnel and incentives to reduce sick time and consequent overtime expenditures.

Finally, private firms save money by “maintaining tight control of inmates and keeping them well-fed and occupied with work, education or recreation.”

Private prison accountability

Recent court cases, the article noted, have in some ways held private prisons to an even higher standard than public prisons. In one case, the Supreme Court held that private prison officers do not enjoy the same qualified immunity from civil damages as public prison officers. As a result, “private prisons are, if anything, more accountable for their constitutional violations than are public prisons. The presence of this additional judicial check should in turn increase private prison quality.”

Private prisons are also subject to government monitoring, adding a further layer of review. “While private prisons have government monitors, monitors of private prisons (even if captured to some degree) are likely to be more independent than monitors of government-run prisons,” the article noted.

Market accountability

The fact that many private companies are publicly traded further increases their accountability, notes the article. A private prison could have its contract rescinded, while “the government cannot take over its own prison except by firing civil servants, and it cannot have a private firm take it over except by opening a new bidding process, which is more difficult than finding someone to take over an existing contract.”

Private corporations are also sensitive to drops in their stock prices. Contract rescissions or other negative publicity can affect profitability and perceptions of profitability. As a result, private companies are concerned with keeping their stock prices high over the long term “by insisting on sound management and that guards and wardens can be encouraged to act responsibly through stock ownership in the company.”

Finally, the article notes, private prisons have a greater ability to make necessary changes “because they are free from some of the constraints of government management.” In public prisons, unions may concentrate on preserving their members’ pay, benefits and seniority, while the budgetary process supports the status quo. Conversely, “companies concerned about winning a bid, retaining their contracts, maintaining their stock price . . . seem more likely to overcome their institutional stasis.”

Public-private competition

The article also concluded that accountability of both public and private prisons would be improved by increasing the competition between the two. “The government should maximize the efficiency gains from privatization and minimize opportunities for capture by institutionalizing competition between public correctional departments and private prison firms and making contract monitoring independent of both public and the private sectors.”

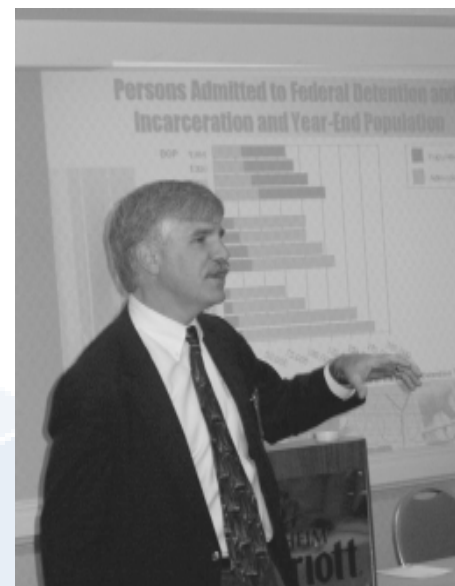
INSIDE APCTO

Detention Trustee Addresses APCTO Members

APCTO members attending the August business meeting in Anaheim were given a unique opportunity to discuss detention and privatization issues with Federal Detention Trustee Craig Unger.

Unger was appointed trustee last year after Congress established the Office of the Federal Detention Trustee to consolidate related activities of the U.S. Marshals Service and the Immigration and Naturalization Service, and work with the Federal Bureau of Prisons in its supportive role in urban detention. The office works with a \$2.4 billion budget and provides central management of the contracting functions.

In one of his earliest tasks as trustee, Unger conducted a national detention needs assessment, which he discussed



Federal Detention Trustee Craig Unger addresses APCTO members at the August business meeting.

with APCTO members. The findings called for strategic and long-range planning, agency policy enhancement, and detention and detainee handling requirements. Unger also presented ideas for upcoming pilot projects and the geographic needs for regional detention facilities.

The current federal detainee population has

(continued on page 3)

(continued from page 2)

increased even faster than current prison populations, with an average increase of 12.4 percent annually over the last seven years. The total population of federal detainees increased from 25,675 in September 1994, to 58,029 in September 2001. The INS detainee population had the greatest growth rate (19,079), with an average annual increase of 14.4 percent.

Because of the rapid growth in federal detentions, the proportion of detainees held in non-federal (i.e., state, local and private) facilities has increased substantially, from 57 percent to 71 percent. While detention expansion in non-federal facilities enables government to avoid large capital construction costs, Unger noted that the assessment indicated that improved monitoring is necessary to meet the demands of new contracts.

In addition to Unger's remarks, the APCTO audience learned more about privatization activities in Arizona from outgoing Corrections Director Terry Stewart and received an update on changes in Florida from Carol Atkinson, chair of the Correctional Privatization Commission.

APCTO Business Meeting Update

APCTO members met at the ACA Summer Conference to receive updates on current issues and upcoming events. The chairs of each standing committee reported on the following progress:

- **Essential Services:** The committee has put together a survey to identify issues important to vendors. The survey will be circulated soon.
- **Finance:** The organization's tax return has been prepared and submitted. The committee has also agreed to a January to December financial year that will begin in 2003. All dues will be adjusted to a January due date effective January 1, 2003.
- **Fund Raising:** In addition to looking at funding for research projects, the committee is researching the possibility of holding a national conference in 2003. We need volunteers for this committee! Please contact Arlene Lissner at Alissner@cornellcompanies.com for more information.
- **Membership:** As of June 2002, the organization has 18 voting members, five associate non-voting members and 13 individual non-voting members, and has targeted 155 membership prospects. The committee also exhibited the APCTO booth at ACA's winter and summer conferences.
- **Newsletter:** The newsletter continues to be sent to more than 540 individuals, including APCTO members, legislators, community leaders and others. Story ideas

are always welcome. To submit an idea, volunteer to write an article, or add names to the mailing list, contact Rebecca Houtz at rhoutz@mtctrains.com.

- **Public Affairs:** The committee recently responded to the North Dakota House Speaker's concerns regarding a state study on the cost-effectiveness of prison privatization. The committee also alerted APCTO members to the publication of the Harvard Law Review article (see cover story).
- **Research:** Fully executed contracts are now in place for the University of Florida and University of Pennsylvania as part of a research project that has been funded by Founders' Trust. The University of Florida is investigating the effectiveness of adult sanctions and interventions for juveniles who commit serious crimes. The University of Pennsylvania is analyzing best practices in residential and non-residential juvenile correctional and treatment programs.

APCTO Selects Executive Director

APCTO has hired Andrew T. LeFevre as executive director. LeFevre comes to APCTO from the American Legislative Exchange Council, where he has served as national director for the criminal justice and education task forces. He has extensive experience in marketing, communications and government relations. LeFevre joined APCTO on November 11, and will work out of the Leonard Resource Group in Washington, D.C. LRG will continue to provide association management, government relations and media relations services to APCTO. We'll have more information on LeFevre and his plans for APCTO in the next issue of *Partners in Public Service*.

New APCTO Leaders Named

First Vice President Scott Marquardt has assumed the duties of APCTO president following the departure of Steve Logan, who stepped down as president of APCTO in September. Marquardt will be officially confirmed as president by the APCTO membership at the January 12, 2003, meeting.

John Ferguson, Corrections Corporation of America, has been nominated to fill the first vice president position. Ferguson is currently the member-at-large (large company). Harry Phillips, Cornell Companies, has been nominated to fill Ferguson's current position. The membership will also vote on these nominations at the January meeting.

SUBMISSIONS FOR PUBLICATION

Should include the writer's full name, address and telephone number. All submissions may be edited for clarity and space. Deadlines are February 1, May 3, August 2 and November 1.

DeLay, Cannon Discuss Privatization with APCTO

U.S. House Majority Whip Tom DeLay of Texas and House Judiciary Committee member Chris Cannon of Utah visited Management & Training Corporation's headquarters in Centerville, Utah, on October 11, 2002, to meet with APCTO. Scott Marquardt briefed the two House Republicans on the role of private sector companies in the corrections industry, the growth of private prisons and the challenges faced by APCTO and its members.

The congressmen also learned more about APCTO's 2002 government relations priorities, including the creation of a privatization caucus in Congress, promoting the A-76 cost comparison process, and increasing opportunities for private sector correctional organizations in federal criminal justice activities. Both men expressed interest in helping APCTO establish a privatization caucus in Congress and in maintaining the independence of the Office of the Federal Detention Trustee, which some have proposed be folded into the Bureau of Prisons.



APCTO President Scott Marquardt (right) greets House Majority Whip Tom DeLay (R-TX) during a briefing on privatization in October.

facility in July 2001. Though wounded in the incident, he restored order and remained in the area to lock down 128 inmates and protect a fellow officer who also had been wounded. At the conclusion of the incident and after being admitted to the local hospital for treatment, Jones called the facility to ensure that his coworkers were all right and to confirm that his actions were appropriate.

Award of Valor candidates are nominated based on the exhibition of heroic efforts in the line of duty, and are submitted from facilities throughout the United States and Canada.

UK Competition Commission OK's Group 4/Wackenhut Merger

The United Kingdom's Competition Commission has announced that the acquisition by Group 4 Falck A/S of The Wackenhut Corporation is not expected to operate against the public interest.

Group 4 Falck – through its Global Solutions Ltd. subsidiary – and Wackenhut Corrections Corporation – through its joint venture with Serco, Premier Custodial Group Ltd. – are the leading suppliers of transportation and custodial services in the U.K. The Wackenhut Corporation had a 57 percent ownership interest in Wackenhut Corrections. The Competition Commission considered whether the enlarged Group 4 Falck would be in a position to use its market power to raise prices or engage in anti-competitive practices in the provision of prisoner and immigrant custodial and transportation services.

The commission concluded that the legal framework separating the companies and commercial factors will ensure that Premiere Custodial Group Ltd. remains an independent competitor and will have the necessary resources to compete effectively.

Wackenhut shareholders approved the merger on May 8, 2002. Group 4 Falck has announced its intention to sell its interest in Wackenhut Corrections Corporation, which continues to be traded separately on the New York Stock Exchange.

Peru Plans Seven Private Prisons

Peru's private investment promotion agency Proinversion is planning to launch a \$600 million prison concession program by the end of the year, local newspaper El Expreso reported.

South Carolina-based consultant Carter Goble Associates, which is advising Proinversion on the process, is completing a strategic feasibility study on the project. The 20-year

(continued on page 5)

IN THE NEWS

Award of Valor Given to CCA Correctional Officer

In a first for the private correctional industry, a corrections professional from the private sector has received national industry honors for bravery.

Senior Correctional Officer Paul Lee Jones of CCA's South Central Correctional Center in Clifton, Tenn., was presented with the Award of Valor by the North American Association of Wardens and Superintendents during a ceremony at the American Correctional Association's summer conference in August.

Jones, an employee at SCCC since June 1997, was honored for his role in helping to contain a disturbance at the

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concessions, which are expected to be put out for bid by the end of the year, will likely involve the design, construction and operation of seven new prisons that will require a total investment of \$600 million over 10 years.

Peru's current prison population of approximately 26,700 is held in 82 penal establishments designed to hold only 20,000 inmates.

State of Mexico Turns to Privatization

Officials from the state of Mexico have unveiled plans for the country's first private prisons to relieve the government's overcrowded jails. The \$110 million project will involve the construction and operation of four jails housing 4,500 low-risk inmates in the state.

Mexico's 21 penitentiaries are bursting at the seams, with some housing as many as a dozen inmates in cells built for three. Human rights officials have complained about the living conditions in the state's jails.

The state of Mexico borders Mexico City, and 89 percent of its prisoners come from the capital. The prisons will be concentrated near Mexico City, in the towns of Zumpango, Ixtlahuaca, Tenango and Tenancingo.

The Prison Rape Reduction Act

The *Prison Rape Reduction Act of 2002* (H.R. 4943/S. 2619) is an important issue for the entire corrections community. The measure creates a panel to study prison rape, and requires the Justice Department to significantly reduce all problems related to the issue and report back to Congress. Grants and direct appropriations for this measure will add up to approximately \$40 million.

Because of scheduling changes and other legislative priorities, neither Rep. Frank Wolf's nor Sen. Edward Kennedy's versions of the Prison Rape Reduction Act of 2002 became law in the 107th Congress. Both versions have been reported to the House and Senate Judiciary committees, but have stalled there.

APCTO has a significant opportunity to build its credibility on this issue with important members of the House and Senate Judiciary and Appropriations committees. The House sponsor, Rep. Wolf, is also the chairman of the House Subcommittee on Commerce, Justice, State and Judiciary. The Senate sponsor, Sen. Kennedy, voiced his support for the issue when remarking that "government officials have a duty under the Constitution to prevent prison violence." APCTO's input in the 108th Congress should allow APCTO to shape the debate on this issue and the final outcome of the measure.

Preview of the 108th Congress

APCTO and the entire corrections community will face some recurring issues and new opportunities in the upcoming 108th Congress. One of the returning issues is the *Public Safety Act* (H.R. 1764), Rep. Ted Strickland's anti-privatization bill. APCTO will continue to educate members of Congress on the clear benefits of public-private partnerships in the face of budget deficits at the federal, state and local levels.

The use of the Amber Alert system to deter violent crimes is another issue that APCTO may consider. With recent passage of legislation to implement this system, Congress has begun to acknowledge what APCTO members have long known: that communities can work together to solve problems. Among the other issues APCTO may focus on in the next Congress are homeland security, performance manage-

(continued on page 6)

ON THE HILL

Congressional Update

By Mark Smith, *The DaVinci Group*

With the end of the 107th Congress, the status of several bills are still up in the air. Here is an update on bills that may affect APCTO members:

Departments of Commerce, Justice, State and the Judiciary, and Related Agencies Appropriations Act, 2002

The appropriations bills for the departments of Commerce, Justice, State and the Judiciary (H.R. 2500) were not brought to the floor of the House before the November elections. The CJSJ bill includes, among other things, funding for the Bureau of Prisons. Congress has passed only two of 13 spending bills so far. Although the "lame duck" session that began on November 12 may produce a budget for President Bush to sign, at press time it was likely that the "lame duck" Congress would only pass continuing resolutions to fund the government at current levels into next year.

APCTO Needs You!

APCTO is a non-profit organization dedicated to bringing together the diverse strengths represented in our industry to improve the quality of services, products, research, understanding and communication. Join now and be a part of our future. For a complete membership package or other information about APCTO, please call Nancy at 312-733-1950 or email us at alefevre@apcto.org.

(continued from page 5)

ment review, federal detention, re-entry, faith-based and community initiative programs, and community social service programs.

And let's not forget state politics . . .

With so much emphasis on Congressional activities, we sometimes overlook the critical changes in party power at the state level. In New Mexico, where 43 percent of the prisoners are in private facilities, the governor-elect has stated that he opposes private prison facilities. There is clearly a need for APCTO to educate politicians there, as well as in many other states. Going into the next year, APCTO has a significant opportunity to prevail on the issues of importance to its members.

IN THE COMMUNITY

Good Community Relations are Good Business

By Jenna Slocum, Corrections Corporation of America

Proactive community relations are a vital business strategy in the world of private corrections. Establishing positive and active relationships with the community paves the way for facilities to operate in an environment that is supportive of the facility, its mission, operations and staff. In other words, good community ties promote good business. They provide the tools for building relationships on the local level; allow facilities to take a more active role in educating the public about the corrections industry; and help shape public opinion, build the private industry's political presence, and contribute to business development efforts.

Corrections Corporation of America understood this when, in 1999, it established community relations committees in each of CCA's more than 60 facilities. The committees meet regularly at CCA facilities and consist of citizens who serve as a voice for the community. The meetings provide a forum for interaction and education between local citizens and CCA facility staff. A typical committee might include 10 to 50 local individuals from varying segments of the community—law enforcement agencies, elected officials, businesspersons, church and charity representatives, and members of the general public.

At meetings, committee members communicate concerns, ask questions and make recommendations to facility management for building a positive relationship with the community. Most importantly, community relations committees provide the grounds for long-term relationships and ongoing dialogue with the community. CCA facilities have enjoyed ben-



Michael Woods, a shift supervisor at CCA's Coffee Correctional Facility, delivers 500 treat bags assembled by facility staff to the HeadStart and pre-Kindergarten programs at a local elementary school to help with Halloween festivities.

efits such as public education about CCA and the facility, positive media coverage and stronger relationships with local opinion leaders since the development of the committees.

Facilities report that establishing a core group of facility supporters and a strong relationship with the local media has long-term benefits. Facility events and programs tend to receive positive publicity in the local community—either through word-of-mouth or media coverage—with expanded community activism.

For example, when Lawrenceville Correctional Center began CHOICES, a youth outreach program, the first presentation was made to members of the facility's community relations committee. "The response was fantastic," says Warden Steve Dotson. "They became our biggest advocates for the program, which generated a lot of goodwill for the facility." After a community relations committee member mentioned the program to a local high school teacher developing a class in criminal justice, the school initiated a partnership with LVCC. Through the arrangement, the facility provides resource materials, tours, and speakers ranging from inmates to management staff.

During a crisis, the local community typically becomes the company's strongest advocate or most vocal opponent—a relationship best determined by a facility's efforts to establish open communication in advance. In a negative situation such as a facility incident, facilities have found that the community is much more likely to be supportive when it has a strong, open relationship with the facility.

"By allowing members of the community access to the facility, and keeping them informed and updated of everything going on, we create an ally to come to our defense if a situation that is not so positive occurs," says Warden Bruno Stolc, Leavenworth Detention Center.

(continued on page 7)

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Wardens agree that the common denominator in the relationships built by proactive community relations programs is open communication and mutual support. The arrangement benefits both parties—the community is comfortable with the company, reaping the benefits of a large local employer and economic contributor, and the company enjoys a positive and supportive relationship with the local area.

ACCREDITATION UPDATE

CEA Recognizes Four Private Facilities

The Correctional Education Association awarded certificates of accreditation to four privately operated facilities at its 57th Annual International Conference on August 11, 2002. The four facilities, all operated by APCTO member Management & Training Corporation, include Lake Erie Correctional Institution in Conneaut, Ohio; Jesse R. Dawson State Jail Facility in Dallas, Texas; Marana Community Correctional Treatment Facility in Marana, Ariz., and Australia's Borallon Correctional Centre in Ipswich, Queensland.

To become accredited, CEA reviews a correctional facility for 78 standards in four major areas: administration, staffing, services provided to students, and programs. Subcategories include General Education Development certification, adult basic education, life skills, computer literacy and vocational training. In addition, teachers must be certified and the education staff must be in control of the education budget.

Both the Borallon and Lake Erie facilities received 100 percent in all 78 standards. In addition, Borallon became the first facility outside the United States – public or private – to receive CEA accreditation.



Representatives from two of MTC's four facilities receiving CEA accreditation (from left to right): Hartzel Black, MTC programs vice president; Ursula Roeder, manager of programs, Borallon Correctional Centre; Ron Russell, senior vice president, corrections; Chuck Keeton, warden, Dawson State Jail; Steve Steurer, CEA executive director; Sharrylon Vestal, principal, Dawson State Jail; and Debbie Ruthven, deputy warden, programs, Dawson State Jail.

"CEA accreditation is important because it signifies that your programs are held to a high standard," said Anita Dutson, director of corrections programs for MTC. "It sets the tone for the quality of education and its position in the correctional system."

CEA often works in tandem with the American Correctional Association's accreditation of a correctional facility. ACA automatically accepts CEA's more stringent accreditation of an educational program as part of its comprehensive audit of a correctional facility.

In May 2000, the Bradshaw State Jail in Henderson, Texas, and Billy Moore Correctional Center in Overton, Texas, became the first privately operated facilities to receive CEA accreditation. Seven private facilities are now accredited by CEA.

A BIT OF APCTO HISTORY

We're With You, APCTO!

By Arlene Lissner, Cornell Companies

[Editor's note: We're introducing a new feature in this issue of Partners in Public Service: A Bit of APCTO History. APCTO is a fairly new organization, but it came about after years of discussion and planning. In this issue, we highlight a vital – but often overlooked – part of any organization: that all-important first dues payment.]

It took the first APCTO Planning Committee many months during 2000 and 2001 to agree on APCTO's dues structure. As often happens, each of the companies had their own idea of how to structure the dues. But, finally, a structure was agreed upon and sent to potential members. With the "hard" work behind us, Nancy Wrigglesworth and I sat back and waited for the checks to arrive.

Lo and behold, a few days after advising each company of their annual fee, an important envelope arrived: our first check! The honor of making that first payment went to Community Education Centers, a company that provides treatment and education services to adult and juvenile criminal justice populations in ten states.

We were so excited to receive our first dues payment that we decided to commemorate it officially. We had it photographed, framed and mounted on our office wall. It was the first official statement of "we're with you, APCTO." Our joy was evident to everyone who called us.

This one small, but important, incident got our vote for a piece of APCTO history. Thanks to John Clancy, president and CEO of Community Education Centers, for making it happen!



APCTO

ASSOCIATION OF PRIVATE CORRECTIONAL & TREATMENT ORGANIZATIONS

APCTO

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Upcoming Events . . .

January 11-15, 2003
(Exhibit Jan. 13-14)

American Correctional Association Winter Conference
Charlotte, N.C.
Visit APCTO at Booth #219

January 12, 2003

APCTO Business Meeting
ACA Conference - Charlotte, N.C.
Adam's Mark Hotel
2:30 - 6:00 p.m.

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