The Committee will meet at 10.15pm in Committee Room 2.

1. **Prison Estates Review (in private):** The Committee will consider lines of questioning for witnesses.

2. **Item in private:** The Committee will consider whether to discuss items 5 and 6 in private, and whether to consider its draft report on the Prison Estates Review in private at future meetings.

3. **Prison Estates Review:** The Committee will take oral evidence from—

   Jim Wallace QC, Deputy First Minister and Minister for Justice and Tony Cameron, Chief Executive, the Scottish Prison Service.

4. **Prison Estates Review:** Committee members will give an oral report of the Committee’s visit to HMP Glenochil and the Audit Committee’s consideration of Scottish Prison Service accounts.

5. **Prison Estates Review:** The Committee will consider its approach to the draft report.
6. **Title Conditions (Scotland) Bill**: The Committee will consider a list of advisers.

Alison Taylor  
Acting Clerk to the Committee, Tel 85195

The following papers are attached for this meeting:

**Agenda items 1 and 3**  
Note by the Clerk (private paper) – TO FOLLOW  
Supplementary evidence from Stephen Nathan  

**Agenda item 5**  
Note by the Clerk (private paper) – TO FOLLOW  

**Agenda item 6**  
Note by the Clerk (private paper) – TO FOLLOW
I attach the following papers:

**Agenda Items 1 and 2**
Correspondence from the Scottish Prison Service in regard to HM Prison Low Moss Report

22nd May 2002

Tony Reilly
Ms A Taylor
Acting Clerk
Justice 1 Committee
Room 3.09
Committee Chambers
EDINBURGH
EH99 1SP

21 May 2002

Dear Ms Taylor

HM PRISON LOW MOSS REPORT

You wrote on 29 April about an internal SPS paper which contributed to the Scottish Prison Service's Estates Review. You asked whether SPS were agreeable to it being circulated to members as a public paper.

I replied on 2 May 2002 to say that this request required consideration of appropriate advice in the light of the rules governing the release of Executive documents. I am now able to respond substantively.

The paper was an internal Scottish Executive document, however, as the paper is now effectively in the public domain, SPS have no objections to it being circulated as a public paper, as you suggest. The paper was one of a number of pieces of work which contributed to the Estates Review and is consistent with its conclusions.

Yours sincerely

GAIL MCKINLAY
Executive Assistant
to the Chief Executive

An Agency of the Scottish Executive Justice Department
Private prisons

An international overview

Both success and failure have befallen the private prison sector. Facing challenges in their home markets, the leading corporate players are engaged in a global game of lobbying, contracting and operating. But are the tough times behind them?

Mixed fortunes have befallen the private prison industry lately. In Israel, long regarded by industry analysts as a potential market, the current minister of justice says that he supports full privatisation of the prison service and the immediate establishment of private prisons.

Meanwhile, South Korea’s Ministry of Corrections has just launched its first prison tendering process, inviting religious organisations, as well as private companies, to bid for a 300-bed facility management contract.

And this month, under contract to the Government of Ontario, Utah-based Management & Training Corporation (MTC) opened Canada’s first privately managed prison at Penetanguishene.

But in Lebanon, the director general of the prison service has taken the unprecedented step of asking the international criminal justice community for help “to frustrate the wishes and efforts of Group 4 and its proponents” who are negotiating with the government to privatise the prison service.

Citizens’ groups have also been taking a stand; in the Kenai Peninsula in Alaska, residents have voted to reject the development of a private prison in their community; and, in Germany, the town of Suhlachtem has forced the Hesse state government to locate a semi-private prison elsewhere.

Public-private mix

In the UK, which already has the most privatised criminal justice system in Europe, Scotland is likely to add to its existing private prison by commissioning two more. In England and Wales, for almost 10 years, only ‘privitised’ or ‘privatified’ constructed, designed, built and run prisons have opened. The next two prisons will also be procured in this way.

But HM Prison Service is now considering combining private finance and construction with public sector management.

According to the director general of the prison service for England and Wales, Martin Narey, the private sector has achieved a “massive step forward” in the flexible use of staff but “they [the companies] have become, in running prisons, a bit complacent. They have not been as imaginative as this prison service has had to become in terms of utilising staff” – and, of course, they have to take a profit out of this. It may be that one or two of them are looking backwards to the days of very high profit margins,” he said recently.

Passion and profits

Criminal justice is, arguably, the most politically charged area of public policy. The private prison industry has grown on the back of a general trend towards privatisation but the philosophical, ethical and constitutional debates about the use and effects of prison – be it public or private – have not yet been fully resolved.

There is also growing concern that the industry has developed largely without scrutiny from international human rights organisations. And not all governments are willing to simply sign up to a 25-year contract for the promised cost savings, efficiencies, solutions to overcrowding, inadequate facilities and alleviating public sector practices.

At the end of the day, we don’t want prisons to be a growth industry. We want the need for prisons to decrease.

As recently as January 2003, New Zealand’s minister for corrections, Matt Robson, said: “There has been an experiment overseas, driven by ideology, to introduce private prisons and it hasn’t worked. The ideology-driven belief that private is better is not suited to our prisons, and this government won’t let New Zealanders become guinea pigs for an experiment here.”

He admitted that his own public system was failing but argued that this was due to the legacy of the former administration. He said that the solution was “not private” but “rethinking the New Zealand system to do its job properly.” He added that “at the end of the day, we don’t want prisons to be a growth industry. We want the need for prisons to decrease by putting resources into crime prevention.”
Although Mr Robson honoured a contract negotiated by the previous administration for Australasian Correctional Management (ACM) to manage the newly-built Auckland Central Remand Prison, he warned ACM that they should "not expect a long life in this field".

Global markets

In the short term, New Zealand may be closed to ACM for further business but ACM's parent company has global aspirations.

ACM is the Australian subsidiary of Fort Lauderdale-based Wackenhut Corrections Corporation (now known as WCC). Since its launch in 1988, WCC has become the second largest private prison operator in the USA. It also claims 37 per cent of the market outside of the USA, promoting what it describes as "its highly acclaimed, comprehensive correctional solutions and diversified services worldwide" and that it is "aggressively seeking further opportunities in economically and politically stable countries".

The private prison industry has grown since the mid-1980s from a few management contracts in the Sun Belt states of the USA to today's multi-million dollar operation spanning several continents.

The USA is still the largest market but privately run prisons are now also operating in the UK, Australia, New Zealand and South Africa.

France, has had 21 semi-private prisons for over a decade. At least six more will be semi-private although no decision has been made about the public/private mix of the remainder of a FF10bn (US$1.3bn) programme that will see 27 old prisons replaced by 35 new facilities by 2006.

Brazil is now experimenting with two mixed management medium security prisons and Chile has embarked on a programme of 10 privately financed, designed, built and maintained facilities in which only the custodial services will be provided by state employees.

In 2000, the Netherlands Antilles government awarded a private contract for the design, construction and management consultancy for a new public facility.

Governments as diverse as Costa Rica, Lesotho, Lebanon, the Netherlands, Thailand and Venezuela are at various stages of feasibility studies or tendering processes. Others, such as Poland, Malaysia and Hong Kong are closely watching developments, particularly in the UK.

Border rivals

WCC, whose parent The Wackenhut Corporation operates in over 50 countries, only has a few strategically placed rivals in the international prison market. Denmark-based Group 4 Falck, whose subsidiaries have prison contracts in the UK, Australia and South Africa, is in 36 countries; Sodexho SA of France is in 70; and British firm Securicor is in 40.

Group 4 Falck has recently bundled its prisons business into a new division called Group 4 Falck Global Solutions, a name that clearly reflects its aspirations.

Securicor described its approach recently as "slightly different from the other companies. We are not going for new business in areas where there is a high degree of interest, such as South America, which appears to be more interested in the French semi-private model. We are looking at markets closer to home. We don't want to contribute to environments where there is a negative culture of prison management. Eastern Europe is not a priority."

And Sodexho's last annual report noted that "the number of inmates in creditworthy democratic countries is estimated at 2.3 million, of which two million are in the USA."

In addition to undisclosed markets in individual countries, between September 2000 and October 2001 the leading private company made a sales pitch to conference delegates and senior corrections officials from Europe, South and Central America, Southern Africa and Pacific Africa and 20 countries in the Asia/Pacific region. But one of the smaller North American companies also have the world in view.

To what benefit?

Earlier this year, following the opening of its first prison management contract outside the USA in Queensland, Management & Training Corporation's president told the Australian media that the company "hopes to run other private jails in Britain, Ireland, Canada and eventually, South America".

And Correctional Services Corporation has tried - but so far failed - to win contracts in the UK and Australia.

As the international marketing and lobbying proceeds apace, the industry continues to suffer from difficulties that currently do not appear in the marketing material and, generally, do not receive international media attention.

Strip away the shroud of commercial confidentiality and, save for being able to control facilities more quickly than the public sector, there is mounting empirical evidence that, overall, the original claims for private prisons have not been borne out.

Operational costs savings - if they exist - are generally at the expense of staff, prisoners and programmes. And there is still no evidence that private prisons reduce reoffending rates.

As for private sector innovation, Corrections Corporation of America (CCA), one of the pioneering companies and still the largest domestic operator in the USA, has been on the verge of bankruptcy and is selling assets in order to reduce its billion dollar debt.

Bad news

In December 2000, in a case arising from incidents in 1996 and 1997, a Federal grand jury found that CCA had a corporate policy of using excessive force to control teenagers at a juvenile detention facility. CCA (but not any longer) in Columbia, South Carolina.

CCA has now pulled out of the international market, selling its UK and Australian operations (UK Detention Services Ltd and Corrections Corporation of Australia...
respectively to Sodexo SA of France, itself a major shareholder in CCA until a few months ago when it sold its stock. Two of the operations in question are now under government control.

In November 2000, shortly after assuming 100 per cent ownership of Corrections Corporation of Australia, Sodexo sold its contracts for the privately financed, designed, built and operated Metropolitan Women's Correctional Centre in Melbourne to the Government of Victoria. Two months earlier the state had used emergency powers and taken control of the prison's management after serious deficiencies in contract performance by Corrections Corporation of Australia.

In England, UK Detention Services Ltd lost its contract to manage HM Prison Blakenhurst in the West Midlands. The HM Prison Service won a market testing exercise to see whether the public sector would be cheaper than the private. To all intents and purposes, the bid won because it was 12 per cent cheaper and 13 per cent higher on quality than the company. However, company officials have also noted recently that 'HMPS have no evidence that treatment or living conditions for prisoners...have at best, stood still since previous inspections, and in some respects have got worse' - in part the Chief Inspector of Prisons informed Home Office for the deterioration process for this particular prison.

More bad news

WCC, meanwhile, has lost contracts in the USA following high profile scandals in Louisiana and Texas, and its operations at HMP Kilmarnock in Scotland have received critical reports from Scotland's Chief Inspector of Prisons. In the Netherlands, Antilles, over 10 per cent of prisoners have been transferred from the notorious Breda prison for which the company is responsible to the operation.

The Wackenell Corporation's recent annual report also noted that, in 2000, its subsidiary 'experienced adverse claims and settlements which directly impact net earnings' and that 'the insurance premiums continue to increase through 2001'.

But the industry has also just been hit by a study that revealed that almost 75 per cent of the large, privately built and operated prisons in the USA have received state, local and/or federal subsidies such as tax-advantaged financing, property tax abatements or reductions, and/or training grants or credits. And all without any evaluation of the supposed economic cost benefits.

So circumstances in the USA make developing the international market even more crucial.

The Federal government is indicating to us that they need even more help as a result of September 11

Better times ahead?

Outside of the USA, both American and European firms are relying on private finance initiatives (PFIs) and public-private partnerships (PPPs) for new prisons and other justice infrastructure, such as court complexes and police stations. The strategy is being heavily promoted to governments on the basis of its success in the USA at a time when, ironically, virtually every flaw in those schemes is being unravelled.

As it seeks to achieve its global presence the industry might say that fines, failures and lawsuits simply go with the territory. But it was all supposed to have been better than public sector provision. As for the industry's ultimate claim - that it is recession-proof - it is now having to face that test also.

Stephen Nathan (stephennathan@compuserve.com) is editor of Prison Privatisation Report International.

www.prisu.org/justice
Victoria's flagship PFI prison sinks

Australia's first PFI prison has been taken back into public ownership after years of problems. Prison Privatization International's Stephen Nathan provides this cautionary tale.

Australia's first privately financed, designed, built and operated prison was taken into public ownership on November 2 2000 after four troubled years. Opened in August 1996, the 125-bed Metropolitan Women's Correctional Centre (MWCC) in Melbourne was also the world's first PFI maximum security prison for women and one of three private prisons which together held around 50% of Victoria's prisoners. It was the flagship of the former Conservative government's 'new era in correctional services.'

The buyout followed the current Labor administration's issuing of default notices to the operators, Corrections Corporation of Australia (CCA) and the subsequent takeover of the prison's management on October 3 2000.

Negotiations with CCA's new owners, Sodicbo of France, led to the parties agreeing to a settlement of $20.2m for the operating and ownership contracts. Until recently, CCA was owned jointly by Sodicbo and Corrections Corporation of America.

According to Victoria's minister for corrections Andre Haeney, the $20.2m deal was "a good one for Victorian taxpayers."

He told Parliament on November 2 2000 that no compensation had been paid to the company and the cost was less than the value of the ongoing payments for the use of the prison had the contracts continued.

"...key issues have been self-injury, assaults between women, at risk assessments, children's issues, medication levels and the misreporting of incidents by the prison..."

Amanda George, Community lawyer and prisoners' advocate

"There wasn't a single cost benefit analysis done. What is certain, however, is that the operation of MWCC took its toll on the workforce and the prisoners.

An Inauspicious beginning

The prison was beset with problems from the start. Within a month of opening, prison officers met with union officials to raise concerns about safety standards, working conditions and the fact that salary levels, at $34,000 ($12,630) per year, were substantially less than their public sector counterparts who earned around $50,000 ($18,680) plus benefits.

Although no default notices were issued for poor contract performance, the company's maximum performance-linked fee was reduced by 20% for the year ending August 1997.

Community lawyer and prisoners' advocate Amanda George has noted that "key issues [in the prison] have been self-injury, assaults between women, at risk assessments, children's issues, medication levels and the misreporting of incidents by the prison. These ... clearly document four years of crescendoing crisis which could and should have been stopped earlier." (Endnote 2)

Endemic problems

Despite the litany of difficulties in the early stages, the prison's last period of operation as a PFI scheme appears to have been the worst, with a range of performance problems which resulted in the government issuing three default notices between May and July 2000.

For example, on July 18 2000, a nine-point default notice was issued to the company. Only four of the points were subsequently complied with by CCA.

Penny Armytage, the commissioner for corrections, found that "the areas in which MWCC remains non-compliant cover five of the most fundamental aspects of the prison's operations."

These problems persisted and Armytage advised the minister that the prison remained vulnerable and that CCA was still in default of its contractual obligations.

Her concerns included prison security, management of 'at risk' prisoners, the control and management of illicit drugs,
In light of these problems, the government intervened under Section 8E of the Corrections Act (Emergency Powers) and the Prison Services Agreement to stabilise the prison pending the long-term resolution of the status of CCA's contract. This followed what the commissioner described as "numerous formal and informal meetings between the department of corrections, prison management and the operator" which attempted to identify remedial action.

On the day of the takeover, the company was still running newspaper advertisements attempting to recruit correctional officers, a recreation officer and a doctor.

CCA fight back

In a statement issued on October 3 2000, Corrections Corporation of Australia's managing director Terry Lawson said that the company had been trying to comply with the changes requested by the government and was seeking legal advice on the situation.

"CCA has been the victim of a concerted campaign by the Victorian minister for corrections who has gone on record as saying that he does not believe in private prisons," he said. "There is no reason for the Government to claim 'step in' rights. There is no emergency and the prison is operating efficiently and peacefully." Lawson would have been hard-pressed to prove his point: two other PFI prisons in Victoria, run by Group 4 and Wackenhut Corrections Corporation's Australian subsidiary Australian Correctional Management (ACM), have not been targeted for takeover, in fact, ACM's prison is being allowed to expand and one of the first acts of the new Labor administration was to sign a PFI contract with a consortium including CCA for a bespoke court complex in Melbourne.

The commissioner's report

The basis for the government's decision to take control of the prison was a report on CCA's contract non-compliance dated September 13 2000 by Armytage and her staff. (Endnote 3)

The report stated that MWCC was a troubled prison during its fourth performance year (August 1999-August 2000). This was characterised by the following:

- an unacceptably high number of prison incidents;
- a disproportionate number of prisoners being classified as Protection Prisoners;
- up to 29% of the prison muster (the industry norm is 20%) being held in the overcrowded protection unit where access to work programmes, education and recreation have all been minimal;
- poor performance against its Prison Operations Service Delivery Outcomes (SDOs).

In 1999/2000, the levels of attempted suicide/self-mutilation were more than double the maximum allowed benchmark [9.7% per 100 receptions compared with a benchmark of 3.8%]. Prisoner assaults on staff were also almost double the benchmark [19 per 100 prisoner years compared with a benchmark of 10]. Prisoner-on-prisoner assaults were over the maximum accepted [45.3 per 100 prisoner years compared with a benchmark of 30]. Also, there was an illicit drug rate of 8.7% compared with a benchmark of 8.3%.

The 1999/2000 results were the worst for each category in the prison's four-year operation which, according to the commissioner, "clearly demonstrates an inability by the prison to implement strategies to ensure the welfare and safety of prisoners and staff."

The commissioner stated that the nature of the difficulty appears to be a collective result of inconsistent management practices and poor leadership at the facility since the resignation of the then general manager in July 1999; lack of operational procedures, guidelines and on the job support and training for staff; staff shortages and budget constraints; and, poor prison design.

She continued: "Despite CCA's repeated assurances that its remedial actions would ensure that the service deficiencies would be identified and addressed, OSCC (Office of the Correctional Services Commissioner) has assessed that both CCA and MWCC management fail to appreciate the full range of their contractual obligations."

The commissioner believed that too many of the improvement strategies were "implemented by the deployment of resources from existing functions. Rarely are additional resources or new efforts deployed." This had led to compromises being made "to less pressing functions in order to address more glaring deficiencies."

A flawed framework?

However, it is not simply the case that the women's prison's operation failed to live up to expectations. The
"Although the Panel recommended changes...it also concluded that even the best of contracts will neither provide sufficient safeguards against poor operational performance, nor incentives for innovation."

NOTES


This report can be found online at www.justice.vic.gov.au

FEBRUARY 2001

THE PFI REPORT (WWW.PFI-ONLINE.COM)
PFI and Europe’s most privatised criminal justice system

In the first of an occasional series which will investigate the controversies surrounding PFI, Stephen Nathan and Dexter Whitfield present this critique of PFI prisons.

When Her Majesty’s Prison Agecroft opened for business in Salford in January, it became Britain’s sixth operational prison commissioned under PFI. If all goes to plan Agecroft will be run for 25 years by UK Detention Services Ltd (UKDS), a joint venture of Corrections Corporation of America and Sodexho Alliance.

Although the company and its American parent pioneered prison privatisation here in the 1980s, UKDS only manages one other prison for the Prison Service and Agecroft is its first PFI contract. The company’s share of the UK criminal justice market lags behind its competitors.

But Agecroft’s opening has more significance than the effect on UKDS’ growth. It further consolidates the UK’s position as having the most privatised criminal justice system in Europe. PFI is at the cutting edge of this transformation.

Recently, the spotlight has fallen on whether the PFI is suitable for hospitals, railways, the London tube system - not to mention the recent Passport Office debacle. However, there has been little public debate about the long term implications for jobs, services and criminal justice policy generally if prisons, courts, police stations and other infrastructure and services are funded as PFI schemes.

Chango of heart

In opposition, Jack Straw found private prisons “morally unacceptable”. Nevertheless, within a week of becoming Home Secretary he agreed to sign two new PFI prison contracts. By May 1998, Mr Straw had announced that all new prisons would be privately financed, designed, built and run, creating a potential market not considered by the industry even during Michael Howard’s term as Home Secretary. In April 1999 Martin Narey, the then director general of the Prison Service declared that “…the arguments about whether the private sector can run a decent prison are over.”

The PFI debate continues

In fact, these arguments are far from over. Within weeks of the director general’s assertion, answers to Parliamentary Questions revealed that HMP Parc, the first PFI prison commissioned by the Tories and opened in November 1997, suffered from serious operational problems. It had been penalised £509,213 and was receiving special Prison Service managerial attention. Parc now has its fourth director in three years. The operators of three other PFI prisons have also been penalised for contract failures.

The Prison Service has tried to pass these problems off as teething troubles but the pattern has been repeated in new privately run prisons in the UK, Australia and the United States. A ‘flagship’ public/private partnership to run the industrial workshops at HMP Coldingley in Surrey ended after just one year. It had been argued that private finance was the only way to secure the operation’s future. But the promised services did not materialise. The contractor, Wackenhut UK Ltd, lost money, the contract was terminated and the operation reverted to the Prison Service.

Operational weaknesses aside, critics of prison privatisation have consistently raised moral and ethical objections to this core function of the state being outsourced. With contracts and operations shrouded by the cloak of commercial confidentiality, public accountability has been replaced by the prison companies’ primary duty to their shareholders. Critics will argue that it is no coincidence that the Home Office has failed to commission an ongoing independent academic evaluation. There are even those who would say that discussing privatisation simply avoids the more fundamental debate about whether prison actually works.

The penetration of PFI

Scotland has one 600 place private prison. In England and Wales there are now five privately financed, designed, built and run prisons operating on 25 year contracts with a normal capacity of 3,100 prisoners. The Net Present Value of these contracts is £976m. Two more PFI prisons with 1,400 places are scheduled to open in August 2000. At least another four are at early stages in the planning process.

Prisons minister Paul Boateng stated last December that, in order to avoid prison overcrowding in England and Wales over the next three years, an additional 6,000 place would be required at an annual cost under the PFI of around £195m. Meanwhile, the Prison Service is projecting an adult and young offender prison population of between 88,900 and 75,600 by 2005. At the end of January 2000 the prison population was 63,761.

Then there are the children. Three PFI Secure Training Centres for 12-1 year old persistent offenders are operating and another two are planned. Youth offending promises to become a major segment of the market.

Prisoner escort and electronic monitoring services are also privately run. In public sector prisons, non-custodial services such as education, shops and industries have been outsourced and the PFI must be used for any new infrastructure. Some of the other larger Home Office PFI projects include police stations, divisional headquarters, air support and firearm training facilities, and immigration detention centres. PFI...
projects at different stages in the Lord Chancellor’s Department include Crown, Family and Magistrates’ Court complexes in which the service provider will not only provide accommodation but also operate and maintain court buildings and their services including security, reception, portering, catering and reprographics for 25 years. Both agencies also have major IT and telecommunications infrastructure projects.

As the PFI penetrates further into the criminal justice system, the issue of who owns, runs and works in prisons, police stations and court complexes and who has access to sensitive information about a vulnerable and increasingly large section of the population is less about balance sheet accounting methods and more about how a civilised society operates.

PFI not the answer
What is not in doubt is that the criminal justice system requires new funding. The danger, however, is that the overriding issues are being submerged by arguments about how to make the PFI work when an alternative, cheaper, more accountable strategy is staring everybody in the face. It is called public sector borrowing.

There is widespread agreement that public sector capital spending could be increased substantially yet remain within the Maastricht convergence criteria. Adoption of the General Government Financial Deficit (GGFD) would allow public bodies to borrow for investment against future revenue.

Unfortunately, given the composition and terms of reference of the Institute for Public Policy and Research’s (IPPR) recently launched Commission on Public Private Partnerships, that body is unlikely to conclude that the government’s PFI strategy is fundamentally flawed. In the 18 months that the Commission takes to deliberate, millions of pounds worth of new PFI contracts will be signed.

The Commission’s remit includes expanding the role of the private sector in the delivery of core public services. But the idea that the PFI can help to deliver wider public policy objectives such as poverty reduction, social inclusion, equity and prisoner rehabilitation is questionable. As PFI is extended across the public sector it will create a two-tier system of competing privately and publicly owned and operated facilities.

There are other criticisms and concerns. PFI is essentially a political and ideological tool which has major ramifications for the form, operation, control and accountability of the criminal justice system. The PFI is entrenched in financial audit, discount rates and risk transfer. While the economic assessment of projects is vitally important, proving or disproving value for money is only one part of the equation.

Even so, claims about PFI offering value in terms of financial savings should be challenged. The criteria used by the Treasury’s Project Review Group, the National Audit Office (NAO) and the Public Sector Comparator ignore equality, employment, environmental sustainability and socio-economic factors. Hence they do not take into account the deeper and wider implications of PFI projects.

Evaluation is flawed even in financial terms because it is limited to investment appraisal, value for money and does not assess the full public sector cost of projects. A rigorous Best Value assessment of PFI projects, together with a social and economic audit, would expose these shortcomings.

Meanwhile, the concept of the private sector owning and managing the criminal justice infrastructure but stopping short of providing core services is untenable. Consortia have an economic interest in the performance of core services and are also likely to want to expand the range of services they provide.

Control?
Once private interests control the management of facilities they are in a powerful position to influence public policy. Furthermore, the PFI does not simply replace public with private finance but ensures the privatisation of the development process and the disposal of surplus land and property. This enables finance capital to extract higher returns from public services than they would otherwise.

The PFI process also undermines democratic accountability. Commercial confidentiality is used to prevent the release of detailed public interest information. Deals are being signed of which MPs and taxpayers have virtually no knowledge or understanding. The recent evaluation of 29 PFI projects by Arthur Andersen and the London Business School noted this criticism, but side-stepped the issue [see Whitehall, page 10].

The public sector has always borne the risk of changing needs and demands for services and facilities, although it has frequently been exploited by construction cost overruns. But, under PFI, risk is commodified so that it can be identified, allocated and priced. The private sector is increasingly setting the terms for risk transfer to its own advantage.

It is ironic that while the government is set against increasing public borrowing, it is quite willing to accrue multi-billion pound debts to PFI consortia which will have to be repaid from future revenue budgets. The cumulative impact of PFI revenue payments will mean future governments may have to raise taxes, impose charges for services which are currently free, and/or cut spending on non-PFI services in order to make guaranteed payments under PFI contracts.

Conclusion
Clearly, within a modern criminal justice system there is a need to plan for needs and redesign how services can best be delivered for the future. But infrastructure and services defined within the confines of the PFI serve a narrow vested interest rather than the greater public good.
New Brunswick deal costs more

The Province of New Brunswick's contract with Wackenhut to finance, build and maintain the Miramichi Youth Facility costs taxpayers more than if the project had been publicly financed (see PPRI #2, 7 and 16).

The Auditor-General, Mr Daryl Wilson, has found that the Wackenhut deal carries an overall extra cost of CS$404,379 rather than a Government-claimed saving of CS2.8m. It costs an extra $700,000 to have the project financed through Wackenhut rather than with Government borrowing, although construction costs are cheaper.
US: Correctional Services Corp. exposed

Correctional Services Corporation (CSC) held ten juveniles beyond their scheduled release dates in order to increase its income from the State of Florida. CSC was formerly known as Esnor (see PPRI # 3, 14, 21 and 24).

An independent monitor, assessing the CSC-run Pahokee Youth Development Center for the Department of Juvenile Justice in October 1998, found a memo written by a CSC official ordering that 10 residents should be kept for an extra five days beyond their scheduled release date.

This would have increased the facility’s capacity on the day the State was due to calculate payments to the company. This is done twice a year on the basis of an average daily ‘head count’.

At $68 per day per resident, the overpayment would have Damounted to $3,400. The company also receives payments from the local education authority.

The monitor also found that in July and August 1998, 11 boys had suffered broken bones, but CSC only had records of five incidents.

In December 1998, the American Civil Liberties Union (ACLU) of Florida filed a public records request asking CSC for 18 items, including personnel records, records of complaints made by the boys, a schedule of release dates and details of the income earned from keeping residents beyond their release dates. The aim of the lawsuit is to find out if further contract violations have taken place.

A CSC executive has said that the attempt to obtain overpayments “will never happen again”. But the company has so far refused to supply the ACLU with the information requested on the grounds that it should not be in the public domain. Florida’s Department of Juvenile Justice has asked the company to comply with the ACLU’s request.

Ongoing problems

CSC took over the former maximum security facility for adults in January 1997. Within a year, judges ordered the removal of some boys after complaints of shackling, extended solitary confinement, abuse from staff and inadequate mental health treatment.

Eighteen staff have been fired or disciplined for using excessive or improper force and allowing boys to fight.

The State has also been concerned about inadequate training and staffing ratios for over a year and, in September 1998, sent CSC a written warning.

The company responded by including all staff in mandatory overtime rather than asking the staff normally assigned to the area with the shortage. Staff are now forced to work a double shift if co-workers are absent.

On 2 December 1998, 40 staff staged a protest against the new overtime policy.

Now in the UK and Australia

CSC manages facilities with some 10,000 beds in the US. In 1998, CSC extended its operations to the UK but failed to make the short list of preferred bidders for a prison contract in East Staffordshire. In Western Australia, the company is being considered to build and run a new prison at Perth.

A Federal judge in New Jersey has ruled that Esmor Correctional Services Inc (CSC as was), its officials and Immigration and Naturalisation Service (INS) officials cannot be exempted from a lawsuit for damages brought by 19 former detainees at the company’s Elizabeth Immigration Detention Center (see PPRI #3, 14 and 21).

Both the company and the INS had argued that sovereign immunity laws protected them from being sued for human rights violations. US District Court Judge Dickinson Debevoise released the INS from the case but not INS officials or Esmor.

He ruled that the 1789 Alien Tort Claims Act, which has been used for cases of human rights violations outside the US, applies to cases in the US.

In 1995, following a riot by detainees over degrading conditions and abuses by Esmor staff, the Elizabeth facility was closed. The INS took some responsibility for the problems but cancelled Esmor’s contract.

UNITED KINGDOM

‘Three strikes’ ... more prisons

Domestic burglars convicted of a third offence will receive a mandatory minimum three year sentence under a new policy announced by the Government in January 1999.

This will come into effect later this year and will eventually increase the prison population in England and Wales. This is despite the Home Detention Curfew scheme under which some 4,000 other offenders will be released early in order to be electronically tagged by private companies (see PPRI #24).

It could also create the need for more prisons. Since all new prisons in England and Wales are to be privately financed, designed, built and run this could allay the private sector’s fears about future prison contracts.

At a privatisation conference in New York last September (see PPRI # 21 and 24), Mr David Kent, head of the Prison Service’s Contracts and Competition Group said that, in England and Wales, there are no new prisons planned beyond the current programme and that when all those prisons are open, about 10 per cent of the prison population will be in privately managed prisons.

But in evidence to the Home Affairs Committee in November 1996, Group 4, Premier Prison Services and UK Detention Services (UKDS) all said that they would like to see between 20 and 25 per cent of the entire prison estate shared among three to five companies.

Recent contract awards mean that Group 4 and Premier Prison Services Ltd (Wackenhut and Serco) are increasing their dominance of the UK ‘market’. Some companies would argue that a more equal distribution of new contracts is required.

In December 1998, the Prison Service announced that Group 4, along with its construction partner Tarmac plc, is the preferred bidder for a £154m contract to finance, design, build and run a new 600 bed prison for adult males at Onley in Warwickshire.

Premier Prison Services Ltd and construction partner Kvaerner is the preferred bidder for an 800 bed prison, including a 200 bed therapeutic regime, for adult males at Marchington, East Staffordshire. The contract is valued at £240m.

Both contracts are expected to be signed in March 1999. The prisons are expected to open in 2000.

Group 4 now has contracts for two DCMF (design, construct, manage, finance) prisons and two DCMF Secure Training Centres as well as managing two other prisons, two immigration detention centres and operating four regional prisoner escort services.


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Premier Prison Services has three DCMF prison contracts in England and one in Scotland, a DCMF Secure Training Centre, as well as managing one prison, operating two regional escort services and an electronic tagging contract.

Wakefield (UK) Ltd runs an immigration detention centre and is about to relinquish a contract for industrial services at one publicly run prison.

Lagging behind are UK Detention Services Ltd (CCA and Sodexho), which only has one DCMF prison contract and manages one other prison, and Securicor which has just one DCMF prison contract, although it operates one regional prisoner escort service and two regional electronic tagging services.

Securicor is currently carrying out research into the prison systems of 30 countries with the highest Gross Domestic Product. The aim is to produce an in depth market research plan.

Group 4 child centre crisis

"Group 4 has spent considerable time and effort setting up this contract with the Home Office. We have looked together at best practices ... there will, inevitably, be critics of Medway ... what such critics fail to point out is that the major cost of at Medway is on education, which is what most of the youngsters badly need, and that is reflected in Rebound ECD's name ... Education, Care and Discipline." - Group 4 Securitas International Magazine, No 26, 1998.

"There can be little doubt that Medway STC is facing a crisis. Although many new secure units face significant difficulties in the early months after opening, the problems experienced in the STC surpass most ... a major theme running through this report is about what we judge to be the inadequacy in numbers and competencies of the staff group ... we did not believe that the organisation structure of the STC is ideally suited at this stage to delivering the objectives of the service." - Government Inspection Report, January 1999.

Medway Secure Training Centre (STC) for 12-14 year old persistent offenders was inspected by a team of social services, prison and education inspectors in September and October 1998. Their report was published on 14 January 1999. The STC, which opened in April 1998, is run by Group 4 subsidiary Rebound ECD Ltd (see PPRI # 16-23 and 25).

The inspectors made 38 recommendations for immediate and urgent action. Their findings included:

- restraint had commonly been used as a primary means of control. On a number of recorded occasions this had led to injuries being sustained ... not all of these incidents were recorded in an appropriate way. Wrist and neck locks were used in restraint. These methods have been criticised by the medical profession as being potentially injurious to young people ... they were also in contravention of the STC rules;
- virtually all staff were unqualified, (apart from successfully completing the STC's own training programme) and a significant majority were inexperienced in working with young people;
- senior managers had lost sight of the 'big picture' and insufficient attention was given to prioritising and acting on the areas vital to the success of the project and the safety and security of the trainees;
- managers did not appear to be aware of some of the procedural requirements necessary to manage complex situations eg, self harm, suicide and self harm prevention, and bullying ... these were major failings;
- there were significant defects in the management of bullying, self harm and detoxification;
- action plans with associated monitoring activity were not in evidence;
- explicit sexist and racist attitudes were not dealt with;
- two senior managers and 30 per cent of the remaining operational staff had resigned within the first six months;
- 21 staff from other Group 4 facilities had been drafted in help run the STC, including a 12 person 'restraint squad';

no systematic risk assessment was carried out;
- throughout the inspection there were numerous instances in which good order had broken down;
- the quality of education provision was unsatisfactory;
- programmes aimed at diverting trainees from reoffending had simply failed.

Company fined but wins another contract

The company claims that it has made improvements since the inspection. The inspectors and the Home Office will monitor progress. The Government has ignored calls from penal reform organisations to close the STC.

Rebound ECD Ltd, has already been fined £5,869 for contract failures. Last November, the Government asked the company to take urgent action to address problems at Medway. Mr Paul Boateng, Home Office Minister, said that "we expect Rebound to deliver to these young people in conditions in which their welfare and public safety are secured. Nothing less will do."

In December 1998, the Prison Service produced a draft protocol for providing emergency public sector assistance to Medway to provide "the prompt, effective resolution of a specific incident and the return of command to contractors at the earliest opportunity." Rebound will have to pay for such assistance.

The protocol suggests using "authorised Control and Restraint basic and advanced techniques as appropriate in the resolution of the incident. An officer, in dealing with a trainee [the term used for children held at Medway] shall not use force unnecessarily and, when the application of force is necessary, no more force than is necessary shall be used..."

Medway is the first of five proposed STCs and Group 4 has already been awarded a second contract. Medway's Director, Ms Sue Clifton, is to advise the Government's new Youth Justice Board for England and Wales on how best to deal with young offenders.


Wackenhut pulls out

The privatised industrial functions of HM Prison Coldingley, south of London, are being transferred back to the Prison Service on 1 February 1999 (see PPRI #23 and 25). Staff who became Wackenhut employees on 1 November 1997 will once again become public employees.

The cost to taxpayers of the failed venture and the financial details surrounding Wackenhut (UK) Ltd's withdrawal from the contract have not been disclosed. But it is thought that Wackenhut's losses have been around £40,000 per month. The company owes the Prison Service £52,500, half of an interest free loan, plus payments for utilities. The Public and Commercial Services Union, which represents the 28 instructors, is owed more than a year's union subscriptions deducted at source from members' wages by Wackenhut.

Last October, Wackenhut gave six months' notice that it intended to withdraw from the contract. Mr Julian Le Vay, the Prison Service's Finance Director, told Public Finance that Wackenhut was making losses. "They said if we could rearrange the contract so that they didn't make those losses then they might still be interested. But I did not have the strong impression that they were very keen to remain in this."

Prison shops to go

The Prison Service is considering contracting out 103 prison shops - known as canteens - and the provision of physical education and sports classes in over 30 prison gymnasias.

Some 26 prisons have already contracted out their shops. The Prison Service has identified cost savings but prisoners have complained about immediate price rises.

At Group 4-run HM Prison Buckley Hall, in north west England, the Board of Visitors Annual Report for 1998 stated that: "Aramark have now been contracted to provide the canteen and shop facilities. The first three months were problematic, mainly due to lack of staff because of the three months taken for security checks prior to their appointment. However, the staff are now in
place and the canteen shop and the issue of goods seem to be working well with fewer complaints. There may be problems ahead: we understand that prices are being increased in stages to the recommended retail price and this will no doubt cause some complaints by inmates in the future.”

...and ball hostels

One of the largest ball hostels in the Government’s national network of 101 bail and probation hostels is to be put out to tender.

The plan is to test whether “a private or voluntary partner could provide or run an approved hostel to at least the same standard at lower cost” and to challenge the Probation Service’s arguments about the level of resources needed to provide a safe and effective service.

The first hostel to be market tested is in London. It has been chosen due to its proximity to courts where prisoner escort services are already privately run.

The Home Office announcement came in the same week that the Chief Inspector of Probation praised the work of probation and bail hostels.

The Labour Government’s plan to privatise bail hostels was first considered by the then Tory Government in the 1980s. By October 1989, new companies had been formed specifically to build and run prisons, borstals, halfway houses and other detention, remedial or after care facilities. In 1991, the Criminal Justice Bill was amended to enable bail hostels to be contracted out.

Inquests into Doncaster deaths


Michael Arliss, a remand prisoner accused of murder, hanged himself with a bedsheets tied to bars in his cell on 23 March 1998, after watching a film with other prisoners.

“The Chamber”, a rented film, featured a man facing execution in an American prison after failing to clear his name for a murder he did not commit.

During the inquest, the Coroner, Mr Stanley Hooper, told the director of the prison, Mr Kevin Rogers, that he was “... somewhat concerned about the fact that entertainment relating to long term prisoners awaiting execution and being sent to their deaths is being shown to prison inmates.”

Mr Rogers replied that “Mr Arliss could have chosen not to watch the film ...censorship rules are strictly observed by the prison. What may not upset one person may upset another...”

During the inquest on 17 year old John Scarborough who was found hanging in his cell on 17 April 1998, Mr John Hillman, the prison’s operations manager, said that he had been concerned for the prisoner’s welfare and was critical of nursing staff who had returned him to his cell.

The other inquests concerned Mark Hutton, 18, who was found hanging from a cell window handle and 33 year old John Standeven, who died while on a 15 minute watch.

December hangings

Two suicides in four days in December 1998 have brought the number of deaths at Securicor’s HM Prison Parc, in Wales, to four since the prison opened in November 1997 (see PPRI #18-21, 23 and 25).

Delwyn Bishop-Price, a 30 year old remand prisoner and 19 year old Michael Rooker were found hanging in their cells. Investigations into the deaths have been started.

At Group 4’s HM Prison Altcourse, near Liverpool, Jonathan Allan, an 18 year old remand prisoner was found hanging on 14 December. At HM Prison Doncaster, Wayne Thomas, a 23 year old remand prisoner, was also found hanging.


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Another US company in the UK

GGSC Europe Ltd, which was awarded the electronic tagging contract for southern England last December, is owned by General Security Services Corporation of Minneapolis.

The company is a major provider of electronic monitoring services and has revenues of almost $100m per year. In the US, it provides court security officers and screening services to government agencies.

Its Alternative Monitoring Services Division has contracts in 30 states. The company's website boasts this glowing reference from a customer: "They do what they say they'll do and frankly they're fun to work with."

UNITED STATES

Cornell 'teething' in Georgia

Georgia's first privately financed, designed, built and run prison has been criticised by state officials just two months after opening.

The medium security D Ray James State Prison in Charlton County run by Cornell Corrections Inc opened in October 1998.

In November and December inspectors found lax security and filthy conditions. They reported inadequate medical facilities, non-certified personnel patrolling the perimeter, security lapses, poor record keeping and inadequate tracking of prisoners. On some days, staff had no idea how many prisoners were supposed to be in the areas they were supervising.

The company attributed the problems to taking in prisoners too quickly and has assured the Department of Corrections that the facility will be run like a state prison. Cornell is receiving $45.13 per prisoner per day, some $13 less than the state spends at its own prisons.

Mr Lowell Hudson, the prison warden, has already been transferred to open another Cornell facility in California although he has stated that the move had nothing to do with conditions at Charlton County. "I'm doing bigger and better things for Cornell. Cornell is expanding like a son of a gun," he told the Atlanta Journal-Constitution.

The contract allows for 750 prisoners to be held at the facility but the company plans to double the size in anticipation of the state needing more capacity.

Second conflict case for Thomas

A second conflict of interest complaint has been filed against Dr Charles Thomas, the criminologist who runs the influential Private Corrections Project at the University of Florida (see PPRI# 13, 21 and 25).

Dr Thomas has been regarded as a leading independent authority on prison privatisation. But Dr Thomas, whose consultancies have included government agencies and whose research is used by stock market analysts, receives project funding from corrections companies. He also owns some 30,000 shares in CCA worth around $600,000 and he is a paid Board member of Prison Realty Trust. His website includes a weekly stock market report on publicly traded corrections firms.

Wackenhut Corrections Corp now refuses to provide company information for Dr Thomas's noted annual census.

The Florida Police Benevolent Association (FPBA), the union which represents state employed corrections officers, made the first complaint.

Now the FPBA alleges that, in the light of the Ethics Commission investigator's findings of probable cause on two aspects of the first complaint, a further conflict exists since Dr Thomas is receiving $3m in consultancy fees to advise on issues relating to the merger between Corrections Corporation of America and CCA's Prison Realty Trust (see PPRI# 25).

Meanwhile, the FPBA's first complaint has still not been settled. A hearing is due to take place on 19 May 1999 as negotiations between Dr Thomas and the Attorney General's office failed to agree a settlement thought to include a financial penalty of several thousand dollars and

Dr Thomas selling his company shares.

Nurse takes on CMS

Correctional Medical Services Inc, the largest private correctional health care firm in the US, is being sued by a nurse who alleges that she was suspended without pay for refusing to alter her medical notes relating to events leading up to a prisoner’s death.

The company featured in a major investigation into prison health care last year (see PPRI #25).

Ms Janie Kushneruk, a registered nurse employed by CMS at the Macomb County Jail, Michigan, where the company runs the infirmary, is alleging that CMS demanded that she change her medical notes on Larry Golson, a prisoner who died on 5 December. Ms Kushneruk alleges that she was suspended without pay because of this. The company denies the allegations.

Another gap in the market

An increasing number of ageing prisoners serving longer sentences require more specialist and expensive services. This, in turn, is creating a new niche market for private medical prison companies which believe that they can offer fixed-rate specialist care more cheaply than the public sector.

Just Care Inc of Alabama has recently opened the Columbia Care Center, a 326 bed private medical prison in South Carolina and it plans to open another 14 facilities in south eastern states in the next five years.

Corrections National Corp of Texas is opening a 700 bed facility in Clearfield County, Pennsylvania in 2000 to provide nursing home and hospice services for prisoners in north eastern states. The company wants to open a further four 500-1,000 bed facilities in the south west and south east United States.

Both companies are developing their facilities without contracts from public authorities. But they believe that the demand for their services already exists and will grow. According to research carried out at South Dakota University College of Nursing, an elderly prisoner can have the body deterioration usually associated with a non-incarcerated person ten years older.

Recent estimates also show that there could be more than 225,000 prisoners over the age of 50 by 2005.

AUSTRALIA

Another Victorian adult prison?

The Government of Victoria, which already leads the world with 45 per cent of its prisoners held in three private prisons, is considering commissioning another 600 bed private jail for adult males.

According to the Australian Bureau of Statistics, Victoria’s prison population grew by 11 per cent in the last financial year, although the crime rate only increased by one per cent. The Premier, Mr Jeff Kennett, says that tougher sentencing policies have led to higher incarceration rates. He has considered adding an extra wing to an existing private prison but, in order to cope with demand, he believes that a new facility is needed.

... and a private youth facility?

The Government of Victoria has launched a feasibility study into establishing a private youth training centre. Existing facilities are outdated and overcrowded and there is an increasing number of young male offenders in custody. The Minister for Youth and Community Services

said there was a need to ensure that low risk youths between the ages of 17 and 20 are kept out of the adult prison system. Liberty Victoria and a range of other organisations have criticised the idea.

**Port Phillip's poor food services**

A consultant's confidential report on food services at Group 4-run Port Phillip Prison near Melbourne has revealed that drugs have been found in the kitchen, knives and other items stolen and contract catering staff assaulted by prisoners.

Seven catering staff supervising 30 to 35 prisoners in the kitchen were working in an insecure environment. The staff were too intimidated to confront prisoners over thefts and drug matters.

P&O Services, which has the contract to provide catering at the prison, has rejected the consultant's findings.

The trade union representing Group 4 staff first raised the issue of kitchen security and the lack of a supervising officer with Port Phillip management in March 1998.

- The report is part of an Audit Victoria review of all aspects of the state's prison system.

**Victoria courting consortia**

Three consortia have been short listed for a contract to finance, build, own and operate a new Victorian County Court Complex and provide ancillary services in Melbourne.

These are: the Liberty Group comprising Multiplex Constructions Australia, ABN/AMRO Australia Ltd and Rothschild Australia Ltd; County Court Consortium, comprising Sercos, Baulderstone Hornibrook, Macquarie Bank Ltd and Becton Corporation Australia; and Australasian Court Services, comprising Thiess Contractors, Australasian Court Management Ltd and Commonwealth Bank of Australia.

The private sector could potentially be involved in non-judicial aspects of the operation of the County Court complex such as court user management and security services, information technology, custodial management and various miscellaneous services.

The possible privatisation of court transcription services has been criticised by the State Opposition on the grounds of the threat to privacy.

**Western Australia undemocratic**

The Government's Request for Proposals to build, own and run a 750 bed prison at Wooroloo South, Perth (see PPRI #25) excludes a public sector bid, denies public consultation and calls for submissions from companies before Parliament has even debated legislation enabling privatisation.

According to Paul Moyle, a senior lecturer at the University of Western Australia, the Request for Proposal states that should enabling legislation not be passed, alternative administrative arrangements will be made. He refers to the Government's strategy as "private sector involvement by stealth and an insult to parliamentary democracy."

Even though three consortia have been short listed, the Government claims that it is not committed to contracting the prison to a private company and that private sector bids will be compared with public sector benchmarks.

The Opposition Labour Party is arguing against private prisons due to the commercial secrecy that surrounds them.

- The two new consortia which failed to make the short list of bidders for Wooroloo South were: Western Australasian Custodial Services comprising ANZ Investment Bank, Securicor, Consolidated Construction, Obayashi Corporation and an unnamed group of architectural and engineering consultants, and the Patron Consortium, comprising Chubb Security Australia Pty Ltd, Lend Lease Property Services Pty and the Banque Nationale de Paris.


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CCA wins WA escort contract

Corrections Corporation of Australia (CCA) has been chosen to negotiate a five year contract to provide prisoner escorts between prisons and courts, the operation of some police cells and court custody centres and the provision of in-court security services throughout the state.

CCA will also carry out structural improvements to a number of buildings. The contract is expected to be phased in over six months starting in April 1999. The police will continue to operate services in remote areas.

The Attorney General said that "the contracting out of non-core justice services is in line with the State Government’s law and order policy and our commitment to improving public safety."

Containment takes new meaning

Sea container firms are the latest to join Australia’s prison industrial complex. In Western Australia, the Government is to house 48 maximum security prisoners in 24 modified steel sea containers to reduce prison overcrowding.

The prison population - now at 2,600 in prisons with a capacity for 2,160 - has increased 60 per cent in the last three years due to tougher sentencing policies. Many fine defaulters and minor offenders are held in maximum security prisons.

Aboriginal and prisoner advocacy groups have condemned the plan.

Union takes on Wackenbut

The Miscellaneous Workers Union has accused Australasian Correctional Management (ACM), Wackenbut’s Australian subsidiary, of unfair work practices at the Port Hedland Immigration Detention Centre, at Perth (see PPRI # 14 and 21).

The union claims that the company has replaced trained detention officers (known as fly-in, fly-out staff) with less well paid, inexperienced local people. ACM took over the centre in December 1997. Of the original 30 staff recruited, only four remain.

Staff have complained about health and safety issues and the union has had to apply to the Australian Industrial Relations Commission over ACM’s non-payment of wages for overtime.

One former officer told the West Australian that “When we joined the company we were told that because of the size of the company and where it was going, we were going to be sucked up into the vortex of success. I didn’t realise they meant blown off.”

ACM Detention Services recently undertook its first major overseas removal of illegal immigrants. According to Wackenbut’s All Points Bulletin, Fall 1998, “a total of 29 former residents of the Port Hedland Immigration Reception and Processing Centre were airlifted by charter flight and were returned to the Peoples Republic of China. Although the pace was hectic and the entire operation was completed inside 30 hours, all staff who participated shared a unique experience.” The report also noted that “ACM Detention Services has previously provided escorts for small groups of people scheduled for transport by commercial flight to a number of countries throughout South East Asia, the Middle East and Europe.”

NEW ZEALAND

Government evaluating

Mainzeal Property and Construction Ltd, part of the Chinese Richina Pacific Group, is the preferred bidder to build the Auckland Central Remand Prison (see PPRI # 23 and 25).

The prison will be built next to the existing Mt Eden facility and completed in 2000.

The Department of Corrections is now evaluating tenders, including an in house bid, to manage the new prison. Two more prisons are planned for the Northland and Greater Auckland areas.

DEBATE


20/05/2002
In Britain, Australia and the US, trade unions are recruiting staff in private prisons. Is this a true anti-privatisation strategy or simply good business sense? In this article based on recent experience in the US, Brian Dawe, Director of Operations for Corrections USA (CUSA) argues that unionising in the private sector undermines the fight against privatisation.

CUSA promotes a zero tolerance policy towards prison privatisation. Trade unions that recruit staff in private prisons are hypocritical. How do you negotiate for job security of your members today and attempt to put their employers out of business tomorrow? It just doesn’t wash unless you are more concerned with dues than with the profession.

In 1994, it was reported that AFSCME (American Federation of State County and Municipal Employees), had launched a new campaign and was going to “fight like hell” to stop prison privatisation. But AFSCME, as a union, is in the business of self perpetuation. They are about union dues and have a misguided ‘strength and numbers’ ideology.

I believe there is strength in numbers only when you share common interests. What they really mean is strength through dues dollars.

AFSCME already represents some staff in at least three private prisons. Last August, the union resolved “that to reduce the incentive to contract out, AFSCME will explore opportunities to represent workers employed by private companies and not-for-profit agencies ...”

How do you do that and pretend to be against privatisation? How do you organise employees in these facilities? Do you say come, join us, we are fundamentally opposed to the very job you do and want to run your employer out of business?

In New York, at least one AFSCME official sits on the State’s Comptrollers Advisory Committee which invests state employees’ retirement funds.

In 1997, the fund purchased shares in Corrections Corporation of America (CCA). AFSCME did nothing about it for more than a year while the retirement fund of the very officers they represent was being spent to help the privateers succeed. AFSCME only sought divestiture after they were pressurised to do so.

In December 1998, the fund sold its CCA shares - but not because of its concerns about privatisation. The fund now owns shares in Wackenhut. All this time, one AFSCME local has been fighting CCA’s plan to build a 1,000 bed prison in Fallsburg, New York while others have been involved in similar campaigns.

Is this how you fight privatisation, by investing your members’ money in the very companies that threaten their livelihoods?

Now the AFL-CIO

Now we have learned that the AFL-CIO, the federation of trades unions in the US, has about $10m worth of shares in CCA.

In April 1997, when CCA proposed privatising the whole of Tennessee’s corrections system, Mr Jim Neeley, head of the AFL-CIO in Tennessee said that “labor will support CCA’s efforts to manage prisons not just in Tennessee but across the country. It is a fully fledged marriage.” Now we know why.

CUSA’s zero tolerance policy means zero all the time, not just when we can’t make money from it.

The unions’ strategy is to conquer an expanding labour market. It is sound business. It is less costly to represent the staff than to fight their employers. But it is not sound strategy if you are a professional correctional officer.

CUSA is not a union. We are a professional organisation. Privatisation does not serve our interests as professionals. Organising private employees undermines the effort to defeat privatisation. The duties of a union - fair representation and to provide job security - are in direct conflict with the position of eliminating an industry. The two positions are incompatible.

If the AFL-CIO had invested money in fighting privatisation, our campaign might have been over by now.


20/05/2002
CUSA has identified a number of US public authorities’ pension funds with investments in CCA. These include: Los Angeles County Employees Retirement Association; Tulare County Retirement Association; Florida State Board of Administration; Idaho Public Employees Retirement System; Milwaukee Employees Retirement System; Minnesota State Board of Investments; and New Jersey Division of Investment. The California Public Employees Retirement System also has CCA shares but the fund does not represent the California State correctional officers, whose investments are held separately.

Following its recent demonstration at CCA’s headquarters (see PPRI #25), CUSA will be demonstrating at Wackenhut’s headquarters in Florida on 5 February 1999. Contact: CUSA, PO Box 394, Newton, NH 03858; Tel: +1 603 382 9707. Fax: +1 603 382 1502. Web: www.cusa.org

**RECENT BOOKS, REPORTS AND PAPERS**

*Commercial Confidentiality and Public Accountability for Private Prisons, by Arie Frieberg, Professor of Criminology, University of Melbourne. Presented to the conference on Private Prisons and Public Accountability, Institute of Criminology, University of Sydney, November 1998.* This updates Prof Frieberg’s arguments in earlier work (see PPRI #14). He calls for all confidential information to be made public, and “taking the task of monitoring, supervising and reporting on the private sector activities out of the hands of the public sector correctional authorities and place it with a truly independent authority, if such can still exist.”

*Contractualism, Privatisation and Justice: Citizenship, the State and Managing Risk by Linda Hancock, Centre for Public Policy, University of Melbourne, in Australian Journal of Public Administration, December 1998.* Based on the experience in Victoria, this article deals with “the problems of privatisation and contractualism in policing and corrections – particularly in relation to ‘core tasks’. The author concludes that “contractualism ... raises significant issues for citizen-State relations.”


*Metropolitan Women’s Correctional Centre - A Case Study in Prison Health Services by Adrian Howe, Senior Lecturer in Law and Legal Studies, La Trobe University, in Alternative Law Journal, December 1998.* This article focuses on CCA’s women’s prison in Melbourne which opened in August 1996. The author notes that “after staffing, health services (which are the biggest expense in prison) have been the subject of ongoing complaints at MWCC” and raises the broader issue of whether private prisons are breaching various international conventions.

*The Prison Industrial Complex by Eric Schlosser in The Atlantic Monthly, December 1998.* This article charts the industry’s growth in the US, and concludes that “every brand new prison becomes another lasting monument, concrete and ringed with deadly razor wire, to the fear and greed and political cowardice that now pervades American society”.

*Northeast Ohio Correctional Center (NEOCC), Inspection and Review of the Corrections Trustee for the District of Columbia, November 1998.* This report was commissioned by the US Attorney General’s Office after numerous problems arose at this CCA-run facility (see PPRI #18, 19, 23 and 24)

The report concludes that the facility experienced “pivotal failures in its security and operational management as a result of seriously flawed decisions by leaders of both CCA and District of Columbia”. The report contains 19 major findings and 24 recommendations for

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improvements.

A Fiscal and Economic Analysis of the Crime (Sentences) Act, by the Prison Reform Trust, see contact details below. Written in the light of the “scant regard for the fiscal implications of policy... the ideas explored in this report have a generic value and could be applied to all proposed legislation.”

Transnationals in Public Services, briefing notes for current debates on public sector issues by Public Services International, BP 0-01211 Ferney-Voltaire, Cedex, France Tel: +33 450 40 6464. Fax: +33 450 40 7320. Email: psi@world-psi.org This is one of a series of PSI pamphlets dealing with the challenges of privatisation and public sector reform. This has ideas on how trade unions and community organisations can form international coalitions against transnational corporations.

Correction
In PPRI #25 it was reported that the Government of Victoria had passed the Correctional Services Authority Act which corporatises the Public Correctional Enterprise (CORE). This Bill has not yet been presented to Parliament. It is due to be considered this year. We apologise for the error.

Prison Privatisation Report International

Published ten times a year by the Prison Reform Trust (PRT). Subscriptions: Corporate sector £100 for ten issues; public £25. Discounts are available for bulk purchases.

Contributions of information on prison privatisation are welcome. For information about the Prison Reform Trust’s contact:

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Crucial lessons from New Mexico

This issue of PPRI focuses on the report of an independent inquiry into violence in New Mexico Corrections Department's prison system and, in particular, Wackenhut Corrections Corporation's Lea County Correctional Facility (LCCF) in Hobbs and the Guadalupe County Correctional Facility (GCCF) in Santa Rosa (see PPRI #29, 30 and 32).

The inquiry's 400 page report was published on 14 January 2000. It raises fundamental issues about privatisation policy and practice in New Mexico.

Buried in the report is a recommendation that the State should consider buying Wackenhut's facilities.

Generally, however, the report recommends ways to improve the State's system of mixed provision.

Politicians, corrections officials and the company are now debating a strategy for the future.

The inquiry itself has cost taxpayers over $200,000. But it will be some time before the full social and economic impact of prison privatisation in New Mexico is known.

The full report is required reading. Many of the issues raised by this inquiry could easily apply elsewhere.

The Consultants' Report on Prison Operations in New Mexico Correctional Institutions is available at: http://legis.state.nm.us/corrections.html

In September 1999, the State of New Mexico commissioned an inquiry and asked five consultants to:

- examine, analyse and recommend solutions to problems regarding aspects of correctional operations in New Mexico, including the cause and management of the riot that occurred at the Guadalupe County Correctional Facility on 31 August 1999;
- review procedural and operational changes made subsequent to the riot to determine if remedial action taken is sufficient to prevent and minimise future occurrences;
- examine and analyse whether disorder management planning and training at correctional institutions in New Mexico meet standards of proper corrections practice; and
- examine, analyse and recommend solutions to problems regarding security and operations at public and private corrections facilities in New Mexico;
- review a chronology of critical incidents that have occurred in the past three years; and add address specific issues of significance to correctional operations.

As well as the issues summarised below, the consultants reported on the State's prison classification system, security threat groups and facility security.

31 AUGUST 1999: VIOLENCE AND RIOT

http://www.psiru.org/justice/ppriarchive/ppri33-01-00.htm 20/05/2002
Major findings
Violence in Wackenhut’s prisons in New Mexico had been occurring since December 1998. On 31 August 1999, events at Guadalupe County Correctional facility led to the murder of correctional officer, the stabbing of a prisoner, and a riot in a housing unit. The inquiry’s finding included:
- the combination of physical plant deficiencies and lack of staff in the main [GCCF] corridor on 3 August 1999 provided inmates opportunities to convey a homemade knife to the assailant in the [prisoner] Mares stabbing;
- suspended ceilings in the housing units (a correctional design flaw) provided inmates space above the ceiling to hide themselves, weapons, and other contraband that avoids them opportunity an equipment to commit violent acts;
- inmates with violent acts on record were transferred to medium custody inappropriately. GCCF lacked a proper method for detecting and assessing disturbance indicators to predict the potential a planned insurrection;
- the State Governor’s statement and the notice posted by NMCD officials stating action that woul-be taken if additional violence occurred in the private facilities increased tension at GCCF in th days preceding the riot;
- the level of political controversy surrounding correctional issues in New Mexico had destabilizing effect on the corrections environment;
- failure to investigate inmate misconduct and act quickly to remove suspects from the general population contributed to the violence at GCCF on 31 August 1999, and left two inmates suspecte-of the officer homicide in the general population;
- disparate levels of amenities between the public and private facilities increased tension. GCCF staff mismanaged critical inmate intelligence suggesting Los Carnales (LC) gang violent intent;
- the experience level of staff and the staffing deployment in inmate living units was inadequate;
- the New Mexico State Police were not properly notified of the riot; however, local police and th NMCD were notified in a timely manner;
- the concentration of LC gang members at GCCF, although designed to reduce inter-gang violence, provided gang members with an opportunity to establish a power base and carry out violent acts towards rivals and staff;
- the Secretary of Corrections’ decision to transfer difficult to manage inmates to a close secuir; prison in Virginia may have stabilised the prison situation in the months that followed the riot.

Major Recommendations
- The physical plant deficiencies identified require attention and alteration. A solid wall should b- constructed between the caustics room and the gymnasium. False ceiling panels in the cellblock should be replaced with solid, tamper-proof material.
- An formal incident reporting system should be devised and implemented at GCCF. Inciden reports received should be immediately evaluated, their intelligence value assessed, and issue requiring attention addressed. Formal documentation of action taken is required.
- A comprehensive analysis and revision of the search protocol at GCCF is necessary.
- Staffing issues at GCCF should be addressed. Critical posts should be manned at all times when inmates are moving about, and supervision of housing units requires continual officer presence.
- Public officials must exercise caution when debating correctional issues publicly. Increase-sensitivity to potential inmate reaction is required.
- GCCF must develop a protocol to ensure that incidents of inmate misconduct are careful- managed and addressed in a timely manner. Failure to act can have catastrophic consequences.
- The disparity between the private and public facilities concerning housing amenities should b resolved. Increased consistency and propriety of amenities according to custody level should be th goal.
- GCCF officials should embark on an aggressive programme of both in-service and pre-servic staff training. Ongoing recruitment of qualified, experienced employees is necessary.
- An emergency alert system should be installed at GCCF to ensure law enforcement officials ar

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notified of disturbances and escapes without delay.
- The Department disturbance protocol should provide local administrators sufficient latitude to respond and resolve a disorder until responding authorities arrive.

**VIOLENCE RELATED TO PRIVATISATION**

The Company and the State

During the inquiry, Wackenhut executives George Zoley and Wayne Calabrese gave their point of view about issues and difficulties in the private prisons they operate in New Mexico. These issues included:
- increased costs were incurred during construction and siting, primarily related to politics and bureaucracy;
- New Mexico delayed and down scaled the project, apparently due to State financing problems;
- numerous logistical problems occurred;
- the State pressured Wackenhut to accelerate activation which affected the ability to ensure smooth transition;
- the New Mexico inmate classification instrument had placed maximum-custody inmates in their medium security units inappropriately, and NMCD officials rejected their remedial plan, apparently because it required the State to pay a higher per diem; and there were no protocols provided for addressing known New Mexico gang problems.

From the State of New Mexico’s point of view, operational problems in the Wackenhut facilities contributed to the violence. These problems included:
- incidents of excessive force and harsh management approaches at Lea County Corrections Facility (LCCF) may have exacerbated their difficulties with inmates;
- inattentive inmate management and inadequate supervision existed;
- Wackenhut did not study the characteristics of the incoming inmate population and prepare for them with efficient inmate management and problem solving approaches. The relationship between the parties became strained when violence began to occur at LCCF, the first Wackenhut facility which became operational in 1998. After the riot and the officer’s death in 1999, the relationship between the parties worsened.

Major Findings

- Insufficient communication and mutual problem solving impeded a working relationship between New Mexico and Wackenhut from the beginning of the contract period.
- Planning prison operations was apparently secondary to higher priorities such as rapid siting an activating of new prison beds, resolving the Duran case, and addressing political concerns.
- The Wackenhut facility and staffing complement were not capable of managing inmates who were being classified to medium custody by New Mexico.
- Since there appears to be no system in place to flag and track inmates who are gang members/leaders so that they are placed appropriately, Wackenhut was not in a position to exclude them from the received population.

Major Recommendations

- Develop a special process for reviewing and discussing the profile of inmates to be transferred to any new facility, and especially a private facility. Establish an automated tracking and alert system for disruptive and dangerous inmates.
- Engage in numerous team-building discussions to include problem-solving strategies between contractor and State to avoid dichotomies during the course of the contract.
- Ensure that correctional terms mean the same for both parties to avoid misunderstandings and disagreements during the contract period, and to protect the safety and security of the facility.
- Establish a system for inmate management that must be used system-wide, to include contractors.
- Monitor, be aware, and respond promptly to the contractor’s or State monitor’s report.

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CONTRACTING FOR PRIVATE FACILITIES

Well short of industry standards
The Guadalupe and Lea County privatisation projects may be unparalleled in their complexity. Each project involves two contracts (one between the County and Wackenhut Corrections Corporation and one between the County and the New Mexico Corrections Department), a binding letter agreement, and the incorporation by reference of New Mexico Corrections Department policies, Duran v. Johnson decrees, American Correctional Association Standards, state law and federal law.

To understand the contractual situation, it is necessary to go back to 1995 when the legislature authorised contracts for two prisons to be privately constructed and operated in certain specified counties. In response, the Corrections Department released two requests for proposals (RFP) in 1996. Ultimately, Wackenhut was selected for both projects, but because of opposition to Wackenhut’s financing method for construction of these facilities, both projects were ultimately abandoned.

However, those who expected to gain from these projects were not anxious to give up on them: the Corrections Department was in need of the prison beds; the counties wanted the jobs and revenue the correctional facilities would bring; and Wackenhut, which had expended considerable time and money on the 1996 projects, was anxious to recoup its investment and take advantage of its favourable marketing position in New Mexico.

To satisfy these various needs without new legislation, a New Mexico law was found which permitted counties to contract for the operation of jails without adhering to the requirements of the State’s procurement code. While this was method was expedient, it created significant problems for the State and the Corrections Department.

Using this statute, Guadalupe and Lea Counties entered into contracts whereby Wackenhut would operate County jails which would also house inmates under a contract between the County and the Corrections Department. The decision to contract for County ‘jails’ was a necessary manoeuvre because the procurement code exemption only applied to contracts for the operation of jails, not prisons. Ultimately, however, neither facility ended up housing County inmates.

The attempt to maintain the artifice that these were county facilities created County responsibilities which often go unaddressed.

For example, although contractually required, Lea County did not approve the facility administrator; neither County approved facility staffing patterns; and neither reviews Wackenhut’s job applicants to determine whether they should be denied employment for ‘security reasons’.

The circumvention of the procurement code was the most damaging aspect of the approach taken with these two facilities. Had the contracts been awarded through a competitive RFP, the facilities’ missions would have been more clearly defined. In particular, the type of inmates to be sent and the programmes to be provided would have been determined before the facility was constructed. But, once the facilities were constructed, the Corrections Department had little choice but to enter into contracts given the political pressure which would have been brought to bear had Department officials said that the locations, price, programmes or operator were not to their liking. To negotiate in this non-competitive environment for the best combination of programmes and price was impossible.

The management contracts should have been executed well before facility construction began. But, rather than a business-like and security-minded approach, the facilities were built and inmate were rushed into them under emergency contracts before final management contracts were ever executed.

At the same time, pressure on the Corrections Department to complete the contracts came from all sides. The two Counties, apparently fearful that their economic development projects might fail apart, put pressure on the State to get the contracts signed. Families with relatives incarcerated out of state pushed to have them returned to New Mexico; and Wackenhut pressured the State directly.

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and through its aim for complete contracts.

The contract legislation required that the Attorney General’s Office and the Department of Finance and Administration review the contracts in detail, including review of provisions which should have been left to the good judgment of Corrections Department professionals. The result was a review process so cumbersome that today it cannot be determined who is responsible for many of the inappropriate, confusing, incomplete and costly provisions of the contracts.

In the end, the complex contractual arrangements, the unclear facility missions, the need for prison beds, and the involvement of too many agencies and individuals in negotiations, resulted in contracts which fell well short of industry standards and create significant security, programmatic and fiscal implications for the State.

Recommendations to the Legislature

- The present statutes addressing correctional service contracts contain some workable provisions some conflicting provisions (e.g., county need not use procurement code process; state required to use procurement code), some gaps in what ought to be addressed (notably in the area of ‘speculative’ ventures), and some directions better left to the discretion of corrections professionals.

- Therefore, it is recommended that the legislature enact new legislation addressing all aspects of contracting for jail and prison bed space in New Mexico. Although not within the scope of this study, it is clear that other private facilities are being operated in New Mexico without sufficient oversight. This should be addressed as well.

- It is recommended that legislation authorising construction of correctional facilities not specify particular counties, unless recommended by the Corrections Department.

- Facilities should be located not on the basis of a county’s economic need, but on proximity to inmate families, availability of support services and transportation, an adequate labour pool, an other factors best identified and evaluated by the Corrections Department.

- The Attorney General’s Office and the Local Government Division of the Department of Finance and Administration are given broad authority to review county privatisation contracts pursuant to NMSA 1978 Section 33-3-27 (1984).

- Most of the problems identified in this document slipped by these agencies without notice. At the same time, others took a more casual approach to their review of the contracts because they felt the Attorney General and Local Government Division would catch any problems. Given the specialised nature of corrections privatisation, legislation should provide for primary review of the contracts by the Corrections Department or its consultants and not by these two agencies.

Recommendations to the Corrections Department

- The present Lea and Guadalupe contracts are in dire need of re-negotiation, if at all possible. Prior to re-negotiation, strategies should be developed to provide the Department with some negotiation strength.

- In re-negotiating the present contracts or in negotiating future contracts, the Department should allow the private contractor as much flexibility in operating the facility as possible.

- One of the purposes of privatisation is so the State might learn whether there are better ways of doing things than their own way. This is not possible when the contractor is required to adhere to all of the State’s policies.

- While it is difficult to know exactly which policies ought to be adhered to by the private company, it is better to err on the side of too few than too many.

- The contract can provide that additional policies will be added whenever the Department deem appropriate.

- Prior to the issuance of any future request for proposals, the Department should do a thorough job of addressing the numerous policy decisions which must be made to ensure an RFP which put vendors on notice as to what the Department expects, while at the same time requiring sufficient information from the vendors so that the Department can distinguish a good proposal from a poor one.

- The Department should ensure that any future activation of a new contract facility be wel

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organised and gradual, with feasible start-up schedules, on-site monitoring and a willingness to alter plans to adapt to the realities of the situation.

- The Department should not enter into future contracts without a complete analysis of the contractor’s proposed budget. This analysis may reveal that the contractor has underbid the project and will be unable to provide the services at the price it has proposed. On the other hand, there may be budget categories which warrant reductions in the contractor’s price.
- The Department should work with the legislature to pass all encompassing privatisation legislation. The Department should seek repeal of the requirement that the Corrections Department train private contractor employees.

First, if a private contractor is not capable of providing adequate training, it should not be selected for the project in the first place. Second, much of the training provided by the Department is specific to State employees (e.g., benefits). Third, as discussed above, the training of the private sector’s employees eviscerates the State’s liability protections. Fourth, this training is not provided when inmates are sent out of State, putting the Department at odds with the law.

ACTIVATION & MONITORING OF CONTRACTED FACILITIES

'Corrections light' monitoring

Unfortunately, the ACA [American Correctional Association] standards which consume all of the Department’s monitoring resources could for the most part be described a 'corrections light'.

These standards addressed such things as linen issue and exchange, telephone access, availability of religious programmes and a qualified chaplain, library services, and postage for indigent inmates. A few could be said to have addressed more substantive issues - i.e. classification, inmate discipline, fire safety and inmate activities - and the remaining addressed construction issues - cell size, exercise space, etc. However, the primary operational functions of the institution - maintaining security and control, use of force, control of contraband, perimeter security, staff experience, staff turnover, and operation of the inmate grievance system - are largely ignored.

The Department defends not having done more extensive monitoring on the basis of no having the necessary funding. It reports that during the 1998 and 1999 legislative sessions the Department included budget requests for funding to monitor the new prisons, but that these requests were denied. The compliance monitoring that has been done utilised two position taken from the Department’s central compliance staff in Santa Fe. On the other hand, the Legislative Fiscal Office takes the position that the Department has adequate resource available to staff monitoring positions if it desires to do so.

According to staff members of the Legislative Finance Committee, the Department had vacant positions for Correctional Administrator (a position compatible with the contract monitoring duties) in 1997 and 1998. These were cut from the 1999 budget for non-usage. The Fiscal Office points out that the Department has approximately 250 vacant positions, an one of which could be reclassified to provide the Department with the necessary positions to retain contract monitors.

The Department agrees that the positions are available, but argues that it has no funds for them because of having to pay excessive overtime due to an inability to hire correctional staff at New Mexico’s starting salary.

The successful activation of a facility depends on a number of variables, some of which can be controlled while others cannot. The private prisons in Lea and Guadalupe experienced the significant variables including:

- overcrowding in the system prompting an early and rapid flow of inmates into the facilities;
- unusual final construction decisions;

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Major Findings
- The State decision to exclude electrical power from inmate cells created significant management issues, since inmates viewed the inaccessibility and use of electrical appliances in their cells at the new prison as a setback in comparison to cell amenities in State operated prisons.
- The inmate fill rate at the Lea County Correctional Facility was too high in the initial 60 days of activation. The new and inexperienced staff were not able to adjust to the high rates of influx.
- Numbers initially received were from out of state and many had histories of discipline and management problems. Several inmates’ classifications were questionable, and Security Threat Group (STG) information clearly had not been reviewed.
- The Guadalupe Facility experienced normal fill rates at activation; however, within 90 days the facility was affected when inmates with strong STG affiliation and several with questionable custody levels arrived due to the closing of a major State operated facility.
- Monitoring of private prison providers has not occurred because of an emphasis on meeting Dura requirements and because of a lack of positions to provide the necessary monitoring.
- A conflict between the Legislative Fiscal Office and the Department has seriously impacted the monitoring of the two private prison contracts.

Major Recommendations to the Legislature
- The Legislature ought to immediately fund a minimum of two positions for contract compliance auditing, together with funds for technical assistance in the training of the monitors and development of audit instruments.
- The budget issues raised by both the Legislative Fiscal Office and the Department should be addressed. However, funding of the compliance monitoring positions is too important to be used as the catalyst for resolving these long standing and complex problems. Contracting for the privatization of prisons brings with it the duty to oversee those contracts for the protection of both the inmates and the public.
- The cost of this necessary oversight is part of the cost of privatization and should be considered a such in determining whether privatization is less expensive than public operation of prisons in New Mexico.
- Achieve legislation and funding required to establish a private provider contract monitoring unit in the Department whose responsibilities would include compliance audits and oversight of the classification of all inmates (especially if out-of-state inmates are to be housed at private facilities).
- Include in the legislation a requirement that private contractors be assessed a fee to finance the monitoring project.

Recommendations to the Corrections Department
- The Department should fill its compliance officer positions with neutral fact finders as soon as is able.
- The Department should train its monitors in auditing as well as in negotiations given the many conflicts inherent in the present contracts.
- The Department should prioritise its monitoring needs according to what it believes is most
important, rather than immediately turning attention to Duran matters simply because they are Duran matters.

- The Department should use in-house specialists to monitor the medical and mental health portion of the contracts.
- Contracts such as those with Wackenhut are so inclusive that it is not possible to monitor every aspect of the contract, nor is it necessary.

Therefore, contract areas should be prioritised and those which are key trouble indicators and/or most likely to result in litigation should be given the most attention in the monitoring process. In every case, there must be physical observation/testing for compliance monitoring to be legitimate.

- To be meaningful, monitoring needs to compare what is going on at public facilities with private prisons. For example, if a private prison has three escapes in a year this could mean totally different things when compared to a similar state facility.

If the state facility had no escapes, the private prison number would take on one meaning, but if the state facility had eight escapes the private prison number would take on an entirely different meaning.

- If the state does not have comparable facilities against which to measure the private contracts then comparable out-of-state facilities should be identified and used for this purpose.
- Require that planning of private facilities for the NMCD includes their input from beginning to end to ensure that construction and cell accoutrements are consistent with those of state operated prisons.
- Install electrical outlets in appropriate cells at the GCCF and LCCF.
- Link the monitoring unit function with the Central Classification Bureau to ensure proper classification assignments in the private prisons.
- Establish monitoring standards for private prison providers that empower the NMDC to require private prisons to operate consistent with state prison policies and procedures.
- Contract monitoring at GCCF needs strengthening and monitoring should go beyond compliance issues with the Duran requirements.

**PRELIMINARY ASSESSMENT OF SYSTEMIC ISSUES WITHIN NMDC**

**Buy Wackenhut facilities?**

The New Mexico Corrections Department (NMCD) has grown dramatically in recent years, consistent with national trends in corrections.

Thousands of pages of documents were reviewed and numerous individuals were interviewed from September to December 1999.

Although the main focus of the inquiry was related to the riot and privatisation issues, numerous systemic concerns were identified.

**Major Findings**

- Planning mechanism and process to strengthen the State's ability to address correctional policy issues is either not in place or ineffective.
- The inmate classification process has demonstrated poor performance in evaluating inmate risk and threat potential.
- A budget process that ensures sufficient funds is not available to address the needs of correctional facilities properly, especially with regard to physical plant maintenance.
- The influence of gangs on the operation of correctional facilities in New Mexico is unacceptable and must be addressed.
- There is not a formal process for siting new prisons.
- The State has no capacity to monitor inmates held in New Mexico private facilities that house inmates from other states unless the facility also houses New Mexico inmates.
- Correctional officer vacancies in the public and private facilities are not filled and compensatior

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levels may not be competitive with the job market.
- The inmate disciplinary policy is highly technical, outdated and cumbersome.
- The State has no contract protection to maintain private prison capacity on a long-term basis if it is essential to house the population.

**Major Recommendations**
- The parties should consider the development of a Correctional Policy and Research Council. Th NMCD should strengthen its research capacity to support planning efforts.
- The inmate classification instrument must be evaluated and improved.
- Annual budgeting should ensure that sufficient funds are available for physical plant repairs or asset protection purposes.
- A gang management programme designed to reduce gang influence on the NMCD operation must be established.
- The parties should retain population management classification experts and planners to determine the necessary number of secure maximum-security beds needed and funding for renovation and/or construction. A reconfiguration or addition to the Penitentiary of New Mexico (PNM) North or South is an option.
- A coordinated plan should be developed to add bed space with the NMCD consistent with the characteristics and security needs of inmates. This is of particular importance with regard to high custody cases.
- Reactivate the South Unit at the PNM and utilise for additional administrative segregation housing.
- A formal process to improve the process of siting new prisons should be established. The process must take into account criteria consistent with correctional needs.
- State officials should develop a method to monitor private correctional facilities in the State including those that do not house NMCD inmates.
- The establishment of a set of minimum standards is recommended, along with an enforcement mechanism.
- Correction officer compensation levels should be studied further to determine competitiveness in the employment marketplace. Furthermore, a staffing study is recommended to ensure adequacy of overall staffing, especially in inmate living areas.
- The inmate disciplinary policy should be revised, updated and streamlined. The Secretary of Corrections should commission an internal task force to address this issue.
- The State should consider purchase of the Wackenhut facilities or enter into a long-term lease arrangement to protect their interests.

**THE AFTERMATH**

**Are Wackenhut’s contracts legal?**

Wackenhut Corrections Corporation’s contracts to hold State inmates in its prisons might be illegal, according to Stuart Bluestone, New Mexico’s Deputy Attorney General.

The company also could face civil penalties for by-passing State procurement rules.

If so, Mr Bluestone believes that this could give the state leverage in renegotiating the Wackenhut contracts. This, in turn, could result in lower costs, better security and more legal protections for the State.

“The state can negotiate from a position of strength rather than a position of weakness,” he said. But the company’s view is that the contracts were reviewed by the former Attorney General’s Office, and approved by all required state and county officials. It denies any allegations of misrepresentation.

The Attorney General’s Office is investigating the contracts as a result of issues raised by the independent inquiry.

Wackenhut has contracts worth about $25m annually to hold about 1,500 state prisoners at its two prisons. The State pays $53 per prisoner per day, including medical costs.

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The Attorney General has also said that all state contracts with private prisons will be reviewed. She has also raised the question of whether Governor Gary Johnson was allegedly influenced by "substantial campaign contributions" from Wackenhut Corrections Corporation. Governor Johnson has so far vetoed all legislative attempts designed to impose State regulations on private prison operators.

The Attorney General issued a statement saying that "We should all look at the question of private prisons with an open mind rather than with the preconceived notion that private prisons must be made to work here".

AFSCME and ACLU say "stop"

"When you hold these private vendors to regulations, they can't turn a profit. The way they turn profit is by cutting corners," said Joshua Miller, an economist with the American Federation of State, County and Municipal Employees (AFSCME).

Miller was addressing a joint meeting of New Mexico's House Appropriations and Finance Committee and the Senate Finance Committee on 24 January 2000.

Urging New Mexico to stop privatization, he also said that other states, including Pennsylvania and New York, had halted contracts with private prison operators and that Illinois has a moratorium on private prisons.

Denise Clegg, acting executive director of the American Civil Liberties Union (ACLU) of New Mexico, urged the committees to fund oversight of private prisons and to support a moratorium on further privatization.

Ralph Robles, a correctional officer at the State prison in Las Cruces, told the committees the New Mexico needs to raise public sector salaries. He said that New Mexico was being used as "breeding ground" to train correctional officers who then move on to higher-paying jobs in other states.

Wackenhut's new lobbyist

Michael Olguin, former State House majority leader, has quit his role as vice chairman of the Democratic Party in New Mexico to become a paid lobbyist for Wackenhut Correction Corporation.

On 14 January 2000, he announced that he would receive $10,000 from the company that he had previously criticized.

Following the incidents on 31 August at Wackenhut's prison, he signed a letter from the Democratic Party to the media accusing the company of "systematic deception." "It's time for the governor and his Republican colleagues to fess up: privatization is a dismal failure," said the letter. "New Mexicans were deceived by Wackenhut, by Governor Johnson and by the Republican Party..."

His job now is to lobby for the company during New Mexico's 30-day legislative session, which began on 18 January 2000.

"I do have concerns about privatisation, but privatisation is here to stay and we need to do what we can to make this work now that it's here," he told the Albuquerque Journal.

He also said that "it's not about the money, it's not even a lot of money... I just think we have to get a better handle on corrections in New Mexico and if I can help to move this along in the best interest of the state, I want to do it."

Accepting Mr Olguin's resignation, state Democratic Party Chairwoman Diane Denish said the "the Democratic Party of New Mexico remains opposed to privatization and the prison management policies of the Johnson administration."

Senate President Pro Tem Manny Aragon, a leading Democrat politician in New Mexico, resigned his post as a consultant for Wackenhut Corrections Corporation in September 1999, after conflict of interest allegations were made (see PPRI # 32).

'Super-max' but no oversight

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Governor Gary Johnson's administration wants to establish a 'super-max' prison in New Mexico in order to transfer around 490 higher classification prisoners from other facilities. Such a facility would cost between $4m to $5m to build if existing buildings at the Penitentiary o New Mexico near Santa Fe are reconfigured, and another $8m to $9m a year to operate.

At least two members of the independent inquiry board support the idea of a new 500-bed 'super max' to hold gang members and other violent prisoners.

But some legislators are sceptical of the idea since the Governor promised three years ago that privatisation would solve the prison system's problems. Meanwhile, Corrections Secretary Rob Perry had said that the administration would be open-minded about a legislative oversight Bill this year. "I have no problem with independent oversight as long as it's oversight within reason," he said on 24 January. But within days of this statement, the Republicans rejected an attempt by the Democrats to overturn the Governor's veto of a Bill that would have been a first step towards some state oversight of private prisons. At the same legislative session, a Bill was introduced calling for an extra $6.6m for a 'super-max' prison to be allocated to next financial year's budget.

Another lawsuit for Wackenhut

Mentally ill prisoners at Wackenhut Corrections Corporation's Guadalupe and Lea County facilities have allegedly been gassed, beaten and, in one instance, paraded naked down public hallways, according to a class-action lawsuit filed on 20 January 2000. "Inmates with serious mental health needs are being subjected to solitary confinement, excessive force by correctional staff and dangerous conditions of confinement," alleged Santa Fe lawyer Mar Donatelli.

The lawsuit, filed in the US District Court in Santa Fe, cites Wackenhut Corrections Corporation and eight other defendants. It is alleged that more than 250 prisoners with mental and developmental disabilities have received inadequate care in violation of their civil rights at the two Wackenhut facilities.

"We are ready to defend the staffing and operations at both our facilities in New Mexico," said Wackenhut Corrections Corporation spokesman. "Both are in keeping with the general requirement of our contracts with the State of New Mexico," he told the Albuquerque Journal.

Take your pick

"The [inquiry's] report is a devastating indictment of the current state of affairs in the prison system," Mark Donatelli, prisoners' lawyer.

The document "may be one of the best things to happen to corrections for a long time." Rob Perry, New Mexico Corrections Secretary. Both quoted in the Santa Fe New Mexican 18 January 2000.

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Where the money goes

"We literally spent millions of dollars educating our legislators on the advantages of private prison operators." - Doctor C. Crants, former Chief Executive, Corrections Corporation of America.

"We are not in the public policy making business." - Susan Hart, former Vice President for Communications, Corrections Corporation of America.

Private prison corporations with vested financial interests in increasing US imprisonment rates have deeply insinuated themselves into the political process, according to a new report documenting the industry's political campaign contributions and involvement in the influential American Legislative Exchange Council (ALEC).

The report's authors note that, over the last 20 years, the backdrop to this increasing influence includes:

- the ascendancy of conservative politics, which favours privatisation;
- the increasingly common practice of exploiting public fears about crime in order to gain or maintain political power;
- the concerted effort of corporate-backed think tanks to develop and disseminate pro-privatisation legislative models;
- the dependency of elected officials on big-money contributors for their ongoing political careers; and
- the opportunity for profits to be made from criminal justice systems.

The report quotes from Abt Associates' *Private Prisons in the United States* study (see PPRI # 25): "[Most] contracting for imprisonment services was not taken at the initiative of the correctional agency, but was instead mandated by either the legislature or the chief executive of the jurisdiction, typically the governor."

This, say the authors, explains why influencing elected officials at the state level has become a key business strategy for private prison corporations.

**American Legislative Exchange Council**

Recent federal and state legislation has criminalised more and more behaviour, incarcerated offenders for longer sentences and dismantled most rehabilitative and transition services for prisoners.

Much of the legislation implemented at the state level was crafted by just one organisation in partnership with private prison interests.

The American Legislative Exchange Council (ALEC) is a Washington DC-based public policy organisation whose main function is to develop model legislation that advances conservative principles.

In 1995-96, ALEC's model legislation resulted in 1,647 bills, including 365 that became law (a 22 per cent success rate). By 1999, the introduction of ALEC-based bills had increased by 34 per cent with 322 of 2,208 ALEC bills enacted.

In 1995, ALEC's Model Legislation Scorecard claimed that: "The busiest Task Force was Criminal Justice, which had 199 bills introduced."

Its recent success includes:

- enactments of Truth in Sentencing legislation (where offenders serve at least 85 per cent of their sentence) in 24 states;
habitual offender three strikes legislation (life imprisonment for a third violent felony) in 11 states;

four enactments of legislation for private correctional facilities in four states; and

one enactment of legislation requiring prisoners to work for private companies in one state.

A key component of ALEC policy is that governments should “use prison privatisation, electronic home detention, boot camps and similar methods…”

There are over 6,000 state legislators in the US. Approximately 2,500 of them are ALEC members. According to the report, “scores” of them hold key state leadership positions.

Also, prominent among ALEC’s financial backers are Corrections Corporation of America (CCA), Wackenhut Corrections Corporation (WCC) and Sodexo Marriott Services (see PPPI #37 and 34).

CCA’s contribution to ALEC’s 1999 States and Nation Policy Summit gave it President’s List status. Wackenhut Corrections Corporation and Sodexo Marriott Services also sponsored the conference.

Two cases from Pennsylvania and Arizona show how ALEC was able to peddle influence.

In February 1995, Pennsylvania Governor Tom Ridge, an ALEC member, called a special session of the legislature to address crime in the state. Twenty pieces of legislation - all based on ALEC’s programme - were introduced. Overall, in the nine month session, 30 crime bills were approved and the governor released more than $87m in state funding for new prison construction. Governor Ridge was a featured speaker at ALEC’s 26th Annual meeting in Nashville in August 1999.

In Arizona’s 1999 legislative session, Senate president Brenda Burns - ALEC’s 1999 national chairwoman - sponsored two bills aimed at privatising the state’s prison system. Although both bills passed the House, they failed to make it through the Senate before adjournment.

Money talks

As well as providing a partial list of lobbyists working for CCA and WCC in Alabama, Washington DC, Florida, New Mexico, Tennessee, Idaho and Texas, the report also found that private prison corporations make direct financial contributions to many legislators.

“Several prominent ALEC members who have received campaign contributions ... have supported private prisons or tough on crime legislation.”

In 1998, private prison corporations made 645 contributions totalling over $540,000 to 361 candidates in 25 states (out of a total of 43 states surveyed for the report).

“While this figure appears small relative to federal elections, the total represents a significant and growing effort by a handful of corporations to ensure access to policy makers at the state level at crucial moments. In states where campaign budgets still average $5,000 for state representatives and $20,000 for state senators, contributions of $250, $500 and $1,000 are meaningful,” say the authors.

CCA gave $335,106 to 195 candidates in 16 states, particularly California, Tennessee, Iowa, Idaho, Colorado and Texas.

Cornell gave $110,575 to 84 candidates in California, Alaska, Florida and Iowa.

Republicans received 56.8 per cent of the contributions.

Correctional Services Corporation (CSC) gave $34,378.

WCC gave $33,325.

US Corrections gave $4,300.

Of the total contributions, 47 per cent went to Republican candidates and 53 per cent went to Democrats. Fifty three per cent ($297,000) went to incumbents; 34 per cent ($182,199) went to candidates who won; 11 per cent ($59,825) went to candidates who lost in the general election; and six per cent went to candidates who lost in the primary stage.
The report also noted "the overlap between politics and business goes well beyond local and state level contracts to the heart of Wall Street."

Richard Gilder is a founding partner in New York investment house Gilder, Gagnon, Howe and Co which has a 6.4 per cent stake in CCA. Mr Gilder is described as "a major funder of conservative candidates; he donated more than $360,000 during Newt Gingrich's Republican Revolution. J Patrick Rooney of Golden Rule Financial is a major underwriter of ALEC and gave Gingrich $231,000. Gilder is also a founder and director of the Club for Growth, which raises funds for conservative GOP candidates, and promotes a conservative policy agenda including privatisation. Club for Growth board colleagues include Stephen Moore, a Heritage Foundation [right wing think tank] Fellow who was the research director of President Reagan's Commission on Privatisation."

Going west

The report found "a particular push by private prison corporations into the western region, with over 70 per cent of the total contributions going to candidates in western states (excluding Texas), California, the most populous state and a hotbed of tough-on-crime activity, received the highest level of investment."

The report describes how the leading corporations are southern based and built their early markets in the south.

But they have since targeted California, Arizona and New Mexico for expansion and "have succeeded in moving into Idaho and Montana ... and major forays into Utah and Alaska."

A profile of California also notes that the California Correctional Peace Officers' Association, while anti-prison privatisation, has become "one of the most powerful forces in California politics," donating $2.174m to campaigns.

There is a section on resisting prison privatisation, with a case study of a successful campaign in Utah.

It concludes that, "private prison corporations are seeking to increase their access to policy makers" and, although the private prison industry has recently suffered substantial losses in the stock market "it would be a mistake to discount their growing political power."

The Prison Payoff: the role of politics and private prisons in the incarceration boom, by Brigitte Sarabi and Edwin Bender, Western States Center and Western Prison Project.
Copies price $15 + shipping per copy, discounts for larger orders. From WPP, Publications Dept, PO Box 40085, Portland, Oregon 97240, USA. Tel: ++503 335 8449. Fax: ++ 503 287 5561. Email:wpp@teleport.com
Netherlands Antilles: Wackenhut has informant network in place; 23 escape

Faced with recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to improve prison infrastructure and develop practices in line with UN standards, the Government of the Netherlands Antilles turned to private sector expertise to provide solutions (see PPRI # 37 and 30).

In 1999, the CPT recommended: “Whatever technique is used, a strict but realistic timetable should be drawn up for the implementation of the building programme and appropriate monitoring be put in place to ensure compliance, backed up by suitable contractual provisions (eg. penalty clauses).”

In 2000, the government awarded a contract to Wackenhut Corrections Corporation (WCC) to renovate the existing Koraal Specht prison in Curacao and to construct new prisoner accommodation and support service buildings.

WCC had also wanted to privately finance the project but the government opted for finance offered by the Dutch government.

WCC then persuaded the government to enter into an Employment and Services Agreement with the company to provide a senior management team to administer the daily operations of the prison, as well as a second team to develop policies and procedures, training and staffing plans and other operational structures for the prison system.

With the correctional officers still employed by the government, the company took on the massive task of implementing the CPT’s recommendations.

These contracts are the first of their kind. But as the reports revealed in this issue of PPRI show, there is a steep learning curve to be overcome before the private sector can deliver the improvements required in circumstances such as those that exist in the Netherlands Antilles.

The escape of 23 prisoners from Curacao’s Koraal Specht prison since Wackenhut Corrections Corporation (WCC) started its management contracts has led to a Commission of Inquiry into corruption amongst the state employed prison officers.

There have also been calls for the minister of justice, Dr R Martha, to resign.

Six prisoners escaped on 24 March 2001 from a new housing unit; on 9 April another five prisoners escaped by sawing through the ventilation shutters of the cell blocks they had been housed in; then on 9 May a further 12 prisoners escaped.

This led Dr Martha to announce a “thorough investigation at all levels.”

PPRI has seen a report, Correctional Facility Koraal Specht: Special Report on Security Issues, dated 12 April 2000, prepared after the first escapes on 24 March. The report is by Atelier Lobo and Raymann, a Curacao firm of architects and consulting engineers.
The firm alleges that, Wackenbut Corrections Corporation “failed on important security issues both as the designer and the main contractor of the extension and renovation of the facility as well as in the function of Interim Manager of the facility.” The architects continued: “the fact that the escape of six inmates [on 24 March 2001] could happen and in such an easy way proves that the facility is not secure enough to be considered a safe prison.” “According to the contract between the Public Entity of the Netherlands Antilles and WCC, this company bears the portion of the design risk associated with the suitability of the approved design and the quality of the materials for their intended purposes, as described and approved by the Government ... as such, WCC can be held responsible if the facility as a whole or its components in particular prove not to be reasonably fail-safe.” The Contract Management repeatedly requested that the security of the facility during construction was guaranteed on the same level as in the final situation. Therefore severe security measures have to be taken and maintained for the building site to control possible risks. The firm also stated that “the report is not intended to be an in depth study of all security matters of the facility, but only to highlight some concerns of the Contract Management and to indicate directions for improvements.

The firm’s remarks included:

1. Perimeter fencing.

The fact was mentioned that the perimeter fence consisted of only one chain link fence. The standard in Dutch prisons is a 5m high concrete wall on the outside perimeter with taut wire detection and cameras on top and a chain link fence between the building and the concrete wall. Also, concerns were expressed about the complete lack of a continuous perimeter fence at the east side of the facility.

2. Patrol road.

Concerns were expressed about the discontinuity of the patrol road at the north side of the facility and about the effectiveness of the patrol road. Item 03.04 of the minutes of project meeting number eight of 27 March 2000 reads as follows: ‘The patrol road should be continuous along barracks of H.01. According to [WCC’s] Brian Curley the patrol road is very important in prisons of WCC. Every few minutes a control vehicle will pass around the facility. Sometimes control vehicles will be stationed at every corner of the facility.’


Many discussions took place about the quality of the cell fronts, like corrosion resistance, the necessity of galvanisation, the welding of galvanised parts, the anti-corrosion treatment of the welds and the bolting to the walls. Additional safety measures had to be taken on Housing Unit 1 on request of the Contract Management at the substantial completion.


Many discussions took place about the corrosion resistance of the louvre windows in cells, the strength of the louvres, the addition of extra bars and the bolting to the walls with spikes. Additional concerns are that prohibited items can be passed through the louvres from the outside and that visual contact exists from the cells with the area outside of the facility.

5. Emergency exits.

The design and control of the emergency exits was a continuous concern of the Contract Management in relation to fire safety and risks of breakouts or intrusions from the outside.

6. Control of personnel on the construction site.

The control of construction personnel appears to be insufficient. Even after the escape of six inmates, construction workers were working next to the fencing with cutting equipment without any surveillance.

The escape of six prisoners
Regarding the escape itself, the firm states: although the Contract Management does not dispose of an official report of the escape ... the following could be deducted (sic) from given information by the prison officials:

In the night of 23 to 24 March supposedly intruders from the outside went up on the slope of the terrain behind Housing Unit 2 using temporary stairs that were used during construction and were not removed.

Housing Unit 2 had just been taken into use 10 days before. The intruders cut an opening in the west fence, forced the door frame of the emergency exit with a crow bar and broke the deadbolt of the lock, thus opening the door.

They held the door in closed position with concrete blocks found on the building site. Six inmates who were just released from the cells during the next shift in the early morning escaped through the door. The guards did not discover the fact that the door was unlocked before releasing the inmates.

The door frame appeared to be unfilled with concrete around the deadbolt of the lock. The pusher of the deadbolt was broken inside the lock.

In the minutes of Project Meeting No. 9 of 31 March 2001 it was stated under item 05.05: 'emergency exits of the Housing Units will be locked and unlocked. The locks will be checked at each shift; guards on shift will be responsible for these locks.'

It is therefore not understandable how the door lock could have been forced without being noticed by a guard before releasing the inmates from the cells.

It is also not understandable or acceptable that all work by the intruders could have been done without being noticed by guards. This indicates that, in any case, the area outside the prison is not being patrolled.

**Improvements of design**

Without some major improvements of the design, in the opinion of the Contract Management unacceptable security risks remain for escapes from the facility and intrusions from outside and also for the entry of prohibited items into the facility.

In the facility several risk areas can be identified:

1. **Perimeter fence.**
   
   One chain link perimeter fence is not suitable for this correctional facility, especially not without a very strict and regular surveillance and patrolling of the site. The building of a closed concrete wall around the perimeter with detection wires on top, monitored from the central control room seems unavoidable.

2. **Emergency exits.**
   
   The emergency exits in the corner of the housing units cannot remain as is. As was explained by WCC during the design stage these doors are also intended as a second entrance for assistance in case of riots in a certain unit. If the doors are to remain for functional reasons they have to be replaced by doors with a much higher level of security protection and electronically controlled.

The emergency exits at the end of the corridors of the vocational and administration buildings are considered necessary in case of fire. In project meeting No. 9 of 31 March 2001 these exits were discussed and it was explained by the Project Architect, Mr Shelwyn Shakir, that the doors will have key locks (see minutes item 04.01). He further explained: 'as inmates will probably clean the [administrative] building the door cannot have a standard panic bar. In the US a difference is made by the fire department for prisons.'

But for these doors to function as fire escape doors also used by inmates they have to open up in a safe outdoor area with the same security level as the housing units. A simple fenced off area is not enough for this purpose.

3/4. Sally port of the kitchen and at the vocational building.
These sally ports should be controlled by cameras monitored from the central control room in the administration building. Security electronics (monitoring/cameras) are explicitly excluded from the contract with the exception of four electric locks at the central control entry area.

5. Porters lodge.
From the start of the project the government representatives expressed their concerns about the distance between the porters lodge and the main entrance for the facility. These concerns remain.

The throw of the dead bolts of the locks of the cells does not appear sufficient, considering the possibility of forcing the cell doors from the fixed steel frame.

7. Security louvres in cells.
The attachment of the security louvres in the cells with spikes was intensively discussed in the project meetings. The Contract Management still has concerns about the security of the attachment, the water tightness of the louvres and the visual contact that exists from the cells with the area outside the facility.

Conclusions
1. To request Wackenhut Corrections Corporation to give detailed accounts of the incident of the escape of six inmates from the facility on 24 March 2001, both in relation to the building design and operations.
2. To request from WCC a detailed report on security and safety issues of the facility, describing the suitability of the facility as a whole and the components in particular. This report eventually should contain recommendations on how to improve the building and its operations.
3. To have an independent security expert on correctional facilities screen the total facility on security issues and advise on extra measures to be taken to improve these. The Rijksgemeenten staff from Holland could advise on the expert to hire.
4. To take temporary measures to control the facility with extra surveillance until final measures have been taken to improve the security of the facility.

Wackenhut’s quarterly reports

PPRI has also seen copies of the WCC Interim Service Team’s (IST) Quarterly Reports to the minister of justice. The first covers the period 1 October 2000 to 31 December 2000.

It states: the first quarter of the IST project has been one of discovery, understanding and planning, effectively laying a foundation for what is to follow. The second quarter will see the planning bear fruit and being further developed in readiness for implementation later.

The report was based upon the CPT’s recommendations of 1997 and 1999 and covered issues such as: staff training; incident reporting; prisoner programmes and classification; staff deployment; management; and the fabric of the prison.

It noted that, to date, a total of approximately 160 officer-hours training has taken place on ... cell searching, prisoners’ supervision, non-violent crisis intervention, fire safety and coping with stress. Training will continue to feature as a high priority ...

Serious incidents during the quarter included:
- Three escapes from the half open barracks;
- None suicide;
- Two mass refusals to go to cells for lock up;
- Nan attempted escape by five prisoners;
- Nan attempted escape by two prisoners and subsequent discovery of cuts in cell bars in two further cells;
- Six instances of prisoners receiving injuries which required the attention of Health Care Services;
- Five incidents involving discovery of marijuana.
The company also noted that: it is a matter of record that middle and senior managers have not operated effectively for some time.

There has been a great deal of mutual learning which has subscribed to a range of marginal but important improvements in the prison ...

Network of informants developed

The company's second IST report covered the period 1 January to 31 March 2001. Wackenhut's director, John Hunter, stated that:

During the past five months but particularly during the past three months, a rudimentary network of prisoner informants has been developed. Individual members of staff have contact with individual prisoners from whom they obtain information about what is taking place in the prison sub-culture. It has been as a result of this information that the full searches of cell units have taken place. In January we were provided with information sufficiently detailed to allow us to make the first find of firearms. During recent weeks the nature of this information has changed slightly to include allegations of corruption by named members of staff. It was this development which prompted us to seek to involve the police in investigating, which in turn led to the investigations by the Prosecutor General's staff. We were delighted and gratified when the Minister decided to appoint a Commission of Inquiry into corrupt practice in the prison. We shall provide them with our full support and co-operation.

The report also noted that:

- The construction and renovation dates provided by Hensel Phelps International and quoted in the previous quarterly report have not been met;
- Prisoners were able to occupy Houseblock One on 6 February and Houseblock Two on 15 March;
- It seems inevitable that the first three dates [forecast for the remaining new buildings, Houseblock Three, the kitchen, vocational building and administration building] will not be met;
- Training courses on 15 different subjects have been attended by 319 employees.
- The quarter has seen a number of serious incidents. February in particular was turbulent;

**Serious incidents reported included:**

- Nine full scale searches of prisoners' living units with the detection of much contraband, including drugs, tools, prison-made weapons, factory manufactured hand guns, zip-guns and ammunition;
- Five incidents of cell bars being cut;
- None incident when it is believed a shot was fired;
- None incident of a prisoner firing two shots at another prisoner;
- Seven incidents of prisoner violence against prisoner;
- None incident of mass disorder involving a prisoner taking an officer's keys and releasing other prisoners who then proceeded to damage the fabric of the building. Force, including chemical agents and the presence of a dog was necessary to bring the incident under control. No serious injuries were sustained by staff or prisoners;
- None incident during which a visitor was detained in possession of marijuana. He was handed over to police;
- None incident of a prisoner escaping from an outside hospital;
- None incident of six prisoners escaping from the prison;
- None incident of the uniformed staff walking out of the prison for five hours;
- None incident of an officer being suspended as a result of an accumulation of information that he was bringing contraband into the prison;
- None incident of disorder during which prisoners broke furniture and burned some clothing and other linen.
Mr Hunter added: I cannot state definitively what has prompted the recent increase in dangerous behaviour. However, I believe that prisoners are unsettled by impending and implemented changes. I believe they perceive their chances of carrying out illegal acts greatly reduced as they move to new and more easily managed accommodation. Finally, I believe they resent the manner in which their unacceptable behaviour is being confronted. There is no acceptable way forward which does not deal promptly and effectively with prisoner resistance to, or as a result of, these matters.

The CPT's 1999 report on the Koraal Specht prison is on the internet: www.coe.int/en/reports/inf2000-ogen.htm#APPENDIXII
Prison Privatisation Report International Published in London by the
Prison Reform Trust

Industry hits on the Feds
The Association of Private Correctional and Treatment Organizations (APCTO) has been actively promoting its members' interests lately (see PPRI #45, 44, 40 and 37). Last November, APCTO members met with top officials of the Office of Management and Budget (OMB) to discuss, amongst other topics, the merits of out sourcing and the importance of fair and open competition. The department of Justice (DOJ) has out sourced only one per cent of its workforce and, according to APCTO, the OMB has asked for "help in identifying potential activities and services the DOJ could competitively bid out to the private sector."

APCTO leaders also held a panel discussion with congressional staff members on "the positive attributes of privatisation in the correctional treatment and juvenile justice fields" on 30 January 2002. APCTO's president, Steve Logan, told attendees that: "We want to promote the gathering of data, including the independent data like the recent Heritage Foundation and Reason Public Policy Institute studies that show how privatisation works."

APCTO's 2002 federal legislative agenda includes: creating a privatisation caucus in the US Congress; supporting a measure that requires all federal government departments to allow private industry to compete for contracts where there exists an opportunity in the private sector to provide a similar or same service; developing a relationship between APCTO and appropriate federal government agencies and the US Congress; and increasing the opportunity for private correctional and treatment organisations in the 2003 financial year budget process. APCTO's annual membership meeting took place on 18 April 2002 at Management & Training Corporation's headquarters in Salt Lake City. The next Congressional 'meet and greet' event is in the summer of 2002.

There is a more recent article about the political activities of the prison companies in PPRI #47 - not on the www yet - see below:

INDUSTRY GIVE $1.1m TO CAMPAIGNS IN SOUTHERN STATES
Private-prison companies gave more than $1.1m in campaign contributions to state-level candidates in 14 Southern states during the 2000 elections, favouring incumbents who typically have a high rate of re-election, a new study shows.

The study by the Institute on Money in State Politics also said much of the campaign cash went to influential members of key committees that consider prison-related legislation.

"Using these strategies, the companies made sure that more than 90 percent of their contributions in the 2000 cycle went to candidates who would
actually vote on the decisions that affected their bottom line," noted the study.

The report shows that Texas candidates benefited most heavily from the contributions, with 156 candidates receiving more than $361,000 of the $1.1m given by private-prison interests in the 2000 election cycle. North Carolina followed, with 107 candidates receiving $226,500. Florida ranked third, with 122 candidates receiving nearly $158,500.

Key contributors were Corrections Corporation of America, which made more than 600 contributions totalling more than $443,300 to candidates in 13 of the states; Wackenhut Corrections Corporation, which gave 336 contributions totalling more than $237,750 to candidates in six states; Cornell Corrections, which made 284 contributions totalling nearly $100,000 in three states; and Correctional Services Corporation which gave 208 contributions in two states, for $97,670.

In several states where private-prison interests gave heavily, lawmakers subsequently passed measures to bolster private prisons or defeated efforts to reduce funding for them.

"In many cases, lawmakers considering the policy decisions received campaign contributions from the companies that stood to profit from the decisions," the report said. It provided several examples:

The North Carolina Legislature approved Senate Bill 25, authorising the state to contract with private firms for building two new prisons that the state will then buy back. The legislators who sponsored SB25 received $3,700 in political gifts from proponents of the legislation. The bill was first sent to the Senate Finance Committee, where more than 60 percent of the members had received at least one cheque from private-prison interests; contributions to committee members totalled $21,303. It later went to the House Finance Committee, where nearly half of the members had been among the beneficiaries of $8,950 in campaign contributions. And it was signed by Governor Michael Easley, who received $40,675 in campaign contributions from prison interests, leading the 14 Southern gubernatorial candidates in private prison contributions.

In Georgia, the Legislature rejected both a proposed ban on future private prisons without permission from state or local authorities and a ban on the importation of sex offenders or other violent criminals. House Bill 456 won approval in the House, but died in the Senate Corrections, Correctional Institutions and Property Committee. Nearly 60 percent of the Senate candidates received at least one contribution from an industry source, compared with just 24 percent of the House candidates. Four of the nine Senate committee members received contributions, for a total of $2,700. In all, private prison contributions totalled $56,650, with 95 percent of the money going to incumbent candidates, who typically have an extremely high rate of success in their re-election contests and thus were likely to be acting on legislation affecting the industry.
Oklahoma provided another example where the Legislature took steps to reduce the state's skyrocketing inmate population by reducing the number of people sent to prison for non-violent offenses. But lawmakers also took, in Senate Bill 397, two other steps that ensured continued incarceration of prisoners. They added eight violent crimes to the list of those for which offenders must serve at least 85 percent of their sentences and also repealed the governor's authority to release qualified, non-violent offenders if the prison system reaches 95 percent of its capacity.

Private prison interests gave $52,100 during the 2000 election cycle, and nearly 83 percent of that money was given to winning candidates. Nine of the top 10 recipients of private prison funds favoured SB 397, while the 10th was excused from voting on the legislation.

Lawmakers in Mississippi allocated $6 m in 2001 to pay for empty prison beds for non-existent inmates and then overrode a gubernatorial veto of the funding, thus keeping the money in the budget. During the 1999 elections in Mississippi, private prison interests contributed nearly $42,000 to 38 candidates. CCA lobbyist Buddy Medlin and his firm gave $18,385 of that amount, or more than 44 percent. And nearly 30 percent of the contributions were made either just before the election when some winners are all but certain or after the election.

In Florida, lawmakers considered two bills to abolish the state Correctional Privatization Commission and transfer its duties. Both measures arose from concerns over conflict-of-interest allegations involving the staff of this oversight body and the consultants with whom they worked. Both bills died.

Executives and lobbyists for private prisons were active campaign contributors in 2000, giving 122 candidates more than $158,400. And more than half of the House and Senate candidates, or a voting majority, received at least $1,000 in contributions from industry sources. Wackenhut Corrections gave $12,500 of its $65,200 on 1 November and 2 November, just hours before the midnight 2 November deadline for contributions.

Texas lawmakers encouraged rehabilitation of prisoners in setting corrections policy during the 2001 legislative session, in an effort to rein in tough-on-crime policies and corrections spending that had led to an increase of 105,000 prison beds during the 1990s. Private prison interests contributed $361,293 during the 2000 election cycle, and 97.5 per cent of that money went to winning candidates and sitting officeholders who would be considering prison spending in the next legislative session.

"On top of the strategically made contributions, the companies employed powerful lobbyists to push their interests in the halls of the legislatures, at a cost that's difficult, if not impossible, to measure," the report noted.
By using both lobbyists and targeted campaign contributions, the companies made in-roads during 2001 legislative sessions in Southern states and blocked legislation that would have been harmful to their interests, the report said, adding: "They paid handsomely to play the public-policy game, and likely will do so again."

A Contributing Influence: The Private-Prison Industry and Political Giving in the South, see www.followthemoney.org