

Assembly Hearing Slip

(Please print plainly)

Date: 2-16-99

Bill No. AB 176

Or Subject \_\_\_\_\_

(Name) STANLEY BRIGGS

(Street Address or Route Number) \_\_\_\_\_

(City & Zip Code) \_\_\_\_\_

(Representing) \_\_\_\_\_

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/10/99

Bill No. AB ~~176~~ 176

Or Subject \_\_\_\_\_

(Name) Jon E. Litscher

(Street Address or Route Number) 149 East Wilson St

(City & Zip Code) Madison

(Representing) Dept of Corrections

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

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Date: 3/10/99

Bill No. AB 176

Or Subject \_\_\_\_\_

(Name) MARTIN BEEL

(Street Address or Route Number) 8033 Excelsior Dr

(City & Zip Code) Madison WI

(Representing) Wis State Employees Union

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

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Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/10/99

Bill No. AS 176

Or Subject: Senator Albert Darling

(Name) Senator Albert Darling

(Street Address or Route Number)

(City & Zip Code) StKS SD

(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

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Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/10/99

Bill No. 176

Or Subject: Private Business

(Name) Cheryl Hayes

(Street Address or Route Number) 2232 W. Walnut

(City & Zip Code) Milwaukee, WI 53205

(Representing) BDNef

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

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Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3-10-99

Bill No. Private Privatization

Or Subject: Private Privatization

(Name) Peter Van Horn

(Street Address or Route Number) Independent Business Association

(City & Zip Code) 1400 E. Washington, St 289

(Representing) Madison, WI 53703

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

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Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/10/99

Bill No. AB 176

Or Subject: \_\_\_\_\_

(Name) Deanne Kucera

6333 St. Edmund Rd  
(Street Address or Route Number)

Milwaukee 53213  
(City & Zip Code)

WI State AFL-CIO  
(Representing)

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking for *information only*:

Neither for nor *against*:

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Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/10

Bill No. AB 126

Or Subject: Private Prisons in Wis.

(Name) Mark Reihl

15 W. Main St  
(Street Address or Route Number)

Madison, WI 53703  
(City & Zip Code)

Wis. State Council of Carpenters  
(Representing)

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking for *information only*:

Neither for nor *against*:

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Room 411 West  
State Capitol  
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 3/10/99

Bill No. AB 176

Or Subject: \_\_\_\_\_

(Name) Michael Moore

152 W. Johnson St. Suite 202  
(Street Address or Route Number)

Madison 53703  
(City & Zip Code)

Council #1/WENAC  
(Representing)

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking for *information only*:

Neither for nor *against*:

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Assembly Sergeant at Arms  
Room 411 West  
State Capitol  
Madison, WI 53702



Martin Beil  
Executive Director

# AFSCME Council 24

## AFL-CIO

### WISCONSIN STATE EMPLOYEES UNION

*The Union That Cares*

8033 Excelsior Drive, Suite C, Madison, WI 53717

Phone (608) 836-0024

Fax (608) 836-0222

Gary Lonzo  
President

#### TESTIMONY OF MARTY BEIL

March 10, 1999

#### AB 176 ASSEMBLY COMMITTEE ON CORRECTIONS AND COURTS

Good morning. I am Marty Beil, Executive Director of AFSCME Council 24, the state employees union that represents correctional officers in Wisconsin. I am here to voice our very strong opposition to the measure Representative Walker has placed before you today.

AFSCME Council 24 represents a significant portion of the state's law enforcement community. From the State Patrol troopers and inspectors to the DNR conservation wardens ... to 4,000 Correctional employees ... it is our business to know and understand the public policy issues that impact the safety of our citizens and our members.

Privatization of the essential function of law enforcement is neither wise nor necessary. It is a fundamental responsibility of government. There has been enough experience in other states with privatization that I will illustrate to you why prison privatization in Wisconsin will only serve to drive corrections costs even higher. **Privatization does not improve safety ... does not save money ... and places governmental entities at risk for liability concerns for which they have little or no control.** What it does do is make some select investors rich.

A recent article in the Atlantic Monthly – titled "The Prison Industrial Complex" -- examines the perplexing question of why, *when crime is dropping*, the prison business is booming? The answer is not so perplexing.

The Prison Industrial Complex has replaced the Military Industrial Complex as the "growth" industry of this decade and the years ahead. \*At a recent gathering of investors in New York City, investment advisers encouraged entrepreneurs to get in on the ground floor of this booming business. With "tough on crime" politicians locking people up faster than



Testimony Of Marty Beil

March 10, 1999

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governmental entities can respond—there is money to be made. A statement from the article sums it up best by noting "The prison industrial complex is not a conspiracy, guiding criminal justice policy behind closed doors. It is a confluence of special interests that has given prison construction in the United States a seemingly unstoppable momentum".

The article also notes that the prison industrial complex includes some of the nation's largest architecture and construction firms, Wall Street investment banks, and companies that sell everything from security cameras to padded cells in a - quote - "*vast color selection*" - end quote. These private concerns aren't knocking on Wisconsin's doors because they want to help.

Well, they want to help themselves ... and their investors ... to our tax dollars.

The "World Research Group" conference on "Privatizing Correctional Facilities" was held for private prison investors in December of 1996. For a registration fee of \$1,295 the conference brochure assured potential investors that "while arrests and convictions are steadily on the rise, profits are to be made-PROFITS FROM CRIME. Get in on the ground floor of this booming industry now!" In 1997 the brochure for the group's second conference spoke of the "startling growth" in private corrections: "Industry analysts predict potential revenues to surpass the \$2 billion mark before the end of the decade".

A report issued last year on private prisons from Prudential Securities advised investors of the potential risks for the industry:

- Falling crime rates
- Shorter prison sentences
- A move toward alternative sentencing
- And changes in the nation's drug laws.

Nonetheless, the report concludes "the industry appears to have excellent prospects".

The privateers have capitalized on the tough on crime movement in many states and have made a bundle. Building on speculation, following the field of dreams notion that "*If you build it,*

*they will come.* " States like Wisconsin who have been on an extended "Lock-em-up-and-Throw-Away-the-Key" sentencing spree suddenly find themselves short of bed space – and ripe for exploitation by the private prison industry.

If you understand that their motivation is to make money, then it's no surprise that the way they do that is by keeping their beds filled. Like the hotel industry, they make the most money when their facilities are operating at full capacity. They have a vested interest in making sure sentences are tough and long. These private concerns are not going to invest tens of millions of dollars in facilities and operations without making sure that their investment continues to pay off for years and years to come.

Private prisons aren't the answer to our problem in Wisconsin. If allowed they will add to our problem. But the important policy question that has prompted the privateers interest in Wisconsin needs to be examined. How do we address our overcrowding problem? How do we put the brakes on this mass incarceration of citizens that is straining our current system to the breaking point?

We believe that there are several wise and pragmatic options that will begin to relieve the pressure on our system.

**First**, we must encourage the Legislature to pass a moratorium on any new tough-on-crime legislation, penalty enhancers, mandatory minimums and other laws that add 40 new inmates to our system each day . Many of the tough-on-crime laws are not passed to address serious, violent crime but petty crime. Four thousand of the more than 15,000 inmates in Wisconsin's system are there for property crimes.

We are not saying that these offenders do not deserve punishment. We are saying that there may be a less costly, community-based alternative that allows them to do their time and return to society in a productive capacity. It is often said *the best place to learn crime ... is to do time*. And we make a mistake when we place first-time, non-violent offenders in institutions with hardened and violent inmates.

**Second**, we need to wait for the results of the Sentencing Commission that was appointed to

examine the state's sentencing structure. This group has been working diligently to assess our sentencing system and recommendations are expected this summer. The tough-on-crime laws have been passed without regard to their costs, their appropriateness and their effectiveness in rehabilitating inmates and reducing recidivism. The Legislature has passed these laws with a blank check in hand ... and we are now having to dig into the bank to pay the bill. We feel confident the Sentencing Commission will have some prudent recommendations in this regard.

**Third**, we turn our attention to the prevention programs and policies that we know will work, if they are funded and supported properly. We must look at the characteristics of persons committing crimes and see if there are more effective ways of dealing with their criminal activity.

For example, it is estimated that well over 200,000 inmates in U.S. prisons are mentally ill. At what point do we recognize that it is cheaper to provide medication and supportive community-based programs to treat these people. It is far cheaper than allowing them to victimize an innocent person or entity and then lock them up and throw away the key. Seventy percent of the U.S. prison population is illiterate. What employment options do they have if they cannot even read? Where and what do they do each and every day if there are no opportunities?

My testimony could take hours—there is so much to be said on this topic. In closing, I'd like to highlight several key points and respond to remarks from this bill's sponsor, as well as some of the myths perpetuated by the private prison industry:

- **We've heard that allowing private prisons to be built will bring economic benefits as well as human benefits.**

Not necessarily. If it is the policy decision of the Legislature and Governor that we need more prison beds, then why not have the state build and operate the facilities? The Dominion Corp., a private entity that will build then lease prisons, recently constructed a facility in the Northwestern town of Stanley. Rather than rely on the out-of-work carpenters and tradespersons from Wisconsin, they imported workers from other states.

Several private operations have failed to deliver on promises and negotiate in good faith with local municipalities and state governments. In one county, a major private prison concern built a facility only to use a loophole to convert it to non-taxpaying status -- thereby bilking the local

community out of property tax revenue. Their response to the community was that everything they did was legal, never mind that it was handled in an under-the-table, deceitful manner.

Many of the Wisconsin inmates in private prisons in other states would hardly endorse their treatment in these facilities as being safe. Family members have expressed considerable concern with the treatment their family members are receiving at some of the prisons.

There may be other alternatives to shipping prisoners out of state that would allow them to fulfill their obligation to the state and prepare them for life outside of prison. These are options that need to be explored by the Department of Corrections and appropriate law enforcement and administrative agencies.

- **Another myth is that private prisons will keep officers safe. Not according to many former corrections officers who've worked for private prison operators.**

Labor costs are the highest cost in a prison operation ... and privateers often leave positions unfilled in order to meet their bottom-line profit objectives. Attached is a review of a Corrections Corporation of America facility in Youngstown, Ohio, that placed not only the inmate and staff lives in danger but the general public as well by their mismanagement of their prison facility.

- **Yet another myth is that private prisons save money. While no rigorous scientific research has been done because of the vagaries in accounting systems, operating policies and inmate populations between public and private facilities, the general consensus of researchers is that there is no discernible cost differences between public and private facilities. It is important to note that the characteristics of the inmate population contribute greatly to the costs. Private facilities accept the easiest to manage prisoner with few, if any medical problems.**

The U.S. Department of Justice recently released a report directing the Attorney General to "conduct a study of correctional privatization, including a review of relevant research and related legal issues, and comparative analysis of the cost effectiveness and feasibility of private sector and federal, state and local governmental operation of prisons and corrections programs at all security levels". This report supports the conclusion that, as of yet, no confident conclusions can be drawn concerning whether the cost and quality of operations in private prisons is lower, higher or equivalent to that of public sector prisons.

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March 10, 1999

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- **Finally, I would like to emphasize that the most basic responsibility of government is to protect the public and provide adequate law enforcement in our communities.**

The operation of any type of penal institution involves the use of coercive power and in our democratic system we have reserved and limited that power to government. There are dangers in "subcontracting" that authority -- as noted in Supreme Court Case 96-318 -- which addressed the liability issues in private prisons.

It was noted that: "The less involvement a state has in the operation of its prisons, the more likely that arguments could be made successfully that the State has failed to make constitutionally required policy, rules and regulations and therefore was liable under the Eighth and Fourteenth Amendments for its deliberate indifference and failure to act."

In short, the state can have oversight of a facility but unless it is solely operated and under the control of the state, some significant liability concerns exist. And what do we gain if we have to maintain such an extensive oversight system of a private facility? We increase the work of our state Department of Corrections by having them operate one prison system and providing oversight and inspections for another. This hardly sounds like efficient government.

Thank you for the opportunity to address the committee on this important matter.

November 25, 1998

The Honorable Janet Reno  
Attorney General  
United States Department of Justice  
Washington, D.C. 20531

Dear Attorney General Reno:

Enclosed is the report you requested for an independent review of the management and operations of the Northeast Ohio Correctional Center (NEOCC) in Youngstown, Ohio, owned and operated by the Corrections Corporation of America (CCA). This report is part of the action plan discussed in your August 7, 1998, letter to Governor of Ohio George V. Voinovich.

The report is the culmination of over three months of research and interviews to evaluate the District of Columbia's efforts to place approximately 1,700 District inmates in NEOCC and to understand the deficiencies, errors, and mismanagement that led to a series of unfortunate occurrences, including disruptions, escapes, and the deaths of two inmates. The research was conducted by a team of experts with extensive backgrounds in various aspects of correctional management, with oversight by key staff of the Office of the Corrections Trustee. The report contains 19 major findings regarding the management and operations of the District's Department of Corrections and NEOCC. The report also contains 24 major recommendations for CCA, NEOCC, and the District of Columbia Department of Corrections on the operations, management and oversight of NEOCC to assist in the long-term improvements necessary to assure the safety of inmates, staff, and the community.

Thank you for the opportunity to assist in this most important project.

Sincerely,

//signature//

John L. Clark

Corrections Trustee

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- Health Services Management
- Contract Management and Oversight
- Summary of Current Status and Future Prognosis

Appendices - Please be advised that the Appendix will be available on Monday, December 7, 1998 after 5:30 pm.

Glossary of Terms - Please be advised that the Glossary of Terms will be available on Monday, December 7, 1998 after 5:30 pm.

Abbreviations - Please be advised that the Abbreviations will be available on Monday, December 7, 1998 after 5:30 pm.

## **Introduction**

### **A. Mission and Scope of the Trustee's Review**

On August 5, 1998, Attorney General Janet Reno appointed the Corrections Trustee for the District of Columbia to perform an in-depth review and inspection of the security procedures, management practices and work opportunities of the Northeast Ohio Correctional Center (NEOCC). This appointment was in response to urgent requests from Ohio Governor George V. Voinovich and the U.S. Congress after several highly publicized problems occurred at the institution. The Corrections Trustee shared these requests with Margaret Moore, then Director of the District of Columbia Department of Corrections.

The Attorney General asked the Trustee to prepare a comprehensive report which addressed a number of public concerns and to make recommendations for corrective actions. The purpose of this review was to address the operational procedures, policies and practices and to help restore public confidence in the facility's ability to effectively accomplish its mission. On behalf of Ohio officials and Congress, the Department of Justice requested that the Corrections Trustee initiate a study to examine the:

1. Management style utilized at NEOCC and the extent to which the more serious problems might reasonably have been prevented or minimized;
  2. Manner in which all intervening incidents in Ohio were handled by the institution's staff as they occurred, and subsequently how the administrators of the facility and other Corrections Corporation of America (CCA) managers responded to these incidents;
  3. Steps taken by CCA and the District of Columbia's Department of Corrections (DOC) to rectify weaknesses and prevent future occurrences;
- Full extent, nature and problems associated with the contractual confinement arrangement including its implementation and adequacy;

5. Adequacy of inmate work opportunities;
6. Level of staff compliance or noncompliance with NEOCC policies, as well as NEOCC's communication with local law enforcement, DOC, and other governmental agencies;
  - Current status and adequacy of all contracts for the operation of the facility;
8. Comprehensive, long-term solution to the problems identified including specific recommendations for next steps or actions regarding relevant policy, procedures and operational issues.

Based on the scope of this review as defined above, the principal areas reviewed include:

- procurement and contract management
- institution activation
- selection and classification of inmates
- operational management
- management of the inmate population
- staffing/human resource management
- institution security
- health services management
- external relations

The results and subsequent recommendations from this review are found in this report. The report begins with a brief history and overview, followed by an evaluation of the managerial, operational and security aspects of the institution, the contract administration and oversight, and the institution's relationship with the national, state, and local contingents; and concludes with a list of recommendations for corrective actions.

Attached as Appendix 1 are the letters of Governor Voinovich, Attorney General Reno, Congressman Tom Davis, and Deputy Attorney General Eric H. Holder defining the purpose and scope of the present review.

## **B. Role of the Office of the Corrections Trustee**

The National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33, established the position of Corrections Trustee to serve as an independent Officer of the District of Columbia government. As established, the Trustee is appointed directly by the Attorney General of the United States, after consultation with leading officials of various branches of the District government, and may only be removed by the Attorney General. John L. Clark was appointed by Attorney General Janet Reno to serve in this capacity September, 1997, and was sworn in shortly thereafter.

The mission of the Office of the Corrections Trustee is: to provide financial oversight to the District of Columbia's Department of Corrections (DOC); to facilitate the closure of the Lorton complex and the transfer of all sentenced felons to federal custody by December 31, 2001; and to ensure the District of Columbia develops and maintains a viable correctional system which promotes the safety of staff, inmates and the community. The responsibilities of the Office of the Corrections Trustee are carried out by a small staff who possess extensive experience in the field of corrections.

### **C. Team Membership and Structure**

The Corrections Trustee selected a team with a wealth of correctional experience at the federal, state, and local levels to conduct the on-site review of NEOCC. Collectively, the team possessed a vast degree of correctional experience from serving in positions such as correctional director, warden, classification expert, chief physician, and security administrator. These participants included:

#### **Principal Review Team Members**

John Clark Corrections Trustee; Former Assistant Director of the Federal Bureau of Prisons and experienced warden, including at United States Penitentiary Marion, Illinois, and Chief of the Bureau's Correctional Programs Branch (Classification).

Devon Brown Project Director and Deputy Trustee; Former Director of the Montgomery County Maryland Department of Correction and Rehabilitation, Assistant Commissioner of the Maryland Division of Correction, and Warden for the Maryland Department of Public Safety and Correctional Services.

Stan W. Czerniak Security Team Leader; Assistant Secretary of Corrections, Florida State Department of Corrections.

Jasper Clay Lead Classification Reviewer and Senior Advisor to the Trustee; Former Vice-Chairman, U.S. Parole Commission, and Parole Commissioner for the Maryland State Parole Board.

H. Vic Loy Management Team Leader and Assistant Trustee; Former Warden, Deputy Regional Director, and Program Review Branch Chief for the Federal Bureau of Prisons.

Dr. Glenn Johnson Health Services Reviewer; Former Medical Director, Texas Department of Corrections; Senior Auditor for the National Commission on Correctional Healthcare.

James Upchurch Statewide Security Administrator, Florida Department of Corrections.

#### **Review Team Members from the Office of the Corrections Trustee**

Phil Arnold, Doug Caulfield, George Diffenbaucher, Jennifer La Point, and Marcia Murray

Steve Loudermilk, Security Consultant

#### **Observer**

Norman Hills Regional Director, Ohio State Department of Rehabilitation and Corrections.

In support of the on-site review, the adequacy and status of the contract between CCA and DOC were reviewed by Victor Stone, General Counsel for the Office of the Corrections Trustee and by Richard Crane, former Chief Legal Counsel for the Louisiana Department of Corrections and Director of the Correctional Law Project of the American Correctional Association, who currently specializes in the legal aspects of privatization. Bradley Kyser and Gary Katsel of the Office of the Corrections Trustee provided significant editorial assistance to this report.

### **D. Methodology**

- Although the awarding of the NEOCC contract and designation of inmates to this facility

occurred before the establishment of the Office of the Corrections Trustee, the Trustee's Office gained knowledge of NEOCC operations through field trips to NEOCC and through its financial oversight of DOC operations.

- Beginning in October 1997, staff from the Office of the Corrections Trustee periodically visited NEOCC to review and observe institution operations.
- After appointment to the current review, the Review Team performed on-site reviews during five weeks in August and September 1998 to make additional observations and conduct in-depth research.
- A more intensive week long review commenced on September 21, 1998. The 12 member team used structured guidelines, observations and interviews to conduct a thorough, objective and fair examination of the management, security, and inmate work opportunities at NEOCC.
- The procedures used to gather information included: observations of institution functions and activities, review of pertinent documents (e.g., personnel files, institution policies, incident reports, etc.) and interviews with managers, staff and inmates from NEOCC; state and local civic, political and law enforcement officials; senior level managers from the CCA corporation and Board of Directors; and various levels of officials in the DOC. Numerous other staff and inmates were also interviewed during the multiple visits. Appendix I provides a categorical list of the individuals interviewed or consulted in the preparation of this report.
- Standardized questions were used to interview 44 staff and 42 inmates who were randomly selected. Both the staff and inmate interview guides covered safety, security, morale, and managerial responsiveness. Specific questions about workload, communication, job satisfaction, and training opportunities appeared on the staff version. The inmate version addressed issues such as the adequacy of inmate programs (e.g., work opportunities, education, religious services, etc.), medical services, food services, inmate privileges (e.g., mail, commissary, visits), and the disciplinary process. The results from these structured interviews were incorporated where appropriate, in the body of this report.

### NEOCC Chronology

Spring 1996	CCA begins construction on NEOCC after signing a development agreement with the City of Youngstown.
Fall 1996	Initial discussions begin between CCA and the District of Columbia for a contract which would place 1500 prisoners in NEOCC.
February 1997	The agreement breaks down due to problems related to the procurement and contracting process in the District of Columbia.
May 1997	A short term 4 ½ month contract is signed for 900 DOC prisoners to move to NEOCC. The facility opens and 900 prisoners are immediately transferred over a period of three weeks.
May 30, 1997	A disruption is reported at the NEOCC. Reportedly, inmates threatened correctional staff and refused to lock down. After inmates refused several direct orders to return to their cells, tear gas was used to restore order.
August 1997	Subsequent to the May tear gas incident, inmates file a class action lawsuit in U.S. District Court of the Northern District of Ohio. It is still ongoing.
Summer/Fall 1997	A series of stabbings and assaults occur including several on NEOCC staff.
September 1997	A one year contract, with four option years is awarded by the DC Financial Authority to CCA for 1440 beds. The contract was amended to increase bed space to 1700.
October 1997	NEOCC houses 1700 DOC inmates. The DOC hires a consultant firm, Pulitzer Bogard & Associates, to provide periodic/monthly contract monitoring of the facility

February/March 1998	Two homicides at the facility prompted major operational changes and a national focus on the administration of NEOCC. CCA removes the warden and replaces him with a more seasoned warden in CCA's system.
March 1998	The Ohio Legislature passes House Bill 293 providing for closer regulation of private prisons in Ohio. Several of its stipulations soon have an impact on NEOCC. In addition, the U.S. District Court orders a complete reclassification of the entire NEOCC inmate population using the National Council on Crime and Delinquency's (NCCD) instrument, as well as, the removal of all felons with classifications of maximum security.
April 1998	U.S. District Court issues an injunction temporarily prohibiting the DOC from transferring additional inmates to the facility.
May 1, 1998	Extensive controversy was sparked between NEOCC and the Ohio Legislature when the chairwoman, several staff and associates of Ohio's Correctional Institution Inspection Committee were denied entrance for a surprise NEOCC inspection.
June 1998	One hundred nineteen maximum security inmates were transferred based on the results from the NCCD reclassification.
July 25, 1998	Six inmates who were serving long sentences for very serious, violent offenses escape from NEOCC. All were eventually recaptured.
August 7, 1998	After a request for an NEOCC inspection from Ohio Governor Voinovich, Attorney General Reno appoints DC Corrections Trustee, John L. Clark to perform an in-depth review of the management, security and work opportunities at NEOCC and prepare a comprehensive report which addressed the issues raised and include recommendations for corrective actions. Virginia Congressman Tom Davis, Chair of the House Subcommittee on the District of Columbia requested that a copy of the report be forwarded to the Congress and the General Accounting Office (GAO) for review.
September 17, 1998	The contract between the City of Youngstown and CCA expires due to Ohio statute requirements. An interim renewal contract was signed while renegotiation of the remaining issues continues.

## Executive Summary

### Part A: Major Findings

**Overview.** The Northeast Ohio Correctional Center has experienced pivotal failures in its security and operational management as a result of seriously flawed decisions by leaders of both CCA and DOC. Expediency and the pressure of short-term objectives often prevailed over good judgement and sound correctional management procedures. Identification and resolution of problems were too often delayed by the failure to perform self-assessment and management oversight. It is reasonable to conclude that certain of the most serious problems which endangered the safety of the public, the staff or the inmates were preventable or subject to mitigation. These as well as other findings are listed below and expounded upon in their respective chapters.

#### **A. Activation and Early Period of Operations at Youngstown**

**F-1.** In response to a perceived emergency need for contract prison beds, the District of Columbia rushed into an abbreviated procurement process which minimized competition. The result was a flawed contract, at a somewhat inflated price, with weak requirements on the contractor and minimal provisions for enforcement. (Chapter II)

**F-2.** The prison was not adequately prepared to open and was overwhelmed by a precipitous rush to fill it. Even though serious problems began immediately, inmates continued to be sent at an accelerated pace. (Chapter III)

**F-3.** DOC and CCA failed to perform rigorous case reviews and to carefully select the population for

transfer, which contributed substantially to many of the problems that quickly surfaced at NEOCC. Managers of both organizations were informed, willing and mutually responsible players in the transfer of large numbers of inmates who could not be considered medium or high-medium under any reasonable correctional standard. DOC selected scores of inappropriate cases, all of which CCA uncritically accepted. Until recently, NEOCC never developed a capacity for inmate classification and screening. (Chapter IV)

F-4. DOC was irresponsible in sending over 200 inmates who required individual separation from other particular inmates at NEOCC, at times providing minimal file documentation. It is unacceptable correctional practice to house such separation cases in a general population facility. NEOCC accepted and kept these cases, without developing adequate procedures for managing their safety needs until after a homicide resulted from the poor procedures. (Chapter IV)

F-5. In the critical area of staff/ inmate relations, a poor level of communication and trust prevailed since the opening of the facility, although more recently there has been a significant effort toward improvement by management. (Chapter VI)

F-6. Staff/inmate relations were severely harmed by a prolonged episode in the spring of 1998 during which an extensive search of all housing units was instituted following the two murders. Unnecessarily harsh and humiliating procedures were systematically employed, souring internal relations. There were a number of allegations of excessive use of force by staff teams. This incident, which appeared to have been directed or tolerated by a corporate management team, continues to have serious negative ramifications on the safe and secure management of the facility. This event has never been adequately investigated and reported on by management of DOC or CCA. (Chapter VI)

## **B. Continuing Issues and Concerns**

F-7. In a pattern of flawed security attributable to both corporate and institutional management deficiencies, NEOCC failed to accomplish the basic mission of correctional safety. Most notably, there were two homicides, a major escape, numerous stabbings, assaults against inmates and staff, and the widespread presence of dangerous weapons among inmates. (Chapter V)

F-8. There is little indication that the local management received significant guidance in security procedures from corporate management, except in reaction to major problems. To a lesser extent, the serious security failures are also attributable to the inadequate oversight of the contract by the DOC. (Chapter V)

F-9. A destructive pattern of extensive inmate idleness continues to prevail. There are few constructive work or program opportunities for most prisoners, which directly violates DOC's contract. Most inmates spend virtually all their time confined to small, noisy living units. This inmate idleness could become a permanent pattern if not soon corrected. (Chapter VI)

F-10. Procedures put in place to manage large numbers of separation cases constitute a major problem, severely limiting operations of the facility and aggravating idleness. (Chapters IV, VI)

F-11. Until recently, NEOCC has not demonstrated the capability to identify and correct its own problems. Numerous major changes in procedures, programs and leadership have been spurred primarily in reaction to intervening negative events or external forces. CCA is reluctant or unable to perform internal audits or after-action reviews, with accompanying analytical reports following significant incidents of security breakdowns. (Chapter VII)

**F-12.** In response to the major problems and extensive public criticism, CCA management took a decisive step in March 1997 by bringing in a new warden and certain other upper management officials. While there were initial missteps, the new warden and his management team have had a positive impact, bringing a greater sense of organization and coherent progress toward goals. (Chapter VII)

**F-13.** The management of NEOCC has not at any time developed an operational plan of action, including identification of such elements as the administration's major priorities for the facility, specific objectives, target dates or persons and offices responsible for achieving those objectives or solving critical problems. There is no mechanism for evaluating and measuring progress toward achieving those priorities and objectives. (Chapter VII)

**F-14.** External relations with the Youngstown community as well as law enforcement leaders have been severely damaged, adding to the prison's difficulties. There is a strong perception that after first winning the good will of the community prior to opening, CCA's NEOCC leadership soon adopted a posture of independence and isolationism. (Chapter VIII)

**F-15.** In the critical area of law enforcement procedures, NEOCC has shown disorganization and a lack of adequate coordination and cooperation with investigatory and prosecutorial agencies. The investigation of possible criminal behavior occurring at NEOCC has suffered from a lack of clear management policy and procedures, resulting in confusion and the mishandling of investigatory procedures. Joint interagency emergency assistance plans have not been adequately finalized and implemented nor have any joint emergency preparation exercises been planned or conducted. (Chapter VIII)

**F-16.** A number of officials voiced a concern that CCA exhibits a limited sense of public accountability and responsiveness as it carries out a sensitive societal mission on behalf of governmental jurisdictions. (Chapter VIII)

**F-17.** The lack of correctional experience on the part of almost all staff, especially supervisors, has severely hampered NEOCC's attempts to manage a difficult inmate population. In spite of the commitment and enthusiasm of line staff as a group, they are not yet sufficiently experienced and trained for their duties. (Chapter IX)

**F-18.** The DOC initially took little responsibility for its role of monitoring the operations at NEOCC, until confronted with major problems in Federal Court, public opinion and political scrutiny. Although DOC has appointed a Contract Monitor, it has not yet developed an adequate oversight management function at DOC headquarters. (Chapter XI)

**F-19.** There has been significant, though fragile, improvement at NEOCC in the past several months. In particular, there has been a marked reduction in reported violence and disruption, with most of the more troublesome inmates having recently been removed. The facility appears to be more organized and is working on solving many of its previous problems. The situation remains vulnerable and significant problems persist. Long-term success can be achieved only if there is a strong commitment to improvement and accountability by CCA and DOC, along with close public scrutiny in the District and Ohio. (Chapter XII)

## **Executive Summary**

### **Part B: Major Recommendations**

**Introduction.** A list of the major recommendations is presented below, while additional recommendations of lesser magnitude can be found at the end of each chapter, where applicable.

**Major Recommendations**

- R-1.** The existing contract should be modified to hold the NEOCC management more accountable for adhering to contract provisions by including specific procedures and penalties for noncompliance. Specific language should be added covering the policies and procedures for determinations of contract noncompliance and include a preset schedule of financial penalties that attach to such contract breaches. Penalties should be scaled to account for the number of inmates affected, and repeat violations should be penalized more heavily. In addition, the justification for the pricing structure should be closely reevaluated. (Chapter II)
- R-2.** DOC should ensure that any future activation of a new contract facility be well organized and gradual, with feasible start-up schedules, on-site monitoring and a willingness to alter plans to adapt to the realities of the situation. (Chapters II, III)
- R-3.** DOC should clearly define criteria for the selection of inmates for any future transfer to contract facilities. Sufficient time should be allowed for the DOC and the contract facility to screen referrals and determine if adequate information is available, and for the contractor to object to the transfer of any inmate not suitable under the terms of the contract. (Chapter IV)
- R-4.** DOC should ensure that future contract facilities have in place, before inmates arrive, a sound screening and classification capacity to use as a basis for assigning inmates to housing units, identifying individual security needs, and directing inmate involvement in work and program activities. (Chapter IV)
- R-5.** NEOCC should better emphasize the central importance of its inmate classification and the quality of its case management capacity. Additional classification training is important for not only the case management counselors and the classification supervisor, but also for upper management administrators who review the recommendations and decisions made by other staff. (Chapter IV)
- R-6.** The process of classifying inmates must be stabilized and confusion eliminated, after three different systems or models have been used in quick succession at NEOCC. Consistent with the direction of Congress in the 1999 District of Columbia Appropriations Act, the Federal Bureau of Prisons (BOP) model should be adopted as the permanent system, and staff should be well trained in its implementation. (Chapter IV)
- R-7.** DOC must immediately work with NEOCC to remove all existing separation cases from the facility and to ensure that no future known separation/enemy cases are sent to NEOCC. NEOCC must develop precise procedures for the management of any future separation cases, which may occur from local incidents where a strong animosity arises. Staff and supervisors should be thoroughly trained to carry out these sensitive procedures. In no instance should separation cases be allowed to be housed simultaneously in general population. (Chapter IV)
- R-8.** CCA corporate headquarters must provide systematic direction and periodic oversight for NEOCC's operational security procedures, including regular, formal security audits performed by specialists coming from outside the local NEOCC management. Care should be taken to ensure that written plans of action are formulated and implemented to correct deficiencies and weaknesses. (Chapter V)

- R-9.** CCA/NEOCC should implement the findings and recommendations of the security audit performed as part of this current review, as well as those made by DOC in the After Action report following the July 1998 escapes and all DOC monitoring findings. (Chapter V)
- R-10.** The highest priority must be given to reducing the longstanding issue of inmate idleness and providing daily activity outside the living units for all prisoners, in order to meet the requirements of the contract and to establish sound correctional practice. Constructive work, training, educational and other program opportunities must be provided consistent with contract requirements, as well as significantly increased opportunities for off-unit recreation. (Chapter VI)
- R-11.** Until there are significant additional opportunities for constructive daily activities, the population of the facility should be reduced, preferably to 1,000 prisoners, since a greater number of idle prisoners invites many different serious problems, as has been experienced at NEOCC. (Chapter VI)
- R-12.** NEOCC management must prioritize efforts to improve staff-to-inmate relations and communications. Several measures toward this end would include increased accessibility of upper management staff and unit management staff, as well as the provision of various types of training for all staff in areas like interpersonal communications and cultural diversity, while at the same time eliminating unnecessary displays of force. (Chapter VI)
- R-13.** Search procedures, when deemed necessary, should be conducted in an accepted professional fashion, making full effort to respect the physical integrity and personal property of inmates. (Chapter VI)
- R-14.** CCA/NEOCC management should significantly increase its capacity for ongoing internal controls and operational self-assessment, including a process to identify problems and submission of written plans of action for implementation of solutions for deficiencies. (Chapter VII)
- R-15.** When serious incidents occur, CCA should conduct after-action reviews, prepare written analytical reports, and implement action plans to prevent such events in the future. All reports that pertain to NEOCC issues as well as those at similarly situated institutions should be readily available to DOC. (Chapter VII)
- R-16.** CCA/NEOCC should develop a detailed, written plan of action which identifies the facility's major priorities and problems, with objectives, target dates, and persons and offices responsible for implementation of each area. A major part of the plan should address the recommendations identified in this report and the plans for achieving them. Staff at all levels should be aware of this plan and of the major priorities of the facility and their role in achieving the objectives. There should be a mechanism for evaluating and measuring the progress toward meeting those priorities and objectives. (Chapter VII)
- R-17.** CCA/NEOCC should make a concerted effort to establish better relations with all elements of the local community and to allow itself to be held publicly accountable for the manner in which it carries out its sensitive and difficult public function. (Chapter VIII)
- R-18.** It is of particular importance that NEOCC focus on improving its working relations with local, state and federal law enforcement and prosecutorial agencies. Priority must be given to establishing appropriate, agreed upon procedures and clear written policy for handling possible criminal behavior

at NEOCC. Also of importance is finalizing and implementing joint, interagency emergency assistance plans and conducting joint emergency preparation exercises. (Chapter VIII)

**R-19.** CCA should transfer more experienced mid-level supervisors to NEOCC. These more seasoned correctional managers are essential to ensure that basic correctional and security techniques and practices are taught and enforced in daily operations. (Chapter IX)

**R-20.** Consistent with CCA policy and to increase the basic readiness of staff at all levels, NEOCC should design and implement a formal 40 hour annual in-service training program. The course curriculum should be designed with input from supervisors and managers to better target observed weaknesses and areas of poor performance. (Chapter IX)

**R-21.** NEOCC could benefit from increased ethnic diversity among its senior managers, especially in view of the make-up of the inmate population. While the ethnic mix among the line staff is good, a balanced minority representation is lacking in the top echelons after recent personnel changes. Given the current staff/inmate tensions at the NEOCC, such increased diversity among the senior officials would be helpful. (Chapter IX)

**R-22.** In the area of medical services, NEOCC should implement the recommendations of all DOC monitoring reports and of the findings of this current report. (Chapter X)

**R-23.** DOC should supplement the current full-time contract monitor at NEOCC with additional professional and clerical assistance. Assistance should also be periodically provided to the local monitor by DOC headquarters subject matter experts, such as those from the areas of security, health services and case management. (Chapter XI)

**R-24.** DOC should establish a contract oversight unit in its headquarters that would have as its sole responsibility the monitoring of all contract facilities holding DOC prisoners. The unit would develop and administer oversight guidelines, coordinate various forms of on-site monitoring, and ensure the proper implementation of plans of action or imposition of penalties for noncompliance. (Chapter XI)

### **Additional Recommendations**

**AR-1.** Unit management and security functions should be separated. Unit managers now report to the chief of security. This is not conducive to an atmosphere in which case management typically thrives. It sends a mixed message, and unit staff is prone to be less accessible to the inmates. (Chapter IV)

**AR-2.** The practice of having the Special Operations and Response Team continually visible in the halls in full riot gear should be discontinued. (Chapter IV)

**AR-3.** Significant improvements should be made in technology and automation, particularly in integrating basic inmate information with security/custody classification and separation orders (if any remain at the NEOCC). (Chapter VII)

**AR-4.** As decisions are made about changes in operations, care should be taken to keep the NEOCC's body of policy current, so that staff learn to rely upon and use those policies, as well as to maintain an authoritative history of policies that were in place. (Chapter VII)

## **Executive Summary**

### **Part C: Narrative Description**

Walker 308 N



# AFSCME®

WISCONSIN OFFICE • 8033 Excelsior Dr., Suite A • Madison, WI 53717-1903 • Telephone 608/836-6666 • Fax 608/836-3333

March 9, 1999

To: Members, Assembly Committee on Corrections & Courts

RE: Hearing on AB 176-Prison Privatization

Please find attached a collection of information regarding prison privatization as well as testimony presented by AFSCME Council 24 Director Marty Beil at a hearing on a similar bill last year. We thought this might be helpful to you in preparation for tomorrow's hearing on AB 176.

If you have any questions about the information we provided or this issue please feel free to contact me at the following numbers: office-836-6666/cell-444-3852 or at home 277-5703.

Thank you.

*Jennifer Grondin*  
Jennifer Grondin  
AFSCME Legislative Council

Cc:  
Marty Beil  
Rep. Shirley Krug

***in the public service***



Martin Beil  
Executive Director

# AFSCME Council 24

## AFL-CIO

### WISCONSIN STATE EMPLOYEES UNION

*The Union That Cares*

8033 Excelsior Drive, Suite C, Madison, WI 53717

Phone (608) 836-0024

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Gary Lonzo  
President

January 28, 1998

## MARTIN BEIL'S TESTIMONY ON AB 634 BEFORE THE ASSEMBLY CORRECTIONS COMMITTEE

I appreciate the opportunity to share the concerns AFSCME Council 24 has with Assembly Bill 634.

Progressive public policy is a hallmark of Wisconsin government. Assembly Bill 634 steps away from this tradition and moves the state in a direction that is philosophically wrong and presents a potential fiscal risk to Wisconsin taxpayers.

Secretary Sullivan rightly points out that privatization will not save money. The departmental fiscal estimate supports his statement. A recent study, The State of Knowledge on the Privatization of Prison and Jail Operations, concludes that no **rigorous scientific research** has been conducted to support the contention that private prisons operate **more** efficiently, safely and provide the same quality of services that exist in the public sector. The study points out that there is extensive literature on this topic, but that it is primarily descriptive and lacks empirical evidence to support the claims posited.

What does emerge from existing literature are the many unanswered questions that must be addressed when considering the shift of such a fundamental responsibility from government to the private sector.

The first unanswered question that I ask you to consider today is, "What are the potential liabilities for the taxpayer when government delegates this responsibility?" The state may be open to significant damages not only from inmate lawsuits, but commercial and contractual liability as well. *While the state may delegate their responsibility, delegation does not absolve them of responsibility.*

The second question is what other costs may the state incur from this type of contractual relationship? We can look to privatization experiences in other states to get an idea of what may go wrong.

Consider that private prison operators answer FIRST to their shareholders. Bottom line pressures may and have provided incentives to private prison operators to retain their

inmate populations and do little to reduce recidivism. Some may report negatively on inmate behavior to reduce the opportunities for probation and parole. Most contracts require a minimum number of inmates to fulfill their contract requirements.

Consider that after making an investment in bed capacity that private prison operators have an enormous financial incentive in keeping those beds filled. Imagine yet another group of powerful private interests at your door, ready to milk the state coffers, encouraging you to lock the prisoners up sooner and keep them there longer.

Consider as well the difficulties in terminating a contract with a private provider who has invested enormous amounts in bed capacity and is performing poorly. Who will provide you with a comparable service and facility on such short notice? What will the state do if a private operator goes bankrupt? Should the state provide the risk reserves necessary to protect them from the mismanagement of a private facility? What happens if the employees strike? As you build private capacity, you will lose public sector capacity and that capacity will be enormously expensive to rebuild. Building more prisons, public or private, will not provide taxpayers with the ultimate solution to the burgeoning prison population.

Other questions arise on how private prisons will address infrastructure issues such as providing transportation and medical care. How will private prison operators respond to riots, natural disasters and other crises that present themselves in volatile environments? These are not tasks that can be safely shifted to public employees should the need arise. Professional correctional officers should not be expected to enter dangerous situations in unfamiliar facilities with staff that do not have the training and experience that serves as their greatest protection in crisis situations.

Even though this initiative is purportedly not based on cost savings, let's examine a few of the economic issues.

Unscientific comparisons have been done on the efficiencies of private vs. public. Several factors must be considered here.

First, you will not get an apples to apples comparison. No privatization efforts have encompassed the breadth and complexity of a typical state prison operation. A few have been modestly successful, but have been structured to serve a small number of minimum/medium security inmates who have been prescreened for behavioral problems and expensive medical conditions. The cream of the crop is taken by the private operators leaving the incorrigible and medically demanding inmates for the state operations.

Cost averages between public and private facilities are not comparable. Governmental accounting methods vary sometimes from agency to agency. The averages used for governmental prisons include maximum and specialty facilities while private operations have their costs based on low risk, less labor intensive types of facilities.

Purported cost savings in prison operations come from the wages and benefits of private prison employees. This has a negative impact on the recruitment and retention of quality staff which results in substandard prison management and jeopardizes the safety of employees. COs in private prisons often report that positions are left unfilled so that savings can be shown to insure continuation of public contracts. There is no better investment in any program or service, public or private, than the investment in a productive, reliable and skilled workforce. I dare say that as your tenure increases in the Legislature, the wisdom and experience you gain makes you a better legislator. I'm sure this is what you communicate to your constituents.

Finally, the most important questions for you to answer are: What is the role of government in protecting the safety of its citizens? What should the context of governmental power and authority be? The operation of any type of penal institution involves the use of coercive power and in our democratic system we have reserved and limited that power to government. The transfer of that power to a for-profit business is a dangerous move and inconsistent with our efforts to serve justice in an effective and humane manner. If this important governmental responsibility can be placed with people whose motives are profit, then why not have private prosecutors or judges? There are thousands of hungry young lawyers who would do either job, or both, for a fraction of the cost.

This bill is a sham. It's an attempt to shift responsibility from the Administration and Legislature to people in business suits. To sweep the dirt under the rug and away from the scrutiny of the taxpayer. Until you can produce one good reason why this initiative should be pursued, we would urge you to strike this bill from your agendas and get on with the business of improving the system we have. We're up to the task. Are you?

# Striking it rich 'em up obsession

You needn't be in the prison construction business to profit from Wisconsin's continuing crusade to "get tough on crime."

Just call your broker. The nation's two largest private prison companies, Corrections Corporation of America and Wackenhut Corrections Corp., are both publicly traded on the New York Stock Exchange.

And considering the way Wisconsin has been shipping its worst elements to the private lock-ups, business is booming.

Over the past two decades, privatization of public services has made inroads in just about every area, from social services and transportation to education. Cash-strapped governments have been targets for corporations offering elaborate promises in exchange for public-sector contracts.

The privatization fever has now spread to the corrections area, with private prison facilities in 27 states and the capacity of private prisons expected to dou-

ble over the next four years. Wisconsin has no private prisoners of its own but it has been sending prisoners to out-of-state facilities since March.

The state now has 944 prisoners housed in Whiteville, Tenn., and another 298 prisoners in North Fork, Okla. Both facilities are operated by Corrections Corporation of America.

The Whiteville facility was in the news recently over a nasty exchange between Wisconsin inmates and prison guards, including charges that an 18-year-old convict from Racine was beaten and attacked with a stun gun by several men seeking information about an assault on a guard.

Despite those kinds of problems, Nashville-based CCA has seen its profits jump dramatically over the past two years. The company's net income rose 74 percent in 1997 to \$53.9 million, following a 115 percent jump the previous year.

CCA now boasts 52,000 prison beds under contract, up from 41,135 last year. And the flow of new customers shows no sign of slowing.

The other big player in the prison business is Wackenhut Corrections Corp. An

offshoot of the famous security company, Wackenhut Corrections counts 30,144 beds at 46 facilities in the U.S., U.K. and Australia.

Based in Palm Beach Gardens, Fla., and with regional offices in California, Louisiana, Texas, London and Sydney, Wackenhut Corrections went public in March of 1996 and has seen profits rise 119 percent over the past three years to \$8.4 million.

Like most small cap growth stocks, both companies' shares have taken their lumps this year. CCA is trading at about \$20 a share, down 44 percent year to date. Wackenhut is off some 10 percent this year and is trading in the \$24 range. Still, aside from speculation on Wall Street, the concept of private prisons raises plenty of questions.

On the surface there do appear to be some cost savings for taxpayers. It costs \$54.61 a day or \$19,900 a year to house prisoners in Wisconsin, according to the Department of Corrections. That compares with \$35.38 per day at CCA facilities. But since private prisons are in busi-

ness to earn money for their shareholders, there is great incentive to shift costs back to states. In Florida, for example, the state picks up the medical tab once a prisoner's health care costs exceed \$7,500.

Also, since private prisons pay less in wages than unionized public prisons, the employee turnover rate runs nearly double that of public facilities, according to a U.S. General Accounting Office report. That results in inexperienced guards or workers with little long-term commitment to their profession, a dangerous situation in either case.

Yet, given the political popularity of "three strikes you're out" and other simple responses to the complex crime issue, it seems likely the growth in private prisons will only continue.

And allowing the private sector to deal with soaring prison populations lets the tax-paying public wash its hands of the whole messy affair — or even share in the bounty.

*Mike Ivey is a business reporter at The Capital Times. His e-mail address is mivey@madison.com*

MAHLER'S UNFINISHED SYMPHONY / ROBERT D. KAPLAN IN BULGARIA

# The Atlantic Monthly

DECEMBER 1998

## AN OLD-FASHIONED CHRISTMAS

AUSTRIA BRINGS OUT THE BEST IN THE HOLIDAY

BY CORBY KUMMER

## AMERICA'S MAGINOT LINE

CAN THE U.S. AFFORD TO STAY INVOLVED IN EAST ASIA?

BY PAUL BRACKEN

## TRANSLATION SOFTWARE

TWO WEB SITES THAT OFFER FREE TRANSLATIONS TO AND FROM ENGLISH

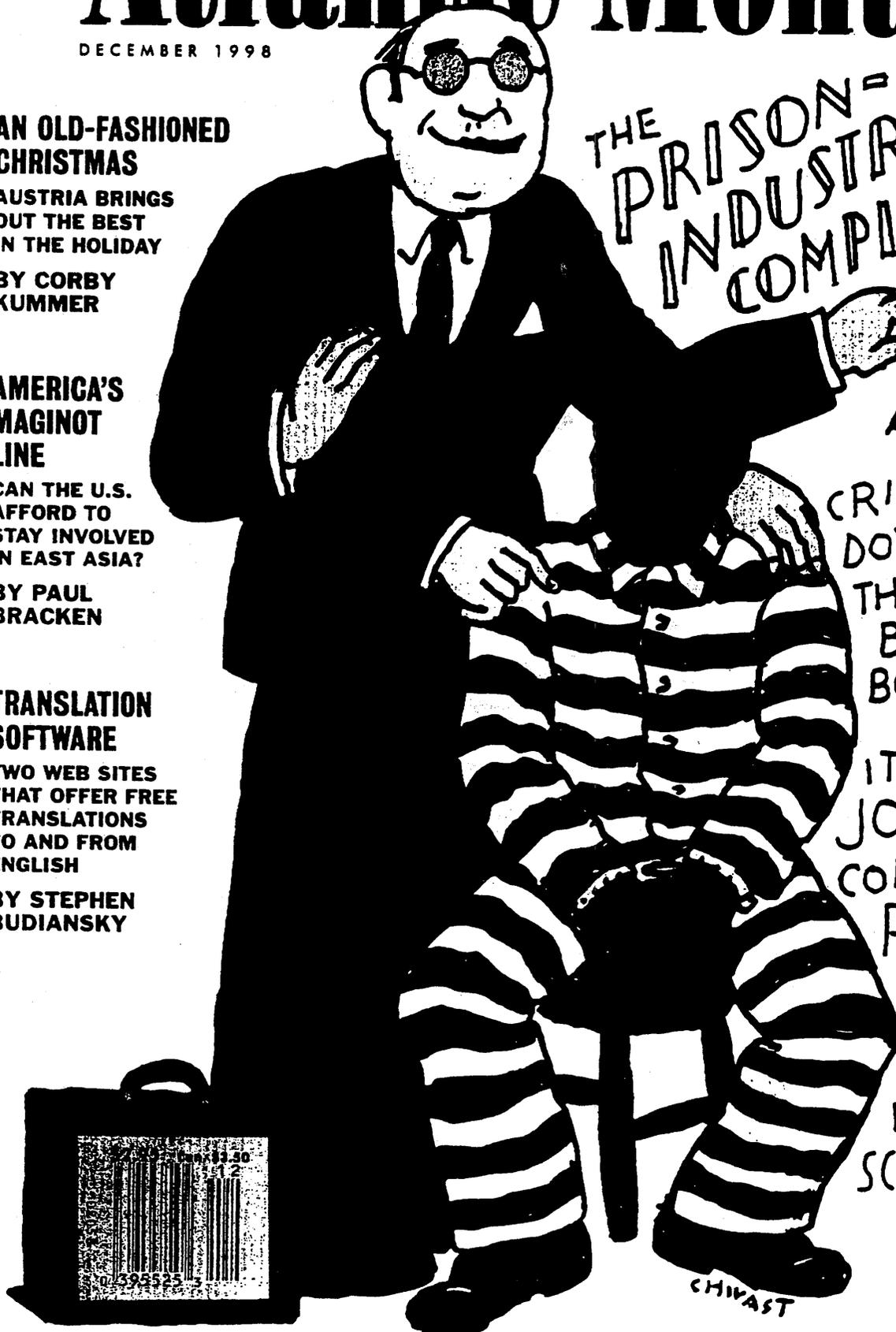
BY STEPHEN BUDIANSKY

THE PRISON = INDUSTRIAL COMPLEX

CRIME IS DOWN, BUT THE PRISON BIZ IS BOOMING—

IT CREATES JOBS AND CORPORATE PROFITS

BY ERIC SCHLOSSER



# THE PRISON- INDUSTRIAL COMPLEX

by ERIC SCHLOSSER

*Correctional officials see danger in prison overcrowding. Others see opportunity. The nearly two million Americans behind bars—the majority of them nonviolent offenders—mean jobs for depressed regions and windfalls for profiteers*

**I**N the hills east of Sacramento, California, Folsom State Prison stands beside a man-made lake, surrounded by granite walls built by inmate laborers. The gun towers have peaked roofs and Gothic stonework that give the prison the appearance of a medieval fortress, ominous and forbidding. For more than a century Folsom and San Quentin were the end of the line in California's penal system; they were the state's only maximum-security penitentiaries. During the early 1980s, as California's inmate population began to climb, Folsom became dangerously overcrowded. Fights between inmates ended in stabbings six or seven times a week.

The poor sight lines within the old cellblocks put correctional officers at enormous risk. From 1984 to 1994 California built eight new maximum-security (Level 4) facilities. The bullet holes in the ceilings of Folsom's cellblocks, left by warning shots, are the last traces of the prison's violent years. Today Folsom is a medium-security (Level 2) facility, filled with the kind of inmates that correctional officers consider "soft." No one has been stabbed to death at Folsom in almost four years. Among its roughly 3,800 inmates are some 500 murderers, 250 child molesters, and an assortment of rapists, armed robbers, drug dealers, burglars,



and petty thieves. The cells in Housing Unit 1 are stacked five stories high, like boxes in a vast warehouse; glimpses of hands and arms and faces, of flickering TV screens, are visible between the steel bars. Folsom now houses almost twice as many inmates as it was designed to hold. The machine shop at the prison, run by inmates, manufactures steel frames for double bunks—and triple bunks—in addition to license plates.

Less than a quarter mile from the old prison is the California State Prison at Sacramento, known as "New Folsom," which houses about 3,000 Level 4 inmates. They are the real hard cases: violent predators, gang members, prisoners unable to "program" well at other facilities, unable to obey the rules. New Folsom does not have granite walls. It has a "death-wire electrified fence," set between two ordinary chain-link fences, that administers a lethal dose of 5,100 volts at the slightest touch. The architecture of New Folsom is stark and futuristic. The buildings have smooth gray concrete façades, unadorned except for narrow slits for cell windows. Approximately a third of the inmates are serving life sentences; more than a thousand have committed at least one murder, nearly 500 have committed armed robbery, and nearly 200 have committed assault with a deadly weapon.

Inmates were placed in New Folsom while it was still under construction. The prison was badly overcrowded even before it was finished, in 1987. It has at times housed more than 300 inmates in its gymnasiums. New Folsom—like old Folsom, and like the rest of the California prison system—now operates at roughly double its intended capacity. Over the past twenty years the State of California has built twenty-one new prisons, added thousands of cells to existing facilities, and increased its inmate population eightfold. Nonviolent offenders have been responsible for most of that increase. The number of drug offenders imprisoned in the state today is more than twice the number of inmates who were imprisoned for all crimes in 1978. California now has the biggest prison system in the Western industrialized world, a system 40 percent bigger than the Federal Bureau of Prisons. The state holds more inmates in its jails and prisons than do France, Great Britain, Germany, Japan, Singapore, and the Netherlands combined. The California Department of Corrections predicts that at the current rate of expansion, barring a court order that forces a release of prisoners, it will run out of room eighteen months from now. Simply to remain at double capacity the state will need to open at least one new prison a year, every year, for the foreseeable future.

Today the United States has approximately 1.8 million people behind bars: about 100,000 in federal custody, 1.1 million in state custody, and 600,000 in local jails. Prisons hold inmates convicted of federal or state crimes; jails hold people awaiting trial or serving short sentences. The United States now imprisons more people than any other country in the world—perhaps half a million more than Communist China. The American inmate population has grown so large that it is difficult to comprehend: imagine the combined populations of Atlanta, St. Louis, Pittsburgh, Des Moines, and Miami behind bars. “We have embarked on a great social experiment,” says Marc Mauer, the author of the upcoming book *The Race to Incarcerate*. “No other society in human history has ever imprisoned so many of its own citizens for the purpose of crime control.” The prison boom in the United States is a recent phenomenon. Throughout the first three quarters of this century the nation’s incarceration rate remained relatively stable, at about 110 prison inmates for every 100,000

people. In the mid-1970s the rate began to climb, doubling in the 1980s and then again in the 1990s. The rate is now 445 per 100,000; among adult men it is about 1,100 per 100,000. During the past two decades roughly a thousand new prisons and jails have been built in the United States. Nevertheless, America’s prisons are more overcrowded now than when the building spree began, and the inmate population continues to increase by 50,000 to 80,000 people a year.

The economist and legal scholar Michael K. Block, who believes that American sentencing policies are still not harsh enough, offers a straightforward explanation for why the United States has lately incarcerated so many people: “There are too many prisoners because there are too many criminals committing too many crimes.” Indeed, the nation’s prisons now hold about 150,000 armed robbers, 125,000 murderers, and 100,000 sex offenders—enough violent criminals to

populate a medium-sized city such as Cincinnati. Few would dispute the need to remove these people from society. The level of violent crime in the United States, despite recent declines, still dwarfs that in Western Europe. But the proportion of offenders being sent to prison each year for violent crimes has actually fallen during the prison boom. In 1980 about half the people entering state prison were violent offenders; in 1995 less than a third had been convicted of a violent crime. The enormous increase in America’s inmate population can be explained in large part by the sentences given to people who have committed nonviolent offenses. Crimes that in other countries would usually lead to community service, fines, or drug treatment—or would not be considered crimes at all—in the United States now lead to a prison term, by far

the most expensive form of punishment. “No matter what the question has been in American criminal justice over the last generation,” says Franklin E. Zimring, the director of the Earl Warren Legal Institute, “prison has been the answer.”

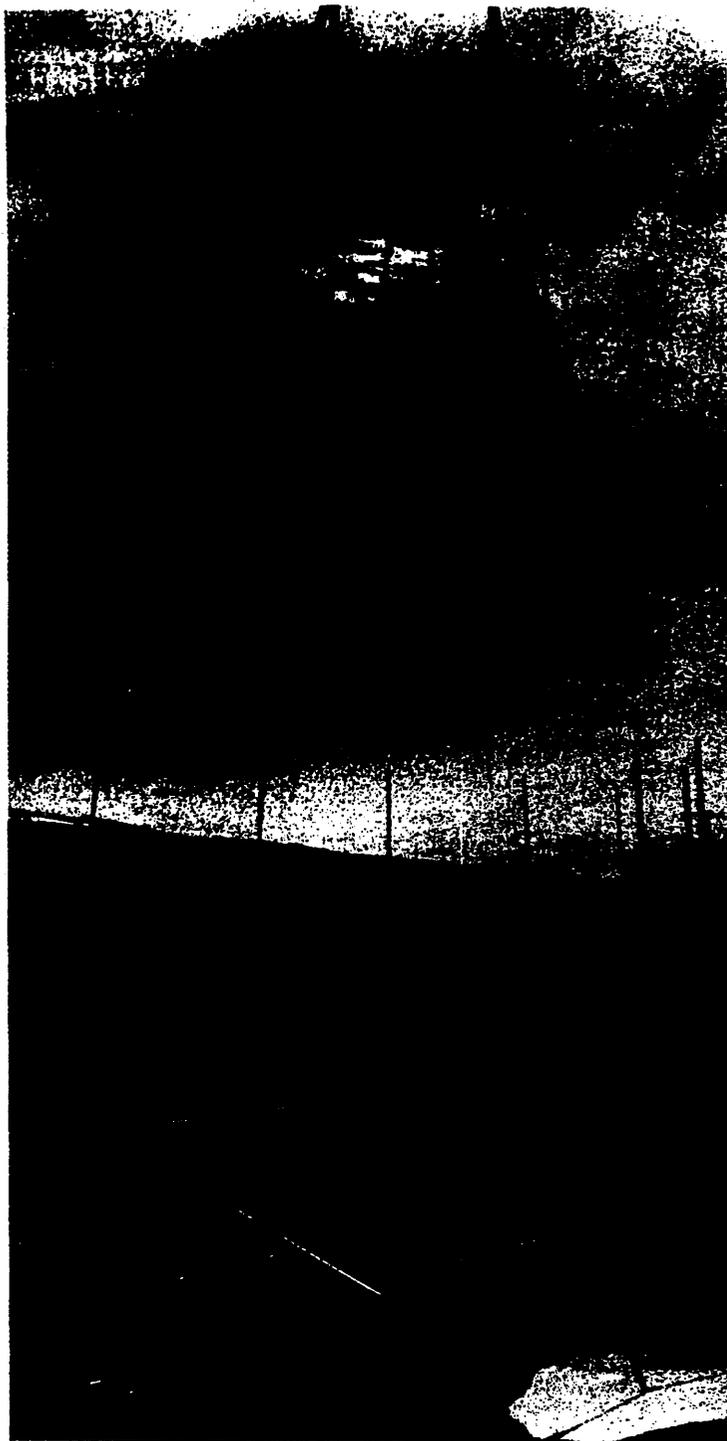
**O**N January 17, 1961, President Dwight D. Eisenhower used his farewell address to issue a warning, as the United States continued its cold war with the Soviet Union. “In the councils of government,” Eisenhower said, “we must guard against the acquisition of unwarranted influence,

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whether sought or unsought, by the military-industrial complex." Eisenhower had grown concerned about this new threat to democracy during the 1960 campaign, when fears of a "missile gap" with the Soviet Union were whipped up by politicians, the press, and defense contractors hoping for increased military spending. Eisenhower knew that no missile gap existed and that fear of one might lead to a costly, unnecessary response. "The potential for the disastrous rise of misplaced power exists and will persist," Eisenhower warned. "We should take nothing for granted."

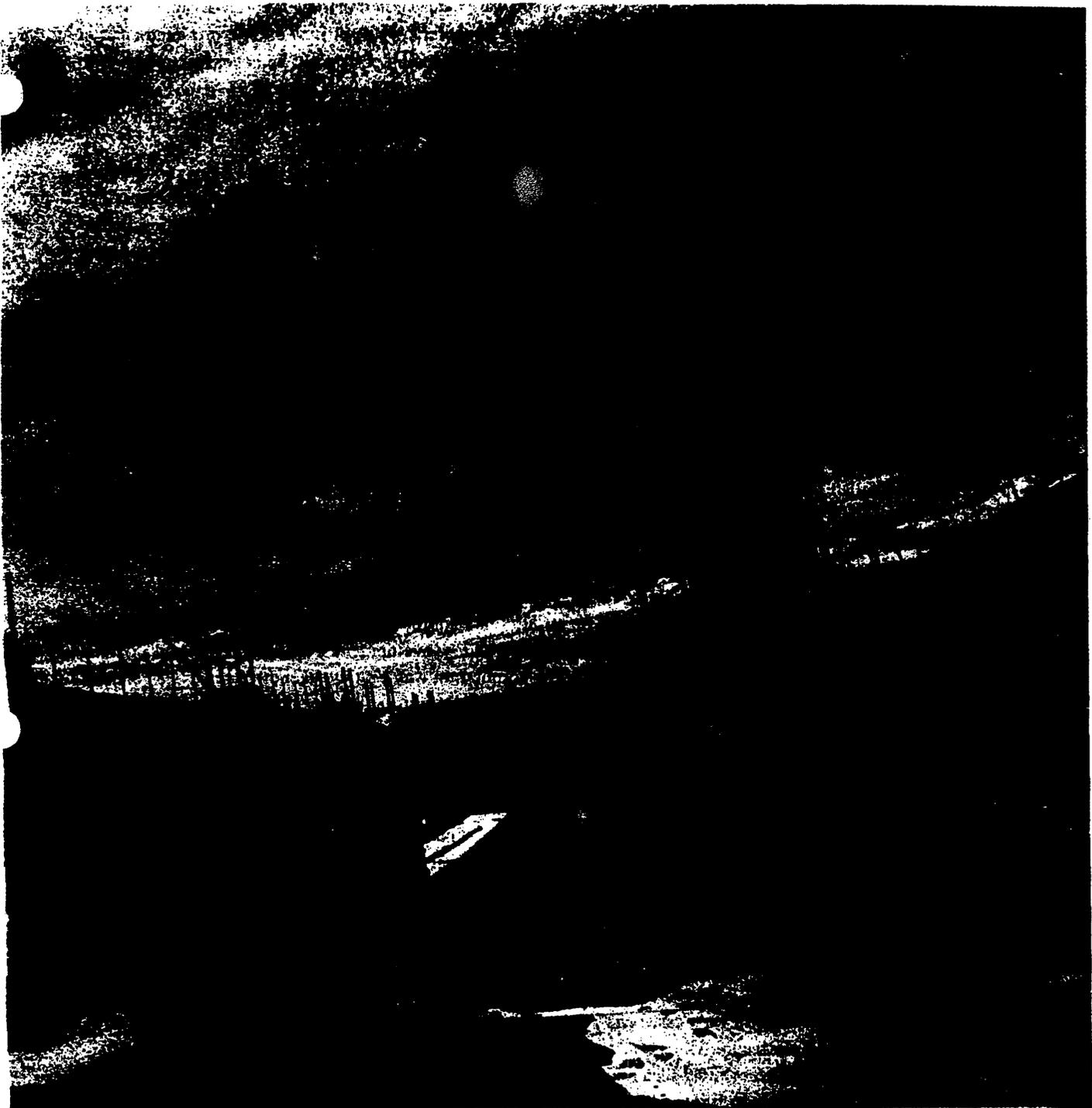
Three decades after the war on crime began, the United States has developed a prison-industrial complex—a set of bureaucratic, political, and economic interests that encourage increased spending on imprisonment, regardless of the actual need. The prison-industrial complex is not a conspiracy, guiding the nation's criminal-justice policy behind closed doors. It is a confluence of special interests that has given prison construction in the United States a seemingly unstoppable momentum. It is composed of politicians, both liberal and conservative, who have used the fear of crime to gain votes; impoverished rural areas where prisons have become a cornerstone of economic development; private companies that regard the roughly \$35 billion spent each year on corrections not as a burden on American taxpayers but as a lucrative market; and government officials whose fiefdoms have expanded along with the inmate population. Since 1991 the rate of violent crime in the United States has fallen by about 20 percent, while the number of people in prison or jail has risen by 50 percent. The prison boom has its own inexorable logic. Steven R. Donziger, a young attorney who headed the National Criminal Justice Commission in 1996, explains the thinking: "If crime is going up, then we need to build more prisons; and if crime is going down, it's because we built more prisons—and building even more prisons will therefore drive crime down even lower."

The raw material of the prison-industrial complex is its inmates: the poor, the homeless, and the mentally ill; drug dealers, drug addicts, alcoholics, and a wide assortment of violent sociopaths. About 70 percent of the prison inmates in the United States are illiterate. Perhaps 200,000 of the country's inmates suffer from a serious mental illness. A generation ago such people were handled primarily by the mental-health, not the criminal-justice, system. Sixty to 80 percent of the American inmate population has a history of substance abuse. Meanwhile, the number of drug-treatment slots in American prisons has declined by more than half since 1993. Drug treatment is now available to just one in ten of the inmates who need it. Among those arrested for violent crimes, the proportion who are African-American men has changed little over the past twenty years. Among those arrested for drug crimes, the proportion who are African-American men has tripled. Although the prevalence of illegal drug use among white men is approximately the same as



that among black men, black men are five times as likely to be arrested for a drug offense. As a result, about half the inmates in the United States are African-American. One out of every fourteen black men is now in prison or jail. One out of every four black men is likely to be imprisoned at some point during his lifetime. The number of women sentenced to a year or more of prison has grown twelvefold since 1970. Of the 80,000 women now imprisoned, about 70 percent are nonviolent offenders. About 75 percent have children.

The prison-industrial complex is not only a set of interest



groups and institutions. It is also a state of mind. The lure of big money is corrupting the nation's criminal-justice system, replacing notions of public service with a drive for higher profits. The eagerness of elected officials to pass "tough-on-crime" legislation—combined with their unwillingness to disclose the true costs of these laws—has encouraged all sorts of financial improprieties. The inner workings of the prison-industrial complex can be observed in the state of New York, where the prison boom started, transforming the economy of an entire region; in Texas and Tennessee, where private

*New prison construction, Franklin County, N.Y.*

prison companies have thrived; and in California, where the correctional trends of the past two decades have converged and reached extremes. In the realm of psychology a complex is an overreaction to some perceived threat. Eisenhower no doubt had that meaning in mind when, during his farewell address, he urged the nation to resist "a recurring temptation to feel that some spectacular and costly action could become the miraculous solution to all current difficulties."

## THE LIBERAL LEGACY

**T**HE origins of the prison-industrial complex can be dated to January of 1973. Senator Barry Goldwater had used the fear of crime to attract white middle-class voters a decade earlier, and Richard Nixon had revived the theme during the 1968 presidential campaign, but little that was concrete emerged from their demands for law and order. On the contrary, Congress voted decisively in 1970 to eliminate almost all federal mandatory-minimum sentences for drug offenders. Leading members of both political parties applauded the move. Mainstream opinion considered drug addiction to be largely a public-health problem, not an issue for the criminal courts. The Federal Bureau of Prisons was preparing to close large penitentiaries in Georgia, Kansas, and Washington. From 1963 to 1972 the number of inmates in California had declined by more than a fourth, despite the state's growing population. The number of inmates in New York had fallen to its lowest level since at least 1950. Prisons were widely viewed as a barbaric and ineffective means of controlling deviant behavior. Then, on January 3, 1973, Nelson Rockefeller, the governor of New York, gave a State of the State address demanding that every illegal-drug dealer be punished with a mandatory prison sentence of life without parole.

Rockefeller was a liberal Republican who for a dozen years had governed New York with policies more closely resembling those of Franklin Delano Roosevelt than those of Ronald Reagan. He had been booed at the 1964 Republican Convention by conservative delegates; he still harbored grand political ambitions; and President Nixon would be ineligible for a third term in 1976. Rockefeller demonstrated his newfound commitment to law and order in 1971, when he crushed the Attica prison uprising. By proposing the harshest drug laws in the United States, he took the lead on an issue that would soon dominate the nation's political agenda. In his State of the State address Rockefeller argued not only that all drug dealers should be imprisoned for life but also that plea-bargaining should be forbidden in such cases and that even juvenile offenders should receive life sentences.

The Rockefeller drug laws, enacted a few months later by the state legislature, were somewhat less draconian: the penalty for possessing four ounces of an illegal drug, or for selling two ounces, was a mandatory prison term of fifteen years to life. The legislation also included a provision that established a mandatory prison sentence for many second felony convictions, regardless of the crime or its circumstances. Rockefeller proudly declared that his state had enacted "the toughest anti-drug program in the country." Other states eventually followed New York's example, enacting strict mandatory-minimum sentences for drug offenses. A liberal Democrat, Speaker of the House Tip O'Neill, led the campaign to revive federal mandatory minimums,

which were incorporated in the 1986 Anti-Drug Abuse Act. Nelson Rockefeller had set in motion a profound shift in American sentencing policy, but he never had to deal with the consequences. Nineteen months after the passage of his drug laws Rockefeller became Vice President of the United States.

When Mario Cuomo was first elected governor of New York, in 1982, he confronted some difficult choices. The state government was in a precarious fiscal condition, the inmate population had more than doubled since the passage of the Rockefeller drug laws, and the prison system had grown dangerously overcrowded. A week after Cuomo took office, inmates rioted at Sing Sing, an aging prison in Ossining. Cuomo was an old-fashioned liberal who opposed mandatory-minimum drug sentences. But the national mood seemed to be calling for harsher drug laws, not sympathy for drug addicts. President Reagan had just launched the War on Drugs; it was an inauspicious moment to buck the tide.

Unable to repeal the Rockefeller drug laws, Cuomo decided to build more prisons. The rhetoric of the drug war, however, was proving more popular than the financial reality. In 1981 New York's voters had defeated a \$500 million bond issue for new prison construction. Cuomo searched for an alternate source of financing, and decided to use the state's Urban Development Corporation to build prisons. The corporation was a public agency that had been created in 1968 to build housing for the poor. Despite strong opposition from upstate Republicans, among others, it had been legislated into existence on the day of Martin Luther King Jr.'s funeral, to honor his legacy. The corporation was an attractive means of financing prison construction for one simple reason: it had the authority to issue state bonds without gaining approval from the voters.

Over the next twelve years Mario Cuomo added more prison beds in New York than all the previous governors in the state's history combined. Their total cost, including interest, would eventually reach about \$7 billion. Cuomo's use of the Urban Development Corporation drew criticism from both liberals and conservatives. Robert Gangi, the head of the Correctional Association of New York, argued that Cuomo was building altogether the wrong sort of housing for the poor. The state comptroller, Edward V. Regan, a Republican, said that Cuomo was defying the wishes of the electorate, which had voted not to spend money on prisons, and that his financing scheme was costly and improper. Bonds issued by the Urban Development Corporation carried a higher rate of interest than the state's general-issue bonds.

Legally the state's new prisons were owned by the Urban Development Corporation and leased to the Department of Corrections. In 1991, as New York struggled to emerge from a recession, Governor Cuomo "sold" Attica prison to the corporation for \$200 million and used the money to fill gaps in the state budget. In order to buy the prison, the corporation

had to issue more bonds. The entire transaction could eventually cost New York State about \$700 million.

The New York prison boom was a source of embarrassment for Mario Cuomo. At times he publicly called it "stupid," an immoral waste of scarce state monies, an obligation forced on him by the dictates of the law. But it was also a source of political capital. Cuomo strongly opposed the death penalty, and building new prisons shielded him from Republican charges of being soft on crime. In his 1987 State of the State address, having just been re-elected by a landslide, Cuomo boasted of having put nearly 10,000 "dangerous felons" behind bars. The inmate population of New York's prisons had indeed grown by roughly that number during his first term in office. But the proportion of offenders being incarcerated for violent crimes had fallen from 63 percent to 52 percent during those four years. In 1987 New York State sent almost a thousand fewer violent offenders to prison than it had in 1983. Despite having the "toughest anti-drug program" and one of the fastest-growing inmate populations in the nation, New York was hit hard by the crack epidemic of the 1980s and the violent crime that accompanied it. From 1983 to 1990 the state's inmate population almost doubled—and yet during that same period the violent-crime rate rose 24 percent. Between the passage of the Rockefeller drug laws and the time Cuomo left office, in January of 1995, New York's inmate population increased almost fivefold. And the state's prison system was more overcrowded than it had been when the prison boom began.

**B**Y using an unorthodox means of financing prison construction, Mario Cuomo turned the Urban Development Corporation into a rural development corporation that invested billions of dollars in upstate New York. Although roughly 80 percent of the state's inmates came from New York City and its suburbs, high real-estate prices and opposition from community groups made it difficult to build correctional facilities there. Cuomo needed somewhere to put his new prisons: he formed a close working relationship with the state senator Ronald B. Stafford, a conservative Republican whose rural, Adirondack district included six counties

extending from Lake George to the Canadian border. "Any time there's an extra prison," a Cuomo appointee told *Newsday* in 1990, "Ron Stafford will take it."

Stafford had represented this district, known as the North Country, for more than two decades. Orphaned as a child, he had been adopted by a family in the upstate town of Danemora. The main street of the town was dominated by the massive stone wall around Clinton, a notorious maximum-security prison. His adoptive father was a correctional officer at Clinton, and Stafford spent much of his childhood

within the prison's walls. He developed great respect for correctional officers, and viewed their profession as an honorable one; he believed that prisons could give his district a real economic boost. Towns in the North Country soon competed with one another to attract new prisons. The Republican Party controlled the state senate, and prison construction became part of the political give and take with the Cuomo administration. Of the twenty-nine correctional facilities authorized during the Cuomo years, twenty-eight were built in upstate districts represented by Republican senators.

When most people think of New York, they picture Manhattan. In fact, two thirds of the state's counties are classified as rural. Perhaps no other region in the United States has so wide a gulf between its urban and rural populations. People in the North Country—which includes the

Adirondack State Park, one of the nation's largest wilderness areas—tend to be politically conservative, taciturn, fond of the outdoors, and white. New York City and the North Country have very little in common. One thing they do share, however, is a high rate of poverty.

Twenty-five years ago the North Country had two prisons; now it has eighteen correctional facilities, and a nineteenth is under construction. They run the gamut from maximum-security prisons to drug-treatment centers and boot camps. One of the first new facilities to open was Ray Brook, a federal prison that occupies the former Olympic Village at Lake Placid. Other prisons have opened in abandoned factories and sanatoriums. For the most part North Country prisons are tucked away, hidden by trees, nearly invisible amid the vastness and beauty of the Adirondacks. But they have brought

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profound change. Roughly one out of every twenty people in the North Country is a prisoner. The town of Dannemora now has more inmates than inhabitants.

The traditional anchors of the North Country economy—mining, logging, dairy farms, and manufacturing—have been in decline for years. Tourism flourishes in most towns during the summer months. According to Ram Chugh, the director of the Rural Services Institute at the State University of New York at Potsdam, the North Country's per capita income has long been about 40 percent lower than the state's average per capita income. The prison boom has provided a huge infusion of state money to an economically depressed region—one of the largest direct investments the state has ever made there. In addition to the more than \$1.5 billion spent to build correctional facilities, the prisons now bring the North Country about \$425 million in annual payroll and operating expenditures. That represents an annual subsidy to the region of more than \$1,000 per person. The economic impact of the prisons extends beyond the wages they pay and the local services they buy. Prisons are labor-intensive institutions, offering year-round employment. They are recession-proof, usually expanding in size during hard times. And they are nonpolluting—an important consideration in rural areas where other forms of development are often blocked by environmentalists. Prisons have brought a stable, steady income to a region long accustomed to a highly seasonal, uncertain economy.

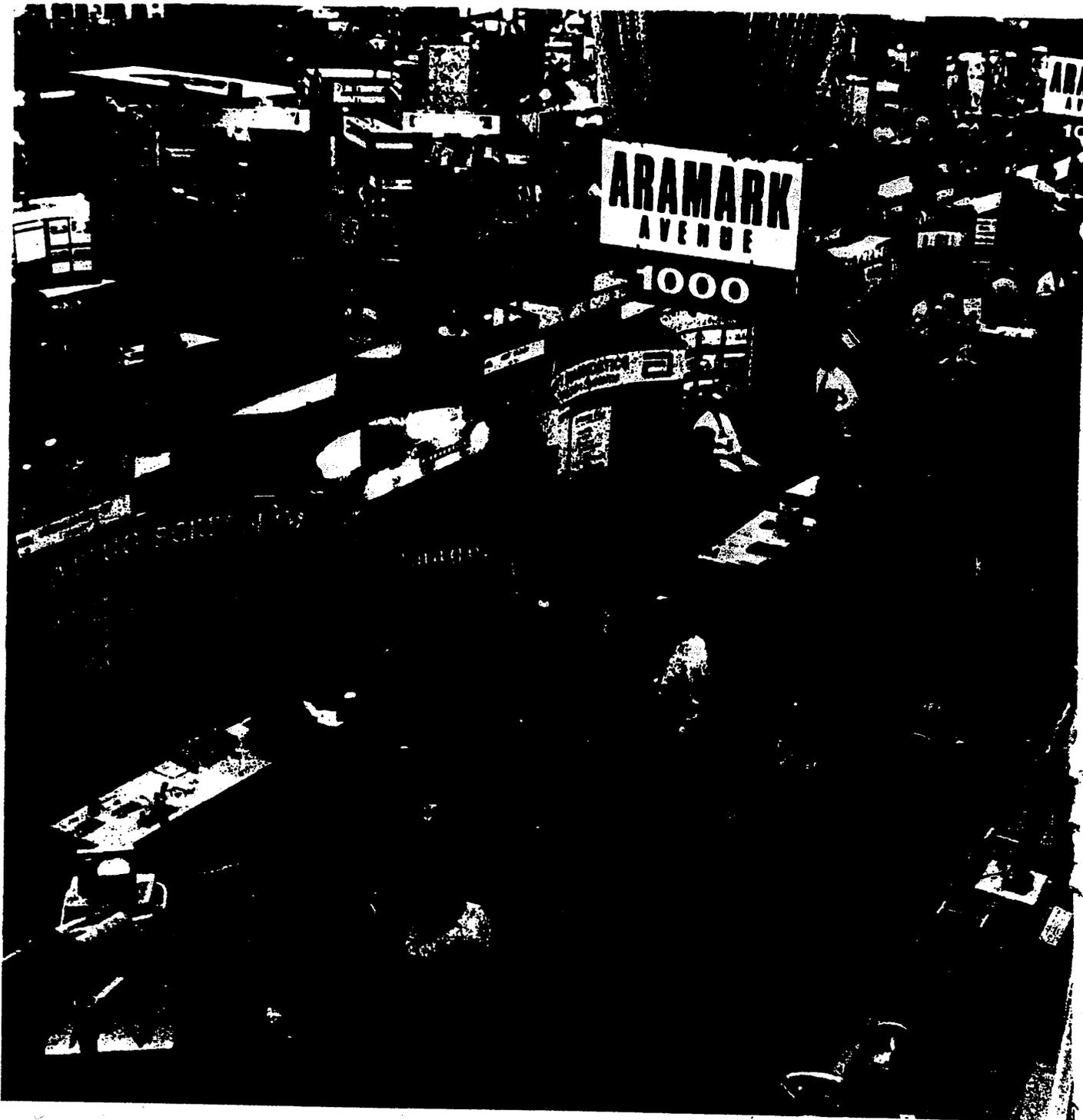
Anne Mackinnon, who grew up in the North Country and wrote about its recent emergence as New York's "Siberia" for *Adirondack Life* magazine, says the prison boom has had an enormous effect on the local culture. Just about everyone now seems to have at least one relative who works in corrections. Prison jobs have slowed the exodus from small towns, by allowing young people to remain in the area. The average salary of a correctional officer in New York State is about \$36,000—more than 50 percent higher than the typical salary in the North Country. The job brings health benefits and a pension. Working as a correctional officer is one of the few ways that men and women without college degrees can enjoy a solid middle-class life there. Although prison jobs are stressful and dangerous, they are viewed as a means of preserving local communities. So many North Country residents have become correctional officers over the past decade that those just starting out must work for years in prisons downstate, patiently waiting for a job opening at one of the facilities in the Adirondacks.

**W**HILE many families in the north await the return of sons and daughters slowly earning seniority downstate, families in New York City must endure the absence of loved ones who seem to have been not just imprisoned for their crimes but exiled as well. Every Friday night about 800 people, mostly women and children, almost all of them African-American or Latino, gather at Columbus Circle, in Manhat-

tan, and board buses for the north. The buses leave through the night and arrive in time for visiting hours on Saturday. Operation Prison Gap, which runs the service, was founded by an ex-convict named Ray Simmons who had been imprisoned upstate and knew how hard it was for the families of inmates to arrange visits. When the company started, in 1973, it carried passengers in a single van. Now it charters thirty-five buses and vans on a typical weekend and a larger number on special occasions, such as Father's Day and Thanksgiving. Ray Simmons's brother Tyrone, who heads the company, says that despite the rising inmate population, ridership has fallen a bit over the past few years. The inconvenience and expense of the long bus trips take their toll. One customer, however, has for fifteen years faithfully visited her son in Comstock every weekend. In 1996 she stopped appearing at Columbus Circle; her son had been released. Six months later he was convicted of another violent crime and sent back to the same prison. The woman, now in her seventies, still boards the 2:00 A.M. bus for Comstock every weekend. Simmons gives her a discount, charging her \$15—the same price she paid on her first trip, in 1983.

The Bare Hill Correctional Facility sits near the town of Malone, fifteen miles south of the Canadian border. The Franklin Correctional Facility is a quarter of a mile down the road, and the future site of a new maximum-security prison is next door. Bare Hill is one of the "cookie cutter" medium-security prisons that were built during the Cuomo administration. The state has built fourteen other prisons exactly like it—a form of penal mass production that saves a good deal of money. Most of the inmates at Bare Hill are housed in dormitories, not cells. The dormitories were designed to hold about fifty inmates, each with his own small cubicle and bunk. In 1990, two years after the prison opened, double-bunking was introduced as a "temporary" measure to ease the overcrowding in county jails, which were holding an overflow of state inmates. Eight years later every dormitory at Bare Hill houses sixty inmates, a third of them double-bunked. About 90 percent of the inmates come from New York City or one of its suburbs, eight hours away; about 80 percent are African-American or Latino. The low walls of the cubicles, which allow little privacy, are covered with family photographs, pinups, religious postcards. Twenty-four hours a day a correctional officer sits alone at a desk on a platform that overlooks the dorm.

The superintendent of Bare Hill, Peter J. Lacy, is genial and gray-haired, tall and dignified in his striped tie, flannels, and blue blazer. His office feels light and cheery. Lacy began his career, in 1955, as a correctional officer at Dannemora; he wore a uniform for twenty-five years, and in the 1980s headed a special unit that handled prison emergencies and riots. He later served as an assistant commissioner of the New York Department of Corrections. One of his sons is now a lieutenant at a downstate prison. As Superintendent Lacy



*American Corrections Association convention, 1997*

walks through the prison grounds, he seems like a captain surveying his ship, rightly proud of its upkeep, familiar with every detail. The lawns are neatly trimmed, the buildings are well maintained, and the red-brick dorms would not seem out of place on a college campus, except for the bars in the windows. There is nothing oppressive about the physical appearance of Bare Hill, about the ball fields with pine trees in the background, about the brightly colored murals and rustic sten-

cils on the walls, about the classrooms where instructors teach inmates how to read, how to write, how to draw a blueprint, how to lay bricks, how to obtain a Social Security card, how to deal with their anger. For many inmates Bare Hill is the neatest, cleanest, most well-ordered place they will ever live. As Lacy passes a group of inmates leaving their dorms for class, the inmates nod their heads in acknowledgment, and a few of them say, "Hello, sir." And every so often a young inmate gives Lacy a look filled with a hatred so pure and so palpable that it would burn Bare Hill to the ground, if only it could.



## BIG BUSINESS

**T**HE black-and-white photograph shows an inmate leaning out of a prison cell, scowling at the camera, his face partially hidden in the shadows. "HOW HE GOT IN IS YOUR BUSINESS." the ad copy begins. "HOW HE GETS OUT IS OURS." The photo is on the cover of a glossy brochure promoting AT&T's prison telephone service, which is called The Authority. BellSouth has a similar service, called MAX, advertised with a photo of a heavy steel chain dangling

from a telephone receiver in place of a cord. The ad promises "long distance service that lets inmates go only so far." Although the phone companies rely on clever copy in their ads, providing telephone service to prisons and jails has become a serious, highly profitable business. The nearly two million inmates in the United States are ideal customers: phone calls are one of their few links to the outside world; most of their calls must be made collect; and they are in no position to switch long-distance carriers. A pay phone at a prison can generate as much as \$15,000 a year—about five times the revenue of a typical pay phone on the street. It is estimated that inmate calls generate a billion dollars or more in revenues each year. The business has become so lucrative that MCI installed its inmate phone service, Maximum Security, throughout the California prison system at no charge. As part of the deal it also offered the California Department of Corrections a 32 percent share of all the revenues from inmates' phone calls. MCI Maximum Security adds a \$3.00 surcharge to every call. When free enterprise intersects with a captive market, abuses are bound to occur. MCI Maximum Security and North American Intelcom have both been caught overcharging for calls made by inmates; in one state MCI was adding an additional minute to every call.

Since 1980 spending on corrections at the local, state, and federal levels has increased about fivefold. What was once a niche business for a handful of companies has become a multibillion-dollar industry with its own trade shows and conventions, its own Web sites, mail-order catalogues, and direct-marketing campaigns. The prison-industrial complex now includes some of the nation's largest architecture and construction firms, Wall Street investment banks that handle prison bond issues and invest in private prisons, plumbing-supply companies, food-service companies, health-care companies, companies that sell everything from bullet-resistant security cameras to padded cells available in a "vast color selection." A directory called the Corrections Yellow Pages lists more than a thousand vendors. Among the items now being advertised for sale: a "violent prisoner chair," a sadomasochist's fantasy of belts and shackles attached to a metal frame, with special accessories for juveniles; B.O.S.S., a "body-orifice security scanner," essentially a metal detector that an inmate must sit on; and a diverse line of razor wire, with trade names such as Maze, Supermaze, Detainer Hook Barb, and Silent Swordsman Barbed Tape.

As the prison industry has grown, it has assumed many of the attributes long associated with the defense industry. The line between the public interest and private interests has blurred. In much the same way that retired admirals and generals have long found employment with defense contractors, correctional officials are now leaving the public sector for jobs with firms that supply the prison industry. These career opportunities did not exist a generation ago. Fundamental choices about public safety, employee training, and the de-

nial of personal freedoms are increasingly being made with an eye to the bottom line.

One clear sign that corrections has become a big business as well as a form of government service is the emergence of a trade newspaper devoted to the latest trends in the prison and jail marketplace. *Correctional Building News* has become the *Variety* of the prison world, widely read by correctional officials, investors, and companies with something to sell. Eli Gage, its publisher, founded the paper in 1994, after searching for a high-growth industry not yet served by its own trade journal. Gage is neither a cheerleader for the industry nor an outspoken critic. He believes that despite recent declines in violent crime, national spending on corrections will continue to grow at an annual rate of five to 10 percent. The number of young people in the prime demographic for committing crimes, ages fifteen to twenty-four, is about to increase; and the demand for new juvenile-detention centers is already rising. *Correctional Building News* runs ads by the leading companies that build prisons (Turner Construction, CRSS, Brown & Root) and the leading firms that design them (DMJM, the DLR Group, and KMD Architects). It features a product of the month, a facility of the month, and a section titled "People in the News." An advertisement in a recent issue promoted electrified fences with the line "Don't Touch!"

**P**RIVATE-prison companies are the most obvious, the most controversial, and the fastest-growing segment of the prison-industrial complex. The idea of private prisons was greeted with enthusiasm during the Reagan and Bush Administrations; it fit perfectly with a belief in small government and the privatization of public services. The Clinton Administration, however, has done far more than its Republican predecessors to legitimize private prisons. It has encouraged the Justice Department to place illegal aliens and minimum-security inmates in private correctional facilities, as part of a drive to reduce the federal work force. The rationale for private prisons is that government monopolies such as old-fashioned departments of corrections are inherently wasteful and inefficient, and the private sector, through competition for contracts, can provide much

better service at a much lower cost. The privatization of prisons is often described as a "win-win" outcome. A private-prison company generally operates a facility for a government agency, or builds and operates its own facility. The nation's private prisons accepted their first inmates in the mid-1980s. Today at least twenty-seven states make use of private prisons, and approximately 90,000 inmates are being held in prisons run for profit.

The living conditions in many of the nation's private prisons are unquestionably superior to conditions in many state-run facilities. At least forty-five state prison systems are now operating at or above their intended capacity. In twenty-two states prisons are operating under court-ordered population caps. In fifteen states prison conditions are being monitored by the courts. Life in the aging, overcrowded prisons operat-

ed by many state agencies is dangerous and degrading. Most of the 34,000 state inmates currently being held in the nation's jails for lack of available prison cells live in conditions that are even worse. Private prisons tend to be brand-new, rarely overcrowded, and less likely to house violent offenders. Moreover, some private prisons offer programs, such as drug treatment and vocational training, that a number of state systems have cut back. And yet something inherent in the idea of private prisons seems to invite abuse.

The economics of the private-prison industry are in many respects similar to those of the lodging industry. An inmate at a private prison is like a guest at a hotel—a guest whose bill is being paid and whose check-out date is set by someone else. A hotel has a strong economic incentive to book every available room and encourage every guest to stay as long as possible. A private prison has exactly the same incentive. The labor costs constitute the bulk of operating costs for both kinds of accommodation. The higher the occupancy rate, the higher the profit margin. Although it might seem unlikely that a private prison would ever try to keep an inmate longer than was necessary for justice to be served, New York State's experience with the "fee system" during the nineteenth century suggests that the temptation to do so is hard to resist. Under the fee system local sheriffs charged inmates for their stay in jail. A 1902 report by the Correctional Association of New York

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harshly criticized this system, warning that judges might be inclined to "sentence a man to jail where he may be a source of revenue to a friendly sheriff." Whenever the fee system was abolished in a New York county, the inmate population dropped—by as much as half. Last year a Prudential Securities report on private prisons described some of the potential risks for the industry: a falling crime rate, shorter prison sentences, a move toward alternative sentences, and changes in the nation's drug laws. Nonetheless, the report concluded that "the industry appears to have excellent prospects."

Private-prison companies can often build prisons faster and at lower cost than state agencies, owing to fewer bureaucratic delays and less red tape. And new prisons tend to be much less expensive to operate than the old prisons still used in many states. But most of the savings that private-prison companies offer are derived from the use of nonunion workers. Labor represents 60 to 80 percent of the operating costs at a prison. Although private-prison companies are now moving into northern states and even signing agreements with some labor unions, the overwhelming majority of private-prison cells are in southern and southwestern states hostile to unions. Correctional officers in these private prisons usually earn lower wages than officers employed by state governments, while receiving fewer benefits and no pension. Some private-prison companies offer their uniformed staff stock options as a retirement plan; the long-term value of the stock is uncertain. The sort of cost-cutting imposed on correctional officers does not extend to managers and administrators. They usually earn much more than their counterparts in the public sector—a fact that greatly increases the potential for conflicts of interest and official corruption.

### BED BROKERS AND MAN-DAYS

**L**AST year a videotape of beatings at a private correctional facility in Texas provoked a great deal of controversy. The tape showed correctional officers at the Brazoria County Detention Center kicking inmates who were lying on the floor, shooting inmates with a stun gun, and ordering a police dog to attack them. The inmates had been convicted of crimes in Missouri, but were occupying rented cells in rural Texas. One of the correctional officers in the video had previously lost his job at a Texas state prison and served time on federal charges for beating an inmate. The Brazoria County videotape received nationwide publicity and prompted Missouri to cancel its contract with Capital Correctional Resources, the private company operating the facility. But the beatings were unusual only because they were captured on tape. Incidents far more violent and surreal have become almost commonplace in the private prisons of Texas.

The private-prison system in Texas arose in response to the violence and disarray of the state system. In 1980 conditions in Texas state prisons were so bad that the federal judge

William Wayne Justice ruled that they amounted to "cruel and unusual punishment." He appointed a special overseer for the prison system and ordered the state to provide at least forty square feet of living space for each inmate. By the mid-1980s, however, conditions had grown even worse: Texas prisons were more overcrowded; gang wars between inmates resulted in dozens of murders; and local jails were so crammed with the overflow of state inmates that a number of counties later sued the state for relief. In 1986 Judge Justice threatened the state with a fine of \$800,000 a day unless it came up with a plan to ease the overcrowding in its prisons. While the Texas legislature scrambled to add new prison beds to the system, entrepreneurs sensed that profits could be made from housing state inmates in private facilities. Developers cut deals with sheriffs in impoverished rural counties, providing the capital to build brand-new jails, offering to run them, and promising to share the profits. Privately run correctional facilities sprang up throughout rural Texas, much the way oil rigs were once raised by wildcatters. The founders of one large private-prison developer, N-Group Securities, had previously sold condominiums and run a Houston disco. One critic quoted by the *Houston Chronicle* called the speculative new enterprises "Joe's Bar and Grill and Prisons."

The private-prison building spree in Texas—backed by investors such as Allstate, Merrill Lynch, Shearson Lehman, and American Express—soon faced an unanticipated problem. The State of Texas, under the auspices of a liberal Democratic governor, Ann Richards, began to carry out an ambitious prison-construction plan of its own in 1991, employing inmate labor and adding almost 100,000 new beds in just a few years. In effect the state flooded the market. Private firms turned to "bed brokers" for help, hoping to recruit prisoners from out of state. By the mid-1990s thousands of inmates from across the United States were being transported from overcrowded prison systems to "rent-a-cell" facilities in small Texas towns. The distances involved in this huge migration at times made it reminiscent of the eighteenth-century transport schemes that shipped British convicts and debtors to Australia. In 1996 the Newton County Correctional Center, in Newton, Texas, operated by a company called the Bobby Ross Group, became the State of Hawaii's third largest prison.

The private-prison industry usually charges its customers a daily rate for each inmate; the success or failure of a private prison is determined by the number of "man-days" it can generate. In a typical rent-a-cell arrangement a state with a surplus of inmates will contact a well-established bed broker, such as Dominion Management, of Edmond, Oklahoma. The broker will search for a facility with empty beds at the right price. The cost per man-day can range from \$25 to \$60, depending on the kind of facility and its level of occupancy. The more crowded a private prison becomes, the less it charges for each additional inmate. Facilities with individual cells are

more expensive than those with dormitories. Bed brokers earn a commission of \$2.50 to \$5.50 per man-day, depending on how tight the market for prison cells is at the time. The county—which does not operate the prison but simply gives it legal status—sometimes gets a fee of as much as \$1.50 a night for each prisoner. When every bed is filled, the private-prison company, the bed broker, and the county can do quite well.

The interstate commerce in prisoners, like many new industries, developed without much government regulation. In 1996 the State of Texas encountered a number of unexpected legal problems. Its private prisons were housing roughly 5,000 inmates from fourteen states. In August of that year two Oregon sex offenders escaped from a Houston facility operated by the Corrections Corporation of America. The facility normally held illegal aliens, under contract to the Immigration and Naturalization Service. Faced with empty beds, CCA had imported 240 sex offenders from Oregon. Texas officials had no idea that violent offenders from another state were being housed in this minimum-security facility. The escaped prisoners were eventually recaptured—but they could not be prosecuted for escaping, because running away from a private prison was not a violation of any Texas state law. The following month a riot erupted at the Frio Detention Center, a private facility operated by the Dove Development Corporation, which housed about 300 inmates from Utah and Missouri. The Texas Department of Criminal Justice had to send thirty of its officers in riot gear to regain control of the prison. A month later two Utah prisoners, one of them a convicted murderer, escaped from the same facility. A manhunt by state authorities failed to recapture them. Six other Utah inmates had previously escaped from facilities run by Dove Development; three were murderers. Last year the Texas legislature passed a bill that made it illegal for an offender from any state to escape from a private prison and that held the owners of such facilities responsible for any public expense stemming from riots or escapes. Few other states have even attempted to pass legislation dealing with these issues.

The private companies that now transport thousands of inmates across the United States every day face even less government oversight than private-prison companies. Indeed, federal regulations concerning the interstate shipment of cattle are much stricter than those concerning the interstate shipment of prisoners. Sheriff's deputies and U.S. marshals have traditionally been used to pick up inmates in one state and deliver them to another. During the late 1980s private companies began to offer the same service for about half the cost. The firms saved money by employing nonunion guards and making multiple pickups and deliveries on each trip. Prisoners today may spend as long as a month on the road, visiting dozens of states, sitting for days in the backs of old station wagons and vans, locked up alongside defendants

awaiting trial and offenders on their way to prison. Driving one of these transport vehicles is a dangerous job, one that combines the stresses encountered by correctional officers with those of long-distance truckers. Moreover, prisoners tend to view their days in transit as an excellent time to attempt an escape. The turnover rate among the transport guards and drivers is high; the pay is relatively low; and training for the job rarely lasts more than a week. As a result, violent criminals are frequently shipped from state to state in the custody of people who are ill equipped to deal with them. Local authorities often don't learn that inmates are passing through their towns until something goes wrong.

In August of 1996 Rick Carter and Sue Smith, the husband-and-wife operators of R and S Prisoner Transport, were taking five murderers and a rapist from Iowa to New Mexico. At a public rest stop in the Texas Panhandle one of the convicts assaulted Carter on the way to the men's room. The others overpowered his wife and seized the van. Carter and Smith, who had set off unarmed, were taken hostage. A passing motorist dialed 911, and the six inmates were recaptured by Texas police officers after a chase. On July 30 of last year Dennis Patrick Glick—a convicted rapist, sentenced to two life terms, who was being transported from Utah to Arkansas—commandeered a van owned by the Federal Extradition Agency, a private company. One of the guards had fallen asleep, and Glick borrowed his gun. Glick took the guard and seven other inmates hostage in Ordway, Colorado; abandoned the van; took a local rancher hostage; stole two more vehicles and a horse; eluded sixty law-enforcement officers through the night; and was captured the next morning on horseback. In December of last year Homer D. Land, a prisoner being transported from Kansas to Florida, escaped from a van operated by TransCor America. The van had stopped at a Burger King in Owatonna, Minnesota. While one guard went inside and bought eleven hamburgers, the other guard (who had been a TransCor America employee for less than a month) opened the van's back doors for ventilation, enabling Land and two other inmates to get away. Land took a married couple hostage and spent the night at their house in Owatonna before being recaptured in Chicago. The same TransCor America van had been commandeered four days earlier by Whatley Roylene, a prisoner traveling from New Mexico to Massachusetts and facing charges of murder and armed robbery. At a gas station in Sterling, Colorado, Roylene grabbed a shotgun from a sleeping guard. Officers from the Colorado state police and the local sheriff's department surrounded the van; the standoff ended, according to a local official, when other prisoners persuaded Roylene to hand over the gun.

**T**HE Bobby Ross Group, based in Austin, Texas, has proved to be one of the more troubled private-prison companies. The company's founder, Bobby Ross, was a sheriff in Texas and a successful bed broker before starting his

own business, in 1993. He eventually set up operations at seven Texas facilities and one Georgia facility, signing contracts to accept inmates from states including Colorado, Hawaii, Montana, Missouri, Oklahoma, and Virginia. It did not take long for problems to begin. In January of 1996 nearly 500 Colorado inmates, many of them sex offenders, were transferred to a Bobby Ross facility in Karnes County, Texas; two later escaped, and a full day passed before state authorities were notified. At the Bobby Ross prison in Dickens County, Texas, fights broke out between inmates from Montana and Hawaii that spring. A few months later a protest about the poor quality of food and medical care turned into a riot, and the warden ordered guards to shoot live rounds. The warden was replaced.

Montana canceled its contract with the Bobby Ross Group in September of last year. Three Montana inmates had escaped, and one had been killed by an inmate from Hawaii. Montana investigators found that many of the inmates at the Dickens County prison were going hungry and waiting days to see a doctor. "We really dislike losing a customer," an attorney representing Bobby Ross said to a reporter. In October an inspector for the Texas Commission on Jail Standards gave the Dickens County prison the highest possible ratings. A month later the same inspector acknowledged that in addition to his official duties he worked as a "consultant" for the Bobby Ross Group, which paid him \$42,000 a year. In December eleven inmates from Hawaii escaped from their dormitory at the Newton County facility operated by Bobby Ross, released nearly 300 other inmates, and set fire to one of the buildings. In February of this year inmates rioted again at Newton and set fire to the prison commissary. In brighter days, before the riots and fires, Bobby Ross had explained the usefulness of employing William Sessions, the former director of the Federal Bureau of Investigation, as a "special adviser" to the company. "He goes with us on sales calls to potential clients," Ross told a reporter for the Colorado paper *Westword*. "That kind of thing."

The U.S. Corrections Corporation, for years the nation's third largest private-prison company, has encountered legal difficulties even more serious than those of the Bobby Ross Group. In 1993 an investigation by the Louisville *Courier-Journal* discovered that the company was using unpaid prison labor in Kentucky. Inmates were being forced to perform a variety of jobs, including construction work on nine small buildings at the Lee County prison; construction work on one church and renovation work on three others attended by company employees; renovation work on a company employee's game-room business; painting and maintenance at a country club; and painting at a private school attended by a prison warden's daughter. The *Courier-Journal* concluded that "U.S. Corrections has repeatedly profited financially from its misuse of inmate labor." Although the state Department of Corrections confirmed these findings, it took no

action against the company. A year later U.S. Corrections chairman of U.S. Corrections, pleaded guilty to a federal charge of mail fraud, admitting that he had paid a total of roughly \$200,000 to a county correctional official in Kentucky. In return for monthly payments, which for four years were laundered through a California company, the official sent inmates to U.S. Corrections. Todd cooperated fully with an FBI investigation, but later became embittered when a federal judge denied his request for a term of house arrest. The head of the nation's third largest private-prison



company was sentenced to fifteen months in a federal prison.

The nation's second largest private-prison company, Wackenhut Corrections, has operated with a far greater degree of professionalism and discretion. Its parent company, the Wackenhut Corporation, has for many years worked closely with the federal government, performing various sensitive tasks such as guarding nuclear-weapons facilities and overseas embassies. Indeed, the company has long been accused of operating as a front for the Central Intelligence Agency—an accusation that its founder, George Wackenhut,

*Shift change. Clinton prison, Dannemora, N.Y.*

has vehemently denied. In the early 1950s Wackenhut quit the FBI, at the age of thirty-four, and formed a private-security company with three other former FBI agents. He went on to assemble the nation's largest private collection of files on alleged "subversives," with dossiers on at least three million Americans. During the 1970s the Wackenhut Corporation diversified into strike-breaking and anti-terrorism. The company, headquartered in Palm Beach Gardens, Florida, has