
Progress or Profit?

POSITIVE ALTERNATIVES TO PRIVATIZATION AND INCARCERATION IN SHELBY COUNTY, TENNESSEE

by

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Executive Summary

As Shelby County, Tennessee faces concerns about jail overcrowding and the rising costs of incarceration, so do many other communities. Across the country, cash-strapped counties and states are looking for ways to reduce their expanding criminal justice budgets. Lured by the promises of private prison corporations, some of these communities, like Shelby County, have even begun to consider the prospect of privatizing their jails, including medical and food services, in the hope that these corporations could operate larger jails or provide services at less cost. However, the experience of other counties has demonstrated that these promises are overstated or false. Again and again, private jails and prisons have resulted in more headache than relief to the communities that house them, as well as to those who live and work within.

Today, communities and decision makers must recognize that the public and taxpayer investment in publicly run and publicly accountable facilities has yielded better results than the for-profit jails run by private prison corporations. While our public jails and prisons have faced budgetary pressures, and continue to need reform, we cannot afford to divest ourselves of the government role in providing highly trained public employees, with higher standards for community accountability than the private for-profit corporations that cater to the needs of highly paid executives and major stockholders. To do so is financially, civically, and morally irresponsible and dangerous.

This report summarizes the experiences of prison and jail privatization in communities similar to Shelby County, and provides suggestions for more effective and cost efficient ways of addressing overcrowding and sentencing.

Privatization advocates claim that prisons and jails should be privatized in order to save money. However, the supposed ability of private prison corporations to provide cost savings to city, county or state corrections departments has proven an illusion. Instead, successful cost-savings and crime reduction have been consistently achieved through alternative sentencing programs and court processing efficiency measures. These efforts can be implemented at a fraction of the cost and risk of privatization, and can help achieve a more humane and just criminal justice system that still protects public safety.

Concerned local officials and citizens can look to programs other counties and states have implemented, both for examples of policies that have worked and for some best and worst case scenarios around new jail construction. As a diverse range of local stakeholders come together to determine what the best solutions are for Shelby County, they can certainly be well informed by the steps taken by other counties that are grappling with similar pressures of

growing jail populations and straining budgets. This report endorses the following recommendations, which would help save Shelby County from great expense, risk to the community, and the lack of oversight inherent in jail and prison privatization:

- Immediately halt any consideration of privatizing the Shelby County Jail or its medical services, or the Shelby County Corrections Center.
- Convene a Coordinating Council whose mandate is to examine overcrowding in the local jail and develop recommendations to address it.
- Transfer people convicted of felony offenses from the Shelby County Jail to state facilities.
- Implement alternative sentencing for people convicted of misdemeanor offenses.
- Develop efficiency measures to move people through the system faster pre-conviction.

“Even if for-profit private prisons could achieve significant cost savings to the taxpayer, which in fact they have not been able to do, they would still be morally unacceptable. Private prisons are not an economic but a deep religious and ethical issue, a cornerstone of our collective work to put justice back into the so-called “criminal justice system.”

“Resolution Calling for the Abolition of For-Profit Private Prisons,” 2002 General Assembly, Presbyterian Church USA¹

We call upon government to redirect the vast amount of public resources away from building more and more prisons and toward better and more effective programs aimed at crime prevention, rehabilitation, education efforts, substance abuse treatment, and programs of probation, parole, and reintegration. Renewed emphasis should be placed on parole and probation systems...Freeing up prison construction money to bolster these systems should be a top priority.

“Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Criminal Justice: A Statement of the Catholic Bishops of the United States,” November 15, 2000²

I. Introduction

Across the country, cash-strapped states and counties — like Tennessee and Shelby County — are looking for ways to reduce their burgeoning criminal justice budgets. Spending on corrections is eating up increasing portions of the local, state and national budgetary pie, often without demonstrating increased rehabilitation or job training and re-entry success for those incarcerated. Whereas in 1985 the United States was spending \$13 billion on corrections, five years later the figure had risen to \$24 billion, and by 2001 it had gone up to \$57 billion – a growth of over 400%.³

The increasing numbers of people housed in county jail facilities has placed a particularly heavy burden on county budgets, with the number rising from 256,615 people held in local jails in mid-year 1985 to close to three times that at 713,990 in mid-year 2004, and the cost of housing them rising right alongside.⁴ With local elected officials throughout the country feeling the pressure to reduce swelling budgets, address overcrowding in local facilities, and ensure real public safety for both their communities and the people living and working within these jails, communities are looking for immediate solutions.

Lured by the promises of private prison corporations, some of these counties and states have begun to consider the prospect of privatizing their jails, with the hope that these corporations could operate larger jails at smaller costs. However, the experience of communities that have tried this option has demonstrated that these promises are false. Again and again, private jails and prisons have resulted in more headache than relief to the communities that house them, as well as those who live and work within.

In the several decades that local officials have been grappling with the tension between swelling jail populations and tight budgets, the best solution to cost overruns has not been building more jail space or privatization, but decreasing the number of people housed in local facilities. The most effective

approach has been prioritizing the types of treatment programs and community and faith based alternatives that enable people to move permanently out of contact with the system *and* save taxpayer dollars, rather than relying on systems of punishment that place offenders in an endless cycle of detention.

II. Jail and Prison Privatization: Cost Savings or Potential Nightmares?

Privatized jails and prisons came to prominence in the early 1980s. Newly formed private prison corporations promised state and federal systems that privatization would provide significant cost-savings. Companies like Corrections Corporation of America and Wackenhut Corrections (later renamed The GEO Group) also argued that privatization would improve the quality of correctional facilities by increasing competition among firms vying for contracts.

Since its small beginnings in the early 1980s, the private prison industry has grown dramatically in size. By the end of 2004, there were over 120,000 prisoners in privatized prisons, jails, and detention facilities in the United States alone.⁵

While public prisons and jails have faced budgetary pressures, and continue to need reform, we cannot afford to divest ourselves of the government role in providing highly trained public employees, with higher standards for community accountability than private for-profit corporations that cater to the needs of highly paid executives and major stockholders. To do so would be financially, civically, and morally irresponsible and dangerous.

A. Problems With Privatization

The experience with privatization of prisons, jails, and detention facilities has been both negative and disturbing. Voluminous anecdotal and statistical evidence suggests that private prisons correlate with decreased security, insufficient staff training and equipment, inadequate protection of prisoners' human rights, degrading prison conditions, and poor employment standards.

In Tennessee, privatized jail facilities have experienced a number of attention-grabbing instances of mismanagement and worse. Examples include:

- **Hardeman County Correctional Center (Whiteville)** – In August 2004, more than 70 public law enforcement officers were brought in to search for a convicted murderer and rapist who escaped from this CCA-operated prison.⁶

Also in 2004, a former prisoner sued the facility and CCA for \$1 million claiming he contracted tuberculosis and that the facility's operator did not take proper precautions to prevent the spread of the airborne disease. Eight cases of TB at the facility prompted the Department of Health to investigate the prison to attempt to stop the disease from spreading to the outside community.⁷

- **Metro Davidson County Detention Facility (Nashville)** – Estelle Richardson, a mother of two who was serving time for a probation violation, was found dead in her cell in June 2004. The death was ruled a homicide by a Metro medical examiner. The U.S. Department of Justice's civil rights division, the Metro Nashville police and the District Attorney's office are all continuing to investigate the case.⁸ Four CCA guards have been indicted on reckless homicide

charges in Richardson's death. In October of 2005, Richardson's family filed suit against CCA and the facility for \$160 million.⁹

In a separate case, Meredith Manning, another former prisoner at Metro Davidson, has sued CCA for \$250 million for the wrongful death of her child. Manning, who is 23 and was a pre-trial detainee, claims that she was left bleeding in a solitary room for three days while crying for help. Her son died three hours after being born.¹⁰

Negative stories about jail and prison privatization have also appeared in headlines across the country. Some of these stories include:

- **Brazoria County Detention Center (Angleton, Texas)** – Guards at a private jail run by Capitol Correctional Resources, Inc. made a training video of themselves beating, stunning, and unleashing dogs on naked prisoners from Missouri. The 1997 incident left several prisoners injured, who were dragged face down back to their cells.¹¹
- **Tulsa County Jail (Tulsa, Oklahoma)** – In 2005, the Tulsa Sheriff's department took over operations of the Tulsa County Jail from Corrections Corporation of America after determining that the county could run the facility more efficiently.¹²
- **Frio County Detention Center (Pearsall, Texas)** – In August 2004, five federal prisoners escaped in broad daylight from a Frio County jail operated by Florida-based private prison operator Correctional Services Corporation. At least one of the prisoners was identified as a high-ranking member of the gang Mexican Mafia. The escape was the fifth in the facility's 15-year history.¹³
- **Eden Detention Center (Eden, Texas)** – Parents of Conrado Mestas filed a wrongful death suit claiming that Corrections Corporation of America guards mentally abused and withheld necessary diet from their son.¹⁴

These stories are not uncommon in privatized prisons. Reports have backed claims that understaffing and under-trained guards create dangerous conditions within these facilities.

One such report, *Corrections Corporation of America: A Critical Look at Its First Twenty Years*, argues that the largest private prison corporation, CCA, is plagued by administrative failures including:

“Failure to provide adequate medical care to prisons, failure to control violence in its prisons, substandard conditions that have resulted in prisoner protests and uprisings, criminal activity on the part of some CCA employees, including the sale of illegal drugs to prisoners, and escapes, which in the case of at least two facilities include inadvertent releases of prisoners who were supposed to remain in custody.”¹⁵

Another study, authored by criminologist James Austin, showed that in comparable medium and minimum security facilities, private prisons had 49% higher rates of prisoner assaults on staff and 65% higher rates of prisoner assaults on other prisoners.¹⁶

One reason for such disparities is the high rate of personnel turnover in privatized facilities. Data reported in *The Corrections Yearbook* documents that turnover for prison guards was 41% for the private prison industry in 1998, compared with 15% for correctional officers in publicly run prisons.¹⁷ Turnover actually *increased* to 52% in private facilities in 2000, compared to 16% in publicly run prisons.¹⁸

B. Case Study in Correctional Privatization: Appleton, Minnesota

The ineffectiveness of private correctional services is documented by criminal justice policy analyst Judith Greene's study of CCA's Prairie Correctional Facility (PCF) in Appleton, Minnesota.¹⁹

The study, supported by the University of Minnesota Law School Institute on Criminal Justice, compared the CCA prison with three comparable medium-security prisons operated by the Minnesota Department of Corrections (DOC). Greene issued detailed questionnaires to carefully matched prisoners at the four prisons and used their answers to compare services and programs.

Greene found significant disparities in the answers provided by the DOC prisoners and those held at the CCA prison. Among other differences noted by the prisoners, DOC prisoners were provided more education on general health issues (including an educational program on HIV/AIDS), received more dental care visits per year, and had access to significantly more chemical dependency training (the CCA facility did not have chemical dependency classes).²⁰

One of the most startling differences between CCA's Appleton prison and the three state prisons was in educational attainment and pre-release readiness. DOC prisoners were almost twice as likely as CCA prisoners to say the education provided by the DOC was preparing them for release. All teachers of academic classes at the DOC prisons were state certified, compared with half at the CCA prison. The duration of classes was also much longer at the DOC prisons. The outcome was as to be expected: the public DOC facilities produced 74 GEDs per 1,000 prisoners, while CCA's for-profit prison produced only 55.²¹

Greene reports that similar discrepancies existed in vocational and pre-release programs. At the DOC prisons, prisoners took full-day classes licensed by the state's technical college system, while prisoners at CCA's private facility took only three-hour courses that did not provide certificates when completed.

According to Greene,

“Taken together, the findings from the Minnesota study provide strong empirical evidence supporting the opposite view: that privatization significantly *lowers* the level of correctional effectiveness, facility security, and public safety compared to what is now provided by the public system. The comparative deficiencies at the CCA prison in Minnesota can be traced to the company's efforts to control costs, thereby increasing profits.”²²

C. Cost Savings: Overstated or Nonexistent

Privatization advocates claim that prisons and jails should be privatized in order to save money. However, the supposed ability of private prison corporations to provide cost savings to local or state

corrections departments has proven illusory. Studies reaffirm that claims of cost-savings by private prison corporations are unproven.

The Shelby County Mayor and the Shelby County Sheriff have recently acknowledged that privatization is neither the only nor the best solution to the county's jail problems. But until alternatives are implemented, the county will be faced with the rising costs of expanding incarceration, and the corporations that stand to profit from privatization will continue to see Shelby County as a place to make substantial profits.

As Shelby County resident James Harvey says, "There are a lot of benefits to be gained by privatizing the Shelby County Jail and penal farm, but none of them will be for the County, the employees of the jail or those incarcerated there, or the taxpayers." It goes without saying that if privatization takes place, those who would benefit most are the executives, directors, and major shareholders of the private prison corporation. Whether some of the Shelby County residents who are advocating privatization are among these potential major beneficiaries is a question worth asking.

In 1996, the General Accounting Office (GAO) of the Federal Government reviewed multiple state studies comparing operational costs of private and state-run prisons. Of five state studies, three showed little difference in costs between private and public prisons while one showed that private prisons cost more. One state study (Texas) showed substantial cost savings in private facilities, but the GAO researchers deemed that study "problematic" because the private prisons were compared to hypothetical public prisons, not real facilities. The GAO concluded that "these studies do not offer substantial evidence that savings [in private facilities] have occurred."²³

Another study, a 1999 "meta-analysis" of 33 cost effectiveness studies published in *Crime and Delinquency* found that private prisons were "no more cost effective than are public prisons."²⁴

Finally, a report commissioned by the Bureau of Justice Assistance showed that the supposed cost-savings of up to 20% often promised by privatization advocates have "simply not materialized." Instead, the report concluded that savings, if there were any at all, averaged only around 1%.²⁵

III. Community Response to Privatization

Across the country, communities have mobilized against the threat of private prisons. In some cases after contracts have been signed they have been terminated once residents, county officials, and legislators realized the extent of the program cutbacks, increased costs and risks of privatization. Before considering privatization in Shelby County, it is prudent to consider the concerns others have raised when facing the same issues.

A. Faith Groups Call for Abolition of Private Prisons

Communities of faith have been among most vocal critics of for-profit private prisons and jails. Many denominations have passed resolutions calling for restrictions on or outright abolition of for-profit private jails, prisons and detention centers.

In November 2000, the 48 Southern Bishops of the Roman Catholic Church issued the second of six pastoral statements on criminal justice issues, "Wardens from Wall Street: Prison Privatization." In this statement, the Bishops question the ability of for-profit, private corporations to effectively

operate prisons. The Bishops' statement says, "The profit motive may lead to reduced efforts to change behaviors, treat substance abuse, and offer skills necessary for reintegration into the community." The Bishops continue,

"We believe that private prisons confront us with serious moral issues, demanding a gospel response. To deprive other persons of their freedom, to restrict them from contact with other human beings, to use force against them up to and including deadly force, are the most serious of acts. To delegate such acts to institutions whose success depends on the amount of profit they generate is to invite abuse and to abdicate our responsibility to care for our sisters and brothers."²⁶

In 2000, the United Methodist Church adopted a resolution opposing for-profit private prisons. The statement reads in part, "This industry of warehousing people has presented a temptation to those who would profit from the punishment of human beings, leading to perhaps the most ominous illustration of the prison industrial complex at work: the privatization of prison operation and/or ownership."

The statement concludes:

"Christians, therefore, must have a special concern for those who are captive in any way, especially for those who are imprisoned, and for the human conditions under which persons are incarcerated. Individual Christians and churches must also oppose those policies and practices, which reflect greater allegiance to the profit motive than to public safety and to restorative justice for offenders, crime victims, and local communities.

Therefore, The United Methodist Church declares its opposition to the privatization of prisons and jails and to profit making from the punishment of human beings."²⁷

In 2002, the General Assembly of the Presbyterian Church (USA) adopted a lengthy resolution calling for the abolition of for-profit private prisons. The resolution states in part:

"Since the goal of for-profit private prisons is earning a profit for their shareholders, there is a basic and fundamental conflict with the concept of rehabilitation as the ultimate goal of the prison system. We believe that this is a glaring and significant flaw in our justice system and that for-profit private prisons should be abolished."²⁸

According to Father Les Schmidt, the Bishops' Liaison for the Catholic Committee of the South, the national faith opposition to jail privatization is more than shared in Memphis. According to Father Schmidt, "Faith leaders in Memphis have made it clear that choosing to build a for-profit, private jail is morally unacceptable. Positive alternatives are urgently needed. We seek positive steps in that direction and expect the suggested cost-saving alternatives to be given serious consideration by the commissioners and the community."

Statements by faith leaders in Shelby County reinforce Father Schmidt's contention. Dr. Peter Gathje, Professor of Religion and Philosophy at Christian Brothers University, asks, "Will years of county tax breaks for the big developers and federal budget cuts for the rich now lead our county government to

seek financial relief by turning to imprisonment for profit? If so, our government's moral priorities invite both the judgment of God and the outrage of those committed to justice."²⁹ Reverend Rebekah Jordan, Executive Director of the Mid-South Interfaith Network for Economic Justice, Memphis raises the issue of, "Do we really want our public safety and the care of incarcerated individuals to be in the hands of employees paid the lowest wages possible?"³⁰

B. Shelby County Community Concerns

Shelby County residents have been voicing their concerns ever since privatization of the jail was put on the table as a possible option. Many share the sentiments of Joseph Kyle, Vice President of the Rainbow Push Coalition. Urging caution with this decision, he stated that, "Government should be in the business of rehabilitation, and not in the business of profiting off of other peoples' misery."

Many feel that the public system can be strengthened simply by taking into account the experience and suggestions of its own employees, a suggestion strongly endorsed by those who work at the Shelby County Jail and the Shelby County Corrections Center. Moses Hayes, who is the Corrections Chapter Chairperson for AFSCME Local 1733, which represents employees at the two facilities, believes that "The County should allow employees to suggest where operational efficiencies could be found." Minus Adams, who manages educational and vocational training for prisoners, says, "I personally don't believe that an outside agency can come in and work with these people the way we do."³¹

Correctional Officer Jeff Woodard also does not support privatization; he sees it as "a rip-off of the taxpayers' dollars. Rob from the poor and give to the rich." His colleague Warren Cole agrees. "As a correctional officer, I am on the inside looking out. As a taxpayer, I am on the outside looking in. No matter how I look at it, privatization is not the way to save this county money."

Jacob Flowers, Executive Director of the Mid-South Peace and Justice Center, expresses his concerns about profit driven bottom lines in private prisons: "Right now prison guards and administration are accountable to our elected officials and the general public. What is scary is that in a private prison the guards and administration are no longer accountable to us, but rather to their corporate stockholders. This means that the safety of prison guards, prisoners and the general public is no longer the first priority — profit is."³²

Shelby County elected officials are also among those concerned about the negative impact of jail privatization. County Commissioner Walter Bailey is worried about the larger welfare of the community, noting that, "When privatization moves in, minorities and women make up the greater number of kicked-out employees. One can't imagine the pain, agony and suffering that is inflicted on their family members."³³

IV. Solutions to Prison and Jail Overcrowding and Rising Budgets:

A National Perspective

As communities look for answers to the problems of overcrowding and alternatives to proposals of privatization, it is important to assess the causes of increased jail and prison populations and to learn from the experiences of other cities, counties and states across the country.

A. Causes of Increased Jail Populations

“In 1983, the condition of jail crowding was described as ‘the most pressing problem’ facing criminal justice systems across the nation. Today local government and criminal justice officials face no less of a struggle dealing with crowded jails than they did in 1985...As in 1985, cities and counties still often respond to jail crowding and resultant litigation precipitously, without careful study or planning and without the participation of all justice system agencies. Such approaches generally produce only costly symptomatic relief, such as building more jail beds, and leave unaddressed the underlying causes of crowding. Responsible local officials who are considering community safety and the possibility of litigation, as well as the interests of those living and working within the jail, are under growing pressure to respond to crowded jail conditions. In a crisis atmosphere, these concerns are often simply translated into a need for building larger jails. Construction and operation of local jails are extremely expensive propositions. Over the years, the view that a jurisdiction can solve its jail crowding problem through building has proven to be wrong.”

*-Alleviating Jail Overcrowding: A Systems Perspective
Bureau of Justice Assistance, October 2000³⁴*

Rising jail populations are not caused by changes in crime in the local population, but by the inefficiencies and failed practices of the criminal justice system itself. If over-crowding were actually driven by increased levels of crime in the community, the demands for jail space would have *decreased* during the 1990s, as crime throughout the country was going down.³⁵

Responsible officials must look to determine how they can reduce the number of people in jail at a given moment by doing an intensive, systems-wide analysis. The questions that local officials need to ask themselves to determine the real causes of increasing jail populations are: 1) Who is actually in jail; 2) What length of time they are spending there; and 3) How discretionary decision making by criminal justice officials impacts the first two factors.

While crime has been going down for decades, jail and prison populations have been on the rise. The increase is largely due to changing arrest policies at the front end and sentencing policies at the back end: the war on drugs, mandatory arrest policies for domestic violence offenses and drunk driving, the deinstitutionalization of the mentally ill and their resultant involvement in the criminal justice system, “truth in sentencing” laws reducing parole options, “three strikes you’re out” laws, and mandatory minimum sentencing laws that have all increased the proportion of people in jail pre-trial.³⁶ Although there is no one reason for why the populations of county and local jails throughout the country are swelling, these are some of the myriad of factors that play a role.

The first step for any county in developing a solution is to convene a Coordinating Council whose mandate is to examine overcrowding in the local jail and to develop recommendations to address the problem. The Coordinating Council should analyze problems of overcrowding and high costs, including looking at *who* is coming into the jail and for what reasons, so that effective and appropriate cost-saving alternatives can be identified and implemented.

B. Solutions to Over-Crowding

Any full assessment of who is in the jail and what is driving overcrowding on the local level will be specific to each county, and so must be the solution. There is no one-size fits all solution to reducing

jail costs and decreasing the population of people detained at a given time, and local stakeholders must come together in order to determine what will work best for their county. However, concerned local officials and citizens can certainly look to what other communities have implemented, both for examples of policies that have worked and for some best and worst case scenarios around new jail construction. As a diverse range of local stakeholders, including the sheriff, probation and parole officers, prosecutors, police, state judges, correctional employees, labor unions, organizations representing people in prison and their families, faith and community representatives come together as a Coordinating Council to determine what the best solutions are for Shelby County, they can certainly be well informed by the steps taken by other communities grappling with similar pressures of growing jail populations and straining budgets.

Programs, reforms and efficiency measures that have been implemented throughout the country as mechanisms to reduce jail populations and save costs include a variety of pre-arrest, sentencing reform and alternative restitution programs, such as:³⁷

Citation Programs: These programs give citations to offenders without booking them through the arrest process. Citations can entail a notice to appear or a desk appearance ticket, and eliminate unnecessary jail bookings. Offenders are booked only when they present a flight risk, present a clear and present danger to their community, or are unable to prove their identity. This solution has been used in the case of low-level, misdemeanor crimes.

Programs for the Mentally Ill: By hiring civilian police employees with mental health training and by creating training programs to help officers recognize mental illness, counties can divert people with mental illness away from jail and into emergency mental health care programs instead. Trained officers can identify mental illness and work with other agencies to provide the necessary treatment outside of detention facilities.

Improving Release Procedures for the Pretrial and Sentenced Populations: These improvements decrease jail populations by ensuring that people are moving through the system in a timely fashion. Examples include setting time limits for releasing pre-trial defendants brought in on certain charges (i.e.: public drunkenness), transferring committed offenders (“state readies”) to state facilities rapidly, and transferring mentally ill prisoners to state hospitals in a more timely fashion.

Monitoring/Expediting Detention Cases: Hiring case monitors to continuously review jail prisoners to identify those who could be diverted from the jail or individuals whose cases could be diverted in some manner.

Pretrial Diversion: Pretrial services programs can help alleviate jail crowding by releasing prisoners before trial and by providing three essential services. First, they provide information about the defendant to help decision makers make an appropriate pretrial release/detention decision. Second, they provide the decision makers with options for safely releasing the defendant. Finally, they have the capacity to monitor and supervise defendants released before trial.

Bail Reform: National studies show most pretrial prisoners are those who cannot post money bond, or bail. Instituting bail reform is a means of alleviating overcrowding in this population. Examples of such reform include increasing the frequency of initial appearance hearings that set bail,

and holding bond review hearings several days after defendants enter jail to determine whether they might qualify for case disposition, bond reduction, or pretrial release consideration.

Specialty Courts: These include drug courts, domestic violence courts and mental health courts. Specialty courts were developed as a means to provide individuals with a sanction that includes treatment that would not be provided through the standard criminal justice system.

Alternatives to Incarceration: In response to increased jail populations, probation agencies are working with other criminal justice agencies to develop alternative punishment programs, which are court-mandated programs that require supervision but do not hold individuals in secure detention. The most widely used alternative to incarceration program is supervised probation, which allows a person found guilty of an offense to stay in the community, usually under the supervision of a probation officer. Other alternatives to incarceration include measures such as electronic monitoring and court mandated treatment programs. Many of these programs are coordinated by faith or community based organizations, and hold at core the restorative justice principle that people are best served by integration back into the community, for both the restitution and the assistance necessary for full and healthy participation in community life.

C. Case Study in Reform: New York State

While the Rikers Island jail system in New York City is one of the largest penal colonies in the world, the number of people detained within its facilities decreased significantly under the leadership of a Commissioner of Corrections who was concerned with the mounting costs of detention over the last two decades. Between 1991 and 2004 the jail population was reduced by 36%, from a peak of 21,500 to 13,750 in 2004, at significant cost-savings. This massive reduction in the jail population came at the same time that New York City was experiencing a 68% drop in crime and a 70% decrease in murders, demonstrating that there is little correlation between numbers of people in jail and public safety. Programs such as New York City's Center for Alternative Sentencing and Employment Services, an organization that provides services and supervision in the community including substance abuse prevention training, school placement and literacy classes to close to 14,000 people a year, are just one of the many reasons why this drop in jail population has occurred.³⁸

In Suffolk County, New York, the second most populous county in the state, swelling jail populations in the late 1990s and the mounting costs of boarding people out to other neighboring facilities, on top of pressure from the State Commission of Corrections to deal with overcrowding, prompted the county to rush towards plans to build a massive new jail in early 2004. However, when the price tag on the facility came back at \$286 million to build, plus an additional \$148.6 million in debt service, fiscally concerned county officials put a brake on the project until its need could be further assessed.³⁹ Coupled with the concern from local residents about the trade-off in other important budgetary projects and the social costs such a massive jail would entail, a process of examining the factors of overcrowding in Suffolk County's jail was begun in order to ensure real public safety and cut costs at the same time. A Coordinating Council was convened, and in May 2005 they issued a report that determined that the driving forces of increased jail population included:

- **Policy changes/different use of jail** (more non-felony crimes resulting in incarceration, increased use of incarceration for both pre and post sentencing, defendants identified with gangs being treated more severely, even for minor crimes, and changes in judicial and prosecutorial practices)

- **Lack of adequate resources for the mentally ill** (mental health facilities have closed, giving the criminal justice system fewer options and resulting in more mentally ill people in the jails)
- **Underutilized alternatives to detention programs** (programs in the community that had empty space but were not being used due to lack of communication within the system)
- **Changes in flow of system** (more people flowing in, even though crime is down; as much as 60% of arrests are for minor offenses like public disorder, and fewer people can flow out of the system as the court docket gets backed up.)⁴⁰

The Coordinating Council issued a set of 29 recommendations on ways to address these factors without building more jail space, including better mental health screening, supervised pre-trial release, and better transportation to court for people facing hearings. Expansion plans for new construction have already been downsized to a two-phase process, with the expectation that the second phase of additional beds will no longer be necessary in a few years, and the projected cost of the project has plummeted. Faith and community leaders have joined the other criminal justice stakeholders at the table to push for a more rehabilitative, community oriented, and cost effective model of criminal justice in Suffolk County.

V. Conclusion: Where Do We Go From Here?

As in other counties, any real effort to curtail costs and reduce the population of people incarcerated in Shelby County must involve a full-scale effort to analyze the county jail system and determine the most effective reforms and efficiency measures. While models from throughout the country can offer examples of possible solutions, there are no one size fits all models to address the specific conditions that produce overcrowding and high costs in a county jail system.

However, based on the experience of other counties around the country, it is possible to develop a set of steps that would help Shelby County resolve its jail overcrowding problems, while saving money and maintaining public safety. **This report recommends that the following measures be implemented:**

- **Immediately halt any consideration of privatizing the Shelby County Jail and/or its medical services, or the Shelby County Corrections Center.** Privatizing the Shelby County Jail and the Shelby County Corrections Center needs to be taken off the table now. Privatization of the jail will not save the county money, or increase the efficiency of the system. Privatization of the facility presents numerous potential problems, including unsafe conditions for those who live and work within the jail, a lack of public accountability and oversight, and the financial risk of long-term contracts.
- **Convene a Coordinating Council whose mandate is to examine overcrowding in the jail and develop recommendations to address it.** By bringing together all the stakeholders in the justice system in a real commitment to institute reforms, Shelby County could develop a working blueprint to both reduce jail populations and cut detention costs. There are many outside consultants who could help facilitate this process.⁴¹
- **Transfer people convicted of felony offenses from the Shelby County Jail to state facilities.** People are currently being kept in the jail for up to two years after being sentenced, driving up the jail population and forcing elected officials to seek solutions such as jail

expansion.⁴² Transferring state-ready people from the Shelby County Jail to the Tennessee Division of Corrections, significantly freeing up local bed space, could immediately reduce the population of the facility.

- **Implement alternative sentencing for people convicted of misdemeanor offenses:** On a one-day sampling of the facility, 333 people, or 15.1%, of people in jail, were sentenced for misdemeanor offenses.⁴³ Alternative sentencing for misdemeanors in Shelby County would empty bed space and save taxpayer money, while also enabling people to maintain the community ties that have been demonstrated to increase the probability that they do not come into contact with the system again. Many of those incarcerated for misdemeanors and even felony offenses may qualify for the Retribution and Rehabilitation Program, and programs such as work release that would enable them to gain work skills.
- **Develop efficiency measures to move people through the system faster pre-conviction:** 40.6% of the people in jail in Shelby County are pre-trial, meaning that many of them could possibly be released earlier through faster processing, bail reform measures, or pre-conviction alternatives.⁴⁴ An effective Coordinating Council could successfully help Shelby County determine how many of the people currently filling the jails could be released to other community programs, both improving public safety and saving taxpayers countless dollars.

Like other communities around the country, Shelby County faces important questions in the coming months and years. Will concerned citizens come together to create successful alternatives to the issues of overcrowding and endless spending? How can stakeholders come together to implement reforms based on a positive vision for Shelby County that will advance the long-term health of the community as it relates to corrections issues?

A great deal of work has already been done in other communities to address the problems that jail privatization would create. Shelby County can learn from the experiences of other counties and states so that those problems can be avoided. To build a sustainable and affordable system over the long run, the county must take a determined stand against privatization not only of the Shelby County Corrections Center and of the Shelby County Jail, but of medical and food services within the jail as well. It must take a strong stand for public accountability, as well as for implementation of alternative programs including sentencing reform. Convening a local Coordinating Council in the next few months to address these issues as they arise over time is an important way to ensure that answers appropriate to the local situation will be developed and adopted.

Report Sponsors:

Coalition Against Private Prisons (CAPP) includes AFSCME Local 1733, Blues Enrichment, Communications Workers of America Local 3804, Grassroots Leadership, IBEW Local 474, IBEW Local 1288, International Center for Learning and Exchange, Memphis Central Labor Council, Mid-South Interfaith Network, Mid-South Peace and Justice Center, Rainbow Push, Southern Christian Leadership Conference (SCLC) and Women's Action Coalition, along with individual educators, students, correctional officers, faith leaders, artists, and community activists.

Grassroots Leadership is a Southern-based national organization that does grassroots organizing, research, policy advocacy and public education on a range of privatization, prison and criminal justice issues. Grassroots Leadership works to enhance the public good and to stop the erosion of the public sphere. www.grassrootsleadership.org

The analysis and recommendations contained in this report represent the judgment of the authors, and are not necessarily endorsed in every detail by the many organizations and individuals that are quoted and mentioned in it.

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Additional Resources:

The Center for Constitutional Rights (CCR) is a non-profit legal and educational organization dedicated to protecting and advancing the rights guaranteed by the U.S. Constitution and the Universal Declaration of Human Rights. Founded in 1966 to support the Civil Rights movement, over the last four decades CCR has played an important support role in many popular movements for social justice. www.ccr-ny.org

The Pretrial Services Resource Center is a non-profit clearinghouse for information on pretrial issues that provides technical assistance to pretrial practitioners and agencies. www.pretrial.org

The National Institute of Corrections provides federal, state and local corrections agencies with training, technical assistance, information services, and policy/program development assistance. www.nicic.org

The Institute for Law and Policy Planning has helped criminal justice systems rebuild themselves for 30 years. www.ilpp.com

Endnotes

- ¹ The full resolution by the Presbyterian Church (USA) is available at <http://www.pcusa.org/ga215/business/singles/comm0701.pdf>.
- ² The full pastoral statement from the 48 Southern Bishops of the Roman Catholic Church is available at <http://www.usccb.org/sdwp/criminal.html>.
- ³ Kenneth E. Kerle. "Exploring Jail Operations." Maryland: American Jail Association (2000), p. 109.
- ⁴ Beck, Allen J. "Prison and Jail Inmates at Midyear 1999." *Bureau of Justice Statistics Bulletin*. US Department of Justice, Bureau of Justice Statistics. April 2000. NCJ 181643.
- ⁵ Paige M. Harrison & Allen J. Beck, Bureau of Justice Statistics, "Prisoners in 2004,." October 2005. <http://www.ojp.usdoj.gov/bjs/pub/pdf/p04.pdf>.
- ⁶ "Killer's escape angers family," *Jackson Sun*, August 9, 2004.
- ⁷ "Ex-inmate with TB sues prison," *Jackson Sun*, July 30, 2004.
- ⁸ "Year later, no answers in prisoner's death," *The Tennessean*, June 16, 2005.
- ⁹ "Inmate's family sues for \$160 million," NewsChannel5.com, October 5, 2005.
- ¹⁰ "Lawsuit blames CCA for death on infant," *The Tennessean*, October 2, 2005.
- ¹¹ "Prison videotape casts negative light on private jailing," CNN, August 21, 1997.
- ¹² *Tulsa World*, January 26, 2005.
- ¹³ "Five escape private Texas prison," Associated Press, August 7, 2004.
- ¹⁴ Taken from Phillip Mattera, Mafruz Khan, and Stephen Nathan, *Corrections Corporation of America: A Critical Look at its First Twenty Years*, Grassroots Leadership, December 2003. Originally reported in "Parents of Inmate Who Died File Prison Lawsuit," *Houston Chronicle*, May 21, 2003.
- ¹⁵ Phillip Mattera, Mafruz Khan, and Stephen Nathan, *Corrections Corporation of America: A Critical Look at Its First Twenty Years*, Grassroots Leadership, December 2003.
- ¹⁶ James Austin & Garry Coventry, Bureau of Justice Assistance, U.S. Dep't of Justice, Bulletin NCJ 181249, "Emerging Issues on Privatized Prisons" (2001), pg 57.
- ¹⁷ Judith Greene, "Bailing Out Private Jails", *The American Prospect*, September 10, 2001.
- ¹⁸ Data from Corrections Yearbook 2000 as reported at <http://www.afscme.org/private/98yrbk.htm>.
- ¹⁹ Judith Greene, "Lack of Correctional Services," in *Capitalist Punishment: Prison Privatization & Human Rights*, (eds. Coyle, Andrew, Allison Cambell, and Rodney Neufeld), Clarity Press, Inc., 2003.
- ²⁰ *Ibid.* 60.
- ²¹ *Ibid.* 60-61.
- ²² *Ibid.* 61.
- ²³ U.S. General Accounting Office, "Private and Public Prison: Studies Comparing Operational Costs and/or Quality of Service", GAO/GGD-96-158, August 1996, pg. 3.
- ²⁴ Travis C. Pratt & Jeff Maahs, "Are private prisons more cost-effective than public prisons? A meta-analysis of evaluation research studies." *Crime and Delinquency*, July 1999.
- ²⁵ James Austin & Garry Coventry, Bureau of Justice Assistance, U.S. Department of Justice, Bulletin NCJ 181249, "Emerging Issues on Privatized Prisons" (2001)
- ²⁶ "Wardens from Wall Street: Prison Privatization," November 2000. The full statement is available at <http://www.catholiclabor.org/church-doc/CBS-2.htm>.
- ²⁷ The full resolution of the United Methodist Church adopted in 2000 is available online at http://gbgm-umc.org/mission_programs/mcr/4.35/umresolutions.cfm.
- ²⁸ The full resolution of the Presbyterian Church (USA) is available at <http://www.pcusa.org/ga215/business/singles/comm0701.pdf>.
- ²⁹ *The Commercial Appeal*, March 18, 2005
- ³⁰ *Ibid.*

- ³¹ *The Commercial Appeal*, March 25, 2005
- ³² Mid-South Peace and Justice Center Newsletter, Fall 2005
- ³³ *The Commercial Appeal*, February 27, 2005
- ³⁴ Bureau of Justice Assistance. "A Second Look at Alleviating Jail Crowding: A Systems Perspective." (October 2000), p. 2.
- ³⁵ Mark A. Cunniff. *Jail Crowding: Understanding Jail Population Dynamics*. Washington, DC: National Institute of Corrections (January 2002), p. 16.
- ³⁶ Bureau of Justice Assistance, p. 2.
- ³⁷ All of this information was compiled from the Bureau of Justice Assistance Report :Alleviating Jail Overcrowding: A Second Look." For a full copy of the report, go to <http://www.pretrial.org/publications.html>
- ³⁸ Michael Jacobson. *Downsizing Prisons: How to Reduce Crime*. New York: New York University Press (2005).
- ³⁹ Michael Jacobson. "Suffolk County NY: Small Jail = Less Crime". *New York Newsday*. March 13, 2005.
- ⁴⁰ Criminal Justice Coordinating Council. Systems Planning Subcommittee Report. Suffolk County, New York: 2005.
- ⁴¹ See end of report for a list of further resources.
- ⁴² For more information, see: *Comprehensive Retribution and Rehabilitation Program for Shelby County*. www.midsouthpeace.org/crrp.pdf.
- ⁴³ Shelby County Division of Corrections, Inmate Population Snapshot, September 28, 2004.
- ⁴⁴ For more information, see: *Comprehensive Retribution and Rehabilitation Program for Shelby County*. www.midsouthpeace.org/crrp.pdf.



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