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Joseph Ferrandino
Indiana University Northwest

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JOSEPH FERRANDINO
Indiana University Northwest

ABSTRACT

Correctional management and policy decisions throughout the nation have been greatly influenced by the new governance of public administration philosophy, and Indiana provides a practical example of this rapid expansion that has gone largely unnoticed in the criminal justice literature. Using state budget data and contractual artifacts from the Indiana Department of Corrections and Department of Administration, this research details the levels of privatization through contracting and private management in the Indiana system. This analysis suggests specific attention of correctional policy makers to the size of private markets, accountability networks, market expansion of private providers, and equity issues that arise when inmates are used in the production of private goods and/or services.

KEY WORDS Indiana Corrections; New Governance; Privatization; Contracting

The new governance of public administration, at its core, represents a shift from direct government delivery of services to one of indirect government that combines the authority, legitimacy, and resources of the government with the management capabilities of more flexible and theoretically more cost-efficient private-sector entities. This transition requires new structures and processes to achieve, theoretically, more effective or efficient outcomes. The general shift to the new governance of public administration that began earnestly in the early 1990s has had a tremendous impact on all facets of correctional administration. Though some researchers note that correctional services are increasingly delivered by private-sector entities, they nonetheless focus mainly on private companies that manage correctional facilities (Nicholson-Crotty 2004; Ogle 1999; Welch and Turner 2007). There is limited research expanding the focus beyond facility management to areas such as privatized medical services (Moore 1998; Robbins 1999;

[*] Joseph Ferrandino, PhD, Assistant Professor of Criminal Justice, School of Public and Environmental Affairs (SPEA), Indiana University Northwest, 3400 Broadway, Gary, IN 46408

Sellers 1989). The reality is that both perspectives—*structural privatization*, in which the actual facilities are leased to private managers, and *process privatization*, in which correctional services are provided by private companies regardless of manager—are equally reflective of the new governance philosophy.

Cohen and Eimicke (1998:100) define privatization as "the utilization of private or non-governmental organizations in the implementation of public policy, often replacing direct government provision of particular programs or services." In corrections, the main form of privatization has been "the contracting out of functions that government agencies used to implement with their own staff" and to a lesser degree the "turning over of government-run enterprises to the private sector by selling assets and monopolies to private firms" (Cohen and Eimicke 1998:104). The present study focuses primarily on the former type of privatization, expanding beyond structural privatization to include the privatization, through contracting, of correctional services such as food service and health care.

New governance in corrections fits within the wider expansion of privatization efforts in Indiana. One example is the leasing of the Indiana Toll Road in 2006, which was preceded one year earlier by the first and only prison in Indiana to be privatized. The Indiana Toll Road was leased to a private company for 75 years for $3.85 billion (Indiana Finance Authority n.d.), though recently, creditors bought $500 million of the company's $5.8 billion debt load (Glazer 2014). Thus, privatization through contracting in Indiana has existed on a large scale at the state level for nearly a decade. This is reflective of a larger philosophical shift from direct to indirect government found in the contracting of functions ranging from road management to the management of correctional facilities and delivery of inmate services.

This research has three purposes. The first purpose is to explore and examine the structural and procedural transformations that have occurred in correctional management which reflect the conceptual foundations of the new governance school of public administration. While privatization is refined and discussed, it is done so in the context of the contracting tool that has changed the very nature of the corrections industry, with the state of Indiana used as a specific example. The second purpose of this work is an in-depth analysis of the contracts that comprise the new governance correctional system in Indiana to inform the wider area of inquiry. Finally, the study concludes by examining areas of concern and future research that are needed to more fully understand and manage the shift to a new governance of correctional administration, specifically in regard to the contracting tool. This requires a more comprehensive research approach than has previously been applied to the topic of privatization as the tool transitions from correctional structures (facility management by private operators) to processes (e.g., delivery of health care and food in all facilities regardless of manager) that will have long-lasting impacts on inmates, correctional professionals, and state budgeting decisions.

THE TENETS OF NEW GOVERNANCE IN THE CORRECTIONAL CONTEXT

The new governance paradigm has emerged because of the realization that "no single agency or organization at any level of government or the private sector has a monopoly on the mandate, resources or information to deal with the most vexing of public problems" (Agranoff 2003:7). Corrections clearly represents a vexing and complex social issue, with about 1.6 million Americans in state and federal prisons (West, Sabol, and Greenman 2010), 760,000 in jails, and another 5 million in community corrections, for a total of approximately 7.2 million people under correctional control (Glaze 2010). The surge in correctional population that began to take hold around 1980 has led to innovative correctional management and administration, borne from both necessity and ideology, which reflects the hallmarks of the new governance philosophy that followed the incarceration boom. As articulated by Salamon (2002), new governance generally entails transitioning:

- from a program/agency approach to the application of specific tools that governments have at their disposal to address problems and/or social needs;
- from hierarchal governmental bureaucratic structures to wider networks to enact and administer the tools chosen;
- from separation of public and private sectors to structural and procedural integration of the sectors depending on the tools chosen;
- from command and control over the management and service-delivery process to negotiation and persuasion of the integrated sector network to achieved desired ends of action; and
- from a focus on management skills to a focus on the skills of enabling to decide and enact tools, to create and manage converged networks of public and private sectors, and to persuade rather than command.

The tools of governance are wide-ranging and include but are not limited to grants, social marketing, social regulations, public information, contracting, privatization, and vouchers (see Salamon 2002). These tools provide far more flexibility than rigid programs and are often provided by third parties, limiting the need for hierarchal bureaucracies in favor of more fluid networks. This network involves all sectors, blurring the traditional lines, which requires a departure from the traditional management model of state-employee to state-network participant. As this is accomplished legalistically, the state must transition to a constant process of risky negotiation and persuasion that contrasts with the relative stability and predictability of bureaucracies. This approach is clearly more conservative in nature and focused on increasing the private sector and on limiting the government relative to the management and delivery of services.

McDonald and Patten (2003) noted states passing "enabling" legislation to create private prison markets administered through "negotiated contracts" amidst the trend toward "networks of private organizations" in lieu of hierarchal governmental structures, all of which are reflective of the new governance philosophy. The political influences are also clear, as the authors stated that one of the main objectives of prison privatization in Oklahoma was "to avoid capital investments in prisons [which require more state employees to staff], [and] to avoid developing long-term obligations to larger numbers of state government employees" (p. 102).

Government clearly continues to perform the dominant role in the management and control of correctional institutions (structural privatization), but the private sector has been increasingly relied upon to manage prisons and/or to deliver a variety of correctional services within government-controlled facilities (process privatization). By the end of 2009, 8 percent (129,336) of all prison inmates in the United States were housed in private facilities, up from 6.3 percent (87,369) in 2000 (West et al. 2010). This modest increase masks the recent move in several states to greatly increase prison privatization, including a recent proposal to privatize the entire Arizona penal system.

There has generally been a lack of direct connection in the corrections literature of these changes to the broader governmental shifts to the governance model occurring at the state level. The main focus has largely been on structural privatization," or the managing of facilities by private companies, but this may be a misnomer. The market for prison inmates derives from direct federal and state government action, unlike many other entities for which a private market exists absent government creation (as in the case of people paying tolls to use roads). The private prison market was created by direct government policy action, shaping companies that provide these services, mainly the Correctional Corporation of America (CCA) and the GEO Group (GEO, formerly Wackenhut), more like government-sponsored enterprises than private corporations. This important distinction is often not made. Stanton and Moe (2002:82) define a government-sponsored enterprise as "a government chartered, privately owned, and privately controlled institution that, while lacking an express government guarantee, benefits from the perception that government stands behind its financial obligations." This conceptualization better articulates the relationship that both federal and state governments have with private correctional entities, which do not have an alternative market for their services, making government their only market.

A main focus of prior research has been to compare privately and publicly managed prisons along a variety of measures; the findings are mixed and inconsistent (General Accounting Office 1996; McDonald and Patten 2003; Pratt and Maahs 1999). Some researchers have found private prisons to be more efficient, citing a variety of methods, most of which are either rhetorical or simple cost comparisons (Crants 1991; Fenton 1985; Sellers 1989; Vardalis and Becker 2000). Other research, often using more statistical foundations, has found limited to no substantial difference between the two structures in terms of cost-efficiency or overall effectiveness (General Accounting Office 1991; McDonald et al. 1998; Nyhan 2002; Pratt and Maahs 1999; Pratt and Winston 1999). A government report on prison privatization found that the process correlated with roughly 1 percent in savings as compared to public management, far less than proponents predicted (Austin and Coventry 2001). Nicholson-Crotty (2004) broadened the focus of the privatization decision and its determinants such as political ideology and unionization levels in the state. From a critical perspective, Welch and Turner (2007) studied privatization in the context of racial inequities and human rights violations as a function of neoliberal economics. Culp (2005) employed a historical perspective that described a rise, then stagnation, of the private prison industry. None, however, have tied this transition to the new governance philosophy.

The nearly singular focus on structural privatization in corrections, though wide in perspective, has come at the expense of understanding the depth of process-based privatization within public prisons, which also reflects the foundations of new governance and the changing management paradigm within corrections. In the sections that follow, a modern state correctional system is analyzed from a governance perspective, which broadens the horizons beyond simply “privatization” to more complete analysis of the contracting tool that government is utilizing to manage correctional systems in the twenty-first century. The Indiana state correctional system recently began to transform from a direct government perspective to one utilizing a governance approach, providing a specific model that is analyzed in the present study.

THE INDIANA STATE CORRECTIONAL SYSTEM

The Indiana Department of Corrections (IDOC) is studied for two important reasons. First, although privatization is often considered to be a more conservative governmental approach, Indiana recently ranked 22nd of 50 states in percentage of residents identifying as conservative (41.1 percent; Jones 2011) suggesting that its population is more moderate and not an extreme example ideologically. Second, the state provides a database of all contracts with private vendors, corporations, and nonprofits, which allows for a narrow analysis of the scope and depth of the new governance concepts at work within state corrections.

The IDOC comprises 27 facilities (21 adult and 6 juvenile). The IDOC reported 29,083 inmates at the end of 2010 (IDOC 2010): 25,906 adult males, 2,480 adult females, 617 juvenile males, and 80 juvenile females. In Fiscal Year (FY) 1993–94, the total state correctional budget was $340,001,139 (Indiana State Budget 1993–95), increasing by approximately 124 percent to $760,768,359 in 2011 (Indiana State Budget 2009–11). The management of the IDOC clearly reflects several hallmarks of new governance. First, the state relies on privatization, but much more on process-based privatization than on structural privatization, and it accomplishes the former approach through contracting at the state level with private corporations, vendors, nonprofits, and local governments. These contracts are often amended and renegotiated, and many of the entities in the correctional-management network are becoming more integrated, enabling third-party providers to increase their markets and opportunities in the state. All information in the following sections, unless otherwise cited, derives directly from the contracts cited and is on file with the Indiana Department of Administration.

STRUCTURAL PRIVATIZATION: INDIRECT MANAGEMENT

Indiana clearly uses the tool of contracting prison facility management (structural privatization) more voluminously than any other Midwestern state, with 8.6 percent of inmates at the end of 2009 in private facilities; Ohio was second, with 4.3 percent (West et al. 2010). Indiana has one prison that has been fully privatized structurally—New Castle Correctional Facility (NCC)—which is operated by the GEO Group and administered through a contract with the state. NCC is a medium-security facility with an average daily population of around 2,513 inmates (IDOC n.d), though the GEO Group touted a 2010 population expansion of 512 beds to an updated capacity of 3,196 (GEO Group 2010). NCC was built by the state in 2002, but under state management, it was under capacity while the IDOC was simultaneously housing 850 Indiana inmates in Kentucky, which was one stated reason for the contract with GEO (DeAgostino 2005). The initial NCC operating budget was approximately $14.98 million, and the state expected savings of $2 to $3 million a year from the private contract (DeAgostino 2005). Shortly after the contract was signed, GEO Group accepted 1,260 California inmates at NCC at $28.7 million per year for three years (Furillo 2006), turning the IDOC into an importer of inmates rather than an exporter.

The contract between Indiana and GEO was formalized in 2005 (EDS #D120-6-008a-g; Indiana Department of Administration n.d.) and justified by cost efficiency, stating clearly, “This agreement will significantly reduce the total operational expenditure of this facility,” and was one of three major contracts awarded to the private sector that year, along with food and medical service (DeAgostino 2005). The 2005 contract was worth $53,527,145.40 and was binding until September 2009, with each year projected to have an operating budget of less than the $15 million the state had been spending in operating the facility prior to privatization.

Reflecting the negotiation inherent in the governance approach, the contract was amended in 2008 to “reflect changes in the inmate population caused by the return of Arizona offenders to Arizona and subsequent increase in Indiana offenders,” a realization of the market forces that affect such contracts after they are agreed upon. Thus, the private company was not serving Indiana’s interests alone in this contract and was being compensated for lost revenues from other states through the negotiation process. Persuasion is often accomplished through lobbying within the political process not reflected in the official contracts or renegotiated amounts.

The negotiation process continued as GEO expanded its Indiana market, hiring staff ahead of a population increase in the third NCC contract amendment in March 2009. A fourth contract revision in July 2009 again showed GEO expanding its Indiana presence and service provision with “a 210 person housing unit to be added to IDOC NCC, and for the addition of a mental health services unit at the facility.” The fifth revision occurred three years after the original contract was signed, adding two years to the contract at a cost of $62,974,060. Once again, the use of negotiation and persuasion is clearly displayed, as the amount allocated for 2010 increased by 235 percent from the initial to revised allocation of the contract.

A year later, in August 2010, a sixth contract amendment included no money but instead focused on sector convergence as the vendor (GEO) was granted official access, through a security agreement, to the IDOC offender criminal history database, enabling them to access the IDOC informational network. In November 2010, the contract was revised for a seventh time and was extended to 10 years, through 2015. The new contract between the state and GEO brought the total state expenditures and commitments to \$516,512,767, or \$51,651,576 a year, roughly the same amount as the initial four-year contract signed in 2006. By contrast, the budget allocated to the Indiana State Prison, the state's only male maximum-security facility, with 2,207 inmates, was approximately \$46,721,287 in 2009 (Indiana State Budget 2009–11). Furthermore, GEO also recently received a separate five-year contract worth an initial \$25,897,663 to operate a short-term offender program of 1,066 inmates, with GEO responsible for all costs except food, maintenance, and health care, a contract touted in the 2010 Annual Report to investors (GEO Group 2010).

Data from the IDOC detail the explosion in growth of NCC (IDOC n.d.). In 2007, NCC housed an average daily inmate total of 1,193 and represented 5 percent of the state's total inmates and 2.5 percent of the state correctional budget. The total budget allocation for NCC was \$17,122,542, and the average cost per inmate per year was \$14,352.51 (\$39.32/day). By 2012, NCC was nearly the most populated facility in the state (3,256 inmates to Westville's 3,350 inmates) and its population had grown by 173 percent to hold 13 percent of the state's inmates while the overall correctional population increased slightly. By contrast, Branchville's population increased by 8 percent and Westville's population increased by 8 percent, the only two other facilities to see growth over this period. Other state facilities saw no change in population (Miami and Wabash Valley), while other remaining facilities had population decreases (Putnamville –10 percent, Indiana State Prison –9 percent). Furthermore, by 2012, the annual budget allocation for NCC had increased by 100 percent to \$34,150,948—5 percent of the total state correctional budget. By contrast, Westville faced a budget decrease of \$14,880,008. The increase in NCC budget and population had made it the most cost-efficient facility in the state, with an average yearly inmate cost of \$10,488.62 (\$28.74/day).

PROCESS PRIVATIZATION: INDIRECT SERVICE PROVISION

The focus on one tool of governance—structural privatization—has often come at the expense of more holistic analysis of the contracting of other prison services by private and/or nonprofit entities. In the modern state prison system, new governance tools have come to dominate nearly every aspect of inmate life outside of immediate custodial security. In the Indiana correctional system, several services once performed by the state are now contracted out. This section explores the contracts for these services in Indiana in food service, medical care, inmate commissary, inmate accounts and monetary transfers, and the Prison Enterprises Network (i.e., process privatization).

Food Services

The IDOC, like many state systems, contracts its food-service provision out to a private company, Aramark Correctional Services (EDS #D12-6-02). Similar to the GEO contract, this relationship is strongly predicated upon negotiation and persuasion, as evidenced in the contract revisions and amendments. The contract with Aramark was renewed and revised in June 2006, bringing the state commitment to the company to \$113,048,664. Later that year, through governmental regulation by the Attorney General's Office, the contract was increased by \$772,146, and in 2007, another \$1,353,455 was awarded the company based upon price increases in the market as determined by several indices. In 2008, for the same reasons, another \$1,200,667 was awarded to the company. The contract was extended in 2009 for two years (through 2010) at an additional cost of \$32,330,699.

In November 2009, the contract was revised, at no cost to the state, to permit Aramark to sell gift baskets on its Web site that were prepared and delivered by IDOC inmates, creating a public-private relationship beyond the traditional contracting function of the food service contract. Furthermore, this revision reflects enablement on the part of the government in permitting Aramark to expand its services and increase its Indiana market.

In June 2010, two additional months were added to the contract beyond 2010 at a cost of \$5,388,450, followed two months later by a five-year contract extension, through 2015, worth an additional \$156,988,098, bringing the total contracted total from 2006 through 2015 to \$315,310,361. In June 2010, Aramark Correctional Services received a contract to provide food in the state's juvenile facilities for one year at a cost of \$1,189,711, with a second year added to the contract for 2012 at a cost of \$1,166,391, bringing the juvenile food-provision contract total to \$2,356,103 and the total contracted amount to Aramark Food Service to just over \$317 million. Once again, the contract amendments show the governance focus on negotiation and persuasion between the public and private sectors and the depth of contracting in prison food services by the private sector. Legitimizing this contractual relationship through social marketing, the former head of the IDOC and the president of Aramark coauthored a small article (Buss and Campbell 2009) titled "Indiana DOC and ARAMARK Cook up Re-Entry Success." The article, which lacks specifics, discusses a program called IN2WORK, in which IDOC inmates work for the contractor and receive certification in food safety. The article implies that the goal of the program is to assist in offender reentry, extending the original goal for the contract, which is cost efficiency, to include a more distal, offender-focused outcome on reentry and vocational training. This focus extends the goal of cost efficiency in contracting to one of effectiveness, though no empirical information exists as to whether this outcome has been attained.

Medical Care

Medical care of inmates has also grown in its reliance on contracting with the private sector for services. Indiana law requires that inmates receive medical evaluations at admission and receive appropriate care throughout their period of incarceration (see Health Finance Commission 2007, pp. 18–24, for full list of applicable statutes). To place medical services in the proper context, a recent report revealed that approximately 60 to 65 percent of Indiana prison admissions were free of illness or injury and 19 to 25 percent had known conditions that the inmates could manage with little medical intervention (Health Finance Commission 2007). In Indiana, medical care at the state level is provided through a contract with Correctional Medical Services, Inc. (CMS; EDS #D12-6-014). The initial contract signed in July 2005 was for $264,402,773, covering four years (2006–2009) of medical, mental health, and dental services for all IDOC facilities.

In March 2007, an additional $9,621,087 was allocated through negotiation between the vendor and state for per diem increases in certain medical circumstances, bringing the state commitment to $275,419,049. In June 2009, two additional years were added to the contract through 2011, at an additional cost of $188,093,625, bringing the total contracted amount to $491,695,083. A year later, in August 2010, $4,499,994 was added to the CMS contract for substance-abuse treatment and counseling services, as these "logically fall under the umbrella of comprehensive medical services," enabling the company to expand its services in the Indiana market.

The most recent revision of the contract occurred in January 2011, with a three-year extension through 2014 at an additional cost of $211,317,445, bringing the total contracted amount to CMS for contracted medical services to $707,512,523. As with the NCC contract, the CMS contract grew each year, doubling in size from 2006 to 2013. There are also other specified medical services contracted by the IDOC. An example is the sex-offender treatment contract with Liberty Medical Services (D12-6-034) that totaled $18,231,000 through 2010 when the service was put up for rebid on the competitive market. In 2010, Liberty Medical was selected to create and manage a three-phase sex offender monitoring and managing program, a four-year contract worth $9,899,980 (D12-1-047). Another company, AIT Technologies, entered into a two-year, $1,000,000 contract in 2008 to drug test IDOC offenders and parolees (D12-8-127). From 2005 to 2009, offender dental services were provided by Mid-America Health, Inc. (D12-6-013) at a contracted cost of $17,972,483 in addition to the dental services provided in the CMS contract. The market for inmate health care is clearly expanding and will most likely do so for the foreseeable future and be delivered through private vendors through state contracts.

PUBLIC-PRIVATE PARTNERSHIPS

Prison Enterprises Network

Prison Enterprises Network (PEN) is a division within the IDOC that "manufactures goods and provides services using inmate labor. . . . Offenders also work in a number of joint ventures with private industry" (IDOC n.d.). These ventures include partnerships in which private companies have their products manufactured within prison facilities by inmates, then marketed to other facilities and/or the public market at large. PEN employs 1,764 inmates in Indiana: 860 in traditional industries, 674 in joint ventures, and 227 in commissary and distribution (PEN 2010). Though government is a main purchaser of PEN goods, 15 percent of the customers are either through joint venture or the private sector (PEN 2010). A main part of the PEN structure is the inmate commissary, which provides 47 percent of its sales and products (PEN 2010) and operates mainly by purchasing goods through two private vendors: Keefe Supply and Union Supply. Keefe Supply has had two contracts with the IDOC, one for $45,000,000 (EDS #C22-4-008) from 2003 through 2008, and another new contract (EDS #D15-9-0009) for 2009 through 2012 worth an additional $48,000,000 that covers five areas: food, health and beauty, electronics, office supplies, and miscellaneous. Union Supply, through a contract (EDS #D15-9-0010) worth $2,400,000, is the sole supplier of clothing and footwear to the commissary.

Through an Aramark initiative called ICARE, the family members of inmates can go online and purchase meal packages delivered through the commissary, which is part of PEN, comprised of items purchased through private vendors and handled through inmates working at the distribution facility. This arrangement represents an integrated public-private networked partnership, designed to bring in revenue and to provide inmates with goods they would otherwise not be provided, through private companies. Other contracts with the IDOC, such as that with the GEO Group, contain language that require them to purchase upward of 20 percent of their products and offender clothing from PEN, and GEO notes its partnership with PEN in providing commissary space at NCC, thus furthering the relationship between the public and private sectors.

The market approach of new governance can also be seen in the changes to man hours worked by PEN employees, which decreased from 357,241 hours in 2005 to 209,948 in 2010. Of the $1,744,218 in wages paid to inmates in 2010 ($8.31/hour), $174,423 went to victim programs, $197,029 to federal income tax and Social Security, $74,485 to state taxes, and $697,544 toward reducing incarceration costs (39 percent of total wages paid; PEN 2010), which amounts to a private-sector subsidy. Thus, PEN both utilizes and is affected by market forces in ways that direct government delivery is not.

JPay

Indiana is one of 21 states that permit a private company, JPay Inmate Services, to operate within its state prison system facilities (see JPay n.d.). The Indiana JPay contract (D12-8-073) is not similar in nature to the previous contracts explored but instead represents a public-private partnership in which the state does not pay for the contracted service from the vendor but rather enables the vendor to make a profit by permitting the company access to the inmate communications and monetary transfer market, in which the company makes a profit and provides the state revenue through commissions on sales of goods, products, and services. JPay charges inmates and their families fees for various services the company provides. The fees range from $3.95 to $11.95 on money transfers, $0.37 to $0.40 for “stamps” that permit inmates to send and receive electronic mail, and $9.95 for each half hour of video visitation. The most recent contract revision in May 2011 extended the contract until 2016 and provided that over those four years, JPay would pay a minimum of $100,000 per year in commissions, for an expected revenue stream of $433,333 for the state. Furthermore, the language of the contract suggests a partnership, with the extension permitting the company to recoup its equipment investment made to create the infrastructure needed to provide the services.

This relationship shows the future potential for market-based, profit-driven innovations to occur within corrections at no cost to the state for a return of revenue through commission. To further explain this sector integration among partners, Community Education Centers, an IDOC service provider that is allocated $8,212,500 for a four-year contract to house 150 state inmates in two work-release centers, stated that, although no current relationship existed,

> contractor is not opposed to working with Prison Enterprises Network (PEN), a Division of the IDOC, for commissary, if a suitable arrangement can be agreed to. Contractor will contact PEN to get more information. Contractor will also inquire about "ICARE," the PEN gift basket sales program. . . . Contractor does not currently use electronic payment/transaction services by JPay, Inc., but will consider using JPay if a suitable arrangement can be made. (D12-1-106, p. 1)

ISSUES IN CORRECTIONAL GOVERNANCE AND FUTURE RESEARCH

The review of the contracts utilized by the IDOC clearly show the implementation, on a large scale, of the contracting tool of new governance in action, as well as several potential shortcomings that also need to be addressed. These issues relate specifically to source selection, contract administration, and service expansion after initial procurement and must be taken into account by correctional decision makers when utilizing the contracting tool.

One issue that arises from the present analysis is that of sole-source contracting in comparison to competitive market-based approaches. In regard to the structural privatization of the New Castle facility (NCC), there are only two major private prison companies—GEO and CCA, comprising roughly 75 percent of the market a decade ago (Austin and Coventry 2001)—and each has one contract in Indiana, meaning their influence is slightly mitigated but is open to expansion. Despite this limited influence, relatively few other companies can feasibly bid for contracts on this scale, meaning the competitive choice for structural privatization is really a choice of two rather than a competitive market (Cunningham 1999, as cited by Austin and Coventry 2001). JPay received a sole-source contract for its services with IDOC, even during the pilot stage. One alternative to this would have been to pilot at least two companies within IDOC facilities at the same time, and then to measure the satisfaction of the service and/or the level of compliance, or other comparisons, then decide which company would receive the contract.

The toll road example cited earlier provides the model problem. When the bids were received by the state, there were only two (the winning bid for $3.85 billion and the losing bid of $2.52 billion; see Indiana Finance Authority n.d.). This does not represent a market but rather a choice between two entities, one of which either far underbid or grossly overpaid relative to the other. Again, if there are extremely limited competitors, the government is not making market-based decisions but individual choices, diminishing the potential of the governance approach as applied to correctional systems.

As Kettl (2002) aptly notes, "The underlying assumption for the use of indirect tools is that competition makes the private sector more efficient. However, if limited markets minimize competition, this assumption crumbles. Indeed, private monopolies are no more efficient than public ones" (p. 495). Future research should examine the number of proposals received for each contract signed within a correctional system to determine if there is indeed a market for these providers, as well as to determine the number of contracts that are terminated compared to those extended with the same provider. This would build on the early evidence that contractor incumbency is a major advantage and that few contracts, when expired, go to another vendor (McDonald and Patten 2003).

Accountability is another important aspect of this type of contractual relationship and tool choice relative to contract administration. In Indiana, the IDOC "employs four medical monitors, one nurse practitioner, and a physician, who is the director of medical services, to oversee and ensure contract compliance" (Health Finance Commission 2007) for a private company operating at all IDOC facilities at a contracted cost of $707,512,523. This is problematic structurally, as an audit of Federal Bureau of Prison (BOP) medical contracting (U.S. Department of Justice 2008) found that while costs were being controlled, there were multiple "systemic" deficiencies in the oversight of the contracts and the private providers, and a lack of a basis in performance measurement. The deficiencies included verification of billing invoices, weaknesses in obtaining document verification, errors in discounted rates for programs such as Medicare, and the provider not providing all the services delineated in the contract. Similar results occurred in Virginia (see Austin and Coventry 2001:33). Where the Federal BOP has multiple service providers, IDOC has just one, which means oversight and compliance should be greater at the state level in Indiana, but the state is also more reliant on this provider. Thus, accountability needs to be structured into the contract rather than being tangential or subordinate.

Essentially, the contracting tool, on the scale it is employed by the IDOC through a single contract, requires a shift of the state to a regulatory and oversight role that enhances the accountability of the provider. This is evidenced by IDOC employing a third-party consultant to review the contract extension that occurred in June 2009 with CMS, further utilizing the concept of new governance in increasing accountability; however, as total contracts increase for specialized medical services, accountability will become an even more important aspect of the relationship between the state and service providers. Future research needs to inform of accountability structures, processes, and outcomes that can provide a benchmark for correctional administrators to utilize as they administer contracts with private companies. Interstate governmental networks may be required to deal with this issue as these companies operate nationally but are regulated and contracted by independent states. Rather, states should share information on contracts or performance issues rather than doing so in a fragmented manner. This may help to limit a contractor's "tendency to be deliberately undercosted and overpromised" that often leads to "sunk costs in a project that have an inside track in obtaining follow up assistance" (Lordan 2002:537), an issue that clearly emerges in the IDOC contracts studied and that is intertwined with the source-selection problem.

Market expansion is another concern that arises when new governance principles are applied in corrections and occurs when a private service provider secures a state contract and begins to create other markets for its services to increase additional funds to existing contracts or secure new contracts. Several specific examples from Indiana arise from the contract analysis conducted. The first is the GEO Group and its contract to manage the NCC facility, which was originally $53,527,145 for four years before being revised and extended through 2015 at a total of $516,512,767. A few months after that extension, GEO secured another contract to run a short-term offender program in Plainfield for 1,066 inmates at a cost of $25,897,663 for four years. The GEO Group has also secured additional contracts at its New Castle facility for a mental health unit, and after the state increased its capacity to treat mental illness in inmates, the percentage of the prison population who were prescribed psychotropic medication increased threefold (Health Finance Commission 2007), which leads to a market expansion for the medical services provider. The CMS contract to provide medical care was revised in August 2010 when $4,499,994 was allocated for substance-abuse treatment and counseling services, expanding the market for CMS services. Aramark's foray into the gift basket business is a further example of market expansion by private vendors seeking to maximize allocations and revenues beyond the original contracted purposes.

Future research should take a historical view of all DOC contracts, as this work attempted on a shorter time span, and should analyze the expansion of contracted service providers into markets beyond their original scope in each state. Research could also correlate or explain this market expansion with political changes (Nicholson-Crotty 2004), changes in registered lobbying (Moore 1998), or changes to stock values concurrent with the formalization of contracts, especially in states with longer contracting histories than Indiana. Such research is appropriate in light of the chief financial officer of CCA noting that "companies must perform not only to the expectations of their public sector customer, but also to the demands of Wall Street, or for those not publicly traded, the demands of private investors, who provide the lifeblood of companies' capital resources" (Massengale 1998:62). Such research would place public policy decisions in the context of political and private market influences.

Equity issues may also enter the discussion from a values perspective as public-private partnerships increasingly involve inmate labor that makes private profits, reminiscent of the convict lease period (see Culp 2005) but legitimized through legal contract and a focus on utility. Aramark and PEN Products are two differentially structured entities, but both are revenue- or profit-driven; however, each stresses the utility of inmate work (reduced idleness and acquisition of skills to ease reentry, as examples) while minimizing financial motivation. As shown in the PEN (2010) Annual Report nearly 40 percent of the inmate's income goes back to the cost of incarceration, essentially creating a subsidy for the state and a profit for the private entity. Furthermore, healthcare and other employer costs are already borne by the state rather than by the private employer, saving money for the private-sector partner. Future research should focus on these arrangements from moral and public policy perspectives as well as to determine if inmate outcomes are enhanced by participation in this type of work for the private sector.

CONCLUSION

The analysis of IDOC contracts—one of the most common tools of government in the governance model—in this study reveals the depth of private-sector involvement with the IDOC in providing a host of services to inmates, ranging from ordering food baskets and sending e-mail to providing medical care and managing entire facilities. These contracts are the formal proof that managing a state correctional system is founded more in new governance than in classic direct government, even in publicly managed prison facilities. Indiana relies heavily on process privatization for a variety of inmate services, while structural privatization has been more limited to one state prison and one county jail facility.

The contracts explored in this study reflect a large investment of public money in private entities, and the increase in frequency, intensity, and duration signal a shift in service provision that is unlikely to recede in the near term. Future research needs to determine if these contracts, for their expense of public funds, return more effective or efficient outcomes on the investment, findings that so far in other states have proven inconclusive. As such, this work is descriptive and maps one major tool of new governance applied within a state correctional system, purposely avoiding more value-based judgments about its public policy utility. This research has urgency as the private sector comprises a greater portion of correctional industries each year and as these tools and the network created to implement them are utilized in a manner that far outpaces their determined outcomes. Future research needs to provide a greater understanding of new governance in corrections, extending debates over utility and sector comparisons to provide administrators with a greater conceptual understanding of the changes taking place in the field, both in institutions and in the community.

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