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### FEATURE ARTICLE

## Private Prisons

*Privatization refers to the transfer of traditional responsibilities from the public sector to the private sector. Historically, all prisons were private endeavours which gradually came under the control of government. During the last two decades, a renewed interest has led governments around the world to reconsider the usefulness of private prisons, the result being the rapid re-emergence of private prisons in the United States, Australia and Britain. Ontario opened the first private prison in Canada in 2001.*

It is our understanding that privatization of correctional centres is being considered by Alberta's Correctional Services MLA Review Committee. The [John Howard Society of Alberta](#) researched and analysed issues around private prisons in 1994, when Alberta previously considered such an initiative. Further research conducted recently has led us to the same conclusion as our previous analysis: there is no benefit to be gained through privatizing correctional centres. We are pleased to share our findings and conclusions with you in this issue of the Reporter.

There are two main concerns that tend to motivate the movement toward privatizing prisons: (a) the growing trend toward over-incarceration; and (b) the perception of deteriorating conditions of public prisons.

It is true that prison overcrowding remains a problem in Canada, in particular in some provincial institutions like those in Ontario where inmates are housed five per cell in extreme circumstances (although three appears to be the norm). In federal prisons, double bunking is still common, as well. However, correctional counts in Alberta have been on the decline, such that the concern about over-incarceration is not a critical issue in this province.

With respect to the perception of deteriorating conditions of public prisons in Alberta, we fear that the Alberta government may believe that private prison operators could and would provide a superior quality of conditions in public prisons. Rather, we suggest that the quality of private prisons would be sacrificed by the profit motive of private prison operators. In addition, we point to the fact that the superior quality of existing private prisons versus public prisons has yet to be proven.

Unfortunately, it may be that privatizing prisons is being considered because of private sector claims of reducing incarceration costs. This causes us great concern, because the John Howard Society of Alberta opposes the privatization of prisons for numerous reasons.

Following is a critical examination of the issues and our corresponding concerns surrounding the privatization of prisons in Alberta.

To begin, there are four broad categories of privatization: (a) private financing and construction; (b) private prison industries; (c) private provision of specific services; and (d) private prison management. Throughout this article, we will deal specifically with the fourth category: private prison management.



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## Private Prisons

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Some of the main theoretical issues concerning private prison management are: propriety, cost, quality, quantity, liability, and accountability. We will discuss each issue in turn.

**Propriety.** This is an ethical issue based on assumptions about the nature of government and its role in corrections. Decisions regarding the appropriateness of government to contract prison management to the private sector must include an element of principle based on beliefs about justice. Identifying government's limits in delegating its authority to punish is crucial to any debate about private prisons.

Whereas those in favour of privatization suggest that contracting out prison management to the private sector does not replace government in dispensing justice, those who oppose prison privatization believe that it is inappropriate for government to delegate its authority to punish to the private sector. Opponents also argue that government has long been trusted with the authority to punish offenders, and should therefore be extremely cautious in delegating this responsibility, as doing so may taint its position of trust in the public eye.

**Cost.** The issue of cost involves the potential for the private sector to reduce the expense of incarceration. This has been the most common source of debate both in favour of, and in opposition to, the privatization of prisons. Those in favour of privatization argue that private prisons alleviate the overcrowding crisis and subsequent cost increases that currently exist in public prisons. Those opposed to prison privatization reiterate that prison overcrowding is not a critical issue in Alberta, thereby diminishing the proponent's argument with respect to the issue of cost.

**Quality.** The issue of quality centres on whether the private sector is able or motivated to provide not only adequate but superior programming for inmates. Those in favour of privatization argue that the contracting process increases quality from both government and the private sector. Those opposed to prison privatization, on the other hand, argue that the private sector is inclined to cut corners to reduce costs and maximize profit, thereby sacrificing the quality of programs in the process. In cutting corners, we believe that the quality of programming would be negatively affected.

Approximately 40 studies on private prisons in the United States have been completed but have failed to settle the ongoing debate. This is mainly because correctional literature suffers from a scarcity of large scale studies about the quality of

service provision in public versus private prisons. Inconsistency in the literature may result from the large number of small scale studies published. The problem with small scale research is that the extent of comparison between public prisons and private prisons is usually composed of one public prison versus one private prison, often in the same state. The limitations of this research result in extreme variation, inconsistent findings and no clear evidence from which to draw final conclusions as to the issue of quality.

**Quantity.** The issue of quantity refers to the potential for privatization to affect the vast number of individuals incarcerated on a given day. Those in favour of privatization argue that private prisons exist to alleviate an existing capacity crisis, because private prison operators are able to build new facilities faster than can government. On the other hand, those opposed to prison privatization reiterate that prison overcrowding is not a critical issue in Alberta.

**Liability.** Currently, government is the only party liable for potential abuses in prisons. However, if prison management were privatized, then inmates would have an additional party to sue (i.e., private prison operators). Those in favour of privatization argue that government can protect itself from such liability if it expressly contracts with private prison operators that those operators do not function as extensions of government. On the other hand, those opposed to prison privatization point out that this raises a significant constitutional issue that must be considered.

The Charter, which is the main protector of inmates' rights in Canada, applies only to government. Therefore, if private prison operators do not function as extensions of government, how will inmates be guaranteed protection? How can government contract itself out of liability, leaving inmates without Charter protection? On the other hand, if private prison operators do continue to function as an extension of government in order that the Charter applies, then government will be exposed to potential civil lawsuits for abuses over which it has limited, if any, control.

**Accountability.** This issue involves the degree to which private prison operators are accountable to the public regarding their treatment of and security over inmates. Those in favour of prison privatization argue that accountability will be increased. On the other hand, those opposed to prison privatization argue that private prison operators will actually be insulated from public scrutiny, as they lack accountability in public elections.

*“The John Howard Society of Alberta believes that the question of whether to privatize prisons in Alberta is far from complicated.”*

## Private Prisons

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### RECENT CANADIAN EXPERIENCE

Unfortunately, some provinces in Canada have forged ahead with prison privatization, beginning recently in Ontario. In November 2001, Canada's first adult private prison, Central North Correctional Centre (CNCC), opened in Penetanguishene, Ontario.

CNCC is a multi-purpose facility for offenders serving sentences of up to two years less a day, as well as approximately 200 remand inmates awaiting bail, trial or trial dates. A five year contract has been entered into, outlining that the Ontario government owns the property and buildings, while the private prison operator must keep the buildings in good condition. The private prison operator chosen to operate CNCC was Management & Training Corporation (MTC), a private American company in business since 1980. During the five year contract, CNCC will be compared to the Central East Correctional Centre (CECC) in Lindsay, Ontario, which will be publicly run.

The John Howard Society of Alberta points out that this research design is based on the same flawed studies that compare one public prison and one private prison, often in the same state. Accordingly, we fear that the expected limitations of this research will result in findings that are not conclusive and will not contribute in a meaningful way to resolving the debate about private prisons.

### DISCUSSION

The John Howard Society of Alberta believes that the question of whether to privatize prisons in Alberta is far from complicated. The evidence available in private prisons literature is inconclusive at best, which has implications for both correctional policy makers and researchers.

Overall, the John Howard Society of Alberta opposes the privatization of prisons for numerous reasons:

First, we recognize that the reality of instituting private prisons may result in the deterioration of the facilities themselves, of the public perception of government and of the constitutional protection of inmates as guaranteed by the Charter.

Second, government has long been trusted with the authority to punish offenders, and should therefore be cautious in delegating this authority, as doing so may taint its position of

trust in the public eye.

Third, recall the proponent's argument that the cost effectiveness of privatization is based on an overcrowding crisis. However, not only is prison overcrowding not a critical issue in Alberta, but studies reveal inconsistent findings about the cost effectiveness of private prisons in comparison to public prisons.

Fourth, not only do we believe that private prison operators would sacrifice the quality of private prisons by cutting corners to generate profit, but approximately 40 studies on private American prisons have been completed and have failed to settle the ongoing debate about the superior quality of private prisons versus public prisons.

Fifth, because correctional counts have been on the decline in Alberta, no urgency exists in this province to build new facilities to house an overcrowded prison population.

Sixth, if private prison operators function as extensions of government, then government remains liable for circumstances that give rise to civil liability over which it has limited, if any, control. On the other hand, if private prison operators exist independently, then the issue of the constitutional protection of inmates (as guaranteed by the Charter, but which only applies to government), is raised.

Finally, private prison operators may actually be insulated from public scrutiny, thereby eliminating their accountability to the public regarding their treatment of and security over inmates.

In light of the foregoing, the John Howard Society of Alberta questions why this province should spend money in either public or private prisons. In areas where private prisons have been pursued, it is because of pressure to increase prison bed space. As noted throughout this document, this is not an issue in Alberta.

In conclusion, the John Howard Society of Alberta suggests that private prisons do not constitute an effective, just and humane response to the causes and consequences of crime. We therefore recommend that the Alberta government adopt a firm policy against the use of private, for profit prisons in



## PROGRAMS IN BRIEF

### ***Dare to Care — Bullying Awareness and Prevention Program (BAP)***

Alberta.

*References available upon request.*

The Medicine Hat John Howard Society confronts the issue of bullying through the *Dare to Care - Bullying Awareness and Prevention (BAP)* Program available to schools and communities throughout the Palliser Health Region. *BAP* is a community based educational program that attempts to challenge and change attitudes about bullying. The overall goal of the *BAP* Program is to reduce the incidence of bullying and promote tolerance and acceptance through awareness.

A Program Coordinator delivers information sessions intended to assist young persons in identifying bullying behavior, foster empathy and promote strategies aimed at curbing bullying behavior. Professional development is provided to school communities in an effort to increase awareness and develop school based protocols to better address bullying. Information is also available to families to provide support and share strategies to help them deal more effectively with bullying.

What began as a part time pilot program in the fall of 2000 was met with such an overwhelming demand that the decision was made to pursue full time program support. This was accomplished in 2001 through the generous support of the Medicine Hat Community Foundation, Alberta Energy Company and 12 community partners. At that time, a unique collaboration was created between the Medicine Hat John How-

ard Society and Calgary based school consultant, Lisa Dixon-Wells. The result of this partnership was a comprehensive, broad based intervention and prevention program. The Medicine Hat John Howard Society hosts the Program Coordinator who delivers classroom and community presentations, while Ms. Dixon-Wells facilitates professional development sessions for school communities and information nights for parents. Studies show that broad based, multi-systemic programs are quite effective at realizing a reduction in bullying.

In May 2001, Columbine teacher, Paula Reed, was a keynote speaker at a public forum sponsored by Alberta Energy Company and the Medicine Hat John Howard Society. In turn, the public profile of the bullying issue was raised, resulting in calls for further information and support from parents of children who are, or have been, affected by bullying. This led the Medicine Hat John Howard Society to partner with Medicine Hat Family Services to host regular parent meetings.

Since September 2000, more than 820 presentations have been made to more than 16,000 individuals in the community.

It takes time to change attitudes about bullying. Toward this end, the *BAP* Program plays an integral role in our community. With the support of Medicine Hat Community Foundation, EnCana Corporation (formerly Alberta Energy Company) and our numerous community partners, we will be able to continue to work towards this goal.

*"Thanks so much for coming to our class. We enjoyed it and you presented some very important information."  
(Grade 4 teacher)*

## CONTACT US

*The John Howard Society of Alberta Reporter is distributed free of charge to a wide audience of citizens, educators, agencies and criminal justice system staff. Our goal is to provide information and commentary on timely criminal justice issues. We welcome and encourage your feedback on The Reporter.*

*The John Howard Society of Alberta is an agency composed of citizens in Alberta who are interested in criminal justice reform and preventing crime in our communities. We recognize that dealing with crime is as much the responsibility of the community as it is of government.*

*We gratefully accept donations to help offset the costs of our efforts in criminal justice reform and crime prevention. Donations are income tax deductible.*

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*To provide feedback, obtain information or make a donation, please contact us at:*

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