

ASSESSING THE RECORD OF PUBLIC-PRIVATE PARTNERSHIPS

**Proceedings
of a CCPA – BC
Public Forum**

Edited by Sylvia Fuller

APRIL 2003



**CANADIAN CENTRE FOR POLICY
ALTERNATIVES – BC OFFICE**

Assessing the Record of Public-Private Partnerships

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April 2003

The opinions presented in the papers are those of the authors, and do not necessarily reflect the views of the Canadian Centre for Policy Alternatives.

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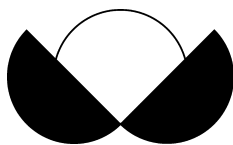
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PREFACE

Assessing the Record of Public-Private Partnerships

Proceedings of a CCPA–BC Public Forum

ON MAY 29, 2002, THE CANADIAN CENTRE FOR POLICY ALTERNATIVES – BC OFFICE co-sponsored a public forum on the topic of public-private partnerships. P3s have become increasingly popular in Canada and elsewhere, and promoting public-private partnerships is now a key focus of the BC government.

Accordingly, we thought it important to subject these arrangements to critical scrutiny and to promote broader public awareness of them. As a first step in this process, we brought together experts from places with a longer history of public-private partnerships to speak about what P3s in health, education, corrections, and other areas have meant for citizens. The meeting was well attended and enthusiastically received, and we have since received many requests to make the speakers' notes publicly available.

We agree that the information contained in the presentations was of high value to policymakers and the general public, and are therefore releasing this edited version of presenters' notes and papers.

The presenters were:

- Sylvia Fuller, Public Interest Researcher with the Canadian Centre for Policy Alternatives – BC Office;
- Professor John Loxley, Economist at the University of Manitoba;
- Heather Jane Robertson, Author and Distinguished Educator with the Ontario Institute for Studies in Education, and CCPA Board Member;
- Dr. Matthew Dunnigan, Fellow of the Royal College of Physicians of Glasgow in Edinburgh; and
- Judith Green, Criminal Justice Policy Analyst with Justice Strategies, and Consultant for Rand Corp. and Human Rights Watch.

Introductory Remarks

Sylvia Fuller

P3S ARE IN THE NEWS, THEY ARE IN GOVERNMENT press releases, they are in the very air it seems. The 2002 BC Budget and Throne Speech had many references to public-private partnerships, depicting them as the new way forward for British Columbia. However, good public policy should not be based on fads or wishful

thinking, but clear analysis and examination of evidence. We are here tonight to share some of this analysis and evidence with you, to hear from experts who can tell us the real P3 story as it has evolved in other places. Because when we are going to go down a road with as many implications as the P3 path, it is very important to know where we are going, how we are going to get there, and what is at the end.

Simply put, public-private partnerships are a kind of hybrid approach to creating new government infrastructure, where the government contracts with the private sector to design and build, sometimes finance, and sometimes operate new public facilities such as schools and hospitals. With these arrangements, the private sector often ends up owning the public facilities and leasing them back to the government.

In BC this is now the model for all new government infrastructure. The capital branch of the Ministry of Finance has been radically downsized under the assumption that we no longer need to consider the old-fashioned way of doing things at all. We will just have a few staff on hand who will be helped by private sector consultants, and their new role is simply going to be to evaluate and structure new public-private partnerships. If there was ever a recipe for being fleeced, this is it. Public policy should be based on evidence, and if we are going to evaluate any given project it is really important that we have alternatives to compare it against. But by saying we will only look at P3 projects, the BC government is forfeiting its capacity to have a good comparison. When proponents

of projects start claiming that we will save a whole bunch of money, that things are going to be wonderful and efficient, how are we to know if they will really be better?

The province has also made it easier for municipalities to engage in P3s. The draft Community Charter facilitates the use of public money for public-private partnerships, and it also makes it more difficult for anyone to object to this. The counter-petition process, which is a way for citizens to oppose such projects, has been made twice as difficult. The province downloaded costs onto municipalities, now they are downloading ideology as well.

So what is one to do? Well, as a researcher, I would say that one needs to find out what is actually going on. Maybe P3s are a wonderful way to go, maybe they're not, but we need to look at the evidence, not the rhetoric, and not the ideology. Unfortunately, what I have seen on the positive side of the balance sheet is a lot of high-flown rhetoric and very little to back it up. On the other hand, as one digs a little deeper on the negative side, we quickly see some really disturbing problems with P3 projects in other places. We are not the first to experiment with public-private partnerships. Britain has been financing infrastructure for at least 10 years through P3s, and we have considerable evidence as to what happened there. Other provinces have also had numerous P3s, and we've had P3s here in BC as well. So what I am going to suggest to us all is that if we're going to make good public policy decisions we need to look at the facts, not the hopes. And this is what this forum is all about.

The Economics of P3s and Public Services

The Big Picture

John Loxley

WE KNOW THAT P3s are becoming incredibly popular, no more so than in BC. They are promoted by very powerful interests at all levels of government. They are also promoted by very influential businesses—consulting, legal and financial, but also by large companies with interests in health, waste, water, etc. And they are now being promoted by the G8.

In Kananaskis, the main item on the agenda in the June 2002 meeting is the New Economic Partnership for African Development (NEPAD), which our Prime Minister is supporting, and a main thrust of NEPAD is the quite uncritical promotion of P3s. So, they are becoming, if they are not already, a truly international phenomenon. P3s are promoted as a means of reducing the debts of governments, enabling governments to increase capital spending while complying with balanced budget legislation, and reducing operating costs. There are other claims, but these are the main ones that my research has examined.

P3s can take a variety of forms but there are two main approaches that capture the range of operations of P3s. The first approach is for the private sector to design, build, own, and finance assets which previously would have been built, owned and financed by the government. The private sector then leases these assets back to the government under what are usually long-term arrangements. The

second approach involves the private sector being given a budget by the public sector to take over and operate public sector operations. You can also combine these two quite nicely. You can P3 almost anything and you can combine the different functions of P3s in any way you can imagine.

In the first category, where the private sector finances, builds, and leases back assets, I have studied a youth correction facility, schools and roads, a small bridge, the PEI Confederation Bridge (a very big bridge), water treatment plants, recreation centres and frozen food facilities for hospitals. On the operating side I have looked at the use of private labs, the handing over of social assistance reform and management in Ontario to Anderson Consulting (now Accenture) and the taking over by the private sector of water and waste in places like Hamilton-Wentworth. I have examined quite a range of case studies, some of which span both types of P3.

If you look at that first group of P3s, where the private sector is building, financing, and then leasing back assets, what is the reality? Are P3s in fact reducing the debt of governments, increasing capital spending, reducing operating costs, and enabling governments to comply with balanced budget legislation?

First of all, the reality is that leases are no different from debt obligations. They are commitments to pay

To add insult to injury, governments end up paying more for these leases than if they borrowed the money themselves and they did so in every case we examined, uniformly, right across the board. In other words, these leases have an implied cost of borrowing which is much higher than anything that governments ordinarily would have to pay. Our findings in this respect have been confirmed by provincial auditors in Nova Scotia, New Brunswick and Ontario.

twenty, thirty, or even more years ahead, for the use of facilities. They are a contractual commitment just like debt. We can measure those commitments into the future, and we can put a value on them in today's money. When you do that, you effectively calculate how much you owe. It doesn't matter how these leases are accounted for. People who are really in the know, like bond rating agencies, calculate the value of leases as debt in this way for provinces and municipalities. Governments are not saving any debt in any significant sense by arranging lease-back P3s.

To add insult to injury, governments end up actually paying more for these leases than if they borrowed the money directly themselves and they did so in every case we examined, uniformly, right across the board. In other words, these leases have an implied cost of borrowing which is much higher than anything that governments ordinarily would have to pay. Our findings in this respect have been confirmed by provincial auditors in Nova Scotia, New Brunswick and Ontario.

Let me give you a few examples. A tiny bridge in Winnipeg, the Charleswood Bridge, cost \$11.6 million. P3ing it as described above and leasing it back put an extra \$1.4 million dollars on the cost of the bridge, in today's money. A really big bridge, Confederation Bridge, cost an extra \$45 million in today's money. Evergreen School, in New Brunswick, cost an extra \$1 million on \$14.7 million; Moncton Water Treatment Plant, \$8.5 million on \$23 million.

The last P3 mentioned is significant because the Canadian Council for Public-Private Partnerships calls it "a model both national and abroad." The Moncton Water Treatment Plant delivers good clean water. People in

Moncton believe that there is no debt involved in the project because once they'd paid the \$23 million dollars to build the plant, the private partner gave the City of Moncton \$23 million as a lease and license fee so no debt shows up on the public accounts for building the plant. The catch is that the private partner now charges a water fee. And in the water fee there is a "capital charge." When the capital charge is added up and brought back to today's money, the plant actually costs an extra \$8.5 million. Have you noticed that the very people who tell us that taxes can't be increased—the business community, the consulting community, the finance community—have no problems with raising user fees in this way when their interests are at stake, as if, somehow, these fees come out of a different pocket? So, yes, the people of Moncton have got a pretty good water plant, but, could they have had it more cheaply? Did they need to P3 it? Did they need to give the private partner what appears to be a 24 per cent return on its capital, guaranteed, for the next 30 years? These are questions that need to be asked.

Turning to the second group of P3s, which promise lower operating costs for government, one must ask the question, 'how do you reduce the cost of government?' The quick answer is by reducing the cost of labour. And how do P3s accomplish this? By de-unionizing, by lowering wages, by cutting benefits, by laying people off, by multiple tasking. There is no secret here, this will very quickly reduce the cost of government. But what about the quality of service when you do that? Why have we seen raw sewage, floating in the harbour of Hamilton? Because the private partner drastically cut back on staff. They were given the \$18 million operating budget and told that the first million dollars they saved they could

keep themselves. After that it was a 60/40 split. The next thing you know, labour was cut back dramatically, by perhaps 40 per cent. Safety standards were compromised and spillage occurred. It was not the private partner who picked up the clean-up costs, but the region. One of the other supposed advantages of P3s is so-called risk transfer. Not a great deal of risk transfer took place in that particular example.

When we look at labs, we get a similar picture. Private labs reduced wages and creamed off the simpler larger scale tests, leaving the complicated ones to the public labs and pushing up their unit costs in the process.

P3s build inflexibility into public sector budgets. A P3 usually carries a maintenance guarantee. No other activity of government has a long term, legally enforceable, maintenance guarantee.

P3s also often contain what could be interpreted as severe conflicts of interest. Private labs are often owned by medical professionals. Doctors charge a fee for service for prescribing the very tests from which they earn profit. In the Hamilton-Wentworth water treatment case, senior regional civil servants shifted over to the private company after they had established the partnership.

In the case of most P3s, a comparative analysis is carried out at the very outset. A model is build up to ascertain what it would cost the public sector to build and operate a facility and P3 proposals are compared against this. Usually, of course, a P3 comes in more cheaply. But how are these comparisons put together? Sometimes by

civil servants who have a vested interest in promoting the P3 so, as provincial auditors have found, the costs of the comparator are often exaggerated. In some cases, like Moncton, a private company is requested to develop the comparator. When private consultants are supposedly keeping private consultants in check, we can expect to find conflicts of interest, from a generalized bias against the public sector to possibly much worse.

P3s are becoming very complex, but it is important to examine the details of how they are put together and justified in order to assess the extravagant claims made in support of them. But getting the information is not easy, because almost uniformly with P3s information that should be in the public realm becomes subject to commercial secrecy and access to it is very difficult. This is not to say that accessing public information is always easy, but commercial secrecy makes it a real battle to get even the information that we have talked about today.

What to do about P3s? I think the only thing to do about them is to become informed about them, to get as much information as we can. This will mean putting politicians, civil servants, and the private sector who are pushing them, on the spot to release the relevant documents, so they can be studied by people who understand the finer points of what is involved in what can be quite complicated deals. This will enable the public to debate them, and if, as I expect, what we find is more of the same, to resist them across the board.

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Why P3 Schools are D4 Schools

or How Public-Private Partnerships Lead to Disillusionment, Dirty Dealings and Debt

Heather-Jane Robertson

ACROSS CANADA, decisions to privatize most public sector services have been highly visible. Recently, an Ontario minister announced that if it could be found in the yellow pages, then government had no business “competing” with the private sector in that service area. Your yellow pages will provide lots of entries

under housing, day care, a host of medical services and, of course, lots of entries dealing with education, providing neo-liberals with a very long list of programs and services that they can abandon to service their ideology.

Emboldened by the reality that the public continues to elect governments bent on privatization, governments—especially newly elected governments—have no reason to be particularly cautious about revealing their intentions to privatize. Their very public support for P3 in all its forms signals their confidence that there is only weak opposition to the idea that all public policy problems can be solved by the private sector.

While governments’ new hubris applies to some extent to public education, I think that “gradualism” may be a better description of the privatization process. Every provincial government in the country still professes its deep affection for public education, even as they undermine our schools’ ability to come close to achieving

excellence and equity. Schools are being privatized not by fiat, but by stealth. When the Ontario government announces its intent to privatize Ontario Hydro, the cards are on the table. But when it decides to give hefty tuition tax credits to parents in order to encourage them to send their children to private schools, the

word “privatization” never escapes their lips. Instead, they talk about parents’ rights, about choice and fairness. When they cut funding and deregulate tuition fees, sending universities into the cold embrace of corporations and kids into debts no other generation has had to carry, the P-word, let alone the P3 words, never escapes their lips. I can only conclude that governments realize how deeply Canadians are attached to both the concept and the reality of public education.

Because of this strategy, whatever problems the public mind associates with what is happening at school, privatization isn’t among them. Keeping the perceived problems of public education as a list of consequences, a list of disconnected issues—class size, poor teacher morale, low achievement, school violence—makes it more difficult to organize resistance that focuses on causes. What’s happening at school remains a problem without a name—or the problem gets named “underfunding.” In my opin-

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ion, underfunding is not the source of education's problems. It is the most powerful tool at the government's disposal to drive the system towards privatization; an outcome that is almost as invisible as it is inevitable.

P3s and SUVs

Now, specifically, to P3 schools. The logic—and I'm taking a lot of liberties with this term—the logic of P3 schools is that they are financed and built by the private sector, which reduces the short-term call on public treasuries. School boards and/or the province then “lease” the privately-owned school building for a specified period, from 20 to 35 years, and agree to buy the building and property from the owners outright at the end of the lease period. P3 schools are also called “lease-back” schools, a term apparently seen by P3 advocates as less sinister, and more familiar to people who may, for example, lease their SUVs, even though most financial planners will tell you that no matter how good the lease, you are probably better off to buy your vehicle in the first place.

To get a sense of how P3 schools have worked in Nova Scotia let's imagine what these kinds of arrangements would mean if they were applied to vehicle leases. So imagine that you have a modest vehicle, but it needs repairs. You're short of cash, so you go to the bank to take out a small loan in order to get it fixed. The bank manager says, sorry, if you want a car that works, these are the rules. You may not repair, you may not buy, you may only lease. You cannot lease a small sedan, it has to be a brand new SUV. Don't worry, says the bank manager, in the long run it will be cheaper, and you'll really like that SUV feeling. Vroom vroom.

So you sign on the dotted line, although you'll only be told the amount of the payments later. Then you discover that the lease only allows you to use the vehicle certain hours of certain days of certain months, and lets some-

body else drive it the rest of the time, even though you are still paying the full amount of the lease, and you're paying for the gas. Then you discover that the lease requires you to pick up hitchhikers whether you like them or not. The wheels fall off your brand new SUV just as you leave the dealership, and the transmission seizes, but the fine print says that the dealer has absolutely no responsibility for shoddy manufacturing or repairs. When you do the math, you find out that you will be paying 90 per cent of the cost of a brand new SUV through leasing fees, but at the end of the lease, you will still be required to buy it all over again. Your neighbour needs a new car, and realizes what a terrible deal you got. But when she goes to the dealership, ready to pay the full purchase price up front, she discovers that the government had passed legislation making it impossible to acquire a car except through leasing. Strangely, the price of leases has gone up dramatically, and SUV dealers are looking very, very happy.

Well, substitute Nova Scotia's P3 schools for SUVs, and you have the story of that province's experiment with the compulsory privatization of school construction. The most extensive Canadian experiment with P3 schools—30-odd schools—has been carried out in Nova Scotia, although New Brunswick, Prince Edward Island and Alberta have also dabbled in P3 or “lease-back” schools, and they are common in the United States. Despite their well-documented reputation as one of the shoddiest and wasteful examples of government-driven privatization, there is every likelihood that the BC government is plotting to “P3” on your public education system.

But in fighting to avoid this awful and expensive possibility, you have an advantage that Nova Scotians didn't enjoy. You have their P3 history, beginning in 1994—a story that documents what happens when a province buys into P3 schools in a big way. The P3 “experiment” in Nova Scotia crashed and burned by 2000, but its harmful legacy, for kids and communities, as well as for the provincial budget, will continue for decades to come.

Nova Scotia’s provincial auditor testified that, in his opinion, the motive behind the government’s P3 school initiatives was entirely political; the government wanted the cost of building new schools taken off the province’s books in order to reduce the appearance of the size of the provincial deficit.

Learning From History

It is particularly useful to evaluate the kind of resistance Nova Scotia’s P3 opponents used, and to think about what would be most effective, strategically, in British Columbia. Reading the situation from some distance, it appears that the Nova Scotia government’s scheme failed not so much because the public considered P3 schools to be a bad idea per se, but because it became known that there was some Enronesque accounting going on. Nova Scotia’s provincial auditor testified that, in his opinion, the motive behind the government’s P3 school initiatives was entirely political; the government wanted the cost of building new schools taken off the province’s books in order to reduce the appearance of the size of the provincial deficit.

Added to that were other improprieties: Decisions about where to build new schools turned on who owned the land, not where the school should be situated to best serve its community. Land flips between developers were common, and some high-profile government supporters were implicated in them. It took a while, but for many Nova Scotians, the penny finally dropped when they figured out that by the time the public had paid the schools’ corporate owners the lease costs over 20 years, and then still had to buy back the schools, the deal could be considered a partnership only in the way that you’re a “partner” with your bank if you had paid off your house mortgage in full after 20 years, and then had to buy it from the bank all over again.

It took quite a while for the public to become familiar with the fine print in the lease agreements—hardly surprising, since in the case of the first P3 school, it was built and operating before the terms of the lease were agreed to, let alone made public. At that point, the owners of the school could pretty well set the terms. That’s sort of like buying a dishwasher and having it installed, then Leon’s

drops in to tell you how much it will cost. In Nova Scotia, the private owners were a consortium of investors, land developers and public pension fund managers, who argued that the exact terms of the leases shouldn’t be disclosed because the details were “proprietary corporate information.”

But the political pressure placed on the government ended up forcing disclosure of the lease terms, which—no surprise here—were incredibly advantageous to the schools’ private owners. The public was responsible for each school’s operating costs, the cost of ongoing capital improvements and repairs, and technology upgrading costs—and you can be sure that these schools were wired to the limits, making techno-providers very happy. In other words, the public bore all the risks for unforeseen expenses that could well escalate, while the private owners were guaranteed that they would recover 89 per cent of their costs through leasing charges, and still own the building and the land when the lease was up—which the province was obliged to buy whether it needed the school or not. The ownership of the school was to remain in private hands throughout the period of the lease, and, of course, ownership has its privileges.

Not only were P3 developers assured a terrific deal on the repayment terms, the private pot was further sweetened by exempting the owners and the builders from any legal or financial liability for shoddy school construction, or even faulty wiring or plumbing. What a deal! The differential in P3 benefits is so scandalous that it has critics even in some pretty conservative circles. Columnist Andrew Coyne has written of them: “While public-private partnerships are often said to promise ‘the best of both worlds’, for taxpayers they have come to mean public risk for private profit.”¹

Of course, from the private sector’s perspective, the more risk that can be transferred to the public, and the less risk that has to be borne by corporations, the better

any deal meets the P3 standard. This may explain why the Canadian Council for Public-Private Partnerships awarded the first Halifax P3 school first prize in its P3 “infrastructure” category in 1998. By 2001, students and staff in that school were still drinking bottled water, 12 months after arsenic was found in the school’s well water. A water filtration system had been installed to fix the problem, but it wasn’t being used while the school board and the corporate owner of the school argued over whose responsibility it was to provide students with clean water. Imagine.

Hidden Costs

Despite very dark clouds over Nova Scotia’s P3 schools, New Brunswick decided to jump on the bandwagon. That province’s first lease-back P3 school will cost the public \$400,000 more than if it had been a conventional P1 school, according to that province’s auditor. Certainly, such above-the-line costs should be enough to discourage considering P3 schools economically defensible. But not all costs to the public can be captured by accountants.

In addition to picking up all the unforeseen financial risks associated with these schools, the public bears many hidden costs. Every P3 school means a decline in tax revenue, since corporations owning/building schools are entitled to a federal tax break called the Capital Cost Allowance, which allows the builders to write off up to 100 per cent of the cost of the facility. In other words, citizens pay twice—the inflated costs of the lease, and in increased taxes to make up for the lost corporate tax revenue. And the owners of P3 schools have successfully downloaded any municipal taxes levied on school property to the school board.

A second hidden cost is buried in staffing. Additional Ministry and board staff must be hired to “manage” P3 initiatives, to sift through new corporate proposals and requests for schools—and certainly, the number of requests will grow wherever P3s are promoted. In part, the public demand for new schools is intense because governments everywhere have short-changed adequate school maintenance and improvements to school buildings. After years of refusing to repair dilapidated schools in Cape Breton, for example, it wasn’t hard for investors to whip up local demand for “new” schools, although renovations would have been much more cost-effective.

P3 schools also tend to be much more elaborate, probably unnecessarily elaborate, than publicly-built and financed schools. After all, corporations have everything to gain from community passions for mega-schools with all the bells and whistles. And I do mean bells and whistles. Horton School, a Nova Scotia P3, has an orchard, an amphitheatre, two soccer fields, air conditioning, and two sets of shades for the windows. Meanwhile, in nearby Kentville, the community held a bake sale to buy drapes for the bare windows of their hot and leaking school. This is two-tier education that is absurd in its proportions. Families began to move from Kentville to be within the new school’s enrolment area, further destabilizing the struggling community and economy of Kentville. By the way, I understand that the inter-school violence that plagued Cape Breton, although it was portrayed by the media as racism among youth, had much more to do with what were really class divisions between the kids at the “rich” school and kids at the “poor” school, and yes, these schools had become, in effect, the “white” school and the “black” school.

But all these unanticipated effects were below the public’s radar, at least at first, when communities across Nova Scotia bought into the P3 hype and began lobbying for their own P3 schools.

And, if you’re going to get something for nothing, it might as well be big, right? Developers persuaded communities that bigger is better. Well, when it comes to schools, we know that bigger is more expensive, and that the education research favours small schools, especially for students at educational or social risk. But the big money is in superschools, just like it is in superjails.

Communities also discovered that corporations, not local preferences, would determine where new schools would be built, usually on land that was already owned by a member of the owner’s consortium. Corporations also favoured building new schools in upper-income subdivisions where land costs were lower, rather than in urban cores that often needed schools much more acutely. As a result, students are being bussed—at public expense, of course—while perfectly good schools that could have been renovated and enriched stand empty, no longer the centres of community life.

A third hidden cost is wired right into the schools. Playing on the public’s well-manipulated fascination with technology, everything in Nova Scotia’s P3 schools is

wired, right down to the coke machines. Not only can these distortions undermine high-quality education, they add unnecessarily to the “hard” costs of schools, robbing education budgets of the money they need for staff and student services that aren’t as marketable. But because the leases make school boards responsible for technology maintenance and upgrades—which every savvy technology co-ordinator knows is a much greater expense than the hardware—schools are on the hook for these costs, as well as the costs of “training” teachers to use questionable technology for even more questionable educational purposes.

Public Schools and Private Profit

The presence of so much technology not only makes P3 schools look sexy and superficially better than P1 schools, it guarantees a continuous revenue stream for the owners in addition to the lease revenue. Ownership has its privileges. P3 owners made sure that their leases stipulated that they have the right to use the schools they own after hours, on weekends and during summers for their own purposes. These “purposes” have included using the technology-enhanced schools to run private training courses that hand out instant credentials in various aspects of technology.

After-hours access to the school for community groups has been severely restricted or made impossibly expensive. In the Evergreen P3 school in New Brunswick, the school’s corporate owner has exclusive rights to use all the school’s technology after 3 p.m., when it runs for-profit remedial and enrichment programs for kids, and exclusive use of the entire building after 6 p.m. to run programs for adults. (The school community’s right to after-hours use of the building is limited to one night—the same night—per week, so all parent-teacher meetings, school council meetings, band rehearsals, play performances—everything—must be scheduled on the same night.) Remember, it is the public that has to pay for equipment maintenance, wear and tear on the building, and so forth, even when these escalating costs result from activities taking place during hours when the public is not allowed to use the building.

In P3 schools, the private sector has prime real estate and prime visibility. Any number of private businesses

are run out of these schools, many of them during school hours. Various corporations call P3 schools “home,” from McDonald’s to Tim Hortons to for-profit daycare and private education companies. Although, to my knowledge, none of the Nova Scotia developers was quite as creative as they have been in Edmonton, where that province’s first P3 school is attached to—is actually part of—an IGA grocery store.

But the profit in P3 doesn’t just come from boosting revenue, it also comes from cutting costs. Since the owners aren’t responsible for paying for any repairs or improvements after the lease arrangement begins, or even for the consequences of shoddy workmanship, builders have a huge incentive to hire cheaper labour and use lower-quality materials in construction. They can outsource design and labour, robbing communities of the jobs that new school construction often provides. Nor is maintaining good will written into the contracts. Owners have been particularly careful about limiting their responsibilities—and thus their costs—to the letter of the law. In one New Brunswick P3 school, the corporation building the school even refused to unload the new furniture when it was delivered—it wasn’t in the terms of their deal. Parents had to provide the labour themselves.

The P3 Legacy; The GATS Future

In June 2000, the Nova Scotia government bowed to intense public and political pressure and scrapped all future P3 school construction—but by then more than 30 P3 schools had already been built, and the public will be on the hook for these schools for decades to come. It is projected that these schools will cost taxpayers \$32 million more than if they had been built in the traditional manner—and, of course, it is important to remember that many of these schools were not needed in the first place, nor did they need to resemble Bill Gates High. But for Nova Scotians, hindsight will be of limited value, since they are committed for as long as 35 years to leases that they are unable to renegotiate. As with most kinds of privatization of public services, there is no going back.

But there is another consequence of experimenting with P3s. Several authoritative analyses of the proposed GATS agreement—published by CCPA and read around the world, I might add—make the case that the only gov-

Every P3 school means a decline in tax revenue, since the corporations are entitled to a federal tax break called the Capital Cost Allowance, which allows them to write off up to 100 per cent of the cost of the facility. In other words, citizens pay twice—the inflated costs of the lease, and in increased taxes to make up for the lost corporate tax revenue.

ernment services truly exempted from the application of GATS rules would be those services provided exclusively by the public sector for public benefit. Even without P3 schools, we can see that education increasingly fails to meet this criterion as the private sector nibbles at its edges—or gnaws away at its heart, depending on your point of view.

The federal government and other friends of privatization and liberalized trade in services claim that public education, as a sector, is still sufficiently public that it would be shielded from the reach of GATS. Even if this is the case at present, as I see it, the escalation of the private sector's role in education represented by P3s could well tip the balance. This would mean that at some future date, if a province or school board were to change its mind about P3 schools after experimenting with them, such a reversal could be subject to a trade challenge because it would, in effect, deprive corporations of potential earnings. At present, should an American corporation decide to bid on a P3 opportunity, it would have to be treated exactly as a Canadian corporation or be entitled to demand compensation. And of course, even if a Canadian consortium owns the school at the time that the contract is signed, it can sell its school to an American or transnational corporation if it so chooses—and there isn't a thing we can do about it.

Public schools are public for a reason. They exist to serve the public good. Corporations have led the charge to convince Canadians that they are overtaxed, and that Canada's inefficient, ineffective education systems are in large part to blame. Their successful propaganda is largely responsible for the crisis in public education. Now, suddenly, corporations are enthusiastic about building new schools, about "investing" in our youth. It is almost im-

possible to believe that the public will not see the wolf underneath the sheep's clothing. Corporations get interested in schools when they see them as a way to save money, or to make money. This is what motivates the private sector, and I see no reason to blame wolves for acting like wolves. I'm more inclined to blame us for acting like sheep, so easily convinced that private purposes and public purposes are identical.

And short-sighted sheep at that. The other night, I was sitting around with a group of Ottawa lefties and we were speculating on what our new Premier Eves will do next. I said that I thought we ought to be paying more attention to Ontario's "superbuild" fund, a low-profile but high-budget stash of cash that is there to underwrite a whole host of P3 initiatives. There were 14 people in this group, every one a political activist and only one person among them had heard of a "P3" anything.

But you have, and you're in an excellent position to spread the word. In particular, I'd like to give credit to CUPE, which has published the best and most comprehensive reports on P3 schools, and to the Nova Scotia Teachers' Union, which has some great tactical advice to share. Their "Principles for P3 Schools" are available on the web at <http://www.nstu.ns.ca/issues/P3/index.html>, and I encourage you to memorize them in the event that your province goes ahead with its P3 plots.

But better yet, work together to see that it never happens.

Notes

¹ Coyne, Andrew. 1995. *The Globe and Mail*, May 24.

The Private Finance Initiative and Public-Private Partnerships

An Evidence-Based Assessment of Britain's Health Care Experience

Matthew Dunnigan

Let me just say at the start that I was astonished when I heard that the government of British Columbia was adopting the British Private Finance Initiative (PFI) model, which in Canada you call P3. The country that brought you penicillin, the steam engine, and radar has now brought you P3 and I apologize on behalf of my fellow countrymen!

I'd like to begin with very broad assumptions which will give you the background to understand this British political hybrid, and why it has taken off here.

In an affluent democracy, the 80 per cent of the population comprising the “contented

majority” do not wish to pay higher taxes.¹ This tax-averse contented majority dictate the electoral priorities of elected governments; the underprivileged minority, the poor, the unemployed, ethnic minorities, and the elderly, are relatively powerless. In addition, in North America and the United Kingdom, the dogma that the private sector is “good” and the public sector is “bad” has become dominant (this is much less so of social democratic governments in Europe).

In Britain since 1979, the “Thatcherite” policy of under-investment to placate a tax-averse contented majority has produced a progressive deterioration in the qual-

ity of key public services, notably public transport, schools, and the National Health Service (NHS)—our public health care system.

In addition, the dogma that market forces and the private sector are always more efficient than the public sector has led to the progressive privatization of public services in Britain. The results have been uneven, with improvements in some

areas, and marked deterioration in others:

- Public utilities such as electricity, gas, and water have seen improved services;
- Bus services have declined, particularly in rural areas;
- The effects on railways have been catastrophic;
- In NHS hospitals, privatized non-clinical facilities such as cleaning, catering and portering have generally deteriorated with reduced standards, fewer staff, dirtier hospitals, poor food, and a rising prevalence of hospital acquired infections.
- There have also been many financially expensive privatization disasters:
- Passport Agency;
- Large-scale computer projects in NHS, social security and local authority settings.

The dogma that market forces and the private sector are *always* more efficient than the public sector has led to the progressive privatization of public services in Britain.

- Deterioration in the quality of public services (health, transport and education) is now *the* dominant political and electoral issue in Britain for the “contented majority” and may determine the outcome of the next general election.

Now let me move from the general story to what you call P3, and we call PFI.

The Private Finance Initiative: The Vision

The Private Finance Initiative was introduced by the Conservative government in 1992 and fully implemented by the Labour government from 1997 until the present. Under PFI/P3, the private sector designs, builds, manages and finances public projects in a lease back arrangement for a 30 to 40 year period.

The planning process in PFI hospitals has been heavily influenced by private-sector consultancies with little conventional public-sector strategic planning. These consultants are not independent, but are clients of the public sector funding agency and have a financial incentive to deliver what the NHS “customer” wants. The “vision” for PFIs promulgated by these consultancies is based on three main propositions:

- The efficient private sector will replace the inefficient public sector;
- Increased efficiency from private sector input will permit staff reductions with revenue savings. Capital savings are expected to follow smaller but more effective “plants” (hospitals, schools, prisons);
- Buy now, pay later! The lease back arrangement with private capital repaid over 30 years avoids immediate increases in taxes for a tax-averse “contented majority” and doesn’t increase the Public Sector Borrowing Requirement (this is basically a form of off-balance sheet financing similar to that used by Enron).

While these propositions sound attractive, the projections are vision-based, non-numerate and with little empirical evidence to support them. In many cases, the projections rely heavily on “spin” and, in some cases, distortion of the facts, as well as unscrupulous discrediting of opposing views.

Contrast this with conventional evidence-based medicine. At its best, this requires evidence to identify best medical practice, ideally from peer-reviewed journals. It requires a hypothesis to be tested before being accepted, and asks, of any assertion, “how do you know?”

Most doctors are naïve and unprepared for vision-based political thinking. Moreover, in planning PFI hospitals, doctors are not generally involved in the planning process until a late stage when they “agree” that the projections are feasible (largely because of peer and management pressures, and the claim that there are “no alternatives available”). Compliant doctors are chosen as medical directors and frequent monitoring and interference by civil servants serves to ensure that capital and revenue expenditure is limited to what government says it can afford.

- Overall, the PFI vision has meant:
- About 30 per cent reductions in acute staffed beds (this reduces capital and revenue costs). It should be noted that this is on top of very marked downsizing in NHS hospitals over the past 20 years;
- Reductions in nursing staff. Planning projections for a new PFI hospital in North Durham are typical: a 35 per cent reduction in Nurse Managers, a 14 per cent reduction in Ward Sisters, and a 13 per cent reduction in Staff Nurses compensated partially by a 25 per cent increase in untrained “team assistants and housekeepers”;
- Non-clinical staff such as housekeepers, porters and catering staff have been transferred to private sector franchises under reduced (and cheaper) conditions of service; and

Serious bed shortages have created chaos, with emergency patients having trouble gaining admission, severe capacity difficulties, numerous cancelled elective admissions, and very high levels of stress among patients and staff.

- Medical staff are usually untouched. Doctors are a powerful constituency and their assent to this process is important. There are built-in disincentives to offending the medical profession.

In order to achieve downsizing in PFI hospitals, other ambitious and unrealistic changes in practice are projected:

- Continuing reductions in length of stay, leading to faster patient turnover;
- Increased occupancy up to 95 per cent. This leads to severe pressures on staff and patients; and
- Rapid transfer of patients from acute care in the downsized hospital to post-acute settings in means-tested local authority and private sector residential and nursing homes in the community.

What Downsizing in PFI Hospitals Means for Patients: An Evidence-Based Assessment

I have conducted a review of the effects of aggressive downsizing on in-patient and day care activity in acute hospitals in Scotland's capital, Edinburgh, where a PFI-financed new teaching hospital will open in 2003. Hospitals being prepared for PFI-related downsizing are always "preshrunk" before construction commences, so that they open with fewer beds. Thus, between 1991 and 2001 Edinburgh hospitals lost 39 per cent of their staffed beds. Other Scottish hospitals also lost staffed beds, but the loss was much less (18 per cent). Such losses were not supposed to matter, as they were to be offset by efficiency savings. However, the projected efficiency savings in Edinburgh did not materialize. This led to a decline in clinical activity in Edinburgh hospitals compared with the rest of Scotland. By 2000-2001, the negative impact of severe capacity constraints in Edinburgh on clinical capacity and patient care had become clear. Serious bed shortages have created chaos, with emergency patients having trouble gaining admission, severe capacity difficulties, numerous

cancelled elective admissions, and very high levels of stress among patients and staff. The numbers tell the story:

The number of waiting list (elective) in-patients treated in Edinburgh's "pre-shrunk" hospitals had fallen substantially below those treated in other Scottish hospitals by 2000/2001:

- All acute specialties: 31 per cent fewer treated per 1,000 population than in the rest of Scotland;
- All medical specialties: 28 per cent fewer treated per 1,000 population than in the rest of Scotland; and
- Acute surgical specialties: 34 per cent fewer per 1,000 population than in the rest of Scotland.
- Day case admissions also fell in surgical specialties and in all acute specialties compared with other Scottish hospitals and did not rise to compensate for the fall in in-patient elective admissions:
- All acute specialties: 14 per cent fewer treated per 1,000 population than in the rest of Scotland; and
- Acute surgical specialties: 34 per cent fewer treated per 1,000 population than in the rest of Scotland.
- Admissions to cardiac care and intensive care units in Edinburgh hospitals in 2000-2001 were 39 per cent lower per 1,000 population than in other Scottish hospitals.
- The number of "blocked" acute beds occupied by elderly people in Edinburgh hospitals rose by 25 per cent between January 2001 and January 2002 to reach 15 per cent of total bed capacity (the highest in Scotland) due to insufficient capacity in the post-acute care sector (residential and nursing homes in the local authority and private sectors).

These numbers indicate a rising threshold for admissions to Edinburgh's downsized hospitals in the face of falling capacity, resulting in rising unmet need compared to other Scottish hospitals. And things are only going to get worse due to the financial miscalculations underlying the PFI. Edinburgh hospitals had a £38 million deficit in 2001/2002 due to "over-challenging" and "over-optimistic" assumptions for the new PFI-financed Royal Infirm-

mary.² A financial “recovery plan” has been announced courtesy of Price Waterhouse Coopers, but this involves further cuts. Two hundred staff, including 41 senior nursing posts are projected to be axed.

Unfortunately, Edinburgh is not the only part of the United Kingdom experiencing problems with PFI hospitals. Audit Commission and media reports document similar problems in completed PFI-funded hospitals in Carlisle, Halifax, and Durham with financial deficits, rising waiting lists, problems with emergency admissions, expansion of private provision in adjacent private hospitals and substantial structural and organisational problems.

Other problems with PFI/P3 NHS projects

PFI/P3 projects involve dual control by (1) the consortium which finances, builds and manages the new hospital and (2) NHS management that is responsible for clinical services in the lease-back hospital which it does not own. This frequently leads to protracted managerial conflicts between two private-public bureaucracies yoked together in the P3, one responsible to the shareholders, and the other to the medical, nursing and technical staff responsible for patient care.

To give one example, this has played out in two PFI-funded new hospitals in Lanarkshire, Scotland in the following ways:

- delays in resolving structural defects in the hospital;
- restricted rights of access by hospital staff to equipment resulting from concerns over infection control;
- difficulties over private cleaning services meeting agreed standards;
- “who does what” arguments about the duties of maintenance and portering staff from trolleys to routine electrical faults;
- variable quality of managers in the private consortium and the NHS sector: poorly paid, stressed, with low morale;
- recurrent bed shortages with cancelled elective admissions and severe difficulties in accommodating emergency admissions.

The last problem with the P3 project is even more fundamental. A 30 year contract for a hospital imposes rigid-

ity and inflexible standards on evolving and rapidly changing hospital design as medical advances demand changing structures. Altering inflexible 30 year contracts will be expensive. As a report by the King’s Fund (London)³ notes:

- PFI locks in traditional patterns of acute care. But they are changing fast. Labour has entered a massive building programme without an assessment of future requirements and without transferring any substantial risk from the public to the private sector.
- PFI hospitals could quickly come to have the wrong layout of wards and the wrong balance between long-stay, day case and outpatient treatment. Continuing changes in medical and information technology suggest that hospitals as we know them today may not be needed in 10 or 20 years, yet the PFI is locking the government in for 30 years or more.

Conclusion

PFI/P3 projects provide poor value for money and should be rejected in favour of more conventional methods of funding major public sector projects. Canadian provincial and federal governments may still have time to learn from detailed scrutiny of objective evidence from PFI-funded new UK hospitals, relying on evidence and not “visions.”

Adam Smith, the Scottish enlightenment philosopher and father of the “market economy” was also shrewdly aware of its potential defects, many of which are exemplified by P3 projects, in many respects a “conspiracy against the public” and a bad “buy” for a cost-effective Canadian health service. As Smith noted,

“People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.”⁴

Notes

¹ Galbraith, J.K. 1992. *The Culture of Contentment*.

² Price Waterhouse Coopers. 2001.

³ Appleby, John. 2002. *Annual Report*, London: King’s Fund.

⁴ Smith, Adam. 1991. *The Wealth of Nations*. New York: Knopf.

Broken Promises

Two Decades of Experiences with Prison Privatization in the United States

Judith Greene

The two billion-dollar U.S. private prison industry was launched in the mid-1980s after a decade of “get tough” sentencing reforms swelled prison overcrowding to crisis proportions. Claims that the private sector could deliver better prison services at a cheaper price sounded good to a public that was cynical about government and eager to buy

quick-fix solutions. For many politicians, privatization was good politics, offering an opportunity to look tough on crime and fiscally conservative at the same time.

Private financing offered prison construction on the instalment plan—avoiding bond measures that might require approval by voters, and making end runs around public debt limits. It was claimed that private construction could cut the red tape of the public procurement process and speed the time to completion. These arguments for privatization were bolstered with generous campaign contributions and political enticements delivered by squadrons of well-heeled lobbyists.

From 1991 to 1998, the annual growth in private adult prison beds averaged 36 per cent per year. The number of private prison beds in the U.S. is currently reported to be in the neighbourhood of 120,000, but not all of these are in use. The U.S. Bureau of Justice Statistics reports that at mid-year 2001 there were 94,948 state and federal

prisoners in private prison beds. About 6,200 of the 37,000 detainees held by the U.S. Marshals Service are housed in private facilities, as are about 3,000 of the approximately 20,000 immigrants detained by the Immigration and Naturalization

Service. BJS data show that at the end of June, 1999, there were 13,814 inmates in 47 privately operated jails, but that number included some portion of the INS and USMS detainees along with local prisoners.

From the beginning, private prisons were sold as a prison reform panacea. The antiquated U.S. prison system was plagued from coast to coast with overcrowding and sub-standard conditions. In 1984, before he secured a single correctional contract, Wackenhut Corrections CEO George Zoley pledged that his company would *never* tolerate inordinate turnover, improper treatment of prisoners, or bad food.

In 1985 Corrections Corporation of America was a fledgling corporation that held just a handful of small contracts—none for prison operations—when the company’s founders made an audacious bid to take over and run the entire Tennessee state prison system. Top executives made an offer of \$100 million in cash and notes in

From the beginning, private prisons were sold as a prison reform panacea. The antiquated U.S. prison system was plagued from coast to coast with overcrowding and sub-standard conditions. Before he secured a single contract, Wackenhut CEO George Zoley pledged that his company would *never* tolerate inordinate turnover, improper treatment of prisoners, or bad food.

exchange for a 99-year lease of the prison facilities. When CCA President Tom Beasley sat down with Governor Lamar Alexander and the state’s legislative leadership to present “the best corrections plan ever written,” he brought along a Merrill Lynch official to explain how the money—along with another \$150 million for capital improvements—would be financed with help from Merrill Lynch Capital Markets and Prudential-Bache.

Beasley promised that CCA management would provide improvements across the board. Prisons would be built faster and cheaper. Prison management would cost less. Prison guards would earn higher pay. Prisoners would get better living conditions and improved program services, and all who were “able-bodied” would work or study 40 hours a week. With the private financing CCA would bring to the table, legislators could avoid voting a tax increase. Within five years, CCA would be realizing a comfortable profit margin and Tennessee’s prisons would be the best in the nation.

CCA’s bid to take over the entire state prison system won support from the Governor (whose wife had been a stockholder at the firm’s start-up), but the scheme sparked immediate criticism in other quarters. Michael Cody, the Tennessee Attorney General, expressed misgivings about delegating such a wide span of state authority to a private contractor, pointing out that the state would lack leverage in bargaining with the company because it would lose the capacity to take the system back under public management if privatization failed to work as promised. Most legislators were not prepared to turn over the state’s annual prison operating budget of \$170 million to a private company without a substantial track record. CCA had to wait another six years before it finally secured a contract to run a single state prison in Tennessee.

Youngstown to Florence

Fast-forward to July 25, 1998, when six prisoners from Washington, D.C. escaped from a CCA prison in Youngstown, Ohio, in broad daylight, drawing a national media spotlight to illuminate a prison that had spun completely out of control.

When Youngstown’s citizens learned that the perimeter security system had completely malfunctioned—that the motion detectors and the surveillance cameras had failed to alert the authorities or impede the escape—they began to wonder what other dangers CCA had brought to their community.

When they were told that prison officials had not known that the escapees were missing until another prisoner told them about the escape, Youngstown residents began to wonder about the calibre of staff that was running the prison.

When they heard that there had been a total of 20 stabbings and two homicides at the facility in little more than a year of operations, they began to understand that the prisoners’ claims that CCA had failed to introduce the most basic safeguards to protect them were true.

When they were informed that five of the escapees were convicted of murder, they realized that CCA had failed to screen out maximum security prisoners in what they had been assured by the company was only a medium security prison.

And after Governor George Voinovich assured them that the prison would be closed down, they learned that he lacked the legal power to accomplish this.

In the aftermath of the escapes, the Attorney General of the United States requested that John Clark, Corrections Trustee for the District of Columbia, conduct an

When Youngstown citizens learned that the perimeter security system had completely malfunctioned, they began to wonder what other dangers had been brought to their community.

independent investigation of the operational breakdown that resulted in these appalling events. The report, produced after three months of intensive research, contained a series of shocking findings:

- The prison had been opened before adequate preparations were made to handle the difficult population sent by the D.C. Department of Corrections;
- CCA had activated the prison with a largely inexperienced staff;
- The company had not developed a capacity for screening and classification of prisoners;
- The prison held over 200 prisoners with “separation orders,” yet CCA had no written policy to manage this critical issue;
- CCA had not taken care to furnish the prison with tamper-proof material and equipment;
- Medical treatment was inadequate;
- Prison programs were deficient, leaving most prisoners idle all day, confined to cramped, noisy housing units; and
- CCA staff were unable or unwilling to coordinate or cooperate with the efforts of law enforcement agencies to investigate possible criminal behaviour at the prison.
- The lessons from this experience were abundantly clear. Yet the learning has evidently been lost.

Last year another audit of a CCA prison—this one located in Florence, Arizona read like a “Youngstown” just waiting to happen. The Florence Correctional Center holds almost 600 male prisoners from Hawaii, along with women detained there by the INS. In April 2001 the FCC erupted in violence—a string of serious assaults, and a riot in the prison yard that left a prison guard and three prisoners with serious injuries. That same month a prisoner died at FCC of a heart attack that prison officials say was caused when he swallowed several packets of drugs to conceal them.

When prison auditors flew in from Hawaii to inspect the prison they found “a prison in turmoil,” with an atmosphere so hostile that most areas of the prison were

deemed too dangerous to be toured. They determined that a prison gang had taken control and was running the prison. Gang members were said to be attacking other prisoners and staff, dealing drugs, and having sex with the women housed at FCC under a contract with the INS. Some staff were said to be “working” for the prison gang. One guard admitted providing drugs for prisoners in exchange for protection.

The auditors raised a variety of familiar complaints: security staff were inexperienced and under-trained, and they were neglecting the most basic security measures—failing to search prisoners for contraband, or to exert adequate control over their movement within the facility. There were discrepancies with regard to the security classification system, and prisoners in different custody levels were not being separated as required to protect low-risk prisoners from predatory gang members. The medical unit at the prison was “grossly understaffed.” Education and treatment programs were operating far below the contractors’ expectations. The cultural gap between the Hawaiian prisoners and the CCA staff was wide. Many prisoners complained of racial slurs—that they had been called “beach niggas” by staff.

The Industry Track Record

CCA is not the only U.S.-based prison company with serious problems. The Wackenhut Corrections Corporation operates two prisons in New Mexico where four prisoners and a guard were murdered over a nine-month period ending in August 1999. The following year a juvenile court judge in Louisiana was so shocked at the violence and brutality in a prison the company was running in that state that he began ordering the release of young offenders from the facility, charging that Wackenhut was treating them no better than animals.

Last year Cornell Corrections withdrew its proposal to renew a contract to run the county jail in Santa Fe, New Mexico when it learned that the county executive had not recommended the company’s bid. Since the Santa Fe County Detention Center opened in 1998 there had

been a string of allegations of sexual abuse and other types of misconduct by Cornell guards. At Cornell's Youth Detention Center in Santa Fe, repeated sexual misconduct complaints included an incident involving a guard who was fired after a 15-year-old girl accused him of rape. It turned out that the guard had a prior felony conviction for burglary, robbery, forgery and conspiracy. Finally, after a three-year pattern of alleged sexual misconduct by staff at these facilities, the U.S. Department of Justice launched an investigation into alleged civil rights violations at the jail.

Private prison executives will tell you that problems of this nature are found in only a handful of "underperforming" prisons. But what does the record show about how the entire industry stacks up against our public prison system?

First, there is a great deal of evidence that many private prisons are not able to maintain a stable, experienced workforce. Staffing issues lie at the core of prison management. With forced confinement of troubled individuals as its primary purpose, the prison environment is conducive to disorder and violence. The safety and security of prisoners and staff alike are contingent on the training and experience of correctional officers, whose most fundamental role is to maintain order and prevent violence.

According to the Correctional Yearbook, annual turnover rates in private prisons run three times higher than in public prisons—52.2 per cent for the private prison industry, compared with 16.0 per cent for public prisons.

A recent Federal Bureau of Prisons Office of Research and Evaluation assessment of private prisons in the U.S. found much higher rates of staff turnover than at federal prisons, especially during the critical activation period. Almost half of the private prisons surveyed while under activation had a turnover rate of 50 per cent or more in just six months. In some instances where private prisons have produced serious operational problems, audits and inquiry reports have also documented turnover rates in excess of 100 per cent. At Wackenhut's Jena Juvenile Justice Center mentioned above, U.S. Justice Department experts sent to evaluate the facility claimed that the staff turnover rate had reached 300 per cent.

A major element that affects staff turnover is compensation. Entry-level salaries for correctional officers at a "State Jail" facility Wackenhut opened in Austin in 1997

were just \$8 an hour—considerably less than was being offered by supermarkets and fast food restaurants at that time, according to Texas Department of Criminal Justice officials. In 2001, in Arkansas, Wackenhut was *still* offering a starting salary of just \$8 per hour, compared to \$10.11 at state-operated prisons.

It should come as no surprise that these companies find it difficult to attract and retain qualified employees in such tight labour markets given their wage structure. The average entry level salary for private prison correctional officers in 2000 was \$17,628, compared with \$23,002 for those employed in public prisons. The high turnover rates contribute to an even deeper disparity in the average *maximum* salaries: just \$22,082, compared to \$36,328.

Higher rates of turnover result in a less experienced staff, and also contribute to staff shortages. So it should also come as no surprise that the BOP study turned up other disturbing facts. The rate of escapes was much higher for private prisons compared to federal prisons. And on a second critical measure of effective prison security operations, private prisons lagged significantly behind the federal prison system. Random drug testing results showed that while more than 60 per cent of the federal prisons reported *no* positive "hits" for drugs during the month of July 1999, only a third of the private prisons could make this claim.

Yet more troubling contrasts turned up when Jim Austin surveyed the private prison industry for the Bureau of Justice Assistance. He compared data on violent incidents provided by private prison managers with data from public prisons surveyed by BJS. For prisons with comparable security levels he found 49 per cent more assaults by prisoners on guards in private prisons, and 65 per cent more inmate-on-inmate assaults.

Private prison executives claim that their program services are as good or better than those in public facilities. Yet when a research team I directed at the University of Minnesota compared education services at CCA's Prairie Correctional Facility with education programs at comparable state prisons, the results were largely unfavourable to CCA.

Prison programs are an essential ingredient of correctional services. Most prisoners will return to their home communities sooner or later. If nothing is done to provide education, substance abuse treatment, job training and work experiences for them, a prison is simply a ware-

house, or worse—a training ground for crime skills. Moreover, prison programming plays a key role in promoting a safe environment for prisoners and prison staff. In the absence of constructive activities, negative thinking and behaviours will fill the vacuum of idle time, giving rise to a climate of fear and violence.

In their promotional efforts private prison executives place particular emphasis on the claim that they strive to deliver high quality program services, and that their companies' program services are as good as or better than those in public facilities. Yet in Minnesota, comparison of education services at CCA's Prairie Facility with education programs at comparable state facilities was highly unfavourable to CCA. Assignments to academic classes were for only a half-day segment, while most students in the Department of Corrections prisons attended school full-time. The public prisons employed state-certified instructors, while many teachers at the CCA prisons lacked state credentials. Given these differences, it is not surprising that the rate of GED attainment was 35 per cent higher at the DOC prisons.

Vocational training in DOC prisons was provided through a contract with Minnesota's technical college system. The course credits earned by prisoners were therefore transferable to the state college system at their release. Prisoners who completed their vocational programs received valid state certificates, placing them on an equal footing at their release with the graduates of technical college campuses across the state. At the CCA prison the vocational training programs were unlicensed, training hours were not transferable, and graduates received only an institutional certificate from CCA.

CCA had contracted to provide a full-time structured substance abuse treatment program at the Prairie Correctional Facility. But a year and a half into a two-year contract period, no such program had materialized. CCA did provide weekly Alcoholics and Narcotics Anonymous groups, and they provided drug education classes on a sporadic basis. In contrast, prisoners in the public prisons had access to full time "therapeutic community" treatment programs, as well as less structured treatment services to address their addiction problems. Forty-two per cent of the DOC prisoners had received treatment services (37 per cent had enrolled in a "TC" program), compared to just nine per cent of CCA prisoners who reported receiving any substance abuse services at all.

Medical care is a key area where private prison managers appear to cut expenses in order to increase their profits. According to an economist who studies prison costs for the Federal Bureau of Prisons, audited cost data from Tennessee have shown lower levels of per inmate medical expenditures in CCA's South Central Correctional Center, weighed against two comparable public prisons. In a lawsuit brought after a prisoner under medical care in that prison died, the judge found that CCA had been "deliberately indifferent" to the prisoner's medical needs. CCA had provided the prison doctor with financial incentives to cut medical costs. He had doubled his own income by cutting per prisoner medical costs almost in half.

The Bigger Picture

The private prison industry has sold itself with claims that privatization would not only bring improved prison conditions, but that private prisons would be more cost-effective. More than a decade of research comparing correctional costs has failed to produce convincing evidence that privatization saves tax dollars. The 1996 GAO survey of private prison research concluded that there was no clear evidence of cost savings. A 1999 meta-analysis by researchers at the University of Cincinnati of 33 private prison cost studies found that private prisons are no more cost-effective than public prisons. A preliminary study of costs at the Taft Correctional Institution, operated by Wackenhut Corrections under a Bureau of Prisons contract, shows that Wackenhut's management is costing *more* than would be the case if the BOP was operating the prison.

But there are more important questions to be raised than whether private prisons do or do not save tax dollars. Privatization of prisons raises fundamental issues about the role of government in an open, democratic society. Debates about privatization are not simply about the cost and quality of public services. They are also about ideology. As Elliot Sklar points out, the issue is whether society should place "market concerns ahead of those of equity and access." In the case of prison privatization, deeply ideological agendas regarding the future role of government in society are being played out. If it were to become universally accepted that such a core governmen-

Staffing issues lie at the core of prison management – the safety and security of prisoners and staff alike are contingent on the training and experience of correctional officers. Yet, annual turnover rates in private prisons run three times higher than in public prisons—52 per cent for the private prison industry, compared with 16 per cent for public prisons.

tal function in the administration of justice can be handed off to the private sector, few other barriers would exist to dismantling governmental action in any sector.

Proponents of private prisons make a facile distinction between the authority to confine and the implementation of confinement. They appear to adhere to a naïve view that private prison managers simply execute cut-and-dried formulations derived from contractual terms or American Correctional Association standards, and that there is never a need for any exercise of discretion in the conduct of their business that might affect the amount of time a prisoner will remain in custody or under what conditions.

The rise of the private prison industry came on the heels of a sharp departure by the U.S. from the penal policies of the world’s other industrialized democracies. The astonishing upward shift in our incarceration rate has swept the country into the uncharted territory of mass incarceration. Mass imprisonment in our time is the creation of social, economic, and political forces which are driven by dynamics that run to the very roots of our social system and its historical grounding in the slavery of a people dragged from their homeland in chains to our shores. Loic Wacquant has traced the relationship between the fast-shrinking social welfare net in the U.S. and our burgeoning system of incarceration: “As the social state is deliberately allowed to wither, the police state flourishes: the direct and inevitable effect of impoverishing and weakening social protection.”

Profits by no means created the machinery of mass incarceration—no more than defence contractors invented war—but the huge profits to be made by incarcerating an ever-growing segment of our citizens serve the system very well. Profits oil the machinery. Profits keep it humming. Profits speed its growth.

Private prison companies represent just one sector of the business interests that have profited greatly from the rise of mass incarceration in the U.S.. But it is the only sector that was founded for the explicit and paramount *purpose* of profiting from this phenomenon, creating a financial momentum that strives to grow its market share even while a declining crime rate and a slowing economy have combined to level—and in some states reverse—the prison population growth curve.

Delegation from the state to private parties of the power necessary to manage prisons and control prisoners can never be completely reconciled with the imperative that above all, the state must strive to guarantee the human rights of all members of society, captive as well as free. This goes beyond a mere question of symbolism—whether the prison security officer’s emblem says “DOC” or “CCA”—to the matter of whether exertion of force through the power of the state to confine prisoners against their will as punishment for crimes should ever be surrendered into hands in service of private corporate interests. For both functional and normative reasons, the answer is no.

Concluding Remarks

Sylvia Fuller

I'D LIKE TO THANK OUR PANELISTS AGAIN. I think we have all had our eyes opened tonight. As we have seen, the evidence about the effects of P3s raises serious concerns. Dr. Dunnigan mentioned the TINA factor in Britain. This is of course the term coined by Margaret Thatcher referring to a political strategy of promoting one's agenda by claiming that "there is no alternative." This is very

much what we are being told with P3s and what is in fact happening in the Ministry of Finance with the loss of staff and the loss of the ability to have a true public comparator against which to evaluate P3 projects. We are left at the mercy of private sector consultants providing us with their cost estimates, and their comparators', and telling us whether or not we should go forward with P3s.

But we need to remember that politics is about choices and there are always alternatives. We should not allow ourselves to be backed into an unwise and politically motivated course of action, but should learn from the mistakes of other jurisdictions.

Of course those who promote P3s also say that we should learn from others' mistakes. They claim that we have had the advantage of learning from other places so that we won't have the same problems here. But something that has really struck me in my own research, and now in listening to the panelists, is that this is not a situation where you have one or two little problems, or where you can just write better contracts—because this is always the promise, we will write better contracts, pay more money to lawyers and consultants and then we won't get fleeced. The problem is not with the contracts, it is with the model itself. It is fundamentally flawed.


It is flawed because it costs more. It costs more be-

cause, as the panelists have mentioned, the public sector can borrow more cheaply than the private sector. It also costs more because there is a lot of money that goes to lawyers and consultants off the top, not to mention the profit margin for the private partners.

We have also seen that there are real costs in terms of the quality of services, and the risks that we run there. What has happened with prisons, schools and hospitals is disgraceful. Those are real risks, and real costs as well.

And there are also real costs in terms of lost flexibility, and lack of accountability. When we get locked into 30-year contracts, what happens when medical practice changes? What happens when the demographics of a school district change? We lose flexibility.

We also lose the possibility of seeing what is really going on because information about these projects is often not made public. There are commercial secrets now involved, and as we all know, commercial secrets are very hard to dig out. While they sometimes come to light (think Enron) this is often after much of the damage has already been done.

So we need to be very careful. I tend to avoid blanket statements because I think we always have to look at the evidence in a particular case. But the evidence in the case of P3s in general is clear, and it is damning. They are not the solution for BC's infrastructure needs. 

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