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Privatization of Southern California local detention facilities

Anita Whitehead

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PRIVATIZATION OF SOUTHERN CALIFORNIA
LOCAL DETENTION FACILITIES

A Thesis
Presented to the
Faculty of
California State University,
San Bernardino

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
In
Criminal Justice

by
Anita Whitehead
June 2001
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Approved by:

[Signatures]

Date 6-19-01

Dale Sechrest, Chair, Criminal Justice
David Shichor
Pamela Schram
ABSTRACT

This paper is an examination of privatization of local level corrections in southern California. The focus of the paper explores the privatization of city jails in five southern California counties. An historical background on privatization is given as well as an explanation of arguments surrounding jail privatization. Reasons for privatizing jails are explored. Included are the results of state inspections. A comparison of achievement of state mandated standards is made between publicly and privately operated city jails. Regulations and operations policies are examined. Suggestions to assist in the success of privately operated jail facilities are also included.
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CHAPTER ONE
INTRODUCTION

Statement of the Problem

Correctional facilities have been experiencing an increase in population and a lack of increased financial resources to keep up with the demand. The number of prisoners in state and federal facilities grew 94 percent in the ten year period between 1977 and 1987 (Brakel, 1992). The numbers continue to grow in these facilities. There has been an average of 4.8 percent annual growth in jail populations from 1990 to 1999 (Beck, 2000). The public demands for stricter laws and tougher sentencing guidelines have affected the growth of jail populations as well as increasing state and federal inmate populations (Perkins, Stephen & Beck, 1995; Durham, 1989).

Although much of the focus has been placed on state and federal prisons, jails have also been dramatically affected by the increases in inmate populations. Prisons hold inmates that have been convicted and sentenced to one year or more. Jails, on the other hand, have a more varied
population. Jails are usually found at the municipal or county level and house both sentenced individuals and those awaiting trial or court appearances (Keikbusch, 1992). The sentenced inmates include those who will be serving their sentence at the jail facility and those who will be serving time in the prison system and are waiting transport to those facilities. Jails also hold mentally ill persons who are waiting for transport to mental health facilities, witnesses for protective custody, and other people held under special circumstances for the courts and police. Probation and parole violators are housed in most local jails. Many jails also house state and federal inmates to alleviate overcrowding in the prisons and to gain needed revenue for the county or municipality (Brakel, 1992; Perkins et. al. 1995). It would stand to reason that jails in many jurisdictions are suffering the same problems of overcrowding as larger state and federal prisons. In 1999 the jails in the state of California were operating at an average of 103 percent of capacity (Beck, 2000).
In addition to the overcrowding problems, many local governments do not have the financial resources to upgrade or expand their facilities to meet the needs of the growing jail populations. Many of these jails are located in economically depressed areas. Local facilities are dependent on the local tax base, such as county and municipal revenues, with some possible supplements from federal or state sources. Studies have shown that unemployment levels in the population have a positive correlation with the increases in local jail populations, (Kalinich, 1995). The higher the unemployment level in the area, the lower the tax base and financial resources for local governments and correctional facilities. In 1996, 36 percent of those housed in jail facilities were unemployed prior to their arrest, and of those who were working almost half reported making less than $600 per month (Harlow, 1998).

Due to the increasing limits on financial resources, agencies must find ways to manage the costs of increasing jail populations. Many jails have turned to privatization
of part or all of the jail functions to reduce the costs of operating the facilities. As of June 1999 nearly 14,000 or 2.3 percent of jail inmates were housed in 47 privately owned or operated jails throughout the United States. This number is up from 17 jails in 1993. The jails in that study excluded those temporary-holding facilities that hold detainees 72 hours or less or prior to arraignment. Due to the exclusion of these temporary-holding facilities, there are more inmates housed in privately run facilities than the study indicates. In southern California some local municipalities have contracted with private correctional companies to operate their jails. These jails are temporary holding facilities which house those arrested by local police and held in the jail until released or transported to a county jail. These temporary holding facilities usually do not hold a person longer than 72 hours and in most cases less than 24 hours. California has 8 privately operated jails that hold inmates past arraignment (Beck, 2000). There are 12
privately operated temporary holding facilities that house inmates 72 hours or less (Holien, 1999).

This paper will examine the function of temporary holding facilities. It will also seek to determine if private companies can perform these duties satisfactorily. What measures should be taken to insure the facilities are operated correctly by private contractors will also be explored.

Historical Background

Contracting with private organizations to provide services to jails is not a new idea. There has been some degree of privatization of services in corrections since the eighteenth century. However, there is not a great deal of information concerning totally privately operated jails in United States history. This is due partly to the fact that most jails in the eighteenth and nineteenth centuries were small and held mainly those who were awaiting trials. Once sentenced the inmates were sent to prisons where more
accurate records were kept (Friedman, 1993; Flanagan, 1984).

During the eighteenth century the States were moving from informal and community punishments to housing those convicted of crimes in penal institutions. In the northern states the new institutions were large and the punishment was formal. Each person convicted was sentenced to a standard punishment, which was to be served in larger penitentiaries. In the south some states were building penitentiaries similar in style to those in the north but much smaller. Criminal punishment was less formal in the southern states and white convicts were the only ones placed in penitentiaries. Black convicts were punished publicly and severely, such as whipping and hanging (Adamson, 1983). Both northern and southern states used privatization to help finance the operation of these penitentiaries.

New York, Connecticut, Massachusetts, and Pennsylvania were some states in the north that used contracting of prison labor to private industries to help
pay the costs of operating the prison systems. State legislatures expected prisons to be self-supporting. Those state institutions that were unable to pay for themselves were contracted out to private entities. The States awarded contracts for private companies to run the prison industries as well (Durham, 1989, 1993; Flanigan, 1989). Louisiana and Kentucky also contracted to private industry to run inmate labor programs. Additionally, Louisiana contracted a private organization for the management of its penitentiary as a means of paying for inmate costs (Durham, 1993).

After the civil war correctional privatization became more wide spread in both northern and southern states. The southern states were rebuilding industrial areas and needed a large labor force at a minimal cost. Freeing of the slaves all but eliminated the inexpensive labor force. Although laws were changed and the slaves were freed, attitudes towards the black population in the south did not change. New laws enacted in the southern states, such as vagrancy laws, made unemployed black males susceptible
to arrest and imprisonment, (Adamson, 1983). During the
civil war many state prisons were damaged or destroyed.
Southern states did not have room in the remaining state
prisons to house prisoners convicted under the new laws.
Lack of space to house prisoners, along with the need for
labor, brought about the leasing of inmates to private
contractors. The labor ranged from building railroads to
farming. In most cases contractors were given total
responsibility for the inmates. This meant that inmate
living conditions, working conditions, and other aspects
of control were left up to the contractor. In many
privately operated work camps the living conditions were
subhuman, the work hard and hours long. Many inmates
became permanently injured or died before being released.
State governments kept a "hands off" attitude once
prisoners were placed in the system or leased out to
private contractors. Because of the new laws, the
criminal justice system was a new form of slavery in the
post-civil war south (Adamson, 1983; Friedman, 1993;
Durham, 1993).
In northern and western states contracting for labor and management of facilities was also used. Like the southern states, the north was trying to rebuild its industries with minimal funding. Northern states were also experiencing a growing unemployed or “problem” population after the civil war. Although conditions in the north and west were not perceived as being as brutal as those in the south, they were still considered to be lower than standards that had been set by the States. Most states throughout the country did not include monitoring provisions in the contracts, nor did they implement monitoring systems in the privately run prisons or work camps in order to protect inmates from abuses by private contractors (Adamson, 1983; Friedman, 1993; Durham, 1993).

During this time, jails were not immune to overcrowding and limited funding. The counties and cities that contracted services usually contracted out the management of jails, or leased out inmate labor to those contractors who provided county or city services. Both the prison and jail systems used inmate labor to rebuild
facilities damaged during the war (Durham, 1993). The contracting for management usually had the jail managers and their families live on the premises. They provided food and care of the inmates as well as maintaining the facility. In some cases jailers charged the inmates for care such as clothing, bedding, and other services (Planagan, 1989). In the south, county chain gangs were a common sight along the roads. Inmates were also leased out to work on farms and canal systems. As with the state prisoners, work was long and hard and living conditions were inhumane (Friedman 1993; Adamson 1983).

Privatization of jail and prison services began to be restricted during the late nineteenth and early twentieth centuries. Labor organizations objected to the businesses, which used inexpensive inmate labor to produce consumer goods and services, and sold products at a lower price than union organizations were able to. Legislation was enacted to limit the types of labor inmates could perform. Jobs that directly competed with union labor were the main types of work that were eliminated. Many contracted
services were canceled (Durham 1993, Flanagan 1989). Along with the labor unions, prison officials and reform groups were also outraged by prison living and working conditions. They pressured state and federal governments to return to governmental control of jails and prisons (DiIulio 1988). Many aspects of private contracts have continued to be used in prisons and jails since the early twentieth century. Food, medical services, education, and counseling continue to be contracted out to private organizations (Durham, 1989).

Abuses by private contractors and lack of governmental monitoring prior to and after the civil war are two arguments used by those opposing the return of private management of correctional institutions. Although prisons and jails were returned to governmental management during the late nineteenth and early twentieth centuries, the courts did not address laws regarding inmates' rights until the second half of the twentieth century. The courts reversed their stand on the treatment of inmates from "hands off" during a time when control of jails and
prisons were mainly back under the local governments. Many of the more recent laws protecting inmates' rights reduce the possibilities for conditions that prevailed during the post civil war era from reoccurring.
Recent Privatization of Jails

In 1987 a number of local (county or municipal) correctional facilities throughout the United States were under court orders to improve the living conditions of inmates (DiIulio, 1988). A 1987 survey showed that approximately fifty percent of those jails under court orders had lawsuits pending due to conditions caused by overcrowding in the facilities (Durham, 1989). In 1994 one third of all incarcerated individuals were held in local jail facilities. There were 490,442 adults in the jails. Six states did not respond to the survey. This number had increased from 223,551 in 1983 (Perkins et. al., 1995). In 1998 this number increased to 592,462 (Gillard, 1999). Between the years 1983 and 1994 the number of people in jails increased from an average of 96 per 100,000 persons residing in the United States to 188 per 100,000 residence, an increase of 106 percent. One of every 398
people was being held in a county or municipal jail. Areas with larger jurisdictions had numbers even higher. For example, California had seven of the twenty-five largest local jurisdictions with an average of 220 persons in jail per 100,000 residence. These facilities were operating at 113 percent of their rated capacities. During the same time the national average was 97 percent of rated capacities (Perkins et. al. 1995).

The reasons for increases in local jail populations have more to do with the types of individuals placed in jails rather than the longer sentencing times that are associated with overcrowding in state and federal prisons. The majority of those sentenced to jail are serving less than one year as opposed to state and federal facilities, which hold inmates from one year to life. The increase in jail populations can be attributed to more arrests for new crimes, parole and probation violators, and an increase in the types of criminals housed in local facilities. In 1993 the number of arrests stood at 14.0 million, an increase from 11.7 million in 1983. Jail admissions increased from
6.0 million in 1983 to 9.8 million in 1993. Much of the increase represented felons being sentenced to local jails. The number of felons sentenced to local facilities nearly doubled from 1983 to 1993. Included among the felons being sentenced to local jails were inmates from state and federal prisons experiencing over crowding problems, a situation that continues today. In 1993, 12 percent of the jail populations were state and federal inmates (Perkins et. al. 1995). Another cause for the increase in jail populations is the increase in conviction rates for drug offences. In 1983 one of every ten inmates in jails was convicted of drug offences. This number increased to one of every four inmates in 1989 (Perkins et. al. 1995).

The cost of keeping inmates in local jails also increased between the years 1983 and 1993. In 1983 $9,360 was the average cost per year to house an inmate in jail. In 1993 that cost had increased to $14,667 per year. This increase in costs per inmate, in addition to increased populations, contributed to the problems that caused many
facilities to fall under court orders. Many facilities did not have funds to add on to or improve existing facilities to accommodate the inmate populations. For Example, in Missouri jails were under federal court orders to reduce the number of inmates in county facilities. The combined problems of jail population increases, higher costs, court issues and outside pressure from the public also caused low morale problems among the employees. This has led to an increase in departure rates correctional staffs (Moore, 1999).

In many jurisdictions the increase in inmate populations has occurred at a faster rate than the increase in resources. Jails spent over 9.6 billion dollars in 1993, more than double the amount spent in 1983 (Perkins et. al. 1995). In many jurisdictions corrections accounts for the largest part of their annual budget (DiIulio, 1998). These increases in costs to operate jails have caused reductions in services provided within the facilities (Durham, 1989). This in turn has caused an
increase in idle time for inmates, which has been shown in some cases to increase tensions inside the facility.

Most local jails rely on a local tax base. Studies have shown that as unemployment increases in an area, so do the arrest rates. Unemployment also reduces the tax base, which many jurisdictions rely on for county and municipal funding. In most jurisdictions the same unemployment that causes an increase in jail populations is also a contributing factor to the decrease in revenue needed to operate local facilities. Due to the scarcity of revenues some legislatures began to explore other financial options for operating jails. They were looking for ways to operate facilities at lower financial rates than were currently being spent.

Many governmental agencies began privatizing portions sections of jail operations in order to reduce spending. The idea of privatization of corrections, as well as other governmental functions, was influenced by two emerging public concepts. One was the reduction of trust in the public sector to operate their organizations as
efficiently as private companies. The other was the concept of reducing the size of government (Logan, 1989). Tennessee reported a legislative budget analysis that estimated privatizing jail facilities could save 22 percent of the yearly corrections budget (Moore, 1999). Some services in jails had been contracted out to private companies, such as medical services, plant maintenance, and food preparation. These services were found to be more economical in facilities that utilized private contractors. The focus was then placed on the actual running and managing of a facility by contracting with a private correctional corporation.

In southern California the counties experienced a reduction in funding from the state for their jails. These counties elected to use booking fees to offset these financial reductions. The counties charged the municipal police departments a fee to book those arrested on open or probable cause charges. The cities were not charged booking fees for persons booked into the jails for warrant or Parole/Probation charges. In one major southern
California city the fee was $165 dollars per person booked into the county jail. These fees prompted cities to search for ways to reduce their costs for the incarceration of those arrested by their police departments. Many chose to build or reopen detention facilities within their police departments. These holding facilities can detain arrestees for up to seventy-two hours or until arraignment. Some police departments also turned to the private sector to run these temporary holding facilities. Private correctional agencies were contracted to provide the personnel for daily operations of city jails. In 1997, ten cities in southern California had contracted to private organizations for the operation of city jails. At that time, other cities were also researching the possibility of contracting with private organizations for their jail operations (Holien, 1999). Private contracting posed more questions than just issues of economics with local governments. Legal and ethical concerns began to surface as well. There began to be concerns among those in
government and corrections as to whether the operation of jails by private contractors was legal or ethical.

Arguments and Concerns about Privatization of Jails

The arguments and concerns addressed in this section are primarily associated with the operation of local holding facilities. There are other concerns that address issues in larger prisons, but are not prevalent in smaller jails. Major groups associated with corrections have issued statements concerning their stand on the privatization issue. The American Jail Association has stated that it is officially opposed to privatization of jails. The reasons are as follows:

1. "Jails have traditionally been operated by city, county, or state officials," (National Institute of Corrections 1992 - p 69)
2. Those government officials who run the facilities have become more professional in their duties.
3. Responsibility and liability of the operations of jails is the responsibility of the governmental
agency, and privatization does not remove this liability.

4. Cost has been shown in most cases to be the same or higher in privately operated facilities, (National Institute of Corrections, 1992).

The American Federation of State, County and Municipal Employees as well as the National Sheriff's Association are also officially against privatization of correctional facilities. In addition to the reasons stated by the American Jail Association, the Sheriff's Association cites staffing issues. The association states that salaries and benefits will be reduced in favor of profits. Additionally, staff to inmate ratios will be too low in order to reduce costs (National Institute of Corrections, 1992).

The American Bar Association (ABA) does not make an official stand on privatization but advises caution. The ABA suggests that before contracting with a private company the public agency should be sure of constitutional, legislative, and contractual issues. The
American Civil Liberties Union, (ACLU) has taken a stand against privatization because of concern over inmates' rights which may be diminished in a privately operated facility (Donahue, 1989). The American Correctional Association (ACA) states that while the governmental agencies have absolute authority and responsibility, private organizations can be utilized for the benefit of effective operations. There should be, however, specific guidelines to insure good correctional policy and practices (National Institute of Corrections, 1992; Donahue, 1989; American Correctional Association, 2000).

The primary concern of most organizations is that of legal or constitutional propriety. Is it legal, or even constitutional, for a private company or private citizen to perform the duties of incarceration? The National Sheriff's Association has stated those employed by the government over the past fifty years have exclusively performed these duties. Neither private organizations, nor private citizens, should have the role of incarcerating people (National Institute of Corrections, 1992). The U.S.
Supreme Court has stated that "correctional functions have never been exclusively public" (Richardson v. McNight). It should be noted that private correctional organizations are not given the authority to place people in jails. Government authorities, such as police and courts, have placed those who are held in correctional facilities. The courts determine the amount of time a person will spend in an institution, including the determination of good time and work time allowed.

A common belief is that supervision and operation of a correctional institution falls under the police powers of government. The federal government has broad regulations pertaining to the delegational powers of its agencies. When this question has been raised in the courts, it has been determined that government can authorize a private organization to manage and operate a government facility as long as the governmental body retains ultimate control including formulating the policies for that facility (Robbins 1988). Each state, however, may have more limited powers of delegation.
through its legislative regulations. There have been no successful court challenges based solely on the constitutionality of private facilities (Thomas & Logan, 1993). The state of California has addressed the legal issue of managing and staffing local jails with private organizations. Under Title 15, the authority to operate local jails has been placed in the hands of local governments. This includes determining who manages and staffs the facility (California Title 15). Although operations of local jails fall under the authority of local government, each facility is required to follow state codes such as building, health and fire, as well as Department of Corrections regulations for training and other correctional functions. These standards are also outlined in Title 15 (Holien, 1999).

In the case of city jails the city and or police department many contract with a private company to operate the facility. However, the governing body retains ultimate control and responsibility. Part of maintaining ultimate control and responsibility is accomplished through policy
and procedures. The governing body is responsible for making policies that adhere to state guidelines. Those who operate the facility are required to follow policies set forth by the government organization responsible for the facility. In this manner, the private organization is carrying out the duties outlined and regulated by the responsible governing agency. In California the regulatory code Title 15 states that:

In the event that a county, city or city and county contracts for a local detention facility with a community-based public or private organization, compliance with appropriate Title 15 and title 24 regulations shall be made a part of the contract. Nothing in this standard shall be construed as creating enabling language to broaden or restrict privatization of local detention facilities beyond that which is contained in statute. (California Title 15 Article 2 Sec. 1013).

In addition, Article 3 of Title 15 states that all local detention facilities shall have policy and procedure manuals that include all regulations from Titles 15 and 24 which apply to that facility. Although local government agencies are given authority to contract management and
operations of detention facilities to private organizations, the state has maintained control regarding compliance to regulations. If a facility is found to be noncompliant it has 60 days to come up to standard. If the facility does not comply with the state regulations the state has the authority to terminate the contract (Holien, 1999).

Another question raised in the privatization of jails pertains to liability of the private contractor and the governing agency. Do private corrections officers have the same rights as public officers? In California private correctional officers' use of force and arrest abilities are limited. California does not provide for cities or counties to delegate peace officer powers to those who are privately employed through contracts to a public agency (Holien, 1999). Protection of private correctional officers is also limited under the law.

Private correctional officers do not have all the powers given to publicly employed officers. For example, tactical use of force such as the use of chemical agents,
batons, and other weapons is not permitted for private correctional officers. However, this type of force is not generally allowed in detention facilities unless there is an emergency situation. Private correctional officers do have the same powers afforded citizens in such areas as use of force and arrest. In the public sector jails, each officer is required to be certified in certain areas of use of force before he or she is allowed to perform such duties. Each facility should include in the contract how use of force situations will be addressed and dealt with.

In addition to not being allowed to use certain tactics of force, private correctional officers are also not protected under the same laws as public safety officers. The Supreme Court in the case of West v. Atkins, determined that private agencies and their employees who have contracts with governmental agencies can be found liable under Section 1983 of the Civil Rights Code, (Thomas & Logan, 1989).

In spite of the fact that private correctional officers can be held liable under section 1983, they are
not protected under the immunity of the Eleventh Amendment, as are public officers. In the case of
Richardson v. McKnight the Supreme Court established that private sector security agents are not protected under the same laws of qualified immunities contained in the Eleventh Amendment, as are public safety officers. This could be seen as a problem, but it can also be used as a restraint. If an officer will not be immune to prosecution for careless or wrongful actions he/she will be more conscientious in responding to situations within the facility. Issues concerning liability should be addressed in the contracts. Contracts need to be very specific regarding correctional officer conduct and liabilities.

Quality is another issue for those who oppose privatization of correctional facilities. The quality concerns include the quality of care for inmates as well as the quality of correctional officers’ training and performance. The horror stories of private work camps and jails in the eighteenth, nineteenth, and early twentieth centuries made people skeptical of privatization at that
time. During that era, however, there were similar horror stories of public correctional facilities to match those of private facilities. Success stories in both public and private facilities can be found, as well (Donahue, 1989). There was no enforcement of regulations during that time. Facility policies are now set by the governing agencies and are regulated through statutes. When asked in studies about the quality of care and treatment, inmates have stated that there is no difference between public and private correctional officers. They also state that they do not concern themselves about who the correctional officer works for as long as they are treated fairly while in the facility (Logan, 1989). Some studies address another concern about privatization. Is there a loss of respect for the authority of the facility and staff if they work for a private company as opposed to a government agency? As long as the "purpose of the courts" is accomplished, and the inmates are guaranteed their rights of fair treatment under the law, most inmates do not care whose emblem is on the shirt of the person who oversees
their incarceration (Donahue, 1989). The treatment of inmates inside a correctional facility is determined by state and federal laws and by those who are ultimately responsible for the facility.

Quality of officer training is a concern stated by the National Sheriff's Association, as well as other groups opposed to the privatization of jails. The Sheriff's Association is concerned that training programs and regulations that they have adopted over the years would be disregarded, should the private sector take over the management of jail facilities (National Institute of Corrections, 1992). The Association is also concerned that private agencies will not be bound by the same regulations regarding hiring and training standards that the public agencies are required to meet (Kerle, 1998). Most private correctional agencies train their correctional officers according to the American Correctional Association (ACA) standards. The average number of training hours in private corrections is 282, with some organizations having twice that amount (Gaseau, 1999). This is determined once again
by the state and local statutes and by the contract between the government agency and the private contractor. In both quality of inmate care and quality of officer training, state statutes must be adhered to and specific issues should be addressed in the contracts between the government agency and the private company.

A further concern is the actual costs of privately operated facilities. One question posed is whether private organizations operate correctional facilities at less cost than public agencies. Another cost issue is the compensation of staff in privately operated facilities compared to public facilities. As to whether private companies are able to run facilities at less cost, the answer so far (according to documents and studies) is inconclusive. A private agency contract bid to run the Bay County Jail in Florida was twenty percent below the Sheriff's proposed budget for the same time frame (Donahue, 1989). Some studies done have shown direct costs at 4 to 15 percent savings (Thomas & Logan, 1993). Another study of facilities cost savings was shown ranging from
10.71 to 52.23 percent (Calabrese, 1993). Other studies have varied reports ranging from some savings to no savings. A Dallas newspaper reported that it was actually more expensive to hire a private agency to operate jails in Texas, stating that private jails pay higher salaries than public prisons (Dennis, 1997). Other studies have found that pay in the private facilities is lower than at public ones, and therefore is a major contributing factor to higher turnover rates than in public facilities (Kerle, 1998; Gaseau, 1999).

Most studies show that personnel account for approximately 70 to 75 percent of the operational budget in correctional facilities. Therefore, wages and benefits for employees are a major factor in the cost of facility operations (Thomas & Logan, 1993). Another compensation issue is benefits and retirement programs for those who work in facilities that have changed from public management to private. Correctional officers who are reassigned from working for a public to a private facility would lose many benefits such as health and public
employee retirement plans (Kerle, 1998). Most public retirement programs are based on the highest earned income over a specific number of years. They are also based upon a specific number of years before a person becomes eligible (vested) in the system before they will be able to use the retirement plan. A number of people are not able to obtain the retirement plan in the public sector because they do not remain in corrections for the required number of years (Calabrese, 1993). Even without privatization corrections has a high turnover rate (Gaseau, 1999). Many individuals who work in corrections will only stay until a better criminal justice position becomes available, or move into another career field before they are eligible for the public retirement system.

Some costs are difficult to pinpoint in many correctional institutions. There are direct costs such as personnel, utilities, food, supplies, etc. There are also indirect costs that are absorbed into the entire governmental systems and are difficult to label (Calabrese, 1993). When a correctional facility is part of
a larger department, some costs are absorbed by the entire department and are difficult to single out and identify. Issues concerning compensation are also determined by the public agency through contracts constructed between the public agency and the private company. In the case of workers moving from public to private management, the contract can include protection of some benefits for those employees. This decision would be left up to the public agency at the time of contract negotiations (Calabrese, 1993).
CHAPTER THREE

CITY JAIL FACILITIES IN SOUTHERN CALIFORNIA

City Jails in Five Southern California Counties

In 1990 the California Legislature passed a measure which allows the counties to charge booking fees to cities and other agencies that bring arrestees to the county jail for processing. This measure was enacted in response to rapidly rising operational costs for county jails. Operational costs for county jails in California nearly tripled between 1984 and 1995. A fee to cover the cost of booking an inmate into the county jail is charged to the arresting agency. The fees charged to the cities and other agencies cover the administrative overhead and any costs for supplies and equipment used in the booking process. These include the searching and clothing of prisoners, the equipment and time involved in fingerprinting, photographing, identification of the inmate, the processing of all paperwork and property, and medical
screening. The fees are generally from $150 to $170 for each inmate and are determined by the county facility (California BOC, 2000). Types of arrests that are excluded from the booking fees include warrant arrests for failure to appear as well as crimes outside the jurisdiction of the arresting agency. Arrests for parole and probation violations or escapes are also exempt from booking fees. There is a reduction in the fees for those tasks that have been done by the arresting agency and do not have to be duplicated by the county jail (California BOC, 2000). These tasks may include fingerprinting, photos, and processing of detainers and warrants.

While this measure brought in funding for the counties, it also had unexpected results. Many cities built or reopened Type I Jails or Temporary Holding Facilities within the city police departments (California BOC, 2000). Type I jail facilities may detain arrested persons from the time of arrest until release, transport to a county facility, or a court appearance (see Appendix A). The holding capacities of city Type I jails and
temporary holding facilities nearly doubled from 1989 to 1997. In 1997 slightly less than 500,000 people were booked into county jails throughout California. Of those booked 53 percent were for misdemeanor charges. If all misdemeanor arestees were released from the city jails without being booked into county jails, it could mean cost savings of $39,750,000 to $45,050,000 to the cities. In some cases those arrested for misdemeanors booked directly into the county jails, or those arrested for felonies may be released from the city jails on bond. The previous figures are an example of potential cost saving to cities if they do not book people into the county jail. In addition to the elimination of booking fees for those released from the city jail, there is a reduction of booking fees for those who are booked into the county jails after being processed through city jails. If fingerprinting, photographing, and processing of warrants or detainers has been completed, these procedures need not be duplicated by the county facility. With the addition of electronic fingerprinting equipment, one set of
fingerprints can be sent to all county, state, and federal agencies.

In five southern California counties, a number of cities chose to contract the operations of their city jails to private corporations. There are approximately 85 city jails in the combined counties of Los Angeles, Orange, Riverside, San Bernardino and San Diego that are Type I Jails or Temporary Holding Facilities (See Appendix A). Of these facilities approximately 12 or less than 15 percent are privately operated (California BOC, 2000; Holien, 1999).

The primary reason for contracting the management of jails to private organizations is cost savings. In addition to the initial cost savings from booking fees, cities save money in the operation of the jail as well. By staffing the jails through private companies the cities save costs in areas of hiring, and other personnel obligations. City jails that are being opened or reopened and require new staff are able to obtain personnel more rapidly than going through the civil hiring process.
The private agency is able to screen prospective employees and present them to the public agency relatively sooner than the public agency would be able to do. Because private organizations usually staff a number of facilities, they have a pool of trained personnel ready to be placed in a facility. The private company also assumes responsibility for providing insurance, training, uniforms, and other aspects of personnel management. This is a cost saving to the public agencies in both initial outlay of funds and time of personnel to provide these services.

The city of Rialto states that in the first ten months of private operation, the jail saved the city $150,000 in comparison to city employees having performed the same duties (Rialto Police Department, 2000). In 1995, the city of San Bernardino built a jail facility within a new police department building. The jail began operations in 1996. The police department contracted management of the jail to a private contractor when it opened the facility. I was personally involved with the operations of
the San Bernardino City Jail. The jail had a staff of 12 custody officers and one clerk, who are employees of a private company. The police department assigned a Lieutenant as the monitor of the jail for the police department. This Lieutenant was trained in jail operations and management and was a paid employee of the police department. Records were kept of the number of people booked into the facility and released or transferred to the county jail on a monthly basis. In the first year of operations the city saved enough money from booking fees and operation costs to pay the building costs of the jail. In 1999 the city of San Bernardino elected to renew the contract for services for $643,200 for the fiscal year 1999 (San Bernardino, 1999). For the city of San Bernardino, which booked in approximately 500 adults per month, (Fitzsimmons, 1996) the cost savings to the city after the contract cost was approximately $256,000.

Those facilities that are changing from public to private operations have the ability to assure that employees who wish to remain working there may do so, or
they may place employees in other positions. For example, in some jails the staffing was done by patrol officers as part of their patrol duties. If a person was brought into the jail, the arresting officer did the booking duties of searching, photographing, and fingerprinting. The officer was also obligated to stay or have another person remain in the jail until the detainee was released or transported to the county jail by a patrol officer. In some areas of Southern California the trip to the county jail can take the patrol officer out of the city from 30 minutes to 2 hours, or more. While this arrangement reduced the costs of booking fees for the department, it also took the patrol officer away from his/her duties in the city. From the city of San Bernardino, the drive to the main county jail takes about 33 minutes round trip. In 1997 the private company that operated the jail for the city of Redlands transported 1,549 adults to the county jail (City of Redlands, 2000). The private company operating the Rialto City Jail logged 2,978 hours of transporting
detainees to the county jail in the first ten months of operation (Rialto Police Department, 2000).

Cities that contracted with private companies to operate jails found that in addition to cost savings in booking fees and personnel, the jails provided cost savings in other areas. Because city jails are physically located in the city where the officers work, and serve only that particular police department, officers are able to spend more time in their assigned patrol areas. Unlike county jails, which serve all agencies within the county, city jails have a faster processing time for booking arrestees into the facility. In both circumstances officers are able to spend more time on patrol. This is important to the city and its citizens. If the officers already on duty at the department are able to spend more time performing their assigned duties, the need to hire additional officers is reduced.

City jails are required to follow the regulations set forth in California Regulatory Codes, Titles 15 and 24, which pertain to Type I and Temporary Holding Facilities.
Included in these regulations are staffing levels, training requirements, and inmate treatment. Title 15 of the regulatory code as well as the California Penal Code both require jails to have adequate staff to perform the mandated duties. The most important is the requirement that each person housed in a jail must be physically viewed at least once each hour. In the case of an intoxicated person in a detoxification cell, the time frame for observation is at least once every half hour (California BOC, 2000). In addition, a staff member must be physically present in case of an emergency situation involving any person detained in the facility.

The State of California also outlines specific training requirements for those employed as custody officers in Type I Facilities and Temporary Holding Facilities. In addition, the State suggests that extra training be done at facilities that includes any special needs or requirements of the police department or city. The San Bernardino Police Department conducted training, in addition to the state required training, on
departmental policies and procedures as well as a safety-driving course for the use of department vehicles. At the time the jail opened it was operating as a Temporary Holding Facility. In addition to the eight hours of training required by state regulations, the police department conducted a one-week training course taught by members of the police department. This course included functions of the police department and how the jail would become a part of those functions. This course gave the corrections staff the training needed to work successfully with and within the police department. It also gave members of the police department the opportunity to begin a close working relationship with the corrections staff. This proved to be very valuable for both the police department and the jail staff. The jail staff and police department members were able to work together to bring the jail up to full operation quickly. Because of this working relationship the police department was able to financially improve its budget in the first year of jail operations.
For some topics, such as response to emergency situations, the jail staff trained along with members of the police department. The police department required that all available officers respond to emergency situations in the jail. Policies and procedures outlining emergency situations and the response and actions of both the police department and jail staff were added to the police department policies as well as jail policies. The emergency training and policies proved to be valuable for the safety of staff members as well as those housed in the facility. It also gave the members of the police department and jail staff an understanding of the duties and responsibilities of each organization in an emergency situation.

The California Board of Corrections is required to inspect the facilities at a minimum of every two years. The latest available data on these inspections is from the 1998/00 inspection cycle (California BOC, 2000). The following is a comparison between city jails that are operated by public agencies and those that have been
contracted to private companies for operations. The Board
of Corrections states that the most common areas of
deficiencies in Type I Jails and Temporary Holding
Facilities were:

- Number of Personnel (inadequate staffing levels);
- Use of Detoxification Cells (physical plant limitations); Some facilities do not have separate detoxification cells for males and females. This is because they were built before the requirement of separate detoxification cells were part of Titles 15 and 24 (California BOC, 2000).
- Failure to have current fire inspection reports on file;
- Policy and Procedure Manual (missing sections or not updated annually);
- Use of Restraint Devices (inadequate written policies governing use);
- Facility Sanitation, Safety, and Maintenance;
Failure to have current Medical/Mental Health, Nutrition and Health inspection reports on file;
(California BOC; 2000, chapter 3 p-3).

I have also included training deficiencies, due to the concerns raised over training in privately operated jails. Additionally, I have listed those jails that were in full compliance according to the Board of Corrections report.

The California BOC report listed each facility by name and type of facility. I have listed Type I and Temporary Holding Facilities for comparison, as these are similar in operations and functions. There are no privately operated county jails. The total number of jails in the study is 85 Type I Jails or Temporary Holding Facilities, 76 of these are publicly operated and 9 are operated by private companies.

There were a total of 15 jails in the study that were in compliance with California BOC regulations. Of the 15, 12 were publicly operated and three were privately operated. The number of jails that were not in compliance with personnel standards was 17; 16 public jails and one
privately operated jail. The number of jails not in compliance in the use of detoxification cells was 27; 26 public jails and one privately operated jail. The number of facilities, which did not have fire inspection records was 10; eight public jails and two privately operated jails. The number of jails without complete or updated Policy and Procedure manuals was 11, 10 public jails and one privately operated jail. The number of jails, which did not meet sanitation, safety, and maintenance regulations, were 8. All eight jails were publicly operated. The number of jails that did not meet the standards for current Medical/Mental Health, Nutrition and Health inspection reports was 4, all publicly operated. The number of jails that did not have adequate policies for the use of restraint devices was 12. Of the 12, 11 jails were publicly operated and one was privately operated. The number of jails that had one or more violation of training requirements was fourteen. Of the fourteen, thirteen were publicly operated and one was privately operated (California BOC, 2000). (See table 1).
Definitions of each infraction can be located in Appendix C.

Table 1. Jail Inspections

<table>
<thead>
<tr>
<th>Type of Deficiency</th>
<th>Total Number of Jails</th>
<th>Publicly Operated Jails</th>
<th>Privately Operated Jails</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel</td>
<td>17</td>
<td>16</td>
<td>1</td>
</tr>
<tr>
<td>Use of Detoxification Cells</td>
<td>27</td>
<td>26</td>
<td>1</td>
</tr>
<tr>
<td>Current Fire Inspection Reports</td>
<td>10</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>Policy and Procedure Manuals</td>
<td>11</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Safety, Security, &amp; Maintenance</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Medical/Mental Health Reports</td>
<td>4</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Training Requirements</td>
<td>14</td>
<td>13</td>
<td>1</td>
</tr>
<tr>
<td>Use of Restraint Devices</td>
<td>12</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>Facilities in Compliance</td>
<td>15</td>
<td>12</td>
<td>3</td>
</tr>
</tbody>
</table>

(California BOC, 2000: Appendixes E & F)

After the Board of Corrections has inspected a facility the BOC then provides a copy of the report to the jail administration (which is the public agency in the case of a privately operated facility). The Board of Corrections then develops a plan with the public agency to
bring deficient areas up to standards. This plan is then filed with Board of Corrections and the facility is monitored to assure that compliance is being attempted. In the case of privately operated jails, the State of California, through the Board of Corrections, may terminate the contract if the standards are not met in the time agreed upon in the compliance plan (California BOC, 2000).

By percentage, there was no significant difference in deficiencies received between the public and private sector jails. The number of publicly operated jails represented approximately 89 percent of the total number in the study. The privately operated jails represented approximately 11 percent of the total jails.

It is important to keep in mind what the public entity wishes to gain when considering whether or not to contract the operation of a city jail to a private company. Some police departments feel it is important that officers get experience in a jail setting as part of their training. This is more common in county jails that are
operated by the Sheriff's Department which also provides patrol officers. However, some cities also prefer to have the jail as part of the training curriculum. It would not be feasible to privatize this type of facility. Regardless of the reasons for contracting to a private agency, the public agency should keep in mind that the ultimate responsibility for the function of the facility belongs to the governing agency. There are precautions that can be taken to assure a successful operation and relationship with the private corporation.

Contracts and Monitoring for Private City Jails

The success of a privately operated jail depends on three major factors. First (and most important) is the contract between the public agency and the private company. The contract must include all aspects of jail operations. Second are the operations policy and procedures for the jail. Third is monitoring of the operations by the public agency. While each is a separate
component, they are interdependent upon each other (Gaseau, 1999).

As the most important element for success, the contract should include a variety of requirements. Prior to creating a contract the public agency should research available private companies. The idea of privatization is to obtain the most value for the cost. The public agency must include everything it views as pertinent in a contract with a private company. By researching each private corporation the public agency can create a competitive atmosphere and hire the organization that best suits its needs and requirements (Gaseau, 1999).

Once a private company has been selected, the contract must be explicit and inclusive. Both the government agency and the private company have representatives involved in contract preparation. The following are suggestions and examples of areas to be included in a contract prior to turning over operations of a facility to the private contractor (Robbins, 1989). While Robbins covered large federal and state prisons as
well as jails, I shall review only subjects that pertain to the operation of Type I jails or Temporary Holding Facilities.

The first section of the contract should include goals and responsibilities of the public entity and the private organization. For example, the goal for hiring a private organization is cost savings. The contract should assure that the private agency will carry out required functions and duties at less cost. The performance of duties will include maintaining the legal standards of keeping inmates safe and secure within the facility. This will also include humane treatment of those housed in the jail. This section should also include a statement that the private company will abide by all laws and regulations set by state and federal governments pertaining to jail operations (Robbins, 1989). The State of California requires that all cities contracting with private companies for jail operations comply with regulations outlined in Titles 15 and 24 of the regulatory code which pertain to Type I jails or Temporary Holding Facilities.
This should also include a time frame for the private company to meet these requirements. The State of California has the power to terminate contracts if these guidelines are not met.

The actual length of the contract should also be included. Certain considerations need to be examined prior to setting contract time length. Some cities or governing agencies have policies stipulating the length of time contracts can be set between the city and private organizations. The city guidelines must be observed. The contract time frame should be long enough for a private company to prove itself and accomplish its goals. On the other hand, the contract time needs to be short enough to ensure continuing competitiveness. Robbins suggests about 1 to 3 year contracts. This will also allow for renegotiations of contract objectives.

A significant and very important part of contract negotiations concerns the compensation paid to the private contractor. In large prisons and some larger jails compensation is based on the number of prisoners housed in
the facility over a specific time period. However, because of the nature of city jails, this would not be a feasible arrangement for these types of facilities. Most individuals brought to a city jail are released within 24 hours. This is done by citing and releasing the person, posting bail or bond, or transporting the person to another facility prior to (or after) arraignment. Because of the function of city jails, fixed rate or flat-fee contracts are best suited for these types of facilities. Unlike larger prisons, these contracts are not designed to pay the private company on a per-inmate basis. Flat-fee contracts stipulate a specific rate for a specified number of staff and other functions over a fixed time period regardless of the number of detainees processed. Flat-fee contracts usually benefit the public agency, as rates usually do not change until the contract is renegotiated. In addition to the amount to be paid, the contract should include payment schedules and circumstances that may require emergency review of the contract (Robbins, 1989).
Other financial responsibilities that should be addressed prior to signing the contract and specifically entered into the contract are insurance and bond amounts to be supplied by the private company. The private company should be required to prove that it has enough insurance to cover any legal claims that may be filed against the jail due to staff or organizational actions during the time the private company is responsible for operation of the facility (Gaseau, 1999). The public entity is ultimately responsible for claims filed against the jail. If the private company is not able to pay the expenses resulting from possible litigation, the public agency will be required to do so. The insurance portion of the contract needs to be very specific regarding responsibility for liability issues resulting from acts performed by staff members of the private company (Robbins, 1989). The private company and its staff members may be sued for civil rights claims under 42 USC 1983 (Thomas & Logan, 1989). Staff members however, may not exercise immunities afforded those employed in the public
sector under the Eleventh Amendment of the United States Constitution (Donahue, 1989). This lack of immunity encourages the private sector to act responsibly.

Employee compensation should be addressed contractually as well. The private agency should be required to provide health insurance according to state and federal laws as well as coverage for on the job injuries and those resulting from travel or training. Retirement benefits and any other staff compensation should be addressed and specified as the responsibility of the private company.

An additional financial issue should be included in this portion of the contract. A bond should be required in the event that the private company is not able to complete the contract time period. This will cover costs of jail operations until a new contract can be put in place with another organization, or to the end of the current contract time (Robbins, 1989). This will also ensure uninterrupted jail operations if the contract is terminated due to noncompliance. Provisions to cover
damages done to the facility or equipment (by the staff or detainees) other than normal wear should also be addressed in the contract. The private company is responsible for the actions of its employees while working in the facility. The contract should include operating standards and any accreditation required by the state or public agency. This does not mean the entire policy and procedure of the jail be included. This does, however, necessitate that the public agency be specific in what types of standards are required for operation of the jail. The contract should specify that the jail be run in accordance with standards set forth by the state statutory codes regarding staff training and jail operations. Jail managers should also be responsible for knowing and adhering to changes in the laws regarding jail procedures. It has also been suggested that the contract require the jail to obtain American Correctional Association (ACA) accreditation (Robbins, 1989; Gaseau, 1999). In the public sector ACA accreditation is not required. It is voluntary and does assure certain minimal standards are being
adhered to. These standards include training, staffing, and inmate treatment. The State of California does have specific guidelines for city jails. In states that do not have specific guidelines for contracting the operations of city jails, the requirement of ACA standards would be an absolute necessity.

The standards section of the contract also needs to address any additional training requirements set forth by the public agency. It should address the agency's standards for use of force issues in addition to the state statutes and guidelines. The public agency should specify what types of force it will allow jail staff to use and under what circumstances. The public agency has responsibility for specifically outlining any use of force issues not addressed by state statute. The public agency also needs to specify who will administer and pay for any additional training. In addition to specifying use of force, emergency procedures should be addressed. Some agencies require the private organization to have arrangements with local entities to respond in emergency
situations (Gaseau, 1999). City jails that are part of the police department are able to make arrangements for members of the department to respond in emergency situations. Arrangements with other organizations such as fire and emergency medical agencies should be addressed in the contract.

Personnel issues are other important aspects of contracts between a public agency and a private organization. Hiring criteria should be specific. The contract should specify that all hiring practices for the facility will follow state and federal hiring laws. If the operation of the jail is being transferred from public to private, the contract should include provisions for those employees who wish to remain employed in the facility. This can be problematic for both the contracting agency and the corporation taking over facility management. Personnel costs constitute the majority of the operations budget (up to 90 percent). Most often the savings will come from personnel areas. The contract should address the issues of retaining employees while allowing the private
agency flexibility to utilize staff according to facility needs. Previous staff members should have priority in retaining their positions as long as they meet hiring requirements of the new management (Robbins, 1989). There is also the possibility that the jail was understaffed prior to the contract or that some staff will be transferred or voluntarily move to other positions. This would allow current staff, who so desire, the ability to remain and new staff to be hired by the private company.

The criteria for hiring new staff should also be addressed in the contract. What type of background investigation will be done, as well as the amount of input the public agency will have in the final decision, should be outlined in the contract. One cost saving aspect of privatization is the hiring process. The private company absorbs the cost of initial screening and testing procedures. Robbins suggests that for safety reasons a criminal and medical background should be done in addition to employment history.
Once the initial screening is accomplished the public agency can be part of the final hiring process. One police department (San Bernardino) had a representative as a member of the interview team for the final prospects to be hired. This gave the public agency the opportunity to meet new hires and to be part of the selection. The contract should outline the specific amount of influence the public agency has on the hiring process. It should also stipulate the exact probationary period and termination of those who do not successfully complete the probationary period. A common probationary period for private businesses is 90 days. However, most probationary periods for public sector correctional facilities range from 6 months to 1 year. The contract should be specific in this area (Robbins, 1989).

After a person is hired, the contract should specify training requirements for the position. Each state has its own regulations for training. California requires that all corrections officers in Type I facilities complete the "Corrections Officer Core Course" (California Title 15). This is a 116 hour course that covers topics such as
California justice systems and laws, inmate supervision, classification and security, emergency procedures, defensive tactics, restraints, and other topics relating to corrections. Individuals employed in a Temporary Holding Facility are required to take eight hours of training which includes minimum jail standards, inmate segregation, jail operations and liabilities, emergency procedures, and suicide prevention (California Title 15). The training should also include adequate facility orientation and supervised on the job training prior to being allowed to work independently. These requirements and any additional training required by the city or police department should be included in the contract. Additionally, the party responsible for training and cost should also be determined and specifically identified in the contract.

Other personnel issues that should be addressed in the contract are salaries and benefits as well as termination procedures. As in the hiring process, the public agency should determine the amount of influence it
will have in the removal of an employee from the jail. There are also potential cost savings in the fact that civil-service laws regarding termination do not bind private organizations. However, the contract must stipulate that federal and state laws regarding termination will be adhered to (Robbins, 1989).

Staffing levels are also subject to contract control. One of the concerns voiced by those opposed to privatization is the possibility that private companies would dangerously reduce staff levels in order to save money. While most states, including the State of California, do not have a specific staff to inmate ratio, they do require that there be enough staff to accomplish the security functions of the facility. The California Penal Code and Title 15 of the Regulatory Code both state that:

A sufficient number of personnel shall be employed in each local detention facility to conduct at least hourly safety checks of inmates through direct visual observation of all inmates and to ensure the implementation and operation of the programs and activities required by these regulations...Whenever there is an inmate in custody, there shall be at least one employee on
duty at all times in a local detention facility or in the building which houses a local detention facility who shall be immediately available and accessible to inmates in the event of an emergency...(California Title 15: 1027).

The city or public agency should determine the number of staff needed to perform required duties and include that number in the contract as a non-negotiable item (Robbins, 1989).

One specific difference between corrections officers in the public sector and the private sector is the right of those working in the private sector to strike. The National Labor Relations Act, (NLRA), which governs private sector labor management issues states that private sector employees (even those working in traditionally public sector positions) have the right to form and join labor organizations including the right to strike. This right, however, should be addressed in the contract. A “no strike” clause may be negotiated and included in the contract. In addition, the public agency and the private company need to remember that even a “no strike” clause is
only applicable during the time frame of the contract (Robbins, 1989).

The contract itself does not need to include the entire jail policy and procedure. Laws in California governing correctional facilities require all jails to have a written policy and procedure manual available to all employees. Title 15 Section 1029 of the California regulatory code outlines what should be included in the policies for Type I jails and temporary holding facilities (see Appendix B). It is important that all facilities have policies and that they are reviewed and updated regularly. This should be done by the public contracting agency. The private agency management may have input into policy, but the final responsibility is that of the governing agency.

Monitoring is another area that is the sole responsibility of the governing agency. This position cannot be delegated to the private contractor if the goals of monitoring are to be achieved. The cost of monitoring is usually absorbed by the public agency, but should be included in the contract. For example, a Lieutenant in San
Bernardino held the monitoring position in addition to other responsibilities within the police department. The person responsible for jail monitoring should be employed by the city or police department. This individual should be fully trained in the laws governing correctional facilities. The monitor should be a regular visitor to the jail and work closely with jail staff and supervisors. He or she should also be knowledgeable in the daily operations of the jail facility.

Because of his or her familiarity with jail operations the monitor should be able to determine training and other needs of the facility as they arise. The monitor should act as a liaison between the public department and the private company. The responsibility of completing required reports to the state and other government agencies rests solely with the public agency. (Gaseau, 1999).

City jails in Southern California that are privately operated are located in a section of the police department buildings. This make close monitoring much easier than in
a separate facility. Because of the close proximity, many police departments include the jails as part of their daily monitoring and inspection tours. This not only makes monitoring operations more efficient, it also creates and maintains a close working relationship between the governing agency and private contractor. This, along with a thorough contract and policy and procedure, can make the privatization of a city jail a successful endeavor for both the city and the private organization.
CHAPTER FOUR

CONCLUSION

Future Prospects for Local Jails

Most studies of jail population trends indicate that the jail inmate population of the United States will continue to grow. The financial ability to keep up with this growth will not increase at the same rate. This will result in a larger jail inmate population with fewer resources to pay for it. These predictions are based upon the current social, political and economic trends found in the United States today (Kalinich & Embert, 1995).

The California Board of Corrections predicts that the number of adults incarcerated in California local jails will continue to increase. Over the past eighteen years California has doubled the capacities of local jails through an extensive building campaign. Despite the additional space, in 1997 twenty two counties were under court orders to restrict the population levels in their jails. During that same year approximately 22,000 inmates
were released every month prior to their court ordered release date due to overcrowding (California BOC, 2000). All five of the counties included in this paper were included in the court orders. In 1997 the Board of Corrections predicted that over the next ten years the state would need to create 55,500 more beds in local adult facilities and 6,000 more beds in juvenile facilities. This would amount to approximately $3.3 billion in construction costs (California BOC, 2000).

The construction costs of a facility are minimal compared to the operating costs. The life span of a jail facility is considered to be about thirty years. Over that time the construction costs average out to 10 percent. The other 90 percent reflects the operating costs of the facility. The operating costs of jails in California has been increasing at about 5 percent per year (California BOC, 2000). Additional costs include physical upgrades (which can be extensive in older facilities).

The demand for incarceration of offenders has continued to increase over the past 30 years. If this
trend continues, the use of private corporations for jail operations will most likely increase as well. The State of California has addressed privatization in its statutes and regulations. The Federal Courts have ruled on liabilities and responsibilities. These actions have opened the door for privately operated facilities to continue to grow in numbers. One prediction is that there will be an increase in the number of privately operated jails built in suburban areas over the next ten years. These areas have a more affluent population and are receptive to private enterprise. Jails located in urban areas will remain operated by public agencies (Kalinich & Embert, 1995).

There have been no significant legal issues raised in connection with privately operated city jails in the five counties of this study. Cities and police departments that have contracted with private agencies have not returned to public operations of the jails. The state inspections do not show that privately operated jails are run less effectively or have any greater number of deficiencies than those operated by public agencies. The training of
staff members in private facilities is equal to that of the publicly operated facilities and the same regulations apply to both private and public facilities. In addition, the state is able to terminate the contracts of those privately operated facilities that do not comply with state laws and regulations. The decision whether to operate the jails with public personnel or private contractors seem to be dependent on the preference of the city or police department and what those entities want the city jail to accomplish.

Private operations of both Type I Facilities and Temporary Holding Facilities can be a successful endeavor for both the city, police department, and the private corporation as long as specific guidelines are followed. The most important requirement for success is a complete and specific contract between the public agency and the private company. In addition, it is the important to have a complete and updated policy and procedure for the facility. The final tool for success is a thorough monitoring system. Any arrangement can have a solid
contract and complete policy and procedure, but without a successful monitoring program these are not enough. The monitor can also have an impact on the working relationship between the jail staff and members of the agency the jail is associated with. A close working relationship between the jail and police department is a benefit to both.

As long as there is no social or political strategy to reduce the number of people being placed in jails, a professional and a safe environment for those housed in these facilities is required. A professional jail staff that provides a safe and humane facility will be a benefit to society. Staff in a privately operated facility who can provide this type of environment will be successful for both the city they work for and their own organization.
APPENDIX A:

TERMS USED IN THIS THESIS
APPENDIX A

TERMS USED IN THE THESIS

The following definitions are limited to their relationship to the topic of the paper, and have been taken from the State of California Board of Corrections Title 15: Minimum standards for local detention facilities and Title 24: Adult facilities regulations.

1. Local Detention Facility

Any type of correctional facility such as a city, county or regional jail or camp that would house adults or both adults and minors. Those facilities that are specifically designed to hold minors are not included nor is a section of an adult facility set aside for the purpose of housing minors. In California there are Type I, II, and III local holding facilities and Temporary Holding Facilities. The jails in this paper are Type I and Temporary Holding Facilities.
Type I facilities are used to house arrestees for not more than 96 hours excluding holidays, after the booking process. These facilities may also house persons under court order for their own safety or sentenced to the city jail as an inmate worker. The facility may also inmate workers from the county jail. The county workers are housed there only on a voluntary basis on the part of the inmate.

The Temporary Holding Facilities are used for the confinement of a person 24 hours or less pending release, transfer to another facility or appearance in court.

2. Non-sentenced inmates

An inmate with any pending local charges or being held solely for charges pending in another jurisdiction
3. Probable cause arrest

An arrest stemming from a standard of proof that requires evidence sufficient to make a reasonable person believe that, more likely than not the arrest is justified.

4. Citation releases/ROR/bail

Citation release is done by the arresting officer by issuing a citation with the arrestee's signature as a promise to appear in court on a certain date.

Release on own recognizance (ROR) is a release secured by the suspect's written promise to appear in court.

Bail/bail bond release is usually a monetary guarantee deposited with the court that is supposed to ensure that the suspect or defendant will appear at a later time.
5. Direct visual observation
Direct personal view of the inmate in the context of his/her surroundings without aid of audiovisual equipment. Audio/visual monitoring may supplement but not substitute for direct visual observation.

6. Facility manager/Facility systems administrator
Facility systems administrator is the Sheriff, Chief of Police, Chief Probation Officer, or other official charged by law with administration of a local facility system.

Facility manager is the Jail Commander, Camp Superintendent, or other comparable employee who has been delegated the responsibility for operating a local detention facility by a facility administrator.

7. Pilot Project
An initial short-term method to test or apply an innovation or concept related to the operation,
management, or design of a local detention facility pursuant to application to, and approved by the Board of Corrections.

8. Rated Capacity
The number of inmate occupants for which a facility's single and double occupancy cells nor dormitories, (except those dedicated for health care or disciplinary isolation housing) were planned and designed in conformity to the standards of Title 15.

9. Custodial personnel
Those officers with the rank of deputy, corrections officer, patrol person or other equivalent sworn or civilian rank whose primary duties are the supervision of inmates.

10. Detoxification cell/Holding cell
An initial "sobering up" place for arrestees who are sufficiently intoxicated from any substance to
require a protective environment to prevent injury by falling or victimization by other inmates.

11. Inmate worker
A person assigned to perform designated tasks outside his/her dormitory, pursuant to the written policy of the facility for a minimum of four hours per day for a five-day workweek.

12 Safety checks
Regular, intermittent and prescribed direct visual observation to provide for the health and welfare of inmates.
APPENDIX B:

CALIFORNIA TITLE 15 SEC. 1029
APPENDIX B

CALIFORNIA TITLE 15 SEC. 1029

Title 15 section 1029 of the California Regulatory Code
Policy and Procedures Manual

Facility administrators shall develop and publish a manual
of policy and procedures for the facility. The policy and
procedures manual shall address all applicable Title 15
and Title 24 regulations. Such a manual shall be made
available to all employees and shall be updated at least
annually.

(a) The manual for Temporary Holding, Type I, II and III
facilities shall provide for, but not be limited to,
the following:

(1) Table of organization, including channels of
    communications.

(2) Inspections and operations reviews by the
    facility administrator/manager.
(3) Policy on the use of force
(4) Policy on the use of restraint equipment
(5) Procedure and criteria for screening newly received inmates for release per Penal Code Sections 849 (b)(2) and 853.6 and any other such process as the facility administrator is empowered to use.
(6) Security and control including physical counts of inmates, searches of the facility and inmates, contraband control, and key control. Each facility administrator shall, at least annually review, evaluate, and make a record of security measures. The review and evaluation shall include internal and external security measures of the facility.
(7) Emergency procedures include:
   (A) fire suppression preplan as required by Section 1032 of those regulations;
(B) escape, disturbances, and taking of hostages;
(C) civil disturbance;
(D) natural disasters;
(E) periodic testing of emergency equipment; and,
(F) storage, issue, and use of weapons, ammunition, chemical agents, and related security devices.

(8) Suicide Prevention
(9) Segregation of Inmates

The policies and procedures required in subsections (6) and (7) may be placed in a separate manual to ensure confidentiality.

(b) The manual for court holding facilities shall include all of the procedures listed in subsection (a), except number (4).
APPENDIX C:

DEFINITIONS OF STANDARDS
APPENDIX C

DEFINITIONS OF STANDARDS

The following are the definitions of standards described in the infraction section of the paper. Additional standards and definitions may be found in the California Regulatory Codes Title 15 and Title 24.

Section 1021. Jail Supervisory Training;
States that custodial supervisory personnel must participate in 80 hours supervisory training and outlined by POST or STC. In addition the person must also complete the Corrections Officer Core Training Course. This training shall be completed no more than 1 year after the person is assigned the custodial position.

Section 1024. Court Holding and Temporary Holding Facility Training;
States that those assigned the duties of supervising inmates in a Court Holding or Temporary Holding Facility shall complete an 8-hour course of specialized training in
a. applicable minimum jail standards
b. jail operations and liability
c. inmate segregation
d. emergency procedures and planning
e. suicide prevention

This training must be accomplished within 6 months of the date the custodial assignment is made. The person must also take an 8-hour refresher course every two years. Other special training may be added by the agency according to their needs.

Section 1029. Policy and Procedures Manual;
This section states that all facility administrators shall develop and publish a manual of policy and procedure for the facility. The manual is to include all regulations applicable to that facility in Title 15 and Title 24. The manual shall be made available to all employees and reviewed and updated yearly. A sample of a policy and procedure outline can be seen in Appendix B.
Section 1056. Use of Detoxification/Sobering Cell;
This section states that a detoxification/sobering cell is to be used by those who are a danger to themselves or others because of intoxication. The jail policy is to outline how this is determined. The person is to be removed from the cell as soon as they are able to successfully complete the booking process. No person is to be left in the detoxification cell for more than 6 hours without being examined by medical personnel. The person in the detoxification cell must be visible observed no less than every one half-hour.

Section 1058. Use of Restraint Devices;
This section states that facility administrator and a physician are to create the policy and procedure for placing an inmate in restraint devises. Included in the policy should be the description of acceptable restraint devises and medical symptoms to watch for while the person is restrained.
The restraints should be used only on inmates that are in danger of causing harm to themselves or others, or destruction of the facility. Restraints are anything that removed the ability for the person to be ambulatory. The person should only be placed in restraints under the approval of the facility manager, watch commander or physician. The person should be observed twice every one-half hour and the situation should be reassessed at least every two hours. Medical and mental health approval is required to continue restraints more than 4 to 6 hours. The use of restraints should not be used as a punishment, discipline or as a substitute for treatment. Restraint devices such as handcuffs, belleychains, shackles or other devises used for security are not included in this section.

Section 1280. Facility Sanitation, Safety and Maintenance; The facility administrator shall develop written policies and procedures for the maintenance of an acceptable level
of cleanliness, repair and safety throughout the facility.
Such a plan shall provide for regular schedule of
housekeeping tasks and inspections to identify and correct
unsanitary or unsafe conditions or work practices which
may be found.

Section 1205. Medical/Mental Health Records;
(a) The health authority shall maintain individual,
complete and dated health records which shall include,
but not be limited to:
(1) receiving screening form/history;
(2) medical/mental health evaluation reports;
(3) complaints of illness or injury;
(4) names of personnel who treat, prescribe, and/or
administer/deliver prescription medications;
(5) location where treated; and
(6) medication records in conformance with Section
1216.
Section 1032 Fire Suppression Preplanning;
Pursuant to Penal Code Section 6031.1 (b), the facility administrator shall consult with the local fire department having jurisdiction over the facility, with the State Fire Marshal, or both, in developing a plan for fire suppression which shall include, but not be limited to:

a. a fire suppression pre-plan by the local fire department to be included as part of the policy and procedures;
b. regular fire prevention inspection by facility staff on a monthly basis with two year retention of the inspection record;
c. fire prevention inspections as required by Health and Safety Code Section 131461.1 (a) and (b) which requires annual inspections;
d. an evacuation plan; and,
e. a plan for the emergency housing if inmates in case of fire.
1027. Number of Personnel;
A sufficient number of personnel shall be employed in each local detention facility to conduct at least hourly safety checks of inmates through direct observation of all inmates and to ensure the implementation and operation of the programs and activities required by these regulations. There shall be a written plan that includes the documentation of routine safety checks.

Whenever there is an inmate in custody, there shall be at least one employee on duty at all times in a local detention facility or in the building which houses a local detention facility who shall be immediately available and accessible to inmates in case of an emergency. Such an employee shall not have any other duties, which would conflict with the supervision and care of inmates in case of an emergency. Whenever one or more female inmates are in custody, there shall be at least one female employee who shall in like manner be immediately available and accessible to such females.
REFERENCES


California, Board of Corrections, Title 15: Adult facilities regulations.

California, Board of Corrections, Title 24: Adult facilities regulations.

California, Crime Prevention and Corrections Division 1, Board of Corrections, Subchapter 4: Minimum standards for local detention facilities.


U. S. Supreme Court Cases Cited

*Richardson v. McKnight 00 U.S. 97-8629 (1999).*

*West v. Atkins 487 U.S. 42 (1988).*