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**The Tricky Issue of Private Prisons**

The feds are moving away from them, but states and localities still rely on them. That puts the larger issue of privatization back in the spotlight.

BY [CHARLES CHIEPPO](http://www.governing.com/authors/Charles-Chieppo.html) | AUGUST 25, 2016

The Justice Department's recent announcement that the federal government would phase out contracts with privately operated prisons has refocused attention on the issue of privatization in the corrections realm and beyond. The bottom line is that governments at all levels would do well to avoid knee-jerk reactions and consider each privatization proposal on its own merits.

Deputy U.S. Attorney General Sally Yates wrote that private prisons, in which the federal government began housing some prisoners in 1997, aren't producing substantial savings and offer fewer rehabilitative services, such as education and job training, than Bureau of Prisons facilities provide.

Reactions were predictable. U.S. Sen. (and former Democratic presidential candidate) Bernie Sanders issued a statement asserting that "study after study has shown private prisons are not cheaper, they are not safer, and they do not provide better outcomes for either the prisoners or the state." A spokesperson for one of the companies that operates prisons countered that public-private comparisons were inappropriate because the privately operated federal facilities house a larger number of hardened criminals than their federally operated counterparts.

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The reality is that most of the nation's 2.2 million prisoners serve their sentences not in the federal system but in state and local prisons and jails. And prisons operated by for-profit companies account for about 6 percent of state inmates, according to the American Civil Liberties Union.

Beyond prisons, there are a number of reasons why privatization can be an appealing option for state and local governments. The pay for success approach can shift risk away from taxpayers by conditioning a contractor's payment on the achievement of various metrics.

Privatization can be particularly effective in areas outside a public agency's primary focus. The Boston area's transit authority, for example, is the second largest land owner in Massachusetts, but it had little expertise in property management. The authority realized large revenue increases when it contracted out its real-estate management operations many years ago.

And even if privatization doesn't provide short-term savings, over time it can reduce the costs of pensions and other post-employment liabilities by reducing reliance on public employees.

But privatization is no panacea. One trap state and local governments often fall into is[turning to it as a last resort](http://www.governing.com/blogs/bfc/col-public-private-partnership-cincinnati-parking-lease.html) to plug budget holes. Public-sector financial woes are rarely a secret, which gives any potential private partner the upper hand in negotiations. Other situations that can lead to bad outcomes for taxpayers are when governments are unclear about what they want to achieve from a privatization contract or when a contract is not carefully written to make each side's rights and responsibilities clear.

Nevertheless, privatization can be a smart option when demand for a particular service increases more quickly than an unwieldy government bureaucracy can accommodate, as was the case with the federal prison system. Prison populations spiked in the wake of enactment of mandatory minimum sentences and other "tough on crime" legislation in the 1980s, and the federal government turned to the private sector to keep up with a rapidly rising inmate population. But with an overall drop in crime and a recent move away from zero-tolerance policies, the prison population has begun to decline.

It's too soon to predict the impact that the federal government's decision will have on the much larger universe of state and local corrections facilities. But one thing is clear: Political leaders and advocates too often approach privatization proposals with their minds already made up. Taxpayers would benefit from officials who combine an open mind with a healthy dose of skepticism and who judge each potential opportunity on its own merits.

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