Speculating on Gold:

A Narrative of Private Corrections in California

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Introduction

Let there be no confusion—California’s prison system is in crisis. Just last year, a three-judge panel handed down the latest: prison officials have two years to reduce overcrowding to 137.5% of design capacity, or else a compliance officer will release the inmates for them.¹ Unfortunately, this is nothing new for the Golden State, which has grappled with a ballooning prison population for three decades. California legislators certainly feel the pressure: the 2015-2016 California Spending Plan estimates that the California Department of Corrections and Rehabilitation will rack up a bill of over 10 billion dollars, nearly 10% of overall planned expenditure.²

So where’s the fix? To date, Sacramento’s response has been an emphatic “beats us,” as petty politics and failed experiments have plagued the multi-decade effort to right the correctional ship. The most compelling thread to emerge from this narrative is that of correctional privatization, which has maintained a tumultuous relationship with the state since its adoption in 1986.³

Conceptually, private prisons command undeniable appeal. Corporations foot the massive construction bills, have monetary incentives to operate efficiently, and provide private-sector jobs. In practice, though, few issues arouse dispute and controversy like prison

³ Karyl Kicenski, Cashing In on Crime: The Drive to Privatize California State Prisons (Colorado: Lynne Rienner, 2005). 7. California first employed private companies to operate community correctional facilities (CCFs), low-security facilities that Kicenski characterizes as “bridging the gap between community treatment centers and something similar to a halfway house.”
privatization, and any hopes of a simple fix have devolved into a primetime slugfest between big business and union interests.4

The nation’s largest private prison company, Corrections Corporation of America (CCA) is a heavyweight contender, operating facilities in 20 states across the country. To better detail the landscape of private corrections in California, I construct a narrative around one of CCA’s most contentious institutions, California City Correctional Facility (CCCF). Through a legislative analysis I distill three main factors of institutional import: lobby power, the interstate prisoner trade, and the economics of the private prison market. Furthermore, I contend that these three factors form an important framework for evaluating the efficacy of private prisons because of their inextricable ties to institutional health.5 My analysis shows through example that this evaluation ought to focus specifically on the institution, though this does not preclude a minimum sufficient condition for efficacy.

This institutionally driven approach diverges from recent literature on the topic, most notably Karyl Kicenski’s Cashing In on Crime: The Drive to Privatize California State Prisons (2014). Her narrative details the myriad factors that compelled the Golden State’s carceral boom, employing social theorists such as David Garland and Michel Foucault to help frame privatization as the result of a series of “social relationships.”6 While this methodology finds immense success situating privatization within a larger history, it necessarily views privatization as secondary, simply the consequence of greater sociopolitical change.7 This mode of analysis is

4 My discussion of prison privatization originated in a previous essay for Writing 101 entitled Locked In: Prison Privatization’s Sealed Fate, in which I examined private corrections nationwide to better explain the circumstances behind its adoption. This work builds upon those findings, and as such, I frequently borrow its ideas, especially when discussing historical factors behind mass incarceration.

5 Throughout, I use “efficacy” in the manner defined by Merriam-Webster: “the power to produce a desired result or effect.”

6 Kicenski, Cashing In on Crime, 10.

successfully employed in other literature addressing California’s prison boom, such as Ruth Wilson Gilmore’s *Golden Gulag* (2006) and Joshua Page’s *The Toughest Beat* (2011).

If Kicenski traverses the history with such acute attention to detail, what then is missing? The answer, puzzlingly, is prisons. Though she leaves no stone unturned in structuring California’s path to mass incarceration, she paints her conclusions in broad strokes. Thus, her narrative grapples extensively with prison privatization, but rarely with private prisons.

Grounded primarily in theory, Kicenski’s social approach outlines the tools for understanding history. An institutional narrative, on the other hand, arms us with the tools to evaluate efficacy. The distinction lies in the narrative’s treatment of consequence. As mentioned above, to Kicenski, privatization is the consequence, but to evaluate efficacy we must consider the consequences of privatization itself. To do this, we must examine the legislation, interests, and corporate decisions that form the narratives of individual institutions in a way that Kicenski does not.

**Correctional Privatization: A Brief History**

Before turning our focus to California City, it is important to develop a functional summary of the social, economic, and political change that made California City Correctional Facility possible. Though Kicenski lays her foundation far more intricately, the road to overcrowding begins with changing attitudes towards crime spearheaded by a nationwide rise in penal populism. Defined most usefully by Roberts et al., penal populists “allow the electoral advantage of a policy to take precedence over its penal effectiveness,” positioning themselves as

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tough on crime to accrue political capital.10 The first record of “law and order” politics dates to 1964, when Arizona Senator Barry Goldwater found that attributing rising crime to idleness in the Democratic Party gained traction with voters.11 Before long, everyone from President Nixon to then-Governor Ronald Reagan climbed aboard the punishment platform, stamping law and order with the Republican brand.

For California, the tipping point came in 1976, when State Senator Bill Richardson established the Law-and-Order Campaign Committee, which actively raised funds to vanquish candidates they deemed “soft on crime.”12 Just three months later, Governor Jerry Brown signed controversial SB 42, the “Determinate Sentencing Act,” decimating the state’s indeterminate sentencing procedure, reinforcing incarceration’s role as punishment, and lengthening sentences in practice.13 However monumental, SB 42 was barely the tip of the iceberg. 1982 saw California voters turn out in favor of Proposition 8, the “Crime Victims’ Bill of Rights,”14 which clamped down on plea bargains, bail, and more—a fitting postscript to a year in which California legislators introduced over 30 bills demanding more stringent punishments.15 By this time, penal populism had assumed full political control. Gone were the pre-1970 policies of penal welfarism, which pursued a rehabilitative ideal through indeterminate sentencing arrangements that posited each individual offender as curable— their “sickness” a mere societal

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13 Ibid., 29. Under indeterminate sentencing, judges assign offenders a wide range of sentence length, who then appear regularly before a parole board, and are released when deemed rehabilitated. Determinate sentencing calls for better-defined (and usually longer) sentences that, with the frequent absence of parole, keep those convicted locked up for the full term, and ignore the possibility of rehabilitation.
14 Ibid., 46.
15 California Department of Corrections, NewsCam 13, no. 3 (May 1981), 3.
maladjustment.\textsuperscript{16} But even as correctional facilities began to fill beyond capacity and legal pressure to reduce overcrowding began to mount, tough on crime attitudes showed no signs of waning.\textsuperscript{17}

In 1994, California voters took their boldest stance yet, passing the ballot measure “Three Strikes and You’re Out.” Originally proposed as AB 971, Three Strikes was killed in committee; legislative analysts viewed it as so “patently stupid” they didn’t even bother with a fiscal assessment.\textsuperscript{18} Unfortunately, few California voters are legislative analysts, and even fewer read AB 971’s full text, which stipulates that for previously violent offenders, the second and third “strikes” against them could be for any crime deemed “serious or violent,” a lax, easily abused standard. Caught up in what Kicenski dubs a “culture of fear” spread by sensationalized media coverage of violent crime, Californians voiced their support for “Three Strikes” by taking it to the ballot.\textsuperscript{19} Eager to capitalize on public enthusiasm, penal populists on both sides of the aisle resuscitated and pushed AB 971, writing “Three Strikes” into law long before the polls closed.\textsuperscript{20}

These policy shifts coincided disastrously with a deteriorating economy. As developed in \textit{Golden Gulag}, the crux of this economic theory relies on a cycle of surplus within California to which Gilmore attributes the meteoric rise in the state’s incarceration rate.\textsuperscript{21} While Gilmore examines different modes of surplus individually, we can view their interplay in the California economy through a single timeline. Postwar economic prosperity extended well over two decades, establishing unrivaled employment opportunities and driving ever-increasing numbers

\textsuperscript{17} Alvin J Bronstein, Prison Overcrowding Crisis Report, 14 Feb. 1994, folder 1, box 49, ACLU of North Carolina records, Rubenstein Library, Duke University (Durham, NC).
\textsuperscript{18} Page, \textit{The Toughest Beat}, 118.
\textsuperscript{19} Kicenski, \textit{Cashing In on Crime}, 106-112.
\textsuperscript{20} Page, \textit{The Toughest Beat}, 120.
\textsuperscript{21} Gilmore, \textit{Golden Gulag}, 58.
towards labor, yet holding unemployment below 5% nationwide during the latter half of the 1960s.\textsuperscript{22} The economy cycled back, however, and California watched as unemployment crept up through the 70s, reaching double digits by 1982, the nation’s biggest unemployment crisis since the Great Depression.\textsuperscript{23} Troublingly, this evaporation of economic surplus spurred the development of a new surplus in California: surplus population. As Gilmore notes, while promise of economic prosperity drove California’s population ever-higher, quickly dwindling labor opportunities left an increasing cohort of primarily poor, black job-seekers with nowhere to turn.\textsuperscript{24} This surplus population weighed upon society, and harsh sentencing’s intersection with rises in crimes of necessity and drug use helped provoke Heather Ann Thompson’s “criminalization of urban space,” raising incarceration rates to new heights.\textsuperscript{25} In this sense, incarceration functioned as the solution to society’s need to “organize the growing class of poor” in the wake of recession-fueled unemployment.\textsuperscript{26}

As the economy sputtered and the war on crime gained steam, incarceration rates soared. The proportion of Californians behind bars more than doubled between 1980 and 1990 and nearly doubled again by 2000, constituting an almost fivefold increase in two decades.\textsuperscript{27} Though carceral growth didn’t show any signs of slowing until the 21\textsuperscript{st} century, damage control began much earlier. A 1986 National Institute of Justice survey found that criminal justice

\begin{itemize}
\item \textsuperscript{23} Ibid.
\item \textsuperscript{24} Gilmore, \textit{Golden Gulag}, 72-75.
\item \textsuperscript{25} Heather Ann Thompson, “Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History,” \textit{The Journal of American History} 97, no. 3 (2010): 706 ProQuest Research Library. The “criminalization of urban space” is a phenomenon in which police crack down disproportionally on inner-city crime. As arrests mounted, cities cleared out, subjecting the remaining residents to deterioration and fractured family life. This compels even more desperate illegal behaviors, reinforcing the cycle of arrest and deterioration.
\item \textsuperscript{26} Kicinski, \textit{Cashing In on Crime}, 62.
\item \textsuperscript{27} Peter Wagner, Graph of State Prison Incarceration Rate in California, Bureau of Justice Statistics, http://www.prisonpolicy.org/graphs/incrates/CA.html (accessed 26 Oct. 2015).
\end{itemize}
administrators viewed overcrowding as the most “pressing” issue in their own state’s system.\textsuperscript{28} Rampant penal populism dismissed any support of legislative reform to the realm of political suicide, compelling California legislators to pursue the only other option: expanding the prison system. As proposals detailing carceral expansion landed on desks across Sacramento, calls for privatization grew louder.

On December 8, 1986, California corrections experts attended a hearing entitled “Privatization of Prison Operations,” presided over by State Senator Joseph B. Montoya. Everyone knew the stakes—California prisons were operating at over 150\% of design capacity, with projections approaching 200\% within five years.\textsuperscript{29} One of privatization’s biggest cheerleaders, Montoya touted corporations’ ability to build quickly and operate efficiently.\textsuperscript{30} Not everyone shared his enthusiasm, and issues of liability, legal precedence, oversight, and the corporate profit motive saw discussion and debate. This meeting couldn’t have come at a more crucial juncture, as California’s first private correctional facility, a community correctional facility (CCF) housing 80 parole violators in La Honda, had opened its doors only months prior.

With more proposals in the pipeline, everyone questioned whether privatization would become a trend.

The answer ended up being no. A deadly combination of legislative gridlock and strong union interests held the total capacity of privately-run CCFs at 2,000 or fewer, a drop in the bucket when compared to the 20,000 beds declared in immediate need.\textsuperscript{31} For nearly a decade,

\textsuperscript{28} Bureau of Justice Statistics pamphlet, 1987, folder 4, box 86, ACLU of North Carolina records, Rubenstein Library, Duke University (Durham, NC).
\textsuperscript{29} Inmate Population vs. Design Capacity, December 8, 1986, Senate Business & Professions Committee hearing files. Legislative Papers, LP326:438, California State Archives, Office of the Secretary of State, Sacramento.
\textsuperscript{31} Kicenski, \textit{Cashing In on Crime}, 146.
privatization’s limited slice of California’s correctional pie was codified, even as overcrowding continued to worsen. For correctional entrepreneurs, the dream of reaping profits in the Golden State seemed dead.

But we know that the story does not end in 1986. California City Correctional Facility (CCCF), with a designed capacity greater than the sum total of the state’s private prison beds, opened its doors over a decade after Montoya’s hearing. In order to find the start of CCCF’s institutional narrative, we must therefore pinpoint how dreams of profit became revitalized.

Privatization Revisited: California City Correctional Facility

In February 1996, barely a year into California’s three strikes era, CCA-backed State Senator John Lewis brought SB 2156, the “California Correctional Facilities Privatization Commission Act of 1996” to the floor in Sacramento. With the state projected to exceed prison capacity in just two years, Lewis’s bill would establish the California Correctional Privatization Commission, a governor-appointed body authorized to contract for the construction of up to five private correctional facilities. While the Department of Corrections would retain the power to review and sign off on any new contracts, the ability to secure funding and break ground would no longer necessitate the lengthy, arduous legislative process. The reasoning seemed simple: as conventional approaches flirted with meltdown, privateers had yet to receive a real opportunity. If they could operate modestly sized CCFs, wouldn’t the economies of scale enjoyed by larger facilities furnish even greater opportunities for managerial success?

Unconvinced, legislators defeated the measure several amendments later, effectively killing the prospect of a privatization commission in the Golden State. The bill, however, was merely the first battle in a full-scale proxy war over correctional privatization waged in the

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32 Senate Floor Amendments Committee Analysis, June 5, 1996, Office of Senate Floor Analyses. Legislative Papers, LP294:406, California State Archives, Office of the Secretary of State, Sacramento.
legislative arena. In one corner stood the California Correctional Peace Officers Association (CCPOA), a prison guards union with formidable lobby power and a vendetta against privatization. Led by CCA, their corporate opposition boasted legislative pull of their own, coupled with well-funded Wall Street interests. Understanding both organizations’ rise to prominence allows us to situate California City at the epicenter of a heated legislative conflict.

Founded in 1957, the CCPOA (then CCOA) began as a modest “social club,” running a snack bar and dry-cleaning plant outside Folsom State Prison.\(^{33}\) By 1982, all that had changed. A prison landscape marred by paltry officer salaries and swells of inmate violence hardened the CCPOA into a militaristic, savvy union. The CCPOA benefited immensely from its independence—freedom from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) gave union leadership license to pursue its agenda unencumbered.\(^{34}\)

Quick and ruthless, this agenda was overwhelmingly one of “political realism,” a term community organizer Saul Alinsky defined as the use of “power politics moved primarily by perceived immediate self-interests, where morality is rhetorical rationale for expedient action and self-interest.”\(^{35}\) Though the union utilized politicians as vehicles for realizing their self-interest, they did so in a nonpartisan fashion. Their eight political action committees (PACs), which spent over $30 million between 2000 and 2010, split their money fairly evenly across the aisle.\(^{36}\)

While unions traditionally ally with pro-labor Democrats, CCPOA leadership smartly realized that Republican support of law-and-order policies furthered their interests. With influence over

\(^{33}\) Page, The Toughest Beat, 15.
\(^{34}\) Ibid., 50.
\(^{35}\) Saul Alinsky, Rules For Radicals: A Pragmatic Primer for Realistic Radicals (New York: Vintage Books, 1971), 12. Page mentions that he picked up this tie between political realism and the CCPOA agenda at a CCPOA membership convention when attending seminars. This connection is merely an observed one, as Page notes that CCPOA leadership never specifically mentioned Alinsky or his literature.
\(^{36}\) California Fair Political Practices Commission, “Big Money Talks” (Sacramento: California Fair Political Practices Commission, March 2010), 41-42.
both parties and nobody to answer to, the CCPOA wasted no time in throwing its weight behind causes benefitting its rapidly growing membership.\textsuperscript{37}

Unsurprisingly, the emergence of private correctional firms set off more than a few alarms within the CCPOA ranks. Their direct competition, however, placed them on the same side of key legislative issues. Each a beneficiary of mass incarceration, both supported the penal populist legislation that generated more jobs in the criminal justice sphere. As such, California’s “Three Strikes” initiative may very well be the only piece of legislation backed first by the National Rifle Association, and second by a labor union.\textsuperscript{38} This alignment aside, the CCPOA rightly viewed corporate interests as their enemy. A low wage, low cost alternative to their practical monopoly, widespread adoption of private corrections would spell the end of their political clout. Despite their keen opposition, union leadership responded sluggishly to initial experiments with privatization. While CCPOA President Don Novey attended Senator Montoya’s December 1986 summit on privatization, he was late to the party. When the California Department of Corrections (CDC, now CDCR) awarded Cornell Corrections a contract to oversee offenders at a CCF in La Honda just months earlier, Novey and friends were none the wiser.\textsuperscript{39} This was not a mistake they would make twice. When Senator Lewis introduced SB 2156 a decade later, the union lobby came out swinging. Despite his Republican allegiance and history of support for privatization, then-Governor Pete Wilson remained perplexingly silent on the issue. SB 2156’s opponents likely owe this silence to the CCPOA, Wilson’s only ally in labor and a charitable friend of his campaign.\textsuperscript{40} The CCPOA, meanwhile, was busy reminding prominent state lawmakers like Senate Leader Bill Lockyer of their

\textsuperscript{37} Page, \textit{The Toughest Beat}, 55.
\textsuperscript{38} Kicenski, \textit{Cashing In on Crime}, 92.
\textsuperscript{39} Ibid., 146.
\textsuperscript{40} Page, \textit{The Toughest Beat}, 145.
steadfast loyalty. Though the CCPOA’s lobby had scored an important victory, CCA pressed forward undeterred, their reputation for success preceding them.

Founded in Nashville in 1983, Corrections Corporation of America got its start at the federal level, opening a facility for Immigration and Naturalization Services (INS) in Houston barely a year later. Demand grew quickly, and by 1986 CCA managed multiple INS and state prison facilities throughout the South. This success vaulted the fledgling corporation to a listing on the NASDAQ stock exchange later that year, allowing them to fundraise to the tune of millions of shares without exhibiting robust financials.41 As their pockets deepened their influence spread, closing in on the West Coast with an Arizona opening in 1994 that brought their total facility count to 24, which more than tripled to 77 just four years later.42 Frustratingly, company leadership had yet to secure a foothold in the lucrative California market, thanks in no small part to the fervent efforts of CCPOA lobbyists. After suffering defeat once again with the death of SB 2156 on the Senate floor, CCA decided it high time to adopt a new strategy.

This strategy proved to be a bold one. Rather than back down, company leadership doubled down, preparing for construction of a $100 million, 2,304-bed facility on speculation in the desert community of California City. For CCA, the California City site was an obvious choice. Layoffs at Edwards Air Force Base, the city’s largest employer, left many residents in dire economic straits.43 Then-Mayor Larry Adams was determined to restore economic prosperity by any means necessary, and CCA jumped at the opportunity to frame the project as an economic boon. Though he had yet to line up a contract even as his company broke ground in

42 Profile of Private Corrections Industry on 12/31/94. Papers of State Senator Lewis. B8463 P3 CG, California State Archives, Office of the Secretary of State, Sacramento.
May of 1998, then West Coast regional president David Myers seemed confident that would change, predicting that “If we build it, they will come.”

But “they” didn’t come, or at least not quickly. Although California City Correctional Facility opened its doors a year later, its cells sat empty, stranding a huge investment on shaky ground. After halting work on another spec prison in Mendota, California and watching their stock price tumble from $30 to $10 over twelve months, CCA yearned desperately for an influx of business. As a last resort, they chose to battle CCPOA on their home turf: the legislative floor. While tracing the ensuing struggle over California City Correctional Facility’s future—lobby power, the interstate prisoner trade, and the economics of the private prison market emerge as the most significant determiners of CCCF’s ability to prosper.

For CCA, California state prisoners were the most desirable inmates to house at CCCF. Federal contracts had proved lucrative in the past, but nowhere was the need for space greater than in the Golden State, where the prison population climbed above 150,000. Securing even a single contract would set a precedent, unlocking CCA’s most fruitful market yet. But this would be no easy task, as SB 2156’s failure three years prior guaranteed that approval of new facilities rested with the governor. Worse still, the CCPOA supported then-Governor Gray Davis’s election campaign to the tune of $2.3 million, effectively pocketing him for key issues. Though Governor Davis had authority to allocate surplus inmates wherever he pleased, emerging legislation stifled CCA’s interests once again. In July 1999, just a few months after CCCF’s completion, Governor Davis signed AB 1535 into law, appropriating over $300 million for the

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45 Page, The Toughest Beat, 61.
construction of “Delano II,” a new state prison in Kern County, less than 100 miles from California City.

Though AB 1535 funneled CCCF’s potential supply of inmates to a CDC facility, CCA had yet to exhaust their options in California. By this time, total population within California’s private CCFs had climbed to over 3,300, spread across nine facilities statewide. While CCA built the California City facility with higher-security inmates in mind, the state’s bed shortage spanned the security spectrum. Just as AB 1535 received Governor Davis’s signature, legislators considered State Senator William Knight’s SB 1042, which requested authorization of several thousand new CCF beds. To CCPOA legislative analyst Ryan Sherman, the danger was unmistakable. Sherman rightly identified that the bill’s passage would enable California City’s conversion to a gigantic CCF, practically handing CCA a hefty contract.\(^{46}\) Despite passage by several committees without a single dissenting vote, SB 1042 crumbled in the face of the CCPOA’s mighty lobby. A surprising August defeat by the previously-enthusiastic Committee on Public Safety sent the legislation back to the drawing board, a fate from which it never recovered. Just as before, another victory for the CCPOA lobby marked another setback to CCA’s gold rush.

SB 1042’s failure forced CCCF’s future even further into jeopardy. With all avenues to securing California prisoners blocked, CCA’s remaining path to a contract led them beyond state lines, and to overcrowded prison systems across the nation. This latest possibility transformed the legislative floor into a battleground once again, as the two sides waged war over Assemblywoman Sheila Kuehl’s AB 1222. Backed staunchly by the CCPOA, the legislation

sought to outlaw importation of out-of-state inmates.\(^{47}\) This would nullify existing laws such as the Interstate Corrections Compact Act and Western Interstate Corrections Compact Act, both of which authorized the interstate prisoner trade. CCA attacked the bill from all fronts, asserting that it violated the commerce clause, discriminated against out-of-state private interests, and denied California much-needed economic assistance.\(^{48}\) The union fired back, however, and in a letter to the Chairman of the Committee on Public Safety, CCPOA Chief of Governmental Relations, Jeff Thompson, cautioned against flirting with the prisoner trade’s many perils.\(^{49}\) He reminded legislators that California had no procedure for monitoring out-of-state inmates in private facilities, and that California taxpayers would bear the costs of investigating any crimes committed in such facilities. The CCPOA lobby worked their magic one last time, facilitating AB 1222’s passage by October. But in the California desert, CCCF remained vacant, hundreds of thousands of prisoners nationwide now out of reach.

Though nearly the entire world joined in celebration of the new millennium, those at CCA headquarters skipped the confetti. CCA’s stock price, which soared above $40 in 1997, continued its plummet towards a low of 19 cents, while previously stable long-term debt crested $1 billion.\(^{50}\) Worse still, their ambitious Golden State speculation coincided inharmoniously with a sudden flat line in California’s incarceration numbers, which climbed less than 1% in 1999. Severely overleveraged, CCA needed quick, guaranteed cash.

Fortunately for them, there was an out. The 1996 Immigration Reform Act, yet another symptom of the penal populist epidemic, raised the federal “criminal alien” population by

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\(^{47}\) AB 1222 Bill Analysis, June 17,1999, Senate Committee on Public Safety hearing files. Legislative Papers, LP373:353, California State Archives, Office of the Secretary of State, Sacramento.

\(^{48}\) Ibid.

\(^{49}\) Letter from Jeff Thompson to Mike Honda, Aprzo 30, 1999, Senate Committee on Public Safety hearing files. Legislative Papers, LP373:353, California State Archives, Office of the Secretary of State, Sacramento.

thousands each year, creating a need for more beds.\textsuperscript{51} With CCCF still vacant and CCA desperate for business, the Federal Bureau of Prisons (BOP) had all the leverage they needed to both reach a low-cost solution, and throw CCA a bone.

As it turns out, they delivered CCA a de facto bailout. In a dizzyingly lucrative deal, CCA secured both above-market rates and guaranteed compensation for 95\% occupancy, even if actual population dipped lower.\textsuperscript{52} Though bureau officials attributed the lavish terms to their desire for superior quality, CCA’s routine employment of former BOP brass couldn’t have hurt.\textsuperscript{53} As an aside, although the CCPOA and their army of PACs lacked the reach to spoil a federal contract, they weren’t above retribution. The following year, after a hearing in which California City’s State Assemblyman Phil Wyman testified in favor of private prisons, CCPOA chief Don Novey approached Wyman, assuring him failure in the next election cycle.\textsuperscript{54} Sure enough, a year later the CCPOA financed wave after wave of anti-Wyman attack ads, sealing his defeat in the Republican primary.\textsuperscript{55} Though CCA finally filled California City Correctional Facility to capacity by 2002, their relationship with the California state government remained tumultuous.

**Analysis**

As the dust settled around California City, neither side emerged from the ring victorious. While consistent CCPOA lobbying efforts stopped CCA from properly penetrating the California market, the private corrections giant won both a sizeable contract and continued presence within state lines. However, my analysis focuses far more on investigating themes than declaring

\textsuperscript{52} Hallinan, “Bailed Out”.
\textsuperscript{53} Ibid.
\textsuperscript{54} Kicenski, *Cashing In on Crime*, 144.
\textsuperscript{55} Ibid.
winners. As I consider the important factors of lobby power, the interstate prisoner trade and the economics of the private prison market, I employ CCCF’s narrative to demonstrate the importance of these factors to institutional health. In doing so, I establish a framework for efficacy determination for California City and beyond.

CCCF’s most powerful influencer, lobby power exercised unequivocal control over the prison’s fate. Up against a wealthy, well-connected union, CCA never had the chance to properly execute their business model, and built on spec before securing a contract. Furthermore, the CCPOA’s host of pocket-politicians denied CCA many important Sacramento relationships necessary for securing profitable contracts. Though CCCF’s narrative frequently casts the CCPOA in the role of spoiler, one’s opinion on organized labor has no bearing on an efficacy determination. Instead of engaging in a messy evaluation of collective bargaining, efficacy judgments need only investigate an institution’s union landscape as pertinent to lobby strength and historical prospects of privatization.

For CCCF, the prospect of prisoner importation died on the legislative floor. In general, however, the interstate prisoner trade demonstrates the consequences of cost minimization. Since CCA and its competitors enjoy wide geographic freedom, they extract profit by “exporting” inmates from high-cost states like Alaska, Hawaii, and Wisconsin, and “importing” to primarily Southern states where low wages deflate operating costs.\(^\text{56}\) Despite CCA’s interest in AB 1222’s failure, it’s unlikely they considered CCCF a prime target for prisoner importation. For CCA executives, the California market’s capturable economic surplus came from sheer prisoner volume, not the high margins needed for prisoner importation.

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Societally speaking, CCA’s inability to extend the prisoner trade to California saved significant long-run trouble.57 A particularly nefarious system, the trade does more to entrench government dependence on private prisons than it does to provide economic relief. Firstly, prisoner dispersal not only complicates state governments’ abilities to recollect their prisoners down the road, but also inhibits their ability to house them, as reliance on out-of-state facilities stunts correctional infrastructure growth at home. Secondly, private prison contractors have engaged in pseudo-gerrymandering, “packing” congressional districts with prisoners who pad population numbers that shift political power despite the inmates’ inability to vote.58 This incentivizes the usually poor, usually Southern districts that house private prisons to fight to retain them. Lastly, studies have connected private prison incarceration with higher recidivism rates across the board.59 This is unsurprising, as the prisoner trade further distances inmates from their homes and loved ones, which has an established connection to increased chances of rearrest.60

However undesirable, the consequences of prisoner redistribution should not preclude a positive efficacy determination for the prisons that employ it. If prisoner redistribution defends against a worse alternative—such as the 19,000 offenders released nationwide due to rampant overcrowding in 1985—then it constitutes movement towards efficacy. This line of thought, which posits efficacy as best-viewed as it pertains to institutions individually, extends well to the economics of the private prison market.

57 This section borrows heavily from my previous work, as mentioned in note 4.
58 Turner and Welch, “Private Corrections, Financial Infrastructure, and Transportation,” 63.
60 Kahn and Minnich, The Fox in the Henhouse, 80.
The economic angle on private prisons most conveniently divides in two: the profit motive and the impossibility of the free market. The former strikes at the heart of economic theory, as firms do best by maximizing the gap between revenue and costs. Since revenue flows in from fixed, negotiated contracts, private prison corporations have a “built-in incentive” for cost minimization. Incentivized to keep costs low, private prisons employ “lower-paid, lesser-trained” officers. This discrepancy renders public prisons’ outperformance of their private counterparts in a 2005 inmate misconduct study unsurprising.

Though the profit motive persists across all private endeavors, the nature of the prison market varies drastically by geography. In theory, unfettered competition between multiple private correctional firms should encourage the provision of quality services at competitive prices. Unfortunately, CCCF’s institutional narrative renders this ideal completely unrecognizable. From the beginning, intense CCPOA pressure prohibited the development of a competitive private prison market in the Golden State, despite a sprinkling of CCFs. As a result, CCA’s California City speculation was met not only with a dearth of contracts but also a dearth of competition. When the BOP finally came knocking, CCA held a monopoly on available prison beds. As with lobby power and prisoner transportation, an economic analysis shows that efficacy has as much to do with an institution’s context as with the greater benefit of its practices.

So how do we evaluate CCCF’s efficacy? Constructed on spec and confronting stalling incarceration rates, high costs, a powerful union, and few legislative options, the picture looks

bleak. Largely a narrative of failure and poor decision-making, CCCF’s tumultuous history reflects poorly on the prospect of privatization’s greater viability. However, the reduction of efficacy to an individual evaluation of context makes this a reflection of little significance.

Importantly, I selected CCCF not to paint it as representative, but to exploit its uniqueness. Its historical richness enabled a fluid integration of a range of issues into my discussion. A comprehensive evaluation of efficacy would engage institutions nationwide, including those in states socio-politically amenable to the prospect of correctional privatization. As such, it seems likely that this evaluation would possess significant geographic variability—each institution’s efficacy calculation adds up differently. Consequently, while arguing the legitimacy of prison privatization is an ideological debate, arguing the efficacy of private prisons is a practical one. Given this practicality, removing the connotation of greater good from efficacy leaves us with only the need for a best response. Therefore, the provision of a best response is the minimum sufficient condition for determining the efficacy of a private prison.

Treating every institution’s specific context as the unique determiner of its efficacy demands substantial investigation. Much work lies ahead, as CCCF is just one of hundreds of private correctional facilities nationwide. Hopefully, analyzing factors of institutional import more pointedly can help us understand when privatization works, even if we must proceed region by region, state by state, and prison by prison.
Bibliography

AB 1222. Senate Committee on Public Safety hearing files. Legislative Papers, LP373:353, California State Archives, Office of the Secretary of State, Sacramento.


S.B. 2156. Senate Floor Amendments Committee Analysis, June 5, 1996, Office of Senate Floor Analyses. Legislative Papers, LP294:406, California State Archives, Office of the Secretary of State, Sacramento.


