



School of Public Policy
Economics, Political Science, Sociology

“Private Prisons in the United States: Emergence and Legitimation”

by

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First Analytic Chapter: Judicial Pressure and Private Correctional Facilities

Chapter Introduction: As noted in the previous chapter, private corrections facilities spread across the country between 1986 and 2005. By 2005, 45 states (and Washington, D.C.) had at least one private corrections facility (Bureau of Justice Statistics 2009a). These facilities ranged from small, community-based facilities (including work-release facilities or halfway houses) with small numbers of inmates to large, high-security confinement facilities. States varied substantially in their reliance on private facilities. While some states had no inmates in a private facility, other states held large fractions of the inmate population in a private correctional facility. Other states, however, relied more heavily on private correctional facilities. For example, in 2005, three states had over one third of all inmates in the state in a privately operated facility.¹

This chapter asks two questions. First, what accounts for the timing of states having their *first* private correctional facility? Second, what accounts for the *number* of private correctional facilities located in states? To answer these questions, I build on two literatures. The first is research on judicial impacts. Located in the fields of Law and Society and political science, this body of work aims to identify the effects of litigation and the judicial rulings that follow it. The second literature is on political opportunity structures, which comes out of sociology. Combing insights from the two literatures, I will make the following claim: Judicial intervention into state prisons indirectly encouraged early experimentation with private correctional facilities and this relationship was made possible because of a propitious political opportunity structure for private prison entrepreneurs and proponents.

The chapter first offers a review of research on the role of courts in producing governmental change and then a review of research on political opportunity structures. Then, after specifying hypotheses for the analysis, the chapter describes the data used for the analyses and the methods used to analyze the data. The chapter then presents findings and concludes with a discussion of the implications and limitations of the analysis.

Monday, February 14, 2011
4:00 – 5:00 pm
Owen Hall, Room 106

¹ Those states were New Mexico, Montana, and Mississippi. The calculation excludes inmates in federal facilities.