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5 on 45:
On the economics of private prisons

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PITA: You're listening to 5 on 45 from the Brookings Podcast Network: analysis and commentary from Brookings experts on today's news regarding the Trump administration.

(Music)

NUNN: I'm Ryan Nunn. I'm a fellow in Economic Studies and policy director of the Hamilton Project Brookings. Much of what I'm about to say draws on an economic analysis for the Hamilton Project that I wrote with Megan Mumford and Diane Schanzenbach.

So last year, the Justice Department decided to phase out the federal government's use of private prison contracts, citing the insufficient safety and security, inadequate rehabilitative services, and lack of significant cost savings. Just a few days ago, Attorney General Jeff Sessions reversed this order, allowing for continued federal use of private prisons.

It's important to start by noting that the large majority of the more than 100,000 inmates in private prisons are actually state prisoners. That said, federal contracts have generated much of the growth in the private prison population, with the federal share rising from 3% in 1999 to 19% in 2014. The larger context for the use of private prisons at both the state and federal levels is one of tremendous growth in prison populations, particularly in the 1980s and 1990s. This led to overcrowding in many instances, so state prisons in 2000 reached about 100% of their capacity while federal prisons operated at 131%.

So what is the rationale for private prisons? Proponents of private prisons make a couple of core arguments. The first is related to the overcrowding I just mentioned.

Private contracts give governments flexibility when rising prison populations and consequent overcrowding create problems for traditional prisons. The second argument is about efficiency. Advocates argue that marketplace competition will lower the cost of building and operating prisons through the selection of more innovative practices. Of course, we need to look to the evidence to evaluate this claim.

Before describing the available evidence, it's worth mentioning the concerns that many have with private prisons. First, the private prison industry is often very concentrated in the sense of there being few competitors. The two largest private prison companies account for about 85% of all private prison beds, and within a given state it is frequently the case that there's only one firm operating. This matters because it may limit the benefits in terms of innovation and cost reduction that we should expect to see from marketplace competition. Now, a closely related concern is that private prison firms will have an incentive to lobby for more punitive criminal justice policies than the broader public would like to see. When market concentration is high, this incentive is especially powerful. Another concern associated particularly with Nobel Laureate Oliver Hart and his co-authors is more subtle but at least as important. When private prison firms are given concrete incentives specified in contract, they may respond aggressively to those incentives and shortchange important factors that are hard to put into a contract. For instance, prisoner rehabilitation is extremely valuable, but difficult to write into a contract, and private firms may pull resources away from rehabilitation efforts in order to cut costs. Together these worries lead opponents to believe that private prisons will provide insufficient safety, security, and rehabilitative services.

The last question, then, is what is the evidence in all this? Unfortunately, it's quite difficult to make a fair comparison between public and private prisons as they interact with different types of prisoners and often do not supply comparable data. That said, I'd like to highlight a few facts. To the extent that private firms are able to realize cost savings, it appears that much of the savings come in the form of reduced compensation for correctional officers, and reduced staffing. So private correctional officers receive salaries that are about seven thousand dollars lower than the average public officer's salary. Regarding staffing, while public prisons employ one officer for every five inmates, private firms employ one officer for every seven. In principle, this diminished staffing could reflect a more efficient organization of the work, but investigations of particular private prisons have found dangerous levels of understaffing, and turnover rates for private correctional officers are often very high. Overall, our assessment of the research on the relative efficiency of public and private prisons is that once you properly adjust for the differing types of inmates in the two prison systems, it's not clear that private prisons are substantially more cost effective.

If states were the federal government elect to continue using private prisons as currently seems likely, they should think about tying desired outcomes like reduced recidivism rates to payments made to firms. This could improve their incentive to maintain quality, while also keeping costs under control.

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