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The Politics and Administration of Privatization: Contracting Out for Corrections Management in the United States

Sean Nicholson-Crotty

Shrinking budgets and the emergence of "new public management" and other market-based reforms have put increasing pressure on many governments and government agencies to use contracting as a means of service delivery. This essay suggests that contracting should be viewed as a multistage affair, in which both political and administrative actors make key decisions at different stages of the process. It also hypothesizes that these actors weigh the political and instrumental motivations for contracting differently and, therefore, that the relative importance of these factors varies depending on the stage of the contracting process. An empirical analysis of corrections management contracts in the American states provides significant evidence for these assertions.

Introduction

As "new public management" and numerous other reform movements gain currency in political circles, governments and agencies across the country are being asked to do more with less. In response, many have moved from direct service provision to contracting out as a method for providing services to constituents and clients. While "in-house" delivery of public goods and services remains the primary modus operandi for U.S. governments, contracting occupies a secure second position and continues to grow in frequency and scope (Laverly, 1999; Green, 1996). Proponents of contracting and the privatization of government service delivery suggest that the competitive pressures of the market can increase efficiency, reduce cost, and improve service quality when compared with traditional bureaucratic means of service delivery (Kettl, 1993; Boyne, 1998; Ferris & Graddy, 1991).

The literature on contracting suggests that political factors, such as conservative opposition to "big government," and economic factors, such as the need to cut costs and increase efficiency, motivate contracting decisions (DeHoog, 1984). However, much of the literature begins its consideration of contracting after the political decision to pursue market solutions has already been made. Thus, the contracting decision is treated as largely a function of instrumental or managerial factors (see Cooper, 2002; Brown & Potoski, 2002). Alternatively, studies that

consider political influences on privatization often treat the contracting decision as a one-step process in which economic and political variables exert potentially equivalent influence on a singular set of decision makers (Ferris, 1986; Green, 1996).

In many cases, however, the decision to contract a public service, particularly at the state level, is a two-stage process, whereby elected officials create a favorable statutory environment before administrators of public agencies consider proposals from private vendors (U.S. General Accounting Office [GAO], 1997). If these actors hold different values regarding the importance of political and economic motivations for contracting, as the literature suggests that they might, then these factors should differ in their importance depending on the stage of the contracting process and the actors who predominate therein. In other words, political motivations may have the most influence when legislators or governors are considering enabling legislation, whereas more instrumental concerns may rule the day when administrators assess proposals from would be service providers. This essay will argue, therefore, that we must look at the political and administrative decisions regarding contracting separately. Rather than treat contracting as a single decision, we should treat it as two choices in which different actors and values may be dominant.

I will explore the stages of the contracting decision in the area of corrections management, which is one of the fastest growing and most controversial areas for profit service provision. Twenty-nine states currently maintain over 150 active contracts with private vendors for the management, or the construction and management, of state-level secure correctional institutions. In addition to the growing number of contracts awarded in this area, corrections management represents a good place to test for the impact of different actors and values in the contracting process because most states pass enabling legislation authorizing privatization before allowing departments of corrections to solicit contracts from private management firms (Quinlan, Thomas, & Gautreaux, 2001).

This essay will test propositions about the factors that motivate state-level contracting decisions in analyses of the adoption of corrections privatization legislation between 1987 and 1998 and the maintenance of an active corrections management contract between 1996 and 1998 in the 50 American states. The first section will discuss the existing literature on contracting and develop a theoretical argument for the expectation that political and administrative actors bring different values to the process. The second portion of the essay will relate these general propositions to the specific context of corrections management and develop some testable hypotheses concerning the political and economic motivations for contracting in this area. The final sections will test these propositions and draw some conclusions from the findings.

I. A Multistage Approach to Contracting

Studies of public services contracting have firmly established that both instrumental and political factors shape the privatization decision. In an analysis of contracting in cities over 25,000 population, Ferris (1986) concludes that officials are

more likely to privatize a service if cost savings are likely, fiscal pressures are pronounced, and a favorable political environment exists. In a replication and extension of Ferris's work, Morgan, Hirlinger, and England (1987) confirm the importance of economic and political factors on contracting decisions across multiple functional areas and service providers. Studies indicate that, even when considering privatization as a response to changes in the federal regulatory environment, municipalities undertake both political and economic cost-benefit analyses (Johnson & Heilman, 1987). Finally, more recent research across multiple service delivery areas has confirmed that political factors, such as increased responsiveness to citizen needs, and economic considerations, such as cost reduction, continue to be central components of the procontracting argument (Kettle, 1993; Osbourne & Gaebler 1992; Green, 2001; DeHoog, 1984).

The purpose of this essay is to gain a more nuanced understanding of the relative importance of political and instrumental motivations for contracting. To begin doing so, however, it is necessary to explore evidence suggesting that contracting is not a singular decision but, rather, a set of decisions made by different actors in the governance system. In a review of privatization in the states, the General Accounting Office (GAO) (1997) suggests that both political and administrative decisions contribute to the successful use of contracting. First, GAO analysts argue that successful privatization efforts are most often introduced and maintained by a committed political entrepreneur or champion. Next, the report suggests that governments seeking to maintain support for privatization efforts or increase the use of contracting must enact legislative changes that create a favorable statutory environment for such activities.

Along with these activities by political actors, however, the GAO also suggests that decisions made by bureaucratic actors are key contributors to the success or failure of contracting activities in the states. These administrators provide *ex ante* support by collecting and analyzing the cost and effectiveness data necessary to "support informed privatization decisions" (1996, p. 4). They also ensure that the government's interests are furthered *ex post* by providing the expertise necessary to monitor the private provision of public services.

In addition to the evidence that contracting is both a political and an administrative decision, research suggests that actors at each of these stages may weigh political and economic motivations for contracting differently. On the one hand, studies of contracting suggest that political support for privatization has found its greatest voice among political actors who argue that monopolistic government service provision greatly reduces responsiveness to citizen needs (Korsoec & Mead, 1996; Bowman, Hakim, & Seidenstat, 1993). Proponents of market solutions, including elected officials with a privatization agenda, often suggest that the public has lost its faith in the ability and desire of ponderous government bureaucracies to effectively deliver services (Osbourne & Gaebler, 1992; Avery, 2000; see also Savas, 1977). Daley (1996, p. 630) argues that conservative politicians see lessening the role of government in society as a valuable end in and of itself and that "privatization is seen as a means to this end of less government." Surveys of citizens, another important group of political actors, find that reducing the size of government and

increasing responsiveness are often the most important predictors of support for privatization efforts (Durant & Legge, 2000; Thompson & Elling, 2000).

Finally, there is evidence that the debate over contracting legislation regarding prisons often cleaves along clearly partisan lines. Gallagher and Edwards (1997) demonstrate that states with democratic governors and a strong labor base for the Democratic Party are more resistant to legislation authorizing prison industries. Similarly, we can note that the Democratic governor of Arizona vetoed Republican-backed privatization legislation in 1985 and 1986, despite the fact that the state faced significant overcrowding and a rapidly growing correction's budget.

Alternatively, scholarship suggests that the economic motivations for privatization are more practical, less ideological in nature, and often associated with the public managers who administer programs. Administrators, "concerned with the most efficient delivery of services that solve public problems," are more likely than political actors to consider the relative costs and benefits of contracting for specific programs (Daley, 1996, p. 631). In keeping with that assertion, Percy and Maier's (1996) study of the school choice movement in Milwaukee demonstrates that district administrators were interested in market solutions only if they could provide promised efficiency gains while meeting stringent educational criteria. Their concerns persisted and had an important impact on the process despite the existence of powerful political pressures in favor of privatization.

Administrators' programmatic focus on criteria of efficiency and effectiveness should not be surprising given their formal role in the contracting process. In many states and localities, public managers of existing agencies are charged with evaluating RFPs in light of current budgetary conditions and the projected future costs of public service delivery (GAO, 1997). Additionally, DeHoog (1990) suggests that public managers are especially attuned to the degree of uncertainty concerning future budgets. She argues that they are more likely to contract as the level of certainty decreases, lest they find themselves unable to produce expected outcomes with shrinking budgets. Finally, program administrators considering contracting are conscious of other pressures from the external environment, including those from the judicial branch. Public managers carefully consider the economic advantages and disadvantages of privatization because it is typically their agency that ends up under consent decree if plaintiffs can successfully demonstrate that public service delivery is inadequate or inequitable (Smith, 2000).¹

The studies discussed above suggest a multistage approach to studying contracting and lead to the expectation that different motivations may predominate at different stages of the process. Generally, they suggest that citizens and elected officials may place greater weight on the political motivations for privatization. These are the actors who we would expect to be the most influential champions of privatization and to be the most involved in the formulation of favorable policies. Alternatively, the research cited above suggests that the administrators may emphasize instrumental concerns such as cost, efficiency, and effectiveness to a greater degree. These actors are the ones we should expect to be most influential in the consideration of proposals, the awarding of contracts, and the monitoring of private service providers.

The assumptions discussed above are not meant to suggest that administrative actors are apolitical. Nor do they ignore the large and long standing body of research suggesting that the values of administrators play a crucial role in the implementation of public programs. In fact, it is important to note here that some scholarship on private prisons has suggested that political and instrumental factors may influence both the political and the administrative aspects of contracting in this area. Schneider (1999) argues that the need to reduce costs and alleviate overcrowding are important components of the political rhetoric used to justify privatization policies. She also concludes that increased numbers of contracts awarded within a state are the result of a "generalized sort of conservative, antigovernment, law and order ideology" (p. 200). Thus, the assertions that political motivations predominate in the policy formulation stage, whereas instrumental factors have the greatest influence over administrative decisions should probably be viewed as an empirical question.

Contracting for Corrections Management

We must now relate these general expectations regarding the different actors in the contracting process to the specific issue of corrections management. All but four states contract out for some portion of the services provided by corrections agencies, with the most commonly outsourced items including medical care and educational or rehabilitative programs (Austin & Coventry, 2001). Over the past 25 years, however, a growing number of states have allowed private contractors to compete for the management of entire facilities, rather than just the provision of services within government-run institutions. By 1998, the number of prisoners in privately run facilities worldwide had grown to 116,626 (Thomas, 1998).² In the United States, which has been the most aggressive in implementing private management, there are currently a total of 158 private correctional facilities in operation (McDonald, Fournier, & Russel-Einhorn, 1998).

Though early contracts went largely unchallenged or unnoticed, the recent growth in private corrections management has sparked a maelstrom of legal controversy. Despite typically favorable decisions by the courts regarding the constitutionality of corrections contracting (See *Tulsa County Deputy Sheriffs Fraternal Order of Police v. Board of County Commissioners of Tulsa County*, 1998, and *Mandela v. Campbell*, 2000, for recent examples), the privatization of corrections management poses unique legal challenges for states. Most notable among these are the consistent rulings by courts at all levels of government, which have suggested that they will hold governments culpable if private managers violate inmates' constitutional rights or if their actions endanger staff, prisoners, or community members (Schosser, 1998).

These challenges have led to a two-step approach to the corrections privatization process in a number of states. As one step, many states have attempted to clarify the statutory environment regarding privatization. Between 1987 and 1997, 26 states enacted legislation explicitly authorizing the private management of secure correctional facilities. Of the states that currently contract for the management of at least one facility, only 8 depend on a permissive interpretation of existing statutes that

do not overtly deal with the issue of private management (Thomas & Gautreaux, 2000).³ Typically, states have enacted enabling legislation authorizing privatization in order to establish a legal basis for contract awards and preclude any challenges claiming that such delegation is unlawful (Quinlan et al., 2001).

The second stage of the corrections management privatization process is typical of contracting in other service delivery areas. In this step, corrections administrators solicit RFPs from private firms interested in managing, or constructing and managing, a correctional facility. At present, there are 15 firms that compete for such contracts; though of those, the Corrections Corporation of America and Wackenhut Corrections Corporation have received over 75% of awards (Thomas, 1998; Austin & Coventry 2001). The details of contract stipulations obviously vary by jurisdiction and case, but they most often include provisions for expected cost savings over public provision (typically 10% or more), length of contract term (typically 3 to 5 years), and per diem price per inmate (Austin & Coventry, 2001; Bowman et al., 1993). Final approval of management contract awards is typically the prerogative of a state's elected officials or a privatization commission appointed by the executive, the legislature, or both (GAO, 1997; Quinlan et al., 2001).

Hypotheses. I can now draw some testable expectations about the differing motivations to contract for corrections management and the stage of the process at which each has the greatest influence. First, it seems reasonable to assume that the decision to privatize corrections, like similar decisions in other service areas, is partially driven by political determinants. Research suggests that ideological conservatism creates an environment that is more supportive of market solutions, as well as citizenry that is unwilling to bear a high tax burden (Daley, 1996; Ferris & Graddy, 1986). Similarly, scholarship has demonstrated that political opposition, particularly from public employee unions, can impede privatization efforts (Ferris, 1986). As a result, I expect states that are ideologically conservative and have a relatively low level of unionization among corrections employees to be more likely to adopt legislation that facilitates corrections management contracting.

On the economic front, research suggests three factors that should influence the decision to privatize corrections management. First, states that are unable to provide services at a legally acceptable level are more likely to see court intervention and, therefore, have a greater impetus to consider privatization (Smith, 2001). Similarly, if states want to meet the growing demand for public services via government provision, they must be able to spend more money, increase taxes, or incur some form of capital debt (Morgan et al., 1987; Floresanto, 1980). Finally, as expenditures in a given category grow to make up a larger and larger portion of total spending, pressures to reduce costs in that area should also grow. According to the expectations outlined above, these instrumental factors should have the greatest influence in the stage of the contracting process where administrators have the largest influence.

Thus, I expect states with relatively overcrowded prisons, those that are unable to raise public monies due to mandated taxing and spending limitations, and those that spend a larger percentage of total revenue on corrections to have a higher probability of maintaining a active contract for the management of a corrections facility.

Alternatively, I do not expect that these economic factors will have as large an impact on the decision to adopt favorable enabling legislation.

II. Data and Methods

The propositions listed above can be tested in two distinct analyses of the corrections privatization process in the United States. Recognizing that many states pass enabling legislation in order to clarify the statutory environment surrounding corrections privatization, the first analysis will model the adoption of such statutes in the American states between 1987 and 1998. The presence of a statute authorizing private corrections management does not guarantee, however, that a state will award a contract. The second analysis will investigate the factors that determined whether or not a state had an active contract for the private management of at least one secure facility between 1996 and 1998. Before reviewing the methodologies required for each analysis, I should first elaborate on the dependent and independent variables used to measure concepts discussed above.

III. Dependent Variables

The dependent variables employed in subsequent models are necessarily twofold. The first is a dichotomous variable indicating whether or not a state adopted legislation enabling the contracting out of corrections management. The variable is coded 1 if states have adopted and 0 otherwise. The second dependent variable is also a dichotomous measure capturing whether or not a state had an active contract with a private management firm in any year between 1996 and 1998. Again, the measure is coded 1 to indicate the presence of a contract and 0 otherwise.⁴ Both dependent variables were created from information gathered by Professor (Emeritus) Charles Thomas and published by the Center for Studies in Criminology and Law at the University of Florida.⁵ Data on the adoption of privatization statutes were confirmed for this study via the consultation of individual state codes, and the presence of an active contract was verified using information published the Bureau of Justice Assistance (Austin & Coventry, 2001).⁶

IV. Independent Variables

In order to test the hypothesis that some factors have greater influence in different stages of the privatization process, both models must include the same set of predictor variables. In order to capture the political conservatism of a state, I use the measure of citizen ideology developed by Berry and his colleagues (1998). The measure ranges from 0 to 100 with higher values connoting greater liberalism. Unfortunately, information on the percentage of corrections employees that are unionized was unavailable for all 50 states during the period under study. As a proxy measure of potential political opposition to privatization, I include an indi-

cator of the percentage of public employees that is unionized within a state (Kearney & Carnevale, 2001).

The models below include four measures designed to capture the economic and legal factors that may influence corrections privatization decisions. In order to capture the pressure to reduce costs that might accompany growing corrections budgets, both models include a measure of the proportion of total state expenditures made up by corrections.⁷ Data on both categories of expenditure are available in the *United States Statistical Abstract*. Each model also includes two dichotomous variables measuring whether or not a state has taxing and spending limitations and whether the state government is prohibited from incurring capital debt. Each measure is coded 1 if a state has the relevant restriction and 0 otherwise. Data for both measures were collected from Clingermayer and Wood (1995).⁸ Finally, each analysis includes a measure designed to capture the legal pressures that corrections officials might feel to expand bed space. Specifically, all models include the percent of inmates over the designed capacity in each state's prison system. The Bureau of Justice Statistics reports the measure of overcrowding annually in *Correctional Populations in the United States*.

As a final note on the variables, each model contains one measure not included in the other. First, research on the innovation, diffusion, and adoption of policies suggests that models must include both internal and external influences on decision makers in order to be properly specified (Gray, 1973; see also Berry & Berry, 1999). State ideology and economic concerns obviously constitute the internal factors that help determine the privatization of corrections management, but the model should also account for the factors outside a state that may influence that decision. The policy diffusion literature has typically used the number of a state's neighbors that have adopted a policy as a measure of this influence, assuming that states are more likely to take cues from governments that are more geographically proximal (Berry & Berry, 1990; Mooney & Lee, 1995).

Recent research has suggested, however, that state-level decision makers can in fact learn from most any government and that they use ideological similarity as a method for weighing information gleaned from adoptions in other states (Grossback, Nicholson-Crotty, Peterson, 2002). The authors offer a measure of the absolute distance between the ideology of a potential adopter and the mean ideology of all previous adopters as the best measure of this distance and suggest that, as that distance grows larger, states will be less likely to adopt a policy.⁹ I employ the same measure in this analysis, and though it is primarily included in order to ensure proper model specification, the variable may also be thought of as an additional indicator of political motivations for the privatization decision.¹⁰

The model of contract awards also contains a unique measure. Specifically, it includes the measure of the gubernatorial strength created by Beyle (1997).¹¹ The measure is intended to control for the autonomy that state departments of corrections might have in using instrumental factors as their key decision criteria when awarding contracts. If corrections administrators have very little discretion due to the presence of a powerful executive, then conclusions about the relationship between administrators' values and instrumental influences on award decisions might be tenuous.

V. Methods

Though they include roughly the same predictor and control variables, each of the analyses described above requires a different estimator. The adoption of enabling legislation is modeled using a Cox proportional hazard model (Cox, 1972). The Cox model is a logit-based discrete time hazard framework, which models the probability of an observation adopting legislation given that it has not already adopted. The model estimates and controls for the underlying hazard rate to ensure that the supposed impact of relevant independent variables is not simply reflecting some trend in the timing of adoptions.

Hazard models require a somewhat specialized data set to ensure proper estimation. In this case, the data set is a modified panel consisting of 49 states from 1987 to 1998. The first state to adopt a policy is assumed to begin the diffusion process and therefore is not included in the model. Each remaining state is "at risk" of adopting during each year in the pool. The dependent variable is coded 0 for states that do not adopt a policy and 1 for each that adopts. As is customary in event history analyses, once a state has adopted, it is dropped from the sample to avoid the bias that could occur from overcounting adopters. States that never adopt remain in the sample for all time points.

The final analysis, modeling the presence of an active contract for corrections management makes use of a more traditional methodology. Because of the dichotomous nature of the dependent variable, the model of actual contracting employs a pooled logistic maximum likelihood estimator. Z-scores are calculated using White's Heteroskedastic corrected standard errors.¹² To control for the potential influence of privatization statutes on the likelihood of awarding a contract, the model includes a variable coded 1 for those states that adopted enabling legislation and 0 otherwise.¹³ This measure might also be thought of as an indicator of indirect political influence on the second stage of the contracting process.

VI. Findings and Discussion

Table 1 presents the findings from the analysis of the first stage of corrections privatization—the adoption of enabling legislation. The coefficients therein are actually hazard ratios indicating the relative increase or decrease in the probability of adoption given a 1 standard deviation change in the independent variable. Values above 1 indicate an increase in the likelihood of adoption, and those below 1 suggest a decrease. The z-scores can be interpreted as in any other maximum likelihood model. As the table indicates, the internal and external political influences are the only predictors that have a statistically significant impact on the decision to adopt corrections privatization legislation. The measures of state liberalism and ideological distance are both significant and in the expected direction. The hazard ratio for the measure of state ideology suggests that a state one standard deviation more liberal than the mean state has a 0.06 lower probability of adopting such legislation. Across the range of the indicator then, ideology can have as large as a 0.25 impact on the probability of adopting enabling legislation.

Table 1. Determinants of Privatization Statute Adoptions in the States, 1987–1998

Independent variables	Hazard ratios
State ideology	0.94 (2.83)
Distance from previous adopters	0.93 (2.12)
Percent unionization	1.06 (1.53)
Taxing and spending limits	0.93 (0.16)
Capital debt restrictions	1.54 (1.00)
Corrections as a percent of total spending	1.47 (1.55)
Prison overcrowding	0.99 (0.24)
N = 354	
Chi ² = 24.22 (p > 0.001)	

Numbers in parentheses are z-scores.

A state's ideological similarity to previous adopters has an even larger effect on the likelihood of passing an enabling statute. One standard deviation greater distance producing lowering the probability of adoption by 0.07, with a total impact of 0.29. The only hypothesized political factor that does not influence the adoption decision is the percent of unionization, used as proxy for the power of the public employee unions. Not only does the measure fail to reach statistical significance, but it is also in an unexpectedly positive direction.

Economic and legal predictors fail to have any significant impact on the decision to adopt privatization legislation. Measures of prison overcrowding, the presence of taxing and debt restrictions, and the proportion of total expenditures made up by corrections all fail to reach statistical significance, indicating that when controlling for the ideological influences on adoption, economic and legal factors are not an important determinant of the legislative privatization decision.¹⁴

Table 2 presents the findings from the model of active contracts for corrections management in the states. The first column contains standard logit coefficients, and the second contains the change in predicted probability given a one standard deviation shift in the independent variable. As the findings indicate, the economic influences on the privatization decision begin to play a substantially larger role in this second stage of the process. Taxing and spending limits, as well as capital debt restrictions both have a significant and positive impact of the probability of a state maintaining an active corrections management contract. The figures in the second column suggest that the presence of the former increase the probability of contracting by 0.05, while states with capital debt restrictions are 0.31 more likely to contract. The percent of the total budget made up of corrections expenditures also correlates positively and significantly with the likelihood having an active contract. A one standard deviation increase the proportional size of the corrections budget

Table 2. Determinants of Maintaining an Active Corrections Management Contract, 1996–1998

Independent variables prob.	Coefficients	Δ in Predicted
State ideology	-0.031 (1.95)	0.11
Percent unionization	0.059 (1.17)	—
Taxing and spending limits	0.234 (1.98)	0.05
Capital debt restrictions	1.335 (2.99)	0.31
Corrections as a percent of total spending	1.004 (4.77)	0.25
Prison overcrowding	0.002 (0.29)	—
Presence of enabling legislation	1.371 (4.14)	0.31
Gubernatorial power	-0.793 (1.60)	—

N = 150
Chi² = 46.79 (p > 0.000)
Pseudo R² = 0.27

Numbers in parentheses are z-scores.

raises the probability of contracting for private management by 0.23. Interestingly, the measure of overcrowding was not significantly associated with the maintenance of an active contract.

Concerning the political influences on the privatization, the findings from the second model suggest that ideology continues to have an impact on the decision to contract for corrections management. The measure of state liberalism is significant and negatively correlated with contracting. The predicted probabilities in the second column indicate that a one standard deviation shift toward the liberal end of the scale is associated with a 0.11 decrease in the likelihood of maintaining an active contract. The presence of a favorable statutory environment also positively influences contracting, with the adoption of enabling legislation in a state being associated with a 0.31 increase in the probability of contracting with a private management firm. Again, the degree of unionization within a state fails to be a significant predictor of the privatization decision.

The findings from both models of corrections privatization provide significant evidence for the hypotheses proposed above. First, as the larger literature on privatization suggests, there are indeed both economic and political factors that influence state-level decisions to contract for corrections management. The ideological orientation of a state plays a significant role in those decisions, with conservative states being more amenable to privatization. Numerous scholars have suggested that support for market solutions to public problems is most often associated with a conservative political orientation and the results from these analyses confirm that insight in the area of corrections management. Similarly, the economic influences on privatization found in other areas of public service delivery also seem to influence the decision to contract for the management of corrections facilities. Dispropor-

tionately large budgets for corrections and the presence of limitations on the ability to raise revenue for future public provision of corrections services both increase the likelihood that a state will look to private contractors for a solution.

The models also provide some evidence for the assertion that various influences have differential impacts at different stages of the corrections privatization process. The disparity in influence is most evident with the economic predictors. In the model of enabling legislation adoption, not a single economic factor has a significant influence on the privatization decision. As hypothesized, in the stage of the process dominated by elected officials and their constituencies, ideological motivations for privatization are the key determinant. It would appear as if the distrust of government and its ability to effectively provide public services is enough to motivate legislative endorsements of privatization, regardless of the economic context.

Economic factors play a significantly more prominent role, however, in the second stage of the corrections privatization process. When corrections administrators and managers make decisions about the merit of RFPs, economic conditions are crucial determinants of final outcomes. Public managers face a great deal of uncertainty when statutory restrictions or the current budgetary environment raise the possibility that future resources may not keep up with steadily increasing demands for services. The findings from the second analysis suggest that administrators are attuned to these conditions and may favor contracting as a way to reduce that uncertainty.

Unlike economic predictors, the influence of ideology is not limited solely to one portion of the privatization process. Instead, political forces continue to have both a direct and an indirect influence on contracting for corrections management in the second stage where we would expect public administrators to have the greatest impact. The direct influence of ideology is evident in the significant coefficient for the measure of state liberalism, whereas the indirect impact can be seen in the positive influence of previously enacted enabling legislation.

The finding regarding ideology invites two potential explanations. First, as noted above, final approval for corrections management contracts is typically the prerogative of state-level elected officials or their appointees. Thus, those political actors continue to play an important role in the final step of the privatization process. Through that role, they may be able to insert ideological considerations into the actual process of assessing and awarding contracts for corrections management. The second explanation for the persistence of political influences is more straightforward. There is a high probability that administrators in conservative states, being drawn from the state's general population, will themselves be ideologically conservative and, therefore, more amenable to privatization. Such administrators may simply be more likely to award contracts for corrections management, even when controlling for relevant legal and economic conditions.

Before concluding this discussion of the findings, the consistent null findings regarding two key indicators warrant brief mention. Neither the degree of unionization nor the level of prison overcrowding within a state had a significant impact on the decisions to privatize corrections management. The unexpected absence of union influence has a number of potential explanations. The first is construct inva-

lidity. Despite the seemingly obvious correlation, the percent of public employee unionization within a state may not be a suitable proxy for the power of corrections employee unions. The resultant distance between concept and variable may be to blame for the non-findings.

The second potential explanation is more theoretically interesting. It may be that public employee unions simply do not wield the power over the privatization process that researchers had previously suspected. Though employee union opposition is frequently offered as a theoretical barrier to contracting out, the empirical support for these propositions has not been so consistent. Morgan, Hirlinger, and England's (1987) analysis of municipal privatization also failed to find evidence of public employee union influence. Interestingly, the sign of the coefficient for that measure in their model was also in an unexpectedly positive direction. Additionally, there is some anecdotal evidence that public employee unions may not always be potent opponents of privatization. The California Corrections Peace Officers Association is widely considered to be the most powerful such organization in the country. It boasts over 25,000 members, maintains an active legislative agenda, and has enjoyed considerable success winning greater salaries and benefits for the state's prison guards. Despite the apparent power of this particular public employee union, however, California currently maintains the second largest number of active corrections management contracts in the nation.

The null findings regarding overcrowding are also perplexing but perhaps instructive. The percent over design capacity of state prison systems fails to significantly predict either the decision to adopt enabling legislation or the maintenance of an active corrections management contract. First, one could speculate that the lack of impact may simply be a function of the period under study. Although federal courts were aggressive in mandating prison reforms to alleviate overcrowded conditions in the 1970s and 1980s, the 1990s saw a marked decrease in judicial interventions. Thus, during the period under study, state-level political actors and corrections administrators may not have seen the courts as a threat.

Alternatively, the null findings may indicate something more fundamental about the privatization decision-making process. It may be that state-level officials, either political or administrative, do not anticipate actions by the courts when considering privatization. Knowing that the process from initial complaint to court-ordered reform of an institution or agency is both long and uncertain, they may choose to wait until the actual negotiation of a consent decree before turning to a private contractor. In the absence of other privatization pressures, such a "wait and see strategy" might in fact be the most rational approach.

VII. Conclusions

This essay began with the assertion that contracting for public services was both a political and an administrative activity and that the motivations of each set of actors should be fully considered. The findings from the analyses herein confirm that a multistage approach to studying the contracting process may offer some leverage for understanding the various values that motivate contracting decisions.

Specifically, in the area of corrections management, they suggest that instrumental motivations play a larger role in the stage of the process where administrators predominate. Political factors such as ideology, however, seem to hold sway throughout.

Though they are initially encouraging, the challenge for future research is to determine whether these findings hold in different types of contracting activities. Corrections management differs in some important ways from other service delivery areas. It is one of the only areas where the service being delivered is punishment rather than benefits or regulation. It is an area where the client or target group is formally disenfranchised and, thus, unable to oppose contracting. And finally, it is an ideologically charged area that often follows partisan divisions. Thus, future research will need to expand the exploration of the multiple stages of contracting into service delivery areas that are ideologically inert or perhaps areas dominated by a powerful clientele.

Even with the appropriate caveats listed above, however, the findings from this analysis invite a general conclusion regarding the interactions between elected and administrative officials. Although not resurrecting the politics-administration dichotomy, the results do remind us that politicians and public managers often have different motivations. Even when the two sets of actors desire and produce the same outcome, they may do so for different reasons. Whether it is because they answer to different principles, come from different backgrounds, or are socialized differently by their respective institutions, political and bureaucratic actors may consider different things important when they attempt to further the public good.

Sean Nicholson-Crotty is a Visiting Assistant Professor of Political Science at Texas A&M University, 4348 TAMU, College Station, TX 77843-4348.

Notes

1. Court-mandated reforms of state and local corrections institutions have been numerous since the 1970s (see Feely & Rubin 1998). Consent decrees, special masters, and other examples of courts interceding in program administration can also be found in health care, social welfare, environmental regulation, and numerous other policy areas.
2. These figures include both jail and prison inmates.
3. It should be noted that two states, Illinois and New York, have passed statutory prohibitions against privatization of corrections management.
4. Several states maintain private prison management contracts for facilities outside of their borders. For the purposes of this study, however, I am concerned only with active in-state contracts.
5. All information is available at <http://web.crim.ufl.edu>. It should be noted that much of this data was collected by Thomas while he was being partially funded by the Corrections Corporation of America. He was also a member of the company's real estate board.
6. The analysis only covers the three years from 1996 through 1998 due to data limitations. Thomas's criminal justice center at the University of Florida reports data as far back as 1994, but I was only able to independently confirm the maintenance of an active contract within a state for these 3 years. Because of the relationship between Thomas and the largest private prison management firm, mentioned in note 5, I felt that such independent confirmation was crucial.
7. All monetary variables are in constant 1996 dollars.

8. Data were provided by B. Dan Wood and updated as necessary by the author.
9. The measure is calculated using the Berry et al. (1998) indicator of state liberalism. See Grossback, Nicholson-Crotty, and Peterson (2002) for an in-depth discussion of the reliability and validity of the measure as well as numerous alternative specifications.
10. The model was also run using the more traditional measure of neighboring adopters and with no external determinants of the adoption decision. The sign, significance, and substantive impact of the political and economic factors discussed above did not change appreciably in either model.
11. The measure is constructed from scores on 7 indicators of power including, tenure, appointment power, budget control, veto, unified government, and number of other statewide elected officials.
12. Because of the very shallow nature of the pool in this second analysis, there is not a problem with serial correlation of errors between years.
13. This model does not need to be estimated with a Heckman selection procedure because the sample is not censored. All 50 states are included in all 3 years of the pool because, as noted above, all states do not *require* enabling legislation before the awarding of a contract. Thus, no state has *self-selected* out of the sample.
14. The degree of collinearity between the variables in the analysis is well within acceptable limits, indicating that the insignificance of the economic and legal variables is not due to shared variance.

References

- Avery, G. (2000). Outsourcing public health laboratory services. *Public Administration Review*, 60, 330–337.
- Austin, J., & Coventry, G. (2001). *Emerging issues on privatized prisons*. NCJ 181249. Bureau of Justice Assistance, National Council on Crime and Delinquency.
- Berry, W., & Berry, F. S. (1990). State lottery adoptions as policy innovations: An event history analysis. *American Political Science Review*, 84, 395–415.
- Berry, F. S., & Berry, W. (1999). Innovation and diffusion models in policy research. In P. A. Sabatier (Ed.), *Theoretical lenses on public policy*. Boulder, CO: Westview Press.
- Berry, W., Ringquist, E., Fording, R., & Hansen, R. (1998). Measuring citizen and government ideology in the American states, 1960–1993. *American Journal of Political Science*, 42, 327–348.
- Beyle, T. (1997). Relative power of the offices of governor. In H. Hovey & K. Hovey (Eds.), *State fact finder 1997: Rankings across America*. Washington: Congressional Quarterly Inc.
- Bowman, G., Hakim, S., & Seidenstat, P. (1993). Introduction. In Bowman et al. (Eds.), *Privatizing correctional institutions*. New Brunswick, NJ: Transaction.
- Bowman, G., Hakim, S., & Seidenstat, P. (1993). *Privatizing correctional institutions*. New Brunswick, NJ: Transaction.
- Boyne, G. (1998). Bureaucratic theory meets reality: Public choice and service contracting in U.S. local government. *Public Administration Review*, 58, 474–484.
- Brown, T., & Potoski, M. (2002). Contract-management capacity in municipal and county governments. *Public Administration Review*, 63, 153–164.
- Camp, G., & Camp, C. (1984). *Private sector involvement in prison services and operations*. Washington, DC: National Institute of Corrections.
- Clingermayer, J., & Wood, B. D. (1995). Disentangling patterns of state debt financing. *American Political Science Review*, 89, 108–120.
- Daley, D. (1996). The politics and administration of privatization. *Policy Studies Journal*, 24, 629–631.
- DeHoog, R. (1984). *Contracting out for human services: Economic, political, and organizational perspectives*. Albany: State University of New York Press.
- DeHoog, R. (1990). Competition, negotiation, or cooperation: Three models for service contracting. *Administration and Society*, 22, 317–340.
- Durant, R., & Legge, J. (2000). Politics, public opinion, and privatization in France: Assessing the calculus of consent for market reforms. *Public Administration Review*, 62, 307–319.

- Durham, A. (1994). *Crisis and reform: Current issues in American punishment*. Boston: Little, Brown.
- Ethridge, P., & Marquart, J. (1993). Private prisons in Texas: The new penology for profit. *Justice Quarterly*, 10.
- Feeley, M., & Rubin, E. (1998). *Judicial policy making and the modern state*. New York: Cambridge University Press.
- Ferris, J. (1986). The decision to contract out: An empirical analysis. *Urban Affairs Quarterly*, 22, 289–311.
- Ferris, J., & Graddy, E. (1986). Contracting out: For what? with whom? *Public Administration Review*, 46, 332–344.
- Ferris, J., & Graddy, E. (1991). Production costs, transaction costs, and local government contractor choice. *Economic Inquiry*, 24, 541–554.
- Floresanto, P. (1980). Revenue raising limitations on local government: A focus on alternative responses. *Public Administration Review*, 40, 122–131.
- Gallagher, D., & Edwards, M. (1997). Prison industries and the private sector. *Atlantic Economic Journal*, 25, 91–98.
- Gray, V. (1973). Innovation in the states: A diffusion study. *American Political Science Review*, 67, 1174–1185.
- Green, J. (1996). How much privatization? Examining the use of privatization by cities in 1982 and 1992." *Policy Studies Journal*, 24, 632–640.
- Grossback, L., Nicholson-Crotty, S., & Peterson, D. (2002, August). A unified theory of policy diffusion. Presented at the annual meeting of the American Political Science Association, Boston.
- Harriman, L., & Straussman, J. (1983). Do judges determine budget decisions? Federal court decisions in prison reform and state spending for corrections. *Public Administration Review*, 43, 343–351.
- Johnson, G., & Heilman, J. (1987). Metapolic transition and policy implementation. *Public Administration Review*, 47, 468–478.
- Kearney, R., & Carnevale, D. (2001). *Labor relations in the public sector*. New York: Marcel Dekker.
- Kellough, E., & Lu, H. (1993). The paradox of merit pay in the public sector: Persistence of a problematic procedure. *Review of Public Personnel Administration*, 13, 45–64.
- Kettl, D. (1993). *Sharing power: Public governance and private markets*. Washington, DC: Brookings Institution.
- Korosec, R., & Mead, T. (1996). Lessons from privatization task forces. *Policy Studies Journal*, 24, 641–648.
- Laverly, K. (1999). *Smart contracting for local government services: Processes and experiences*. Westport, CT: Praeger.
- Logan, C., & McGriff, B. (1989). *Comparing the costs of public and private prisons: A case study*. Washington, DC: Office of Justice Programs.
- Logan, C., & Rausch, S. (1985). Punishment for profit: The emergence of private enterprise prisons. *Justice Quarterly*, 2, 303–318.
- MacDonald, D. (1994). Public imprisonment by private means: The reemergence of private prisons and jails in the United States." *British Journal of Criminology*, 34, 29–48.
- MacDonald, D., Fournier, E., & Russell-Einhorn, M. (1998). *Private prisons in the United States: An assessment of current practices*. Cambridge: Abt Associates.
- McCrie, R. (1993). Private corrections: The delicate balance. In G. Bowman, S. Hakim, & P. Seidenstat. (Eds.), *Privatizing Correctional Institutions*. New Brunswick, NJ: Transaction.
- Mooney, C. Z., & Lee, M. (1995). Legislating morality in the American States: The case of pre-Roe abortion regulation reform. *American Journal of Political Science*, 39, 599–627.
- Morgan, D., Hirlinger, M., & England, R. (1987). The decision to contract out city services: A further explanation." *Western Political Quarterly*, 363–372.
- Osborne, D., & Gaebler, T. (1992). *Reinventing government*. Reading, MA: Addison-Wesley.
- Percy, S., & Maier, P. (1996). School choice in Milwaukee. *Policy Studies Journal*, 24, 649–655.
- Quinlan, M., Thomas, C., & Gautreaux, S. (2001). The privatization of corrections facilities." In D. Ballati (Ed.), *Privatizing governmental functions*. New York: Law Journal Press.

- Robbins, I. (1988). The impact of the delegation doctrine on prison privatization. *UCLA Law Review*, 35, 911-952.
- Robbins, I. (1989). The legal dimensions of private incarceration. *American University Law Review*, 38, 531-854.
- Savas, E. S. (1977). *Alternatives for delivering public services: Toward improved performance*. Boulder, CO: Westview Press.
- Schneider, A. L. (1999). Public private partnerships in the U.S. prison system. *American Behavioral Scientist*, 43, 192-208.
- Schossor, E. (1998). The prison industrial complex. *Atlantic Monthly*, 283, 51-80.
- Sechrest, D., & Schicor, D. (1994). *Final report: Exploratory study of California's community corrections facilities*. San Bernadino: California Department of Corrections.
- Sellers, M. (1989). Private and public prisons: A comparison of costs. *International Journal of Offender Therapy and Comparative Criminology*, 10, 101-117.
- Smith, C. (2000). The governance of corrections: Implications of the changing interface of courts and corrections. In *Boundary Changes in Criminal Justice Organizations*, Vol. 2. Washington, DC: National Institute of Justice.
- Thomas, C. (1998). Issues and evidence from the U.S. In S. Easton (Ed.), *Privatizing corrections services*. Vancouver, BC: Fraser Institute.
- Thomas, C., & Gautreaux, S. (2000). The present status of state and federal privatization law. Working Paper. Gainesville: Center for the Studies of Criminology and Law at the University of Florida.
- Thompson, F., Riccucci, N., & Ban, C. (1991). Drug testing in the federal workplace: An instrumental and symbolic assessment. *Public Administration Review*, 51, 515-525.
- Thompson, L., & Elling, R. (2000). Mapping patterns of support for privatization in the mass public. *Public Administration Review*, 60, 338-348.
- U.S. General Accounting Office. (1996). *Private and public prisons: Studies comparing operational costs and/or quality of service*. Washington, DC: Author.
- U.S. General Accounting Office. (1997). *Privatization: Lessons learned by state and local governments*. Washington, DC: Author.