

# Unleashing the Profit Motive in Punishment & Rehabilitation: Prison privatization in the U.S. & Japan

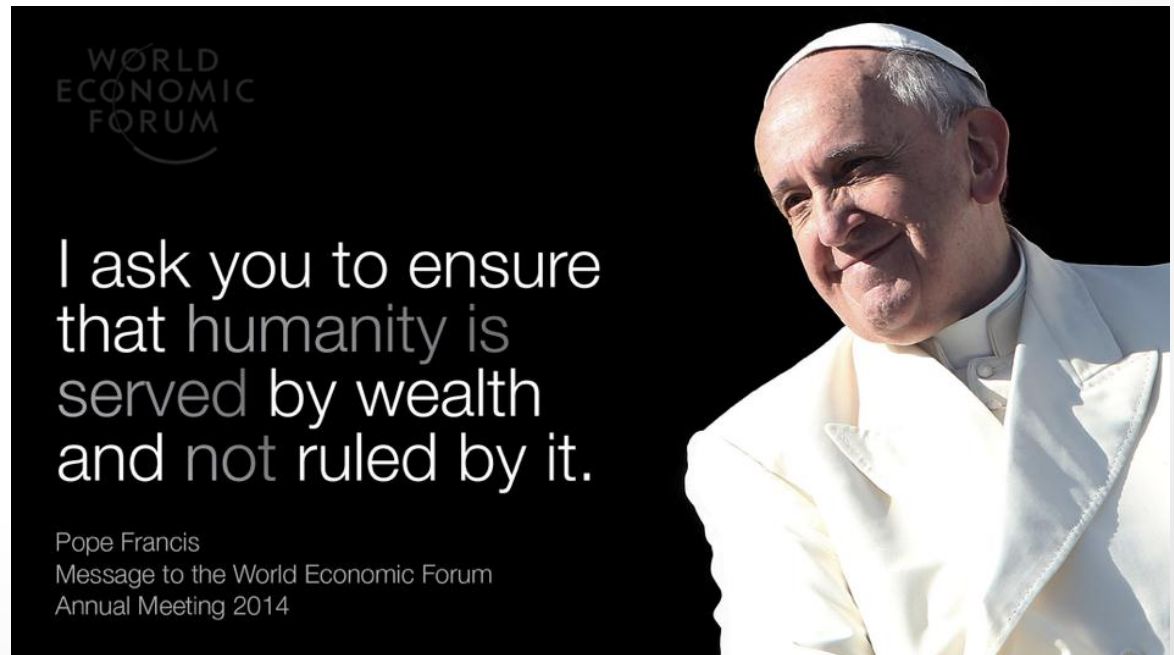
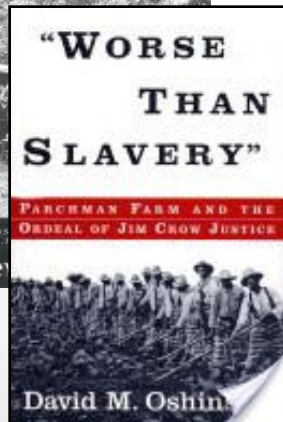
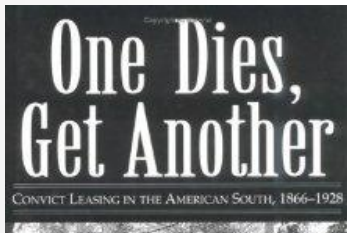
Dr. Paul Leighton  
Eastern Michigan University

Osher Lifelong Learning Institute  
University of Michigan, 10 April 2014



# Profit and Punishment

- Need to get it right – no perverse incentives
  - Undermine national ideals
  - Create unjust systems of punishment and ruin lives
  - Mis-allocate capital from crime prevention



# Roadmap

- Prison-Industrial Complex
- US Private Prisons
- Japanese Private Finance Initiative (PFI) Act
- Shimane Asahi
- Conclusion: Post-warehouse prison



Thanks to the Dept. of Sociology, Anthropology & Criminology for a

- development award that facilitated access and research

# Military-Industrial Complex

- From General/President Eisenhower's warning of Military-Industrial Complex
  - New permanent armaments industry: "We must guard against the acquisition of unwarranted influence... The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes."
- 'Complex' forms policy in own interest, minimizes outside scrutiny and accountability
  - "Iron Triangle" of legislators, bureaucrats and corp. interests

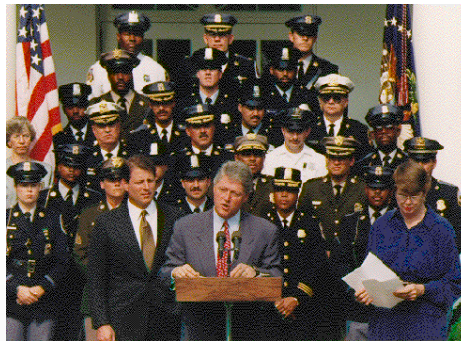
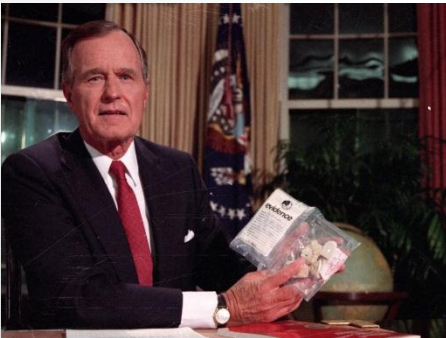




# Criminal Justice-Industrial Complex

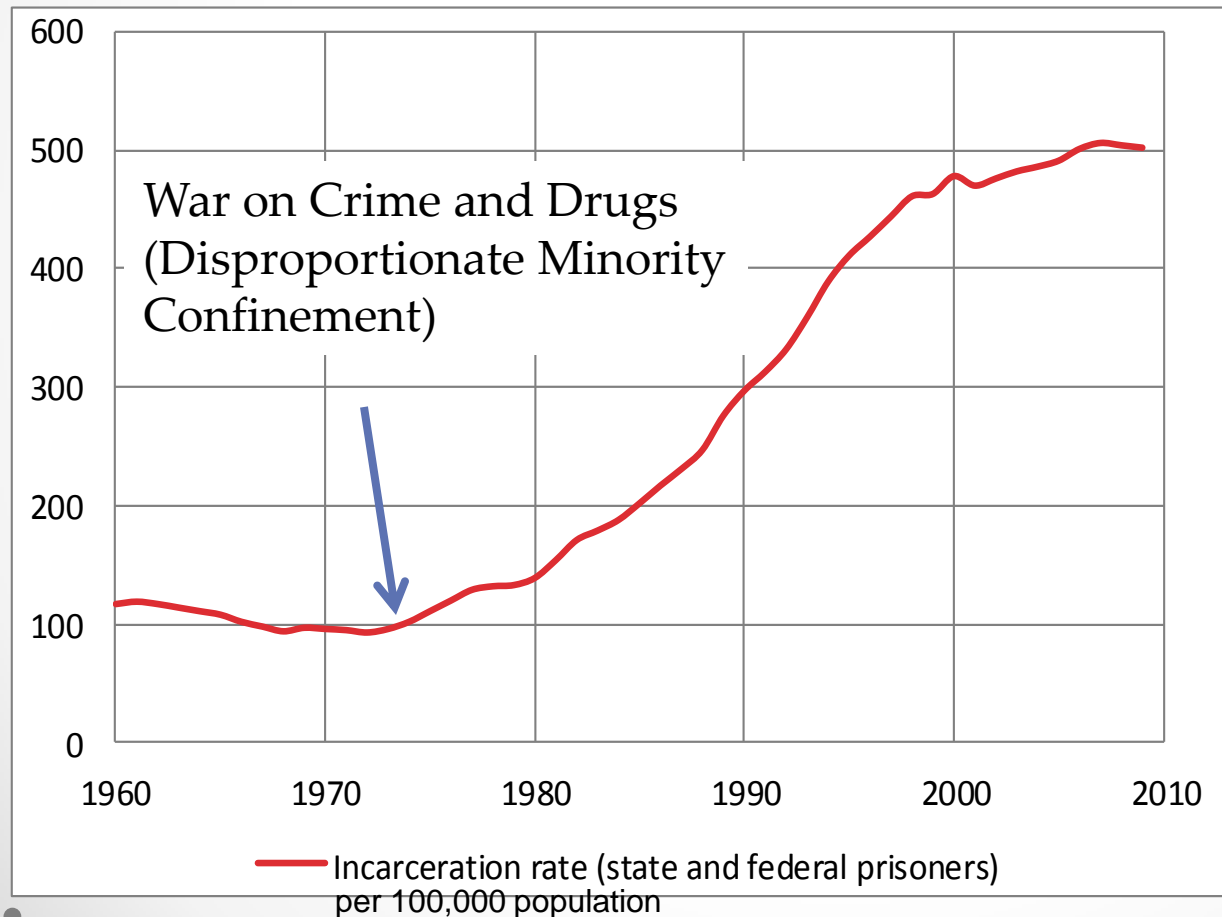
“Bodies destined for profitable punishment”

- Politicians (use fear of crime to gain votes)
- Impoverished rural areas (use prisons as economic development)
- Media (sensationalize crime for ratings)
- Private companies (billions spent each year on CJ as a lucrative market)
- Government officials (expand fiefdoms)



Is this a  
social problem?

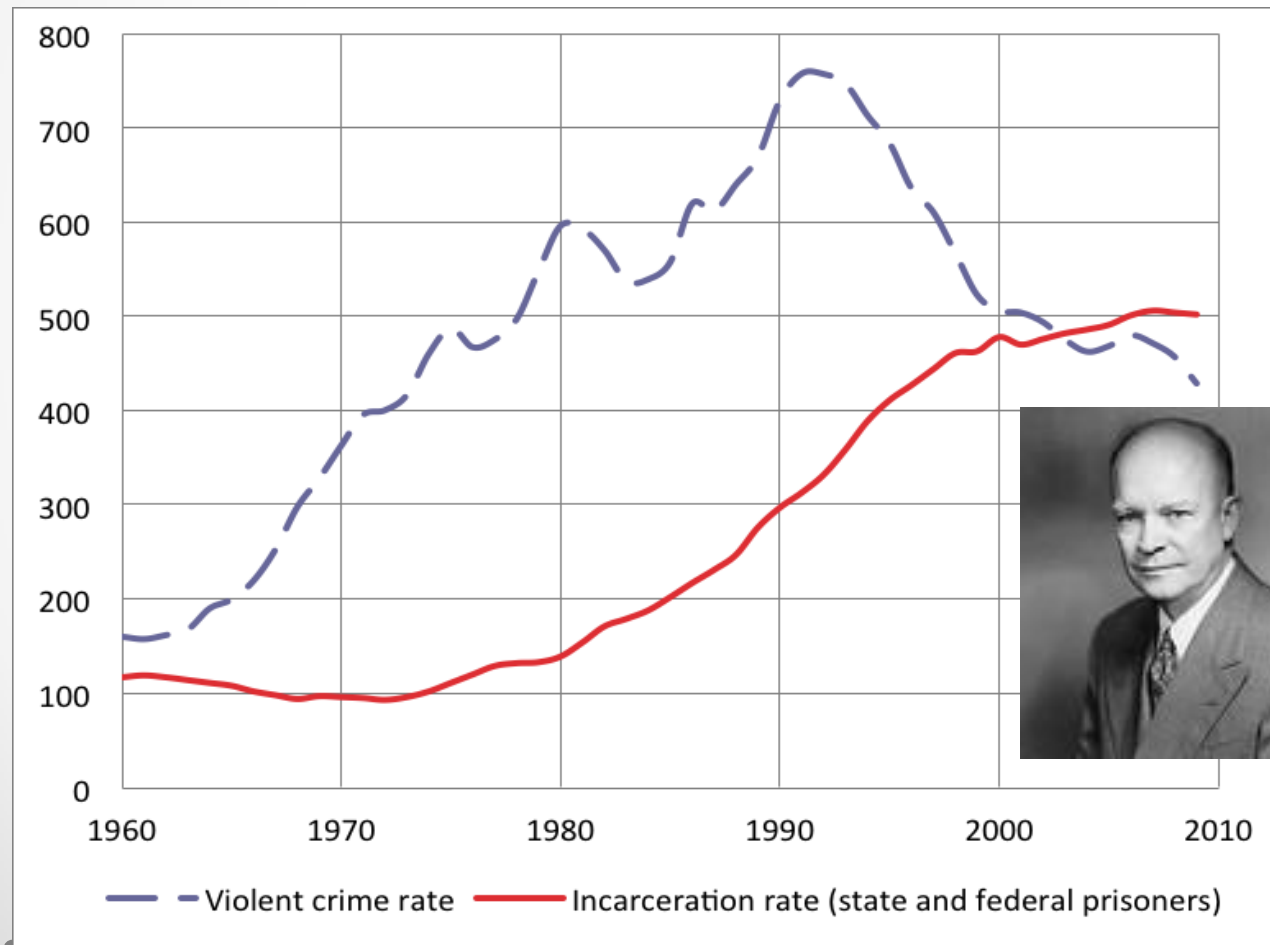
A business  
opportunity?



Both?



# Remember, prison has little to do with the crime rate...



*"Every gun that is made,  
every warship launched,  
every rocket fired, signifies  
in the final sense a theft  
from those who hunger and  
are not fed, those who are  
cold and are not clothed."*

*Dwight D. Eisenhower*

# Private Prisons

- Nominal privatization: construction, food, medical care, education
- Operational privatization:  
➔ private company *operates* a facility owned by the government and/or *manages* inmates in a prison that the company *owns*.



Both are Real Estate Investment Trusts – pay no federal tax and distribute money to shareholders instead



# Business Model

- Revenue measured in “compensated man day” = per diem (daily) fee per inmate
- High fixed costs [admin, staffing, construction], low marginal costs [food, clothing]
- Economies of scale encourage acquisitions/mergers
- MAXIMUM PROFITS from high occupancy – contracts guarantee payment for 90% occupancy
- Lobby govt for access to “raw materials” [prisoners]



# Process

- Research promising jurisdictions
- Lobbyists, Campaign Donations
- Hire local officials or ex-govt employees as consultants [watch for conflict of interest]
- Govt writes Request for Proposals (RFP), hundreds of pages describing the service, staffing, health care expectations, etc.

Expensive to write RFP, review responses, negotiate contract – often not considered in cost studies



# Concerns I: Legitimacy

- **No private police (power to arrest, use deadly force)**
- **No private courts**
- **Why are private prisons morally acceptable then?**

Argument that private prisons are *service in support of* a state function, but ...

- Would a privatized death row be acceptable?
- Contract out executions if it saved 10%?
- Have Michigan DOC be a subsidiary of private corp?



# Concerns II: Crony Capitalism

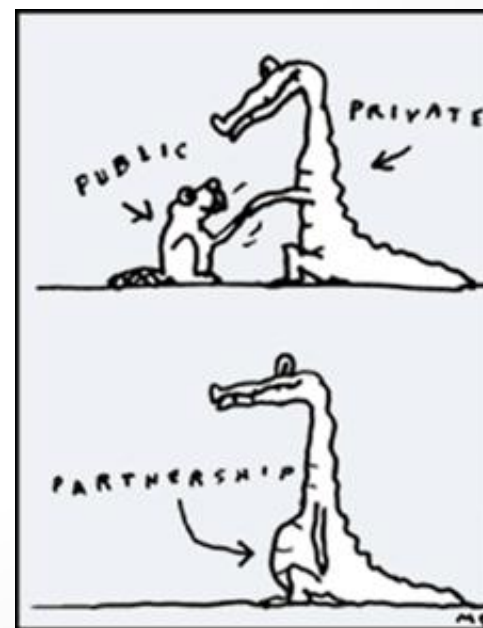
- Weak and flawed systems of monitoring
- Companies deal with more contracts and better understand the profit-making potential of certain contractual language
- Few penalties for violating contract, insufficient for deterrence
- “Take or Pay”: Pay for 90 or 95% occupancy regardless of actual number of inmates

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**Corrections Corporation Of America Proves That Crime Does Pay**

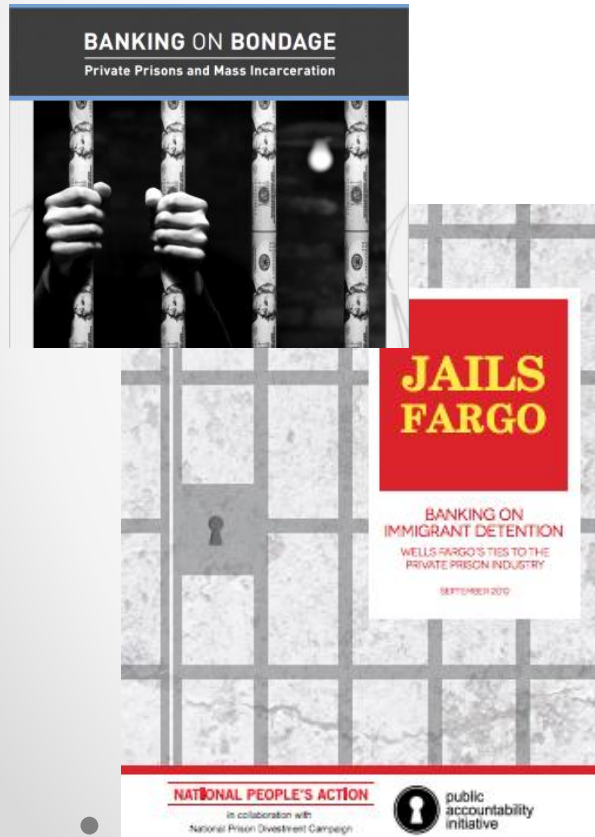
Apr 6 2013, 03:16 | 1 comment | about: CXW



# Concerns III: “Endanger democratic processes”



**Private prisons were born from unjust policy; they depend on its continuation for growth and profit**



GEO Group, 2010 Annual Report “Risk Factors”:

- the demand for our services could be adversely affected by the relaxation of criminal or immigration enforcement efforts, sentencing or deportation practices, and the decriminalization of certain activities. For example, any changes with respect to the **decriminalization of drugs** could affect the number of persons arrested, convicted, sentenced and incarcerated, thereby potentially reducing demand for correctional facilities to house them.



# Concerns IV: Little (if any) savings

## Overhead costs

- Executive pay, executive pay consultants
- Customer acquisition (lobbying, political donations)
- Securities and Exchange Commission filings
- Investor relations, shareholder lawsuits
- Consultants for mergers, acquisitions, reorganization
- Auditing (international operations)
- Unused portion of credit line

Top Wage in Public DOC v Private Prisons, 2007

CEO salary excludes stocks and stock options. Inmates under supervision excludes probation and parole.

Selman and Leighton, *Punishment for Sale*, p 137

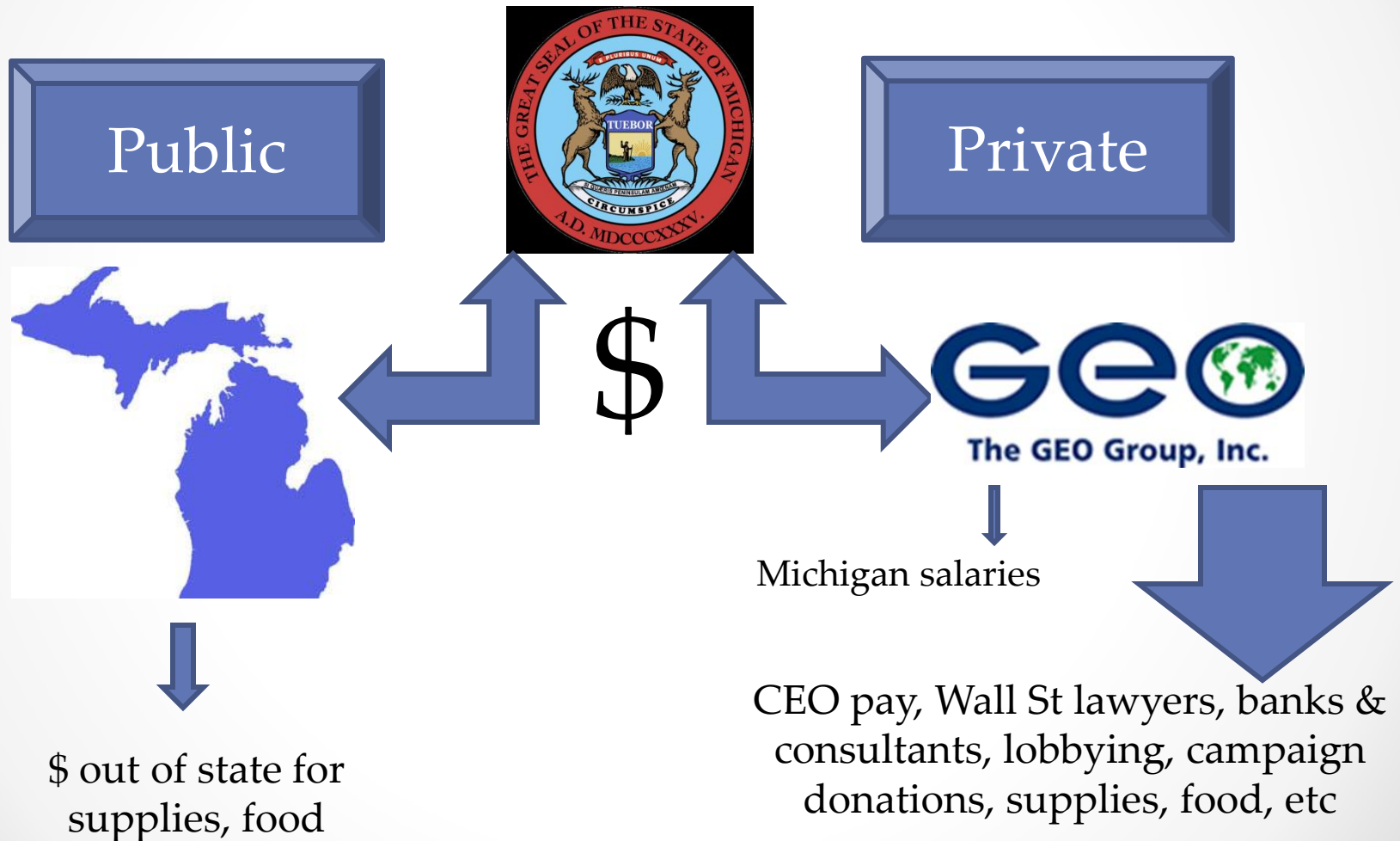
State/ Company	Position	Salary	Inmates Under Supervision
GEO	Chairman, CEO	\$2,926,813	54,000
CCA	President, CEO	\$1,887,951	72,000
California	Secretrary	\$225,000	172,365
Michigan	Director	\$145,000	51,577
Ohio	Director	\$118,205	47,086

# Concerns VI: Promote Inequality

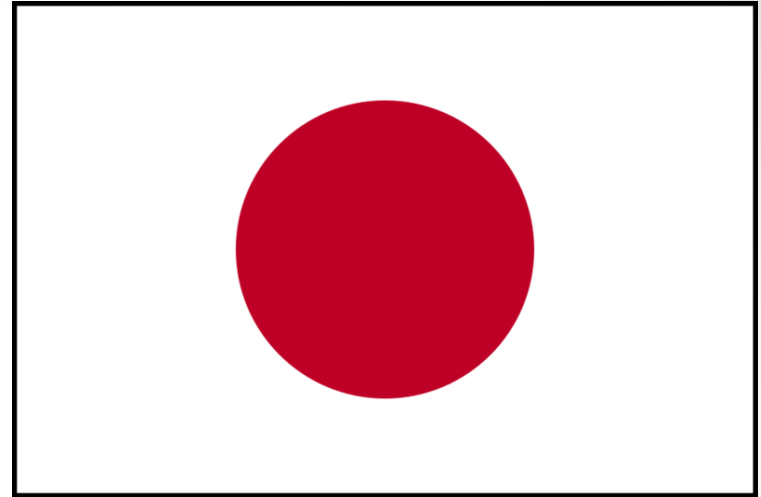
- Able to make profit and provide the same service with higher overhead costs because of lower salaries for the people who work in the prisons
- Median earnings in 2010 for correctional officers and jailers was
  - \$39,040 for government employees
  - \$30,460 for private prisons
- Lower wages = More employee turnover

Source: Bureau of Labor Statistics 2012–13, quoted in Barak, Leighton & Cotton *Class, Race, Gender & Crime*, 4<sup>th</sup> ed, Ch 1.

# Concerns VII: Save 5%(?) but weaken Michigan economy



# Japan



- After WWII, “self-defense force” and little military industry
- Low rates of crime and incarceration, so little CJ-industrial complex
- Incarceration rate:
  - US – 707/100,000 (2012)
  - Japan – 51/100,000 (2013)

(International Centre for Prison Studies, [prisonstudies.org](http://prisonstudies.org))

# 1999 Act on Promotion of Private Finance Initiative (PFI)

- Partnerships for “offender rehabilitation facilities” – not prisons
- 50 localities wanted one, built 4

(Definition)

Article 2

(1) The term "Public Facility etc." as used in this Act means the following facilities (including equipments):

- (i) Public facility such as roads, railways, ports and harbors, airports, rivers, parks, water services, sewage systems, and industrial water supplies;
- (ii) Official facilities such as government buildings and accommodation;
- (iii) Public interest facilities such as public housing, educational and cultural facilities, waste treatment facilities, medical facilities, social welfare facilities, offender rehabilitation facilities, parking, and underground malls;

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<sup>1</sup> Literal translation of this act is “The Act on Promotion of Provision etc. of Public Facility etc. through Utilization of Private Finance etc.” We use the term “PFI (Private Finance Initiative)” because this act is widely known as “PFI Act” in Japan.

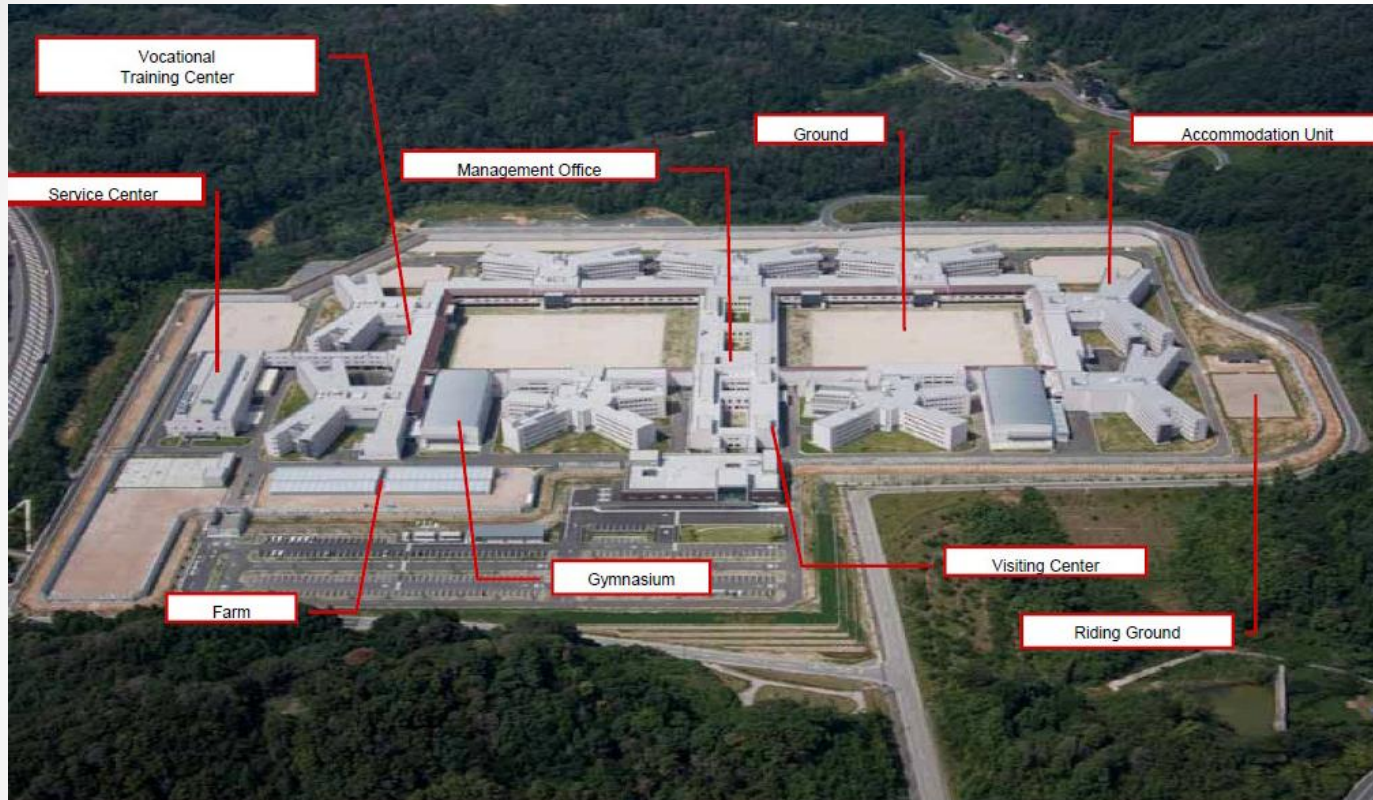


# Shimane Asahi Rehabilitation Center

- Last of four PFI Prisons to be built
- Region rural and elderly; rich farmland, nice scenery
- Capacity 2,000
- Opened 2008



# Shimane Asahi Rehabilitation Center

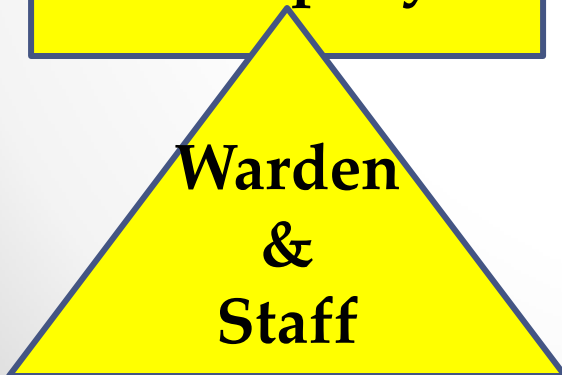


From Akihiko Kimura, The Development of PFI in the Prison Sector in Japan. Presented at the 3<sup>rd</sup> Annual Meeting for PPP/PFI Promotion Between Japan and Korea

I would like to thank the Warden of Shimane Asahi, Fumiya Tezuka, for allowing me access and giving graciously of his time. Akinobu Sato was a very helpful point of contact and his translation work was invaluable. Atsuko Otsuka also provided high level translation; our subsequent discussions have added considerable depth to my understanding.

# US Private prisons v Japanese PFI

U.S.



Japan





# 3 “pillars” of Shimane Asahi

- Public-private partnership
  - Technology and innovation
- Education, vocational training and rehabilitative programs
  - Special programs, training and therapeutic gardens for emotionally disturbed inmates
- Partnership with the local community
  - “Co-building” – Center for Regional Engagement



...“aims to create prisons that the public can understand and support”

# Technology & innovation I

- Scanning equipment for drugs and contraband...



- ... means no strip searches



Better environment for inmates, guards and inmate-guard relationships



# Technology & innovation II

- “Location information system” – RFID tags that show the inmates’ location in real time
  - No lockdowns for daily counts
  - Warning when inmates out of place



- +660 cameras
  - Watch inmates and remotely open doors – “moving around unescorted”

- Kiosk (commissary, appointments)

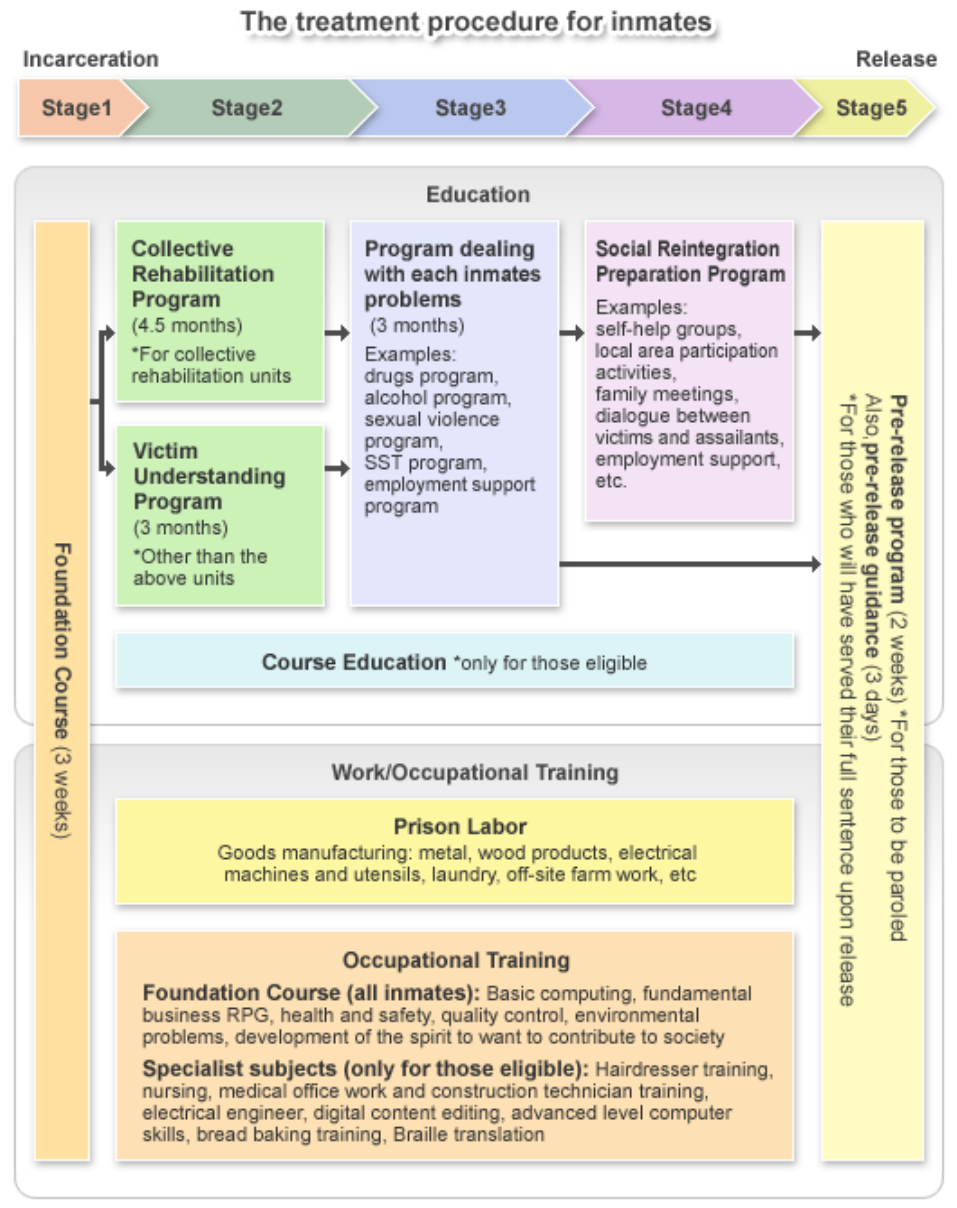


- From Shimane Asahi website, <http://www.shimaneasahi-rpc.go.jp/english/tokucyo/index.html>

# Programs I

“programs that have proved to reduce the recidivism rate in Europe and the United States”

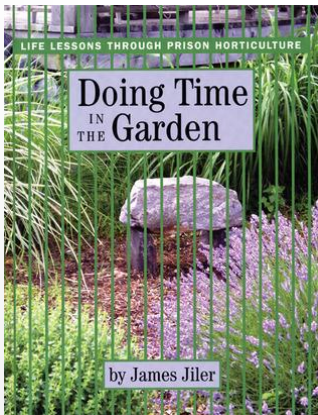
+ Horse (“Equine Assisted”) Therapy and Horticulture



# Programs II

Mentally and emotionally disturbed inmates

- Making masks and beaded costumes for local festival
- Therapeutic gardens
- Social skills training



From Shimane Asahi website,  
<http://www.shimaneasahi-rpc.go.jp/english/torikumi/index.html>

# Programs III (Giving Back)

- Translate books into Braille
- Train Seeing Eye Dogs
  - First Japanese prison-based guide dog program
- Repair bicycles for 3<sup>rd</sup> World medical workers and Great East Japan Earthquake victims



[Minister of Justice with first certified guide dog trained in a prison](#)  
(Asahi.com, 20 June 2013)



Used bicycles repaired at the center are labeled as such with a sticker

[Obayashi Corporate Report 2012: Financial, Social and Environmental Performance](#)



# Regional Engagement



- From Akihiko Kimura, The Development of PFI in the Prison Sector in Japan. Presented at the 3<sup>rd</sup> Annual Meeting for PPP/PFI Promotion Between Japan and Korea
-



# Conclusions

- The problem in the U.S. is the “warehouse prison”

Cite as: 563 U. S. \_\_\_\_ (2011)

51

Opinion of the Court

B



Mule Creek State Prison  
Aug. 1, 2008

From Supreme Court decision in *Brown v Plata*.

California had to release 46,000 inmates to get down to 137.5% of capacity in 2 years.

“Needless suffering and death have been well-documented.”  
(p 3)

# The “warehouse prison” problem

52

BROWN v. PLATA

Opinion of the Court

C



Salinas Valley State Prison  
July 29, 2008  
Correctional Treatment Center (dry cages/holding cells for people waiting for mental health crisis bed)



California Institution for Men  
Aug. 7, 2006

More radical still was a proposed amendment to the state constitution requiring it to spend more on higher education than prisons...

# The “warehouse prison” problem



AM. CLUB | YouTube

## 15 Years In Environment Of Constant Fear Somehow Fails To Rehabilitate Prisoner

NEWS IN BRIEF • Prison • Lifestyle • ISSUE 50•09 • Mar 4, 2014



79.1k



1.2K



369

We should not  
be debating  
how to do this  
more cheaply  
and efficiently

WOODBOURNE, NY—Reportedly left dumbfounded by the news that recent parolee Terry Raney had been reincarcerated on charges of assault and battery, officials at Woodbourne Correctional Facility struggled Tuesday to make sense of how the prisoner had not been rehabilitated by 15 years of constant threats, physical abuse, and periodic isolation. “It just doesn’t seem possible that an inmate could live for a decade and a half in a completely dehumanizing environment in which violent felons were constantly on the verge of attacking or even killing him and not emerge an emotionally stable, productive member of society,”

# The warehouse prison-industrial complex

Building prisons instead of funding prevention is like mopping water off the floor while we let the tub overflow. Mopping harder may make some difference but does not do anything about the open faucet.

-Elliott Currie

Quoted in Selman and Leighton. 2010.

*Punishment for Sale*. (p 26)

**We don't need an allegedly better mop**



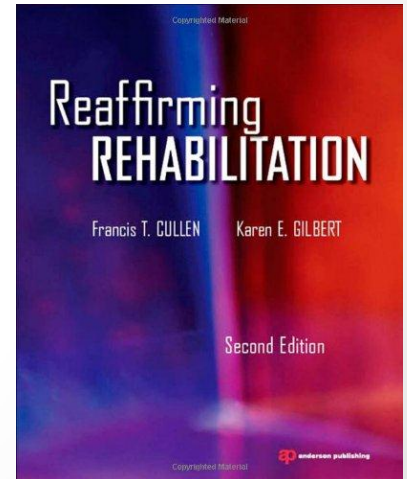


# The post-warehouse prison

- Reaffirm rehabilitation...

“the rehabilitative ideal draws its power from its nobility and its rationality — from the promise that compassionate science, rather than vengeful punishment, is the road to reducing crime. Rehabilitation allows us to be a better and safer people”

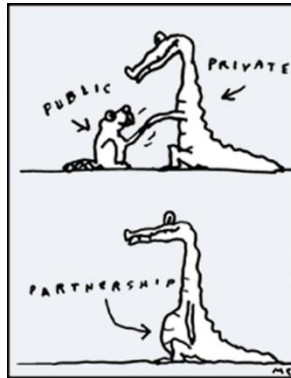
- -Francis Cullen



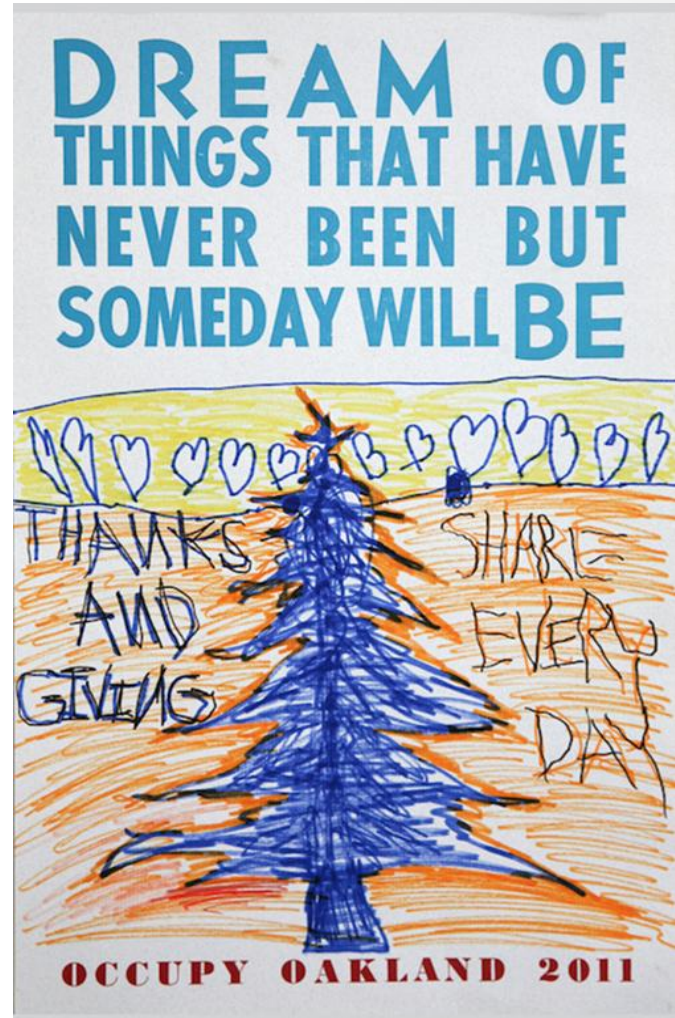
quoted in Leighton, Paul. 2014. “A model prison for the next 50 years”: The high-tech, public private Shimane Asahi Rehabilitation Center. *Justice Policy Journal*, 11(1), [http://www.cjcj.org/uploads/cjcj/documents/leighton\\_model\\_prisons\\_final\\_formatted.pdf](http://www.cjcj.org/uploads/cjcj/documents/leighton_model_prisons_final_formatted.pdf).

# The post-warehouse prison

- ... but no “industrial complexes”



- Local groups and resources
- Non-profits and NGOs





Dr. Paul Leighton is a professor in the Department of Sociology, Anthropology & Criminology at Eastern Michigan University.

More information about him is available on his website,

<http://paulsjusticepage.com/paul/pauls-cv.htm>

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