

Institute for Law and Policy Planning

P.O. Box 5137, Berkeley, CA 94705 (415) 486-8352

Report Concerning the Privatization of Probation in Leon County

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JULY 5, 1988

REPORT CONCERNING
THE PRIVATIZATION OF PROBATION
IN LEON COUNTY

July 5, 1988

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U.S. Department of Justice
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Institute for Law and Policy Planning Staff

Principal Investigator

Dr. Roger Baron

Project Coordinator

Ms. Susan Jensen

Project Director

Dr. Alan Kalmanoff

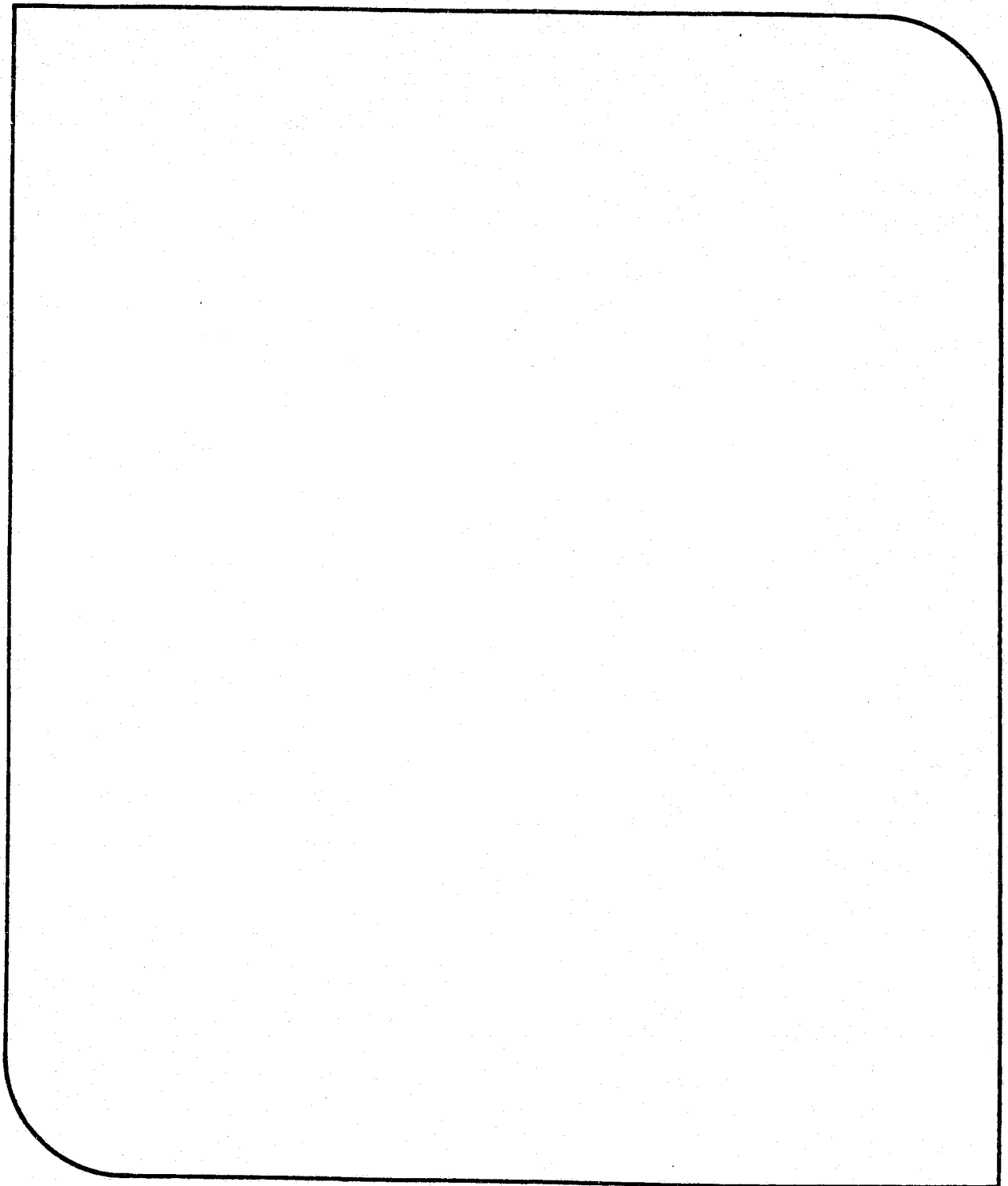
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Ms. Sharon King

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Background of Problem in Leon County



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I. BACKGROUND OF PROBLEM IN LEON COUNTY

The Leon County Board of County Commissioners' interest in possibly privatizing one or all elements of County probation began when the Commissioners were reviewing space in the new Leon County Justice Complex and the then Chief Probation Officer, George Hopkins, stated that the space allocated to probation was insufficient. Mr. Hopkins indicated that based on the projected need for four additional staff in '87-'88 and four more in '88-'89, he would need twice the space allocated (which could cost the County an additional \$250,000). In January, 1987, the Board approved the additional space allocation for probation in the new courthouse complex.

In July, 1987 budget workshops, the Board directed staff to investigate the feasibility of privatizing probation, primarily due to concern over space needs by the division.

In October, 1987, a memo from James Parrish, Administrator to the Honorable Chairman and Board of County Commissioners, addressed the subject of the Probation Division Office at the Leon County Justice Complex. He noted:

"A study to evaluate office space requirements for the Probation Division has shown that space currently allocated in the Justice Complex far exceeds the needs for this division. Additionally, we have instituted management techniques, redistribution of client work load and reorganization of the division, we have determined that personnel additions are not indicated...Assuming that work load statistics and case/client load counts for the past two years predict future operational requirements, there is no expansion of the Leon County Probation Division anticipated in the immediate future."1

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Based on this memo, the Board rescinded the recommendations assigning office space to the Leon County Probation Division on the fourth level north of the Leon County Justice Complex, and reassigned them the office space on the second level originally planned for their use.

In January, 1988, after the Board had considered putting out a Request for Proposal for Probation and Pre-Trial Release Services, it was decided to table any further consideration of the privatization of probation pending the outcome of the Jail Overcrowding Study being conducted by the Institute for Law and Policy Planning. In March, 1988, it was decided to have the Institute address the issue of the privatization of probation in a separate report.

This report seeks to help the Board understand possible options with regard to privatizing some or all of probation. (The Master Plan itself will address probation space needs in any new jail.)

Methodology

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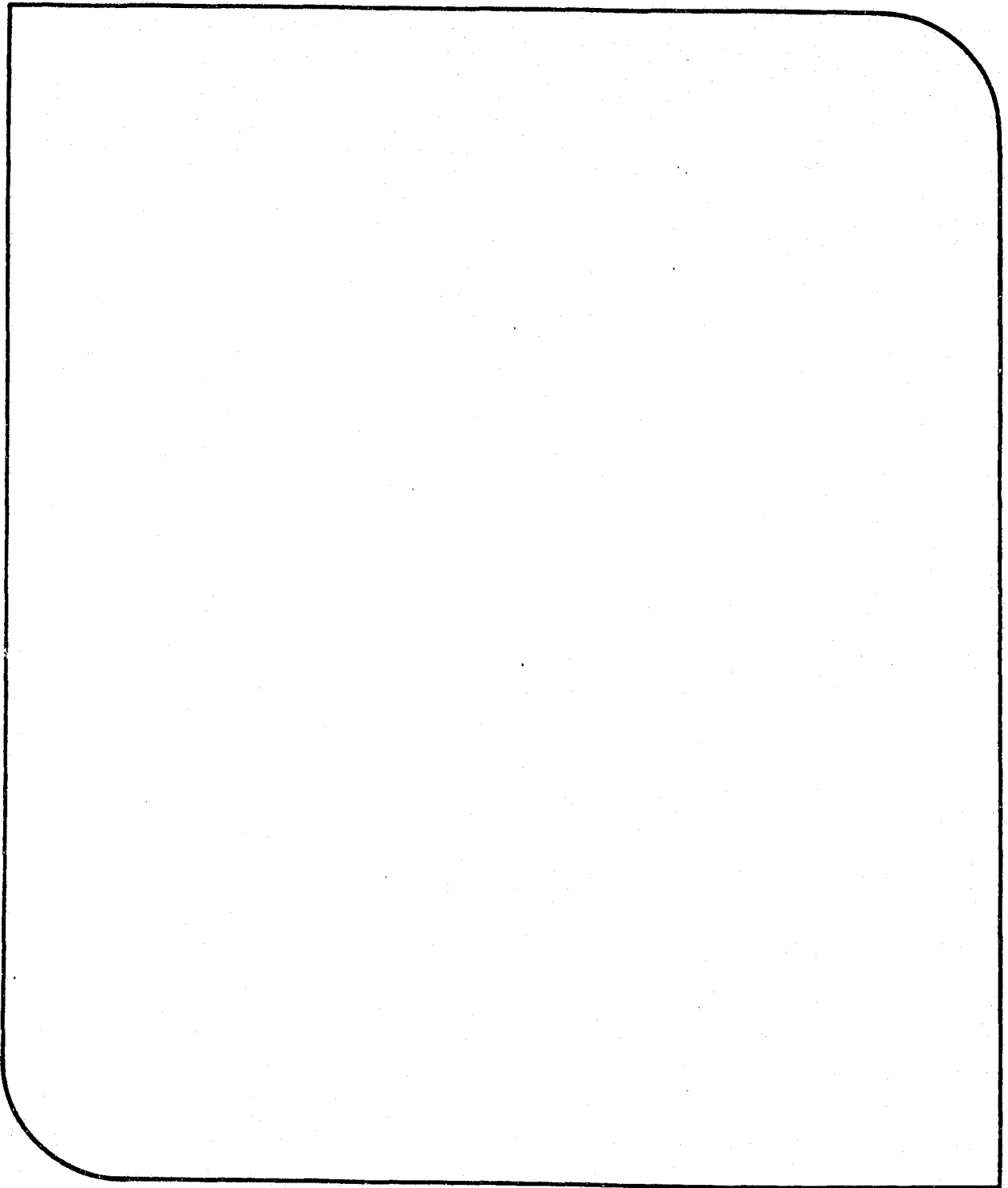
II. METHODOLOGY

The privatization study was undertaken to provide a brief and focused review of issues and information relevant to decision-making. It was not meant to be a comprehensive study, but rather a guide.

Methodology involved extensive interviews of interested Leon County officials. The appendix to this report lists all those interviewed. Data collection occurred in Leon County and elsewhere in Florida. In addition, Consultants conducted a review of the literature on the subject and conducted a site visit and interviews in Palm Beach County and interviews in Pasco County of both public officials and private providers.

After initial interviews and data collection, follow-up interviews were performed to evaluate the policy planning questions in the context of background data. Initial findings were then reviewed with County officials.

The Privatization Issue



III. THE PRIVATIZATION ISSUE

Many probation departments traditionally have purchased some services from private community-based agencies under contract. Generally, these have been for services such as bed space, transportation, education, clinical evaluations, drug and alcohol testing, and other types of services for which the probation agency has no in-house capability. More recently, however, the issue of expanding the number and range of private contractors has arisen in connection with the problem of declining public resources. In some areas of the country, the question of whether it may be cost-effective to contract out all of probation's service has been considered.

Some arguments made for contracting with private agencies can be appealing. For example:

- o The private vendor is said to be more cost-effective (because of economies of scale, market incentives, fewer regulations, no civil service), thus permitting more productive use of the tax dollar.
- o Private agencies are said to be less inhibited by political constraints, and therefore free to experiment with more innovative programming.
- o Reliance on the private sector is supposed to add flexibility to government because of the relative ease with which public programs using private service providers can be set up and dismantled.

Whether the above arguments hold up in actual practice is open to question. The literature is divided over the question of cost-effectiveness. Some claim that private services tend to be cheaper (especially because of lower salaries and staffing ratios), but that service quality cannot be relied on. Others maintain that high quality service can be obtained from private vendors, but that they are not often more efficient or less costly. A few have found private agencies to be highly cost effective, at least in certain well-defined service areas. In general, a statement in a recent issue of the National

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Institute of Justice Crime File seems to summarize accurately the current state of knowledge on the issue of the privatization of corrections:

"At this stage, it is impossible to answer empirical questions about the cost effectiveness and efficiency of private correctional programs. The necessary research simply has not been done, and relevant data remain scarce. Theoretical speculations, anecdotes, and raw statistics abound, but there is as yet little dependable information to tell us if or how privatization can work or at what human and financial cost."²

Disadvantages of private contracting include the need for careful monitoring of private programs to ensure quality services. Such monitoring and the need for additional staff to maintain communications increases program cost. Liability is another major issue associated with privatization. Legal opinions seem to indicate that government cannot be absolved of responsibility for damages rendered by private firms with which it contracts.³

Florida is the only example found of a state that has turned its entire misdemeanor probation over to a private nonprofit corporation. In 1975, the state legislature removed the supervisory authority of the Parole and Probation Commission, thereby leaving county courts without a probation option. In response to this crisis, the Salvation Army Misdemeanor Probation Program (SAMP) came into existence as a pilot program. In 1976, legislation was passed permitting the Salvation Army or other approved agency to provide probation services and to collect a \$10 per month supervision fee from each client under supervision. (Amendments to this legislation now provide for a maximum supervision fee of \$50.)⁴

While as of fall, 1979, SAMP provided over 90 percent of all probation supervision for adult misdemeanants in the state of Florida, and there appeared to be general satisfaction with the program, many jurisdictions subsequently dropped SAMP and developed a county operated program or contracted the service out to other private organizations.

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Leon County Probation was operated by SAMP in the late 1970s until it was taken over by the Court Administrators Office in 1983 and then by the County Administrator in 1986. Thus, Leon County already has had significant experience with the privatization of probation. Apparently, the judiciary in Leon County had problems when SAMP wanted increased fees and would not allow the judges to review their financial records.

The National Office for Social Responsibility (NOSR) in Alexandria, Virginia, has recently developed a Resource Manual for Administrators of Juvenile and Criminal Justice Agencies entitled "Involving the Private Sector in Public Policy and Program Planning." This is an excellent document which not only summarized the major issues about privatization but provides great detail on how to determine the feasibility of conversion, i.e., the request for proposal, proposal review, contract development, transfer and contract monitoring.

In discussing one of the major questions about privatization regarding the statutory authority to contract out adult and juvenile services NOSR states:

"As a result of legal research and the advice of counsel, it is the opinion of NOSR that most corrections and probation functions -- report preparation, supervision, counseling, et al, -- are contractible, given permissive or enabling legislation. However, there are a few functions involved in probation which may not be appropriate areas for contracting. These include interrogation, decisions to detain or not to detain, in-chamber judicial responsibilities, and development of public policy relative to the disposition and treatment of offenders."5

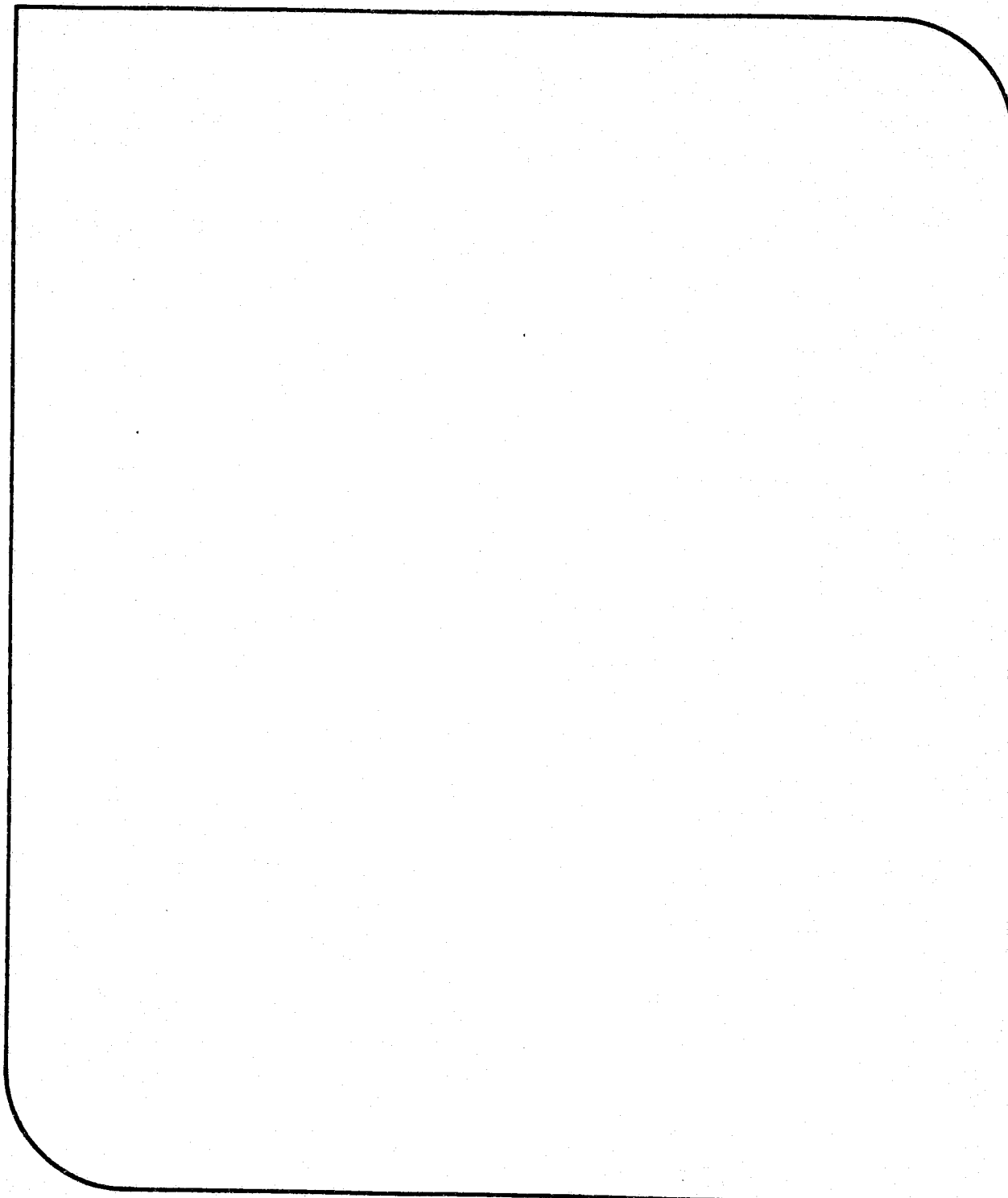
Another comment which seems particularly pertinent to the issue at hand is the following:

"It would be tragic for a community to undergo the very real difficulties entailed in preparing to contract out corrections or probation services only to discover that there were insufficient or

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inadequate bidders... A move to contracting for corrections and probation services should be carefully made on a most thoughtful basis."6

**Analysis of a Private Vendor,
PRIDE, INC.**



IV. ANALYSIS OF A PRIVATE VENDOR: PRIDE, INC.

In an effort to develop a further understanding of the current operation of misdemeanor probation services by the private sector and to gather some financial data for purposes of cost comparison, Consultant visited PRIDE, INC. in West Palm Beach, Florida. (PRIDE stands for Personal Responsibility In Daily Endeavors). PRIDE, INC. is a non-profit organization that operates programs in Pasco, Volusia (Daytona Beach), Monroe and Palm Beach Counties. The Program in Palm Beach has three main components-probation supervision, pre-trial intervention (a diversion program for the first offender), and an in-house arrest program (electronic monitoring).

PRIDE, INC. was selected because it has a good reputation and the Palm Beach location was selected since it is both the site of one of its programs and the main office where data would be available for all its programs. The only other private agency operating probation services to any great extent in Florida was the Salvation Army and since Leon County had already experienced their programs it seemed best to seek an alternative for comparison.

The visit was useful in terms of seeing how a private program operates but only pointed out the impossibility of developing any meaningful financial data for purposes of comparing this service with that of Leon County probation. The reasons that this kind of comparison is inappropriate are as follows:

1. The services performed by PRIDE, INC. in Palm Beach County are substantially different from those performed by Leon County Probation:
 - a. PRIDE, INC. runs a pre-trial intervention program and an in-house arrest program and does probation supervision for misdemeanants.
 - b. Leon County Probation runs a pre-trial program, does pre-sentence investigations and supervision for misdemeanants, monitors and collects supervision fees for the Sheriff's Work Program and collects fines for the County Clerk.

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2. Even though both programs supervise misdemeanants there are several factors that make comparison difficult:

- a. PRIDE, INC. does not consider rehabilitation of misdemeanants to be a goal of probation. They do not require a college degree of their staff and do not consider them qualified to do counseling. They handle an average caseload of about 175 and average 30 minutes for an initial interview and 20 minutes for all other interviews. No probationer has an assigned probation officer; instead they see whoever is on duty during the day they report into the office. (This is seen as preventing anyone becoming overly sympathetic to their client and providing a more subjective point of view.)
- b. Leon County Probation does consider rehabilitation to be a goal of services and does require a college degree for employment. Counseling is seen as a necessary function of supervision. Leon County Probation handles an average caseload of about 160 and averages 30 minutes for an initial interview and 30 minutes for all other interviews. Each probationer has a probation officer assigned who is completely responsible for the case.
- c. To further complicate any comparisons, PRIDE, INC. does not handle all misdemeanants on supervision in Palm Beach. Palm Beach County Probation also supervises some misdemeanants. It is up to each individual judge whether to assign PRIDE, INC. or County Probation on any given case. From interviews with judges in Palm Beach County it appears that the cases involving any violence, such as assaults, domestic violence and abuse, are assigned to the County along with property theft involving resti-

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tution; whereas the DUI and substance abuse cases go to PRIDE, INC. All cases that are indigent go to County Probation. Thus, the County gets a higher proportion of the more difficult cases.

- d. While both agencies handle the community service program as part of supervision, their approaches are quite different. Leon County takes more responsibility for coordinating the client with the service to make sure it's compatible. PRIDE, INC. usually provides a list of the services available and lets the client make the selection. (PRIDE, INC. feels this makes the client more responsible and avoids blaming the probation officer later on if a problem develops with the selection).

Despite the difficulties discussed above, Consultants attempted to compare volume adjusted cost measures; cost per case and cost per client contact hour. Cost per case is total agency cost divided by number of clients served. Cost per client contact hour is cost per case divided by number of hours of face to face contact between client and supervising probation officer during supervision period.

Since PRIDE, INC. had a southern branch office of its Palm Beach County program in Del Rey Beach that handled only probation supervision and not a pre-trial intervention and in-house program. Comparing the Del Rey Beach program with that of Leon County Probation eliminated some of the difficulties discussed above.

The basic figures obtained from both programs and the cost per case and cost per client contact are as follows:

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	<u>Leon County Probation</u>	<u>Palm Beach County (Del Rey Beach) (PRIDE, INC.)</u>
Number of Positions	16	6
Personnel Services	\$363,668	\$108,000
Operation Expenses	\$ 20,750	\$ 60,000
Total Cost	\$384,418	\$168,000
Estimated Client Case- load Per Year	5,280	2,800
Cost Per Case	\$72.81	\$60.00
Cost Per Client * Contact Hour	\$36.41	\$40.00

* The average supervision period for purposes of this comparison was an initial interview plus three follow-up interviews. Based on figures from Leon County presented above, this would be 2 hours per client while for PRIDE, INC. in Palm Beach County the comparable figure is 1 1/2 hours per client.

Several adjustments were made to these basic figures to allow for problems in comparing the programs. Since Leon County Probation does not pay rent and PRIDE, INC. does, an actual cost of rent that Leon County currently pays for probation space (\$17,160 per year) was added to the Leon County operating expenses. Since PRIDE, INC. in Del Rey Beach was paying approximately \$16,500 of its rent for classroom space for its DUI program (1500 sq. ft. @ \$11.00 per sq. ft.) this cost was eliminated from its operating expenses. Also, one of the 16 positions in Leon County Probation is for a Community Service Coordinator. Since PRIDE, INC. (Del Rey Beach) does not perform a similar function, the cost of Leon County personnel services was reduced by the cost of this position (\$25,000).

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The adjusted figures are as follows:

	<u>Leon County Probation</u>	<u>Palm Beach County (Del Rey Beach) (PRIDE, INC.)</u>
Number of Positions	15	6
Personnel Services	\$338,668	\$108,000
Operation Expenses	\$ 37,910	\$ 43,500
Total Cost	\$376,578	\$151,500
Estimated Client Case- load Per Year	5,280	2,800
Cost Per Case	\$71.32	\$54.11
Cost Per Client Contact Hour	\$35.66	\$36.07

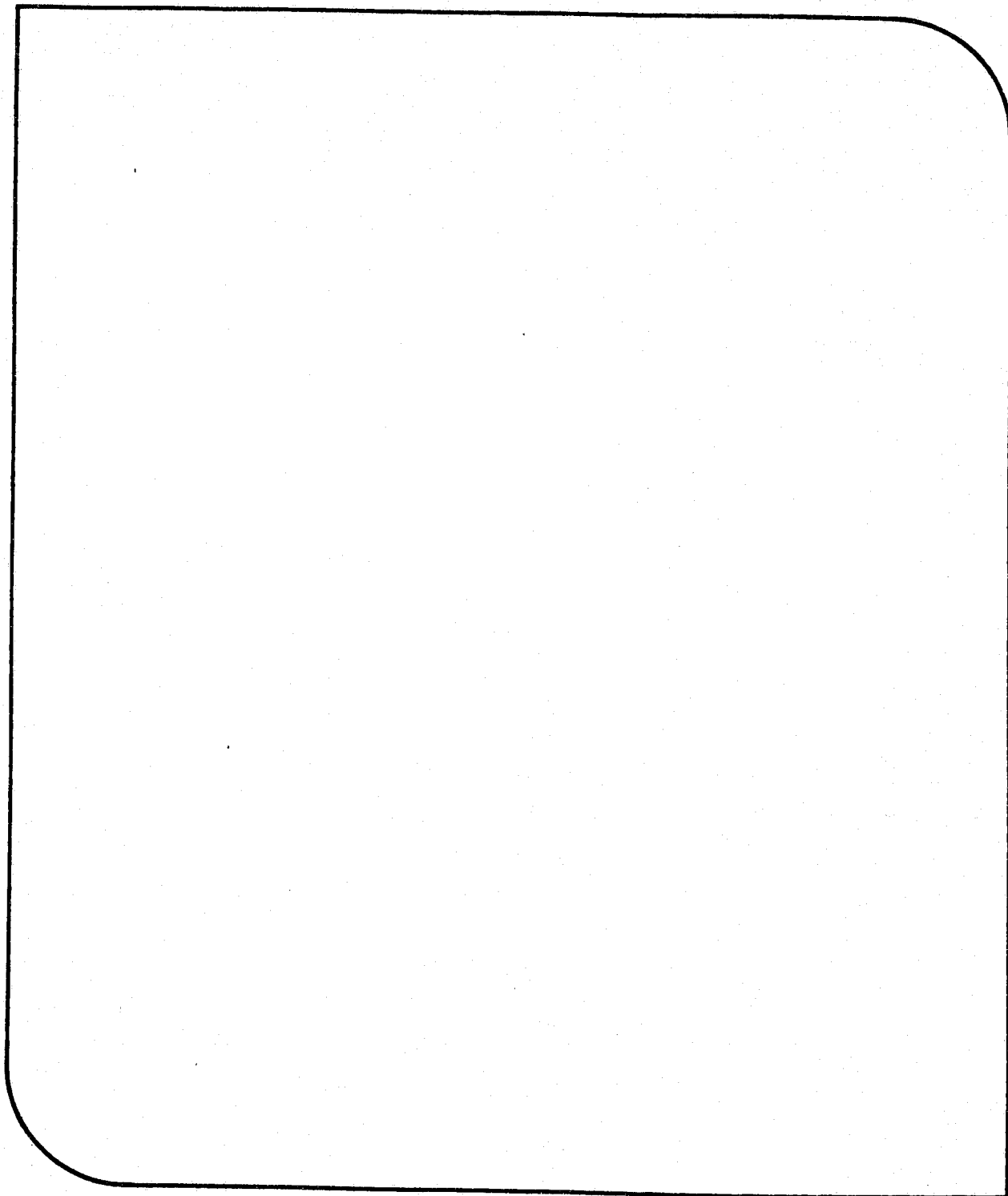
What this rough comparison shows is that based on these figures, Leon County Probation appears to have a higher cost per case than PRIDE, INC.'s Del Rey Beach Office and yet a similar cost per client contact hour. Thus Leon County has chosen a different package of services for each client but appears to be delivering services (per client contact hours) as efficiently. However, these comparisons have extremely limited validity since they do not take account of the various factors discussed above, such as differences in services rendered (pre-sentence investigations, collecting fines), philosophy (rehabilitation, counseling), educational requirements for staff and nature of client handled (indigent, violent offender).

One result of the PRIDE, INC. approach to probation supervision appears to be more technical violations of probation issued. The judges there seem very happy with the service and see a "harder" approach as more appropriate in dealing with current problems.

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The in-house arrest program seemed particularly interesting. It appears that PRIDE, INC. will run such a program anywhere in the State with no charge to the county. All monies would come from fee charges to the client using the electronic surveillance equipment (approximately \$6.00-\$7.00 a day). This in-house arrest program has been discussed in Leon County where it could assist in reducing jail crowding.

Interviews in Leon County



V. INTERVIEWS IN LEON COUNTY

It appears that the major interest in the privatization of probation comes from members of the Board of County Commissioners. Some Commissioners are concerned about the rapid growth of probation in recent years and remember well the prior request for additional space in the new Justice Complex, the request for additional personnel, and the turmoil created by the indictment and subsequent resignation of the Chief Probation Officer. While some are not sure how the Probation Division is currently operating motivating under Jerry Hendry, others see a real improvement under his management. There is a general concern that probation be cost effective, and have a positive effect on the offender.

It was interesting that none of the six Judges interviewed (three County and three Circuit Court) favored contracting out probation services to the private sector. Those that have had contact with Probation recently are very pleased with the service. They feel they have a good working relationship with the Department and see it as being very receptive to new programs and ideas. Some expressed praise for Jerry Hendry, seeing him as a "participatory administrator" who pays attention to dollars as well as people. They also are impressed by the fact that Probation has always paid for itself and even "makes a profit" which is returned to the general funds.

In general, the Judges are against the privatization of probation. They see the Probation Officer's duties as involving public responsibilities surrounding the restraint of liberty, confidentiality of information, due process, and the protection of the community. They feel these public duties should be a governmental function. A frequent statement made by those interviewed was: "If it ain't broke, don't fix it."

The others interviewed also expressed general satisfaction with the current service provided by Probation and the same concern that court related functions, having a direct impact on the life and liberty of citizens, should not be subjected to privatization.

Conclusions

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VI. CONCLUSIONS

It appears that the apparent rapid growth of Probation, which initially required the need for additional space in the new Justice Complex and prompted the inquiry by the Board of County Commissioners into the contracting out of probation services to the private sector, is no longer a major issue. After the Chief Probation Officer resigned, a study by the new Probation Administrator noted that the additional space was not necessary and provision should be rescinded; "...assuming that work load statistics and case/client load counts for the past two years predict future operational requirement, there is no expansion of the Leon County Probation Division anticipated in the immediate future."

Even if the current caseload of approximately 160 were to increase, there is good reason to believe that this increase could be handled effectively by existing staff. Management procedures that allow more efficient utilization of current personnel assets, including identifying tasks being performed by a probation officer which can be given to clerical staff, led Mr. Hendry to conclude that the caseload could increase from 160 to 180 or even 200 and still be handled effectively by existing staff.

According to Statute, supervision fees have a cap of \$50.00 a month. Leon County Probation has recently increased the fee from \$20.00 to \$30.00 a month to cover the cost of the new pre-trial program. So even if the caseload were to increase beyond manageable amounts, there would still be the option of increasing supervision fees to cover the cost of any additional staff.

Beyond these more theoretical issues, there are some real practical and common sense reasons for maintaining the present probation system at this time. These reasons include:

1. The Probation Division has not only paid for itself in the past, but has "made a profit" which has been turned over to County general funds. In the '86-87 fiscal year this "profit" was approximately \$54,000 and the before-profit expenses for that period included approximately \$79,000 to fund the Leon

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County Pre-Trial Release Program. Some of the County Commissioners have pointed out that this "profit" is somewhat misleading since Probation, like other county departments, does not pay "rent." Since Probation currently occupies an estimated 1300 sq. ft. of space at a cost of approximately \$13.20 per sq. ft., this comes to a "rent" of \$17,610.00 a year, which still leaves a substantial savings to Leon county. One can assume that no "savings" will be passed on to the County by a private contractor.

2. Privatization of Probation has already been tried unsuccessfully in Leon County (Salvation Army) and has left the County and Circuit Court judges and other criminal justice personnel with little interest in further experimentation. More importantly, they are very satisfied with probation as currently operated and have a philosophical belief that services having a direct impact on the life and liberty of citizens should remain a governmental function.
3. The criminal justice system in Leon County is currently under stress, with a jail overcrowding lawsuit pending and the new Leon County Courthouse being occupied. There is also the additional prospect of a new jail in the immediate future.

Probation is playing a crucial role in combatting the jail crowding problem through its effective management of the newly created Pre-trial Release Program. By all accounts, the pre-trial program has been doing a very commendable job under most difficult conditions. (It is interviewing approximately 500 arrestees a month and releasing about 200 of those identified as low risk into the pre-trial program, based on specific court ordered release criteria).

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To contract out probation and pre-trial release services to a private contractor at this time would place a heavy additional burden on the criminal justice system. This is especially true, given the general consensus of opinion by criminal justice officials in Leon County against privatization. It is difficult to convince them otherwise, given the lack of any telling and empirical evidence to support such a change.

Thus, Consultants recommend against the privatization of probation (and pre-trial release) services at this time for the many reasons stated above. It would make sense however, for the Board of County Commissioners to consider the contracting out of an In-House Arrest Program involving the use of electronic monitors if this program proves effective under the experiment currently being tried in Leon County. The In-House Arrest Program has been effective in other jurisdictions as an alternative to incarceration. There is also a need, as noted earlier in the overcrowding project, to contract out more in the way of outpatient and inpatient drug treatment programs to combat the serious drug abuse problem confronting Leon County.

References

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3. Torres, Dorothy M. (1986). "Privatization and Corrections: A Preliminary Literature Review," pp. 19-20.
4. Linquist, C. A. (1980). "The Private Sector in Corrections: Contracting Probation Services from Community Organizations," Federal Probation, 44(1) 59-60.
5. Involving the Private Sector in Public Policy and Program Planning: A Resource Manual for Administrators of Juvenile and Criminal Justice Agencies, National Office of Social Responsibility, Alexandria, Virginia (1987). pp 3-7, 3-8.
6. Ibid, p. 3-14.

Persons Interviewed

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Persons Interviewed

Palm Beach County

Carlisle, James	Circuit Judge
Mansfield, Bonnie	PRIDE, INC. (Office Manager)
Parker, Robert V.	County Judge
Rasmussen, Fred	PRIDE, INC. (Executive Director)
Sheldon, Andrea	PRIDE, INC. (Probation Director)
Smallridge, Debbie	PRIDE, INC. (Admin. Services Director)

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Persons Interviewed

Leon County

Allen, Michael	Public Defender
Crusoe, John	County Judge
Fordham, C.L.	State Attorney's Office
Hall, J. Lewis Jr.	Circuit Judge
Hendry, Jerry	County Probation
McClamma, Hal S.	County Judge
McClure, Charles	Circuit Judge
Nelson, Gayle	County Commissioner
Olk, Tom	Disc Village
Parrish, Jim	County Administrator
Pillon, Jim	County Administrator's Office
Reynolds, George III	County Judge
Smith, Ralph	Circuit Judge
Vause, Lee	County Commissioner
Whitmore, Nancy	Pre-Trial Officer
Wills, Bill	Pre-Trial Supervisor
Yordan, Gary	County Commissioner

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Persons Interviewed

Pasco County

Meadows, Denna

PRIDE, INC.
(Director, Pasco Co.)

Rasmussen, Dan C.

County Judge

Rice, Cary

Deputy Court Administrator

Rice, David

Department of Corrections
(Director)

Tepper, Lynn

County Judge