

**GEO Presentation to Delaware County
Jail Oversight Board
April 13, 2021**

**Response to CGL Study – Presenting Facts, Actual Costs
& Operational Insight**

ALTA / CGL Responses to GEO are in Blue

The Facts

- GEO **does not** dispute that Delco can terminate the contract with six months notice - regardless of whether county operation saves money
- GEO disputes the findings of CGL's analysis as it implies that the facility is poorly managed and/or that GEO is deceiving the County by charging too much.
 - **FALSE:** The report makes no statement as to GEO's management of the facility and does not describe or imply any level of deception on GEO's part.
- **Interestingly, the Jail Oversight Board (JOB) will not allow GEO corrections professionals to publicly present information and respond to questions relating to facility operations and management**
 - **FALSE:** GEO is free to submit any information or questions to the Jail Oversight Board and it will be posted for the public in full transparency.

What the JOB should know about the CGL Study:

- Improperly implies that GEO's costs to the county are too high.
 - **FALSE:** The report makes no judgment of GEO's costs---it simply demonstrates that potential savings are available from county management of the facility.
- Wrongly suggests that GEO's performance is not superior to other counties.
 - **FALSE:** The report is a financial feasibility study. It does not address or make any statements as to GEO's operational performance.
- Avoids presenting true cost exposures from legal liability and inmate healthcare.
 - **FALSE:** The report specifically identifies litigation and liability as a concern that needs to be addressed and includes a cost for liability insurance.
- Ignores millions in recurring costs that the county will have to incur, among other things, to replace existing subject matter experts and management oversight personnel.
 - **FALSE:** The report does not include GEO overhead costs, such as multi-million dollar executive salaries, in the analysis because such overhead is beyond the scope of County operations. Other comparable counties do not spend millions of dollars on external subject matter experts and management personnel to administer their jails.

What the JOB should know about the CGL Study:

- Disregards level of programming and recidivism reduction services currently provided.
 - **FALSE:** The analysis assumes current levels of programs and recidivism reduction services will continue. Two alternative scenarios in the analysis in fact add substantial resources to this existing foundation of program services.
- Underestimates assumptions for managing multi-privatization contracts with numerous for-profit providers.
 - **FALSE:** The analysis assumes that Delaware County, like other counties in Pennsylvania, is capable of managing contracts for special services such as health care and food service to be provided in the jail.
- Failed to conduct a detailed staffing analysis based on safety requirements and relief factor costs.
 - **FALSE:** The report specifically states the staffing review is an overview based on a comparison of best practices in staffing patterns in comparable facilities. A “detailed” staffing analysis is not necessary for a financial feasibility assessment.
- Analysis was completed prior to GEO increasing staff wages in 2021 – resulting in a nearly **\$1.18 million** understatement of “savings” for staff wages.
 - **FALSE:** This statement is incorrect. The analysis uses the 2021 GEO wage scale as a basis for calculation.

Understanding How the Costs Add Up

- The CGL report estimates the County can save **\$3 million per year** by taking over the operation of the jail and continuing its current operations under County management (Scenario 1)
- CGL admits that switching the jail employees from contractor employment to County employment will cost the County approximately **\$4 million more**.
 - **INACCURATE:** The analysis assumes a 6% salary increase above current GEO levels and County benefits, which are much more generous than those offered by GEO. These investments are needed to reduce the extraordinarily high level of staff turnover at the facility, as reported by GEO staff, which has a profoundly negative impact on operational performance and security and costs. More efficient staffing plans with increased compensation will reduce staffing turnover and related costs.
- The report adds another **\$2.4 million** for “contingencies”

Understanding How the Costs Add Up

- The consultant attempts to show the County can offset these additional costs and ***still save \$3 million (a net swing of nearly \$10 million)*** by saving money primarily in two key areas of operations: 1) Inmate health care; and 2) Litigation costs.
 - **FALSE:** The report makes no claim as to the source of savings because CGL does not have access to internal GEO spending reports to make such a comparison. The analysis simply compares a conservative estimate of operational cost under County management with the aggregate cost of the facility under GEO management. The more likely source of savings identified is the elimination of costs for GEO overhead and profit, and improved automation.

Understanding Inmate Health Care Costs

- The consultant assumes inmate health care can be contracted out (**privatized**) for approximately \$15.45 per inmate per day, or **\$10.6 million per year**
- This assumed cost is based on the “weighted average” costs of nearby counties (*which, by definition, means that some counties’ costs are higher*).
 - **INACCURATE:** A weighted average takes the total population and spending levels for a group of facilities and determines the average cost across the aggregate jail populations for these facilities. This is the fairest way to estimate the unit costs of care for multiple counties.
- The CGL analysis fails to acknowledge that **under all private inmate health care service contracts, the Contractor either:**
 - **passes on the full costs of inmate health care to the County**, charging an additional percentage for Contractor overhead and profit; or
 - **“Caps” the Contractor’s exposure for inmate health care costs on an individual / group basis, passing on all additional costs to the County.**
 - **FACT:** The purpose of the analysis was a financial feasibility analysis, not a detailed review of healthcare contracting models.

Understanding Inmate Health Care Costs Cont.

- Under the County's current contract with GEO, all inmate health care costs are covered by GEO – the County bears no cost whatsoever regardless of required medical care.
 - **INACCURATE:** The County pays for all jail health care and GEO risk management costs under the current contract.
- By privatizing the inmate health care to a new for-profit contractor, the County will expose itself and its taxpayers to significant risk of catastrophic medical care expenses and costly health care related claims and lawsuits.
 - **FALSE:** The County would not be liable for litigation related to medical malpractice. There are standard risk management strategies used by every other county in Pennsylvania to mitigate the cost of potential claims in litigation related to health care where the County may have liability.

Understanding Inmate Health Care Costs Cont.

- None of this risk – not one penny – is mentioned anywhere in the consultant’s report
- The likely cost of inmate health care has been distorted and mis-stated – the report’s conclusions about these costs are purely speculative and should not be seriously considered by the County in deciding whether to assume jail operations.
 - **INACCURATE:** The projected costs for health care are based on a review of costs in neighboring counties and are generally consistent with jail health care costs experienced in other local jail facilities.

Understanding Legal Liability & Litigation Costs

- The consultant estimates that the County can protect itself against all legal risks, including litigation costs, by paying \$385,000 per year in liability insurance premiums
- The report fails to disclose that, again, this kind of insurance always comes with individual and annual limits, above which the County is exposed to potentially unlimited risk of loss.
 - **MISLEADING:** The amount of County risk exposure is a function of risk management strategy and insurance coverage limits. In fact, GEO purchases liability insurance to cover the same risks. The County has access to the same risk management insurance and policies procured by GEO to protect itself against “unlimited risk of loss.”
- Under its current contract with GEO, GEO is responsible for and fully indemnifies the County and all County officials against any and all claims, litigation and liability related to or arising from GEO’s operation and management of the jail.
 - **MISLEADING:** The County contracts for, and pays for GEO’s indemnification through the contract.

Understanding Legal Liability & Litigation Costs Cont.

- **This indemnification will be lost if the contract is terminated.**
 - **MISLEADING:** Coverage for potential legal liability will not be lost under de-privatization. The County will simply pay for the cost of indemnification directly, as opposed to paying GEO for coverage.
- The suggested cost of \$385,000 per year in insurance premiums **grossly understates the County's true risk exposure** related to claims and litigation related to jail operations, including costly claims related to inmate health care which will always name the Contractor AND the County as defendants.
 - **FALSE:** The projected cost is based on insurance coverage used by multiple large jails to meet risk management needs.
 - If this amount was sufficient for a government-run jail, why would counties such as Bucks and Philadelphia have been recently exposed to multi-million lawsuits and legal fees?
 - **FACT:** All counties in Pennsylvania successfully protect against liability through insurance coverage.

Understanding Legal Liability & Litigation Costs Cont.

- In addition, the report fails to disclose that the County will need to obtain or increase its current coverage, at additional cost, for:
 - Workers Compensation exposure (related to jail operations risk)
 - Property liability exposure (related to the Jail premises risk to visitors, staff & inmates)
 - Crime exposure (related to jail employee misdeeds)
 - Commercial auto/transport exposure (related to inmate movements).
- **FACT:** Coverages for these types of liabilities are standard features of general local government insurance policies.

Learning the True Costs of Employees

- The CGL analysis notes that converting the current number of jail staff to County employees will cost the County approximately \$4 million more than GEO currently pays to its employees
- The report fails to disclose that:
 - Eliminating the K-9 unit to save money could also be achieved under the current GEO contract.
 - **FACT:** GEO has not proposed any cost saving strategies to the County. Under direct County management, the County will be able to improve such operations at will.
 - Implementing new surveillance technology could also be implemented under current GEO contract
 - Current staffing challenges are more related to issues such as FMLA utilization, rather than hiring
 - **FACT:** GEO managers indicated to CGL that staff turnover exceeds 30% annually, and that a substantial number of new staff leave within six months of employment to go to work at “Big Box” stores. GEO managers described this as their biggest operational challenge due to the low salaries GEO pays to its correctional officers.

Learning the True Costs of Employees Cont.

- The report fails to disclose that:
 - County employees are provided more sick time and Holidays than GEO employees, meaning **it will take many more County employees to staff the positions currently covered by GEO employees – ADDED COST.**
 - **MISLEADING:** GEO experiences extraordinarily high absenteeism under FMLA due to the limited sick and holiday time it offers. County benefits should result in a more normal pattern of attendance and reduce reliance on overtime which will reduce costs.
 - Adding 450 or more employees to the County's employment base will add to the burden already facing the County to maintain an adequate balance and return on investment in its **Public Employee Retirement Benefits Plan program – ADDED RISK & COST.**
 - **INACCURATE:** It is the County's intention to include the prison staff in its retirement plan, which should be appreciated by staff, and reduce the current high turnover rate.
 - The County will need to make **significant additions to its HR Administrative staff** to deal with the many and difficult issues related to its newly hired jail employees, as well as hiring subject matter experts to manage and oversee the facility operations and privatized subcontracted services – **ADDED COST.**
 - **INACCURATE:** The County is prepared to hire certain skilled staff should it decide to take over operations of GWH.
 - All report assumptions regarding **employee pay & benefits will be subject to union efforts to substantially increase both – ADDED COST.**

The County's Costs Will Add Up

- Converting current private employees to County employment will cost the County between **\$4 - \$5 million more per year.**
 - **FALSE:** The CGL analysis shows that converting current private employees to County employment with a 6% raise and County benefits will cost an estimated \$3.7 million more than current GEO salary and benefits, but other savings will offset this cost.
- Contracting out inmate health care to a private Contractor who either passes on the full costs of that care to the County or “caps” its obligation to pay those costs means **the County will assume unlimited risk of additional inmate medical costs.**
 - **FALSE:** Government contracts with vendors (e.g. a medical provider) require generous indemnification (along the lines that GEO itself provides in its contract with the County), and as such, governmental immunity will exist for the county where it does not for GEO.
- Losing the County's indemnification of all legal risks by GEO will mean **the County will assume unlimited risk of loss related to uninsured “capped” legal expenses** related to defending and being held liable for any and all claims related to inmate injury, sexual assault, deprivation of civil rights, medical claims and death.
 - **FALSE:** If the County takes over operations of GWH, it will manage its risks through insurance similar to other counties in the Commonwealth.

The County's Costs Will Add Up Cont.

- The report fails to explain how the County will:
 - Incur an additional \$4 million in annual payroll expenses
 - Cover an additional “contingency” cost of nearly \$2.5 million per year
 - Save \$3 million a year compared to its current GEO contract costs
- **The County would need to find a way to reduce GEO's current contract costs by nearly \$10 million a year, while continuing to operate the Jail at the level of “full occupancy” assumed in the report's Scenario No. 1, in order to achieve the report's proposed annual savings of \$3 million.**
 - **FALSE: The report simply compares the current cost of the GEO contract with a conservative estimate of what the County will spend to administer the facility. The difference is likely in GEO overhead and profit built into the contract.**
- This is an obviously misleading proposition that should be strictly scrutinized by those entrusted with making the right decision for Delaware County and its residents.

Delco Has Been Doing it Right for Decades

- Delco jail operations under GEO management compares favorably to results of other counties in Pennsylvania:
 - Delco's Per Diem (based on GEO contract) \$76.71 vs. \$83.67 (average of 67 PA county jails).
 - **FALSE:** The actual effective per diem paid to GEO under the contract in 2020 was \$111.21 based on the average population in 2020.
 - Delco has the least use of physical force to restrain inmates
 - Delco is only one of three correctional facilities in Pennsylvania to receive American Correctional Association accreditation.
 - **FACT:** ACA accreditation is a discretionary program; most counties and states do not seek ACA accreditation for correctional facilities.
 - Covid-19: GEO kept positive cases to lowest levels compared to other large PA county jails (only 12.5% of Delco population tested positive v. 28% in Montco and 27% in Dauphin)

The “Right Thing to Do” – Multi-Privatization

- The report and its proponents note that saving money isn't the only benefit the County should consider, and suggest that eliminating the County's private for-profit contractor is the “right thing to do” for inmates and the community
- The report fails to note that the removal of the County's single private Contractor will require replacing that one contractor with no fewer than 4 new private, for-profit contractors, who will provide:
 - Medical
 - Food Service
 - Maintenance
 - Information Services

FALSE: This is a false statement. The report proposes outsourcing only two services, medical and food service.

The “Right Thing to Do” – Multi-Privatization

- Each of these new private Contractors will require additional County administrative staff with subject matter expertise to oversee, audit and discipline contractor performance, which the County does not currently have, and will have to pay dearly to acquire.
 - **FALSE:** If the County takes back the operation of the jail, it will no longer be contributing to GEO’s expensive overhead which includes \$10 of millions paid to senior executives in recent years, and \$10 of millions paid out in dividends and taxes to various government entities. All are costs of private operations.
- Supporters of “doing the right thing” by supposedly eliminating the for-profit status of the County’s current Jail operator are merely pushing the for-profit status of its contractors down a level, where they are **less visible, less accountable, and less manageable than the current single-point accountability the County currently enjoys with GEO.**
 - **FALSE:** Contracting for specialized services such as food and healthcare, while retaining government authority over management and custody is by far the most common jail operations model in use in the United States. As noted previously, 66 out of 67 counties in Pennsylvania operate their own prisons.

The “Right Thing to Do” – Reducing Recidivism

- CGL analysis fails to acknowledge the robust recidivism reduction programming already provided by GEO as part of contract terms:
 - 25 Specialized Programs serving 50,000 participants per year
 - 1,537 in drug and alcohol programs (PREP, AA, NA, Vivitrol)
 - 1,561 in education programs (GED and HIV prevention)
 - 1,743 in psychological programs (Anger Management, Parenting, etc.)
 - 600 in life skills programs (Work Skills)
- **Did CGL analyze how this level of programming compares to other PA County Jails?**
- **How will County replace the subject matter expertise required to implement and manage these programs?**

FACT: The analysis assumes retaining these programs at their current levels and **augmenting them under 2 alternative scenarios**. Similar to other counties, these programs will be provided by a combination of County staff and social service agency providers.

The “Right Thing to Do” – Qualified Immunity

- Perhaps most disturbing and disingenuous is the suggestion made by some supporters (one in a public meeting) that the legal liability risk issue can largely be mitigated by what is known as “Qualified Immunity”
- **Qualified Immunity is a judicial doctrine that shields public officials and employees, such as Jail Administrators and officers, from liability for violating the rights of those who are in their care**
- Federal legislation has recently been introduced to eliminate or limit the application of the Qualified Immunity doctrine to shield bad actors from liability for violating the rights of persons such as inmates and their families.
- **MISLEADING:** Qualified Immunity is the current law and current proposals to eliminate qualified immunity do not impact jail operations. Should the County assume operations of the GWH, it will adhere to all laws, and mitigate risks.

The “Right Thing to Do” – Qualified Immunity

- How can supporters of “de-privatizing” the County jail use the doctrine of Qualified Immunity – a doctrine that would shield County officials and employees from lawsuits and liability by inmates and families whose rights have been violated – as an example of how the County can save money?
- **As a private company, GEO enjoys no such “shield” against liability for violating the rights of inmates or for losses they or their families may sustain**
- Isn't GEO's full exposure to liability for violations of the rights of the Jail's inmates and their families more consistent with “the right thing to do”?
- **FACT:** The County will make a determination as to what is right for the residents of the Jail and for the public, based on all factors.

Should Delco Take Back Its Jail Operations?

- County has the complete authority to make this decision by providing GEO with a six months termination notice regardless of operational cost savings
- **CGL report is based on speculation, “averages”, half-truths, misrepresentations and misstatements – therefore, it should not form the basis for a decision of this magnitude.**
 - **FALSE: GEO has repeatedly made false statements in its submissions. CGL stands by the findings in its report.**
- By taking back the operation and management of the Jail after decades of private management and operation, the County will **SPEND MORE MONEY** and **ASSUME UNLIMITED RISKS OF ADDITIONAL LOSS.**
 - **FALSE: If the County takes over operations, it will budget prudently and manage its risks.**
- The current contract with GEO isn't perfect – it can and should be re- examined in light of the County's legitimate concerns and objectives, and made better through informed understanding and negotiation.
 - **FACT: GEO's admission that its contract with the County isn't perfect is accurate.** It is up to the County to determine the best course of action to address its concerns with the operations of GWH after a full and transparent review of available options.

For more information:

DelcoPrisonFacts.com