

# The Problems with Private Prisons

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# Adapted from:

Selman and  
Leighton,  
*Punishment for  
Sale: Private  
Prisons, Big  
Business and the  
Incarceration  
Binge*

(Rowman & Littlefield,  
2010)



# Definition

- Nominal privatization includes contracting with private companies for services such as the building and construction of prisons, provision of food services, medical care and commissary supplies.
-  Operational privatization involves a private company operating a facility owned by the government or managing inmates in a prison that the company owns.

Private Finance Initiatives (PFI) and Private-Public Partnerships (PPP) can represent nominal or operational privatization

# History

- U.S. War on Crime/Drugs → Incarceration Binge
  - Disproportionate minority confinement, undermining informal community social controls, social exclusion
- Governments could not build and renovate prisons fast enough, esp while promising smaller govt/lower taxes
- Private prisons raised money from “public” [wealthy] to continue incarceration binge of poor and profit
- **Private prisons were born from unjust policy; they depend on its continuation for growth and profit**

# Big Players

- Corrections Corp of America [CXW]
  - operates 66 facilities, including 45 facilities that they own, with a total design capacity of approximately 90,000
  - “leveraged capital structure”: \$1.2 billion in debt (bonds, loans from Wall St investment banks)
  - 2010 revenue = \$1.7 billion
- GEO Group, formerly Wackenhut [GEO]
  - management of correctional, detention, mental health, residential treatment and re-entry facilities, and the provision of community based services and youth services in the United States, Australia, South Africa, the United Kingdom and Canada
  - approximately 81,000 beds at 118 facilities + community corrections
  - \$1 billion in debt (bonds, loans from Wall St investment banks)
  - 2010 revenue = \$1.3 billion

# Legitimacy

- Just because private prisons exist does not negate the question of whether government *should* be searching for the lowest bidder to administer government's monopoly on coercive power.
- Dilulio argues that "it is simply unclear how one can distinguish morally between private and public courts, and between private and public policing, and yet see no moral difference between private and public corrections."
- Private Supermax facilities? Death row? Executions?



# 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
- Lobby govt for access to “raw materials [prisoners]” (Christie) and “bodies destined for profitable punishment” (Davis)

# Contracts

- Weak link in “chain of command” between The People and Corrections Officer
- Supposedly balance corporate interests [profit, duties to shareholders] with public interest [public safety, accountability]
- No opportunity for public review while being negotiated
- Freedom of Information Act requests are slow and sometimes difficult





# Process

- Research promising jurisdictions
- Lobbyists, Campaign Donations
- Hire local officials or ex-govt employees as consultants [watch for conflict of interest]
- Once there is authorization, govt writes Request for Proposals (RFP), often hundreds of pages describing the service, staffing, health care expectations, etc. Expensive process!
- Firms hope to be involved and help govt “define its needs”



# Contract Problems

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

# Private prisons save little

“it was discovered that, rather than the projected 20 percent savings, the average saving from privatization was only about 1 percent, and most of that was achieved through lower labor costs.”

James Austin and Garry Coventry, “Emerging Issues on Privatized Prisons” U.S. Department of Justice, Bureau of Justice Assistance, February 2001, NCJ 181249, p. iii.

# Promote Inequality: Top Wage in Public DOC v Private Prisons, 2007

State/ Company	Position	Salary	Inmates Under Supervision	Fiscal Responsibility (\$billions)
GEO	Chairman, CEO	\$2,926,813	54,000	\$1.0
CCA	President, CEO	\$1,887,951	72,000	\$1.5
California	Secretary	\$225,000	172,365	\$5.7
Texas	Executive Director	\$165,000	153,489	\$2.9
New York	Deputy Commissioner	\$157,069	63,315	\$2.7
Michigan	Director	\$145,000	51,577	\$1.6
Georgia	General Counsel	\$131,908	47,717	\$1.2
Florida	Secretary	\$128,750	86,619	\$2.2
Ohio	Director	\$118,205	47,086	\$1.3

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

# Add to Prison-Industrial Complex

- From General/President Eisenhower's warning of Military-Industrial Complex
  - New permanent armaments industry of "vast proportions"
  - "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

# “Endanger our liberties or democratic processes”

GEO Group, 2010 Annual Report “Risk Factors”:

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

# “Endanger our liberties or democratic processes”

- Drug policy, immigration and sentencing ranges should be decided on the basis of justice and public safety.
- They should not be based on the profitability of prison corporations, investment returns for wealthy whites or Wall Street investment banks.
  - Billions of \$ in loans and stocks linked to punitiveness
- But they are:
  - Lobbying (most recently on Arizona's immigration law)
  - ALEC (American Legislative Exchange Council) – corp “ghostwriting” of legislation

# Conclusion

- Undermine punishment in name of public
- Poor transparency/corp proprietary info
- Contracts provide poor accountability
- Little cost savings
- Add to inequality (Pay executives more and workers less than public counterparts)
- Add to prison-industrial complex/vested interests in more unjust mass incarceration
- Corporate interests corrupt democratic policy-making about justice and public safety





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