



Capitalizing on Mass Incarceration

U.S. Growth in Private Prisons



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OVERVIEW

The War on Drugs and harsher sentencing policies, including mandatory minimum sentences, fueled a rapid expansion in the nation’s prison population beginning in the 1980s. The resulting burden on the public sector led to the modern emergence of for-profit private prisons in many states and at the federal level.

The United States has the world’s largest private prison population. Of the 1.5 million people in state and federal prisons in 2016, 8.5 percent, or 128,063, were incarcerated in private prisons.¹ Another 26,249 people -73 percent of all people in immigration detention- were confined in privately-run facilities on a daily basis during fiscal year 2017.²

From 2000 to 2016 the number of people housed in private prisons increased five times faster than the total prison population. Over a similar timeframe, the proportion of people detained in private immigration facilities increased by 442 percent.

The federal government and 27 states utilized private prisons operated by for-profit and non-profit entities during 2016.³ New Mexico and Montana led the nation in their reliance on private prisons with 43 percent and 39 percent of their prison populations, respectively,

Table 1. Population in U.S. Private Prisons and Immigration Detention Centers

	2000	2016	% change 2000-2016
Total Prison Population	1,381,892	1,505,400	9%
Total Private	87,369	128,063	47%
Federal Private	15,524	34,159	120%
State Private	71,845	94,164	31%
*Private Immigrant Detention	4,841	26,249	442%

Source: Bureau of Justice Statistics. *Prisoners Series (2000, 2016)*. Mason, C. (2012). *Dollars and Detainees: The Growth of For-Profit Detention*. The Sentencing Project. Data of average daily count obtained from Detention Watch Network and the Center for Constitutional Rights.
 *Immigrant detention numbers are from 2002 and 2017 and are not included in the total prison population numbers. The 2017 numbers exclude counts from three facilities.

housed within them (See Table 2). Between 2000 and 2016, eight states – Arkansas, Kentucky, Maine, Michigan, Nevada, North Dakota, Utah and Wisconsin – eliminated their use of private prisons due to concerns about safety and cost cutting.⁴ In 2016, Louisiana changed the classification of its contracted beds and reported its private prison population as zero for the first time during this period. Alternatively, five states – Alabama, Connecticut, Pennsylvania, South Carolina and Vermont – began contracting with private prisons between 2000 and 2016.

The federal government is the single largest user of private prisons in the United States but has reduced its population in private prisons in recent years. However, in 2017 Attorney General Jeff Sessions withdrew an Obama-era directive to phase out private prison contracting because of concern for the federal correctional system’s ability “to meet future needs.”⁵

This report provides a portrait of private prisons as a component of the American corrections landscape and assesses its impact on mass incarceration. Among its most striking features is the broad variation found across jurisdictions in reliance on private prisons. As outlined in the state case studies examining the history of prison privatization in Florida, New Mexico, New York, North Carolina and Texas (available in the appendix), those corrections systems most committed to the industry have faced controversy, including riots, deaths, and allegations of improper financial influence from for-profit prison companies.

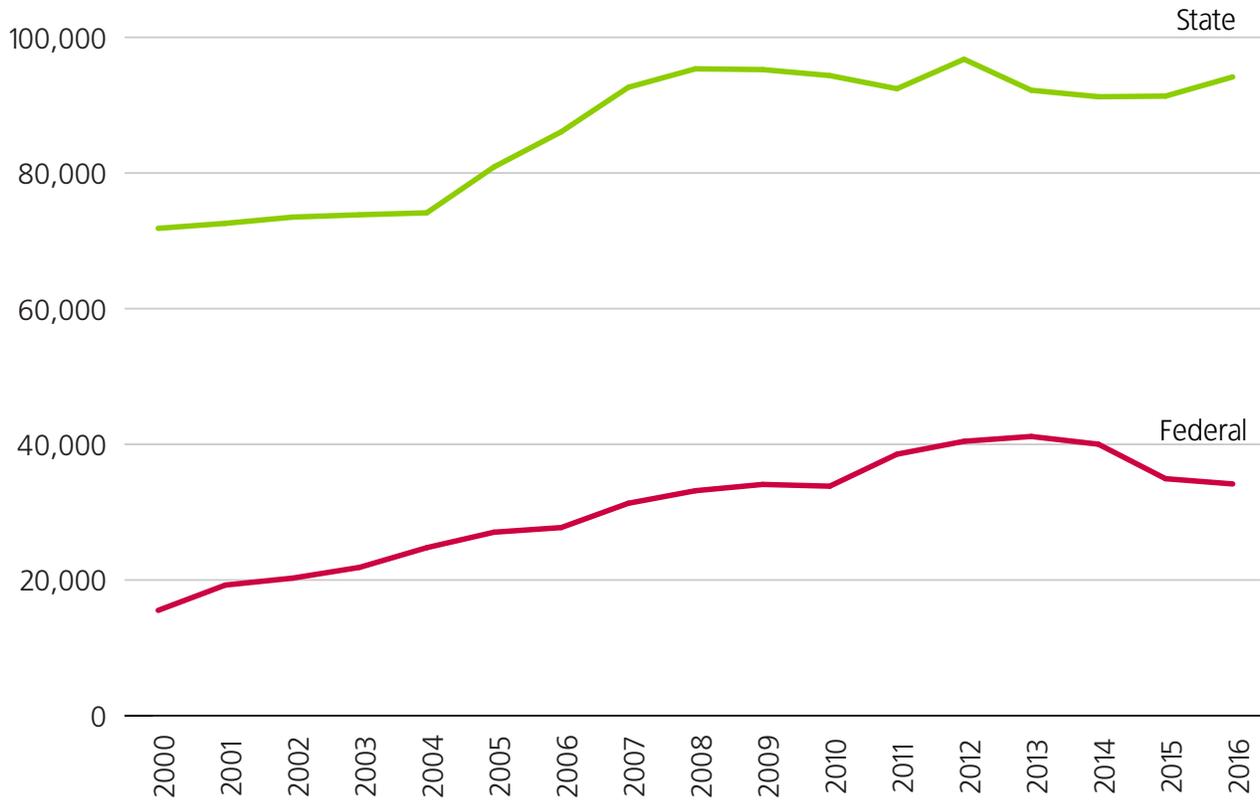
Political influence has been instrumental in determining the growth of for-profit private prisons and continues today in various ways. If overall prison populations continue the current trend of modest decline, the privatization debate will likely intensify as opportunities for the prison industry dry up and corrections companies seek profit in other areas of criminal justice services and immigration detention.

KEY FINDINGS:

- Of the total U.S. prison population, one in 12 people (128,063) was incarcerated in private prisons in 2016; an increase of 47 percent since 2000.
- 26,249 people were also confined in privately-run immigration detention facilities in fiscal year 2017; a 442 percent increase since 2002.
- Federal prisons incarcerated the largest number of people in private prisons, 34,159, marking a 120 percent increase since 2000.
- The largest private prison corporations, Core Civic and GEO Group, collectively manage over half of the private prison contracts in the United States with combined revenues of \$3.5 billion as of 2015.
- Companies often trim prison budgets by employing mostly non-union and low-skilled workers at lower salaries and offer limited benefits compared to staff at publicly run institutions.
- Cost savings claims associated with prison privatization are unfounded according to decades of research.

TRENDS IN PRIVATIZATION

Figure 1. Number of People Incarcerated in State and Federal Private Prisons, 2000-2016



Source: Bureau of Justice Statistics. *Prisoners Series*.

STATE PRIVATE PRISON POPULATION TRENDS

Between 2000 and 2016, the number of people incarcerated in private prison facilities increased 47 percent while the overall prison population increased 9 percent. The private prison population reached a peak of 137,220 in 2012; it then declined to 126,272 in 2015, before rising again in 2016 to 128,063.⁶

At the state level 27 states utilized private prison beds, with contracts ranging from a low of 12 in South Carolina to a high of 13,692 in Texas (See Table 2). Six states have more than doubled the number of individuals in

private prisons since 2000. Arizona had the largest increase, holding 479 percent more people in private prisons in 2016 than in 2000, followed by Indiana (296 percent), Ohio (226 percent), Florida (211 percent), Georgia (113 percent), and Tennessee (112 percent).

New Mexico had the highest proportion of its population held privately in both 2000 and 2016, with respective rates of 40 and 43 percent, followed closely by Montana with a rate of 39 percent in 2016. Four additional states incarcerated 20% or more of their prison population privately: Oklahoma (27 percent), Tennessee (26 percent), Hawaii (25 percent), and Arizona (20 percent).

Table 2. Incarceration in private prisons

Jurisdiction	Number of people, 2000	Number of people, 2016	Percent private, 2016	Percent change, 2000-2016
Alabama	0	348	1.2	~
Alaska	1,383	551	12.4	-60.2
Arizona	1,430	8,285	19.6	479.4
Arkansas	1,540	0	0	-100
California	4,547	7,005	5.4	54.1
Colorado	2,099	3,564	17.8	69.8
Connecticut	0	508	3.4	~
Delaware	0	0	0	
District of Columbia	2,342	*	*	
Florida	3,912	12,176	12.2	211.3
Georgia	3,746	7,973	14.9	112.8
Hawaii	1,187	1,405	25.1	18.4
Idaho	1,162	420	5.1	-63.9
Illinois	0	0	0	
Indiana	991	3,927	15.4	296.3
Iowa	0	0	0	
Kansas	0	0	0	
Kentucky	1,268	0	0	-100
Louisiana	3,068	0	0	-100
Maine	11	0	0	-100
Maryland	127	25	0.1	-80.3
Massachusetts	0	0	0	
Michigan	449	0	0	-100
Minnesota	0	0	0	
Mississippi	3,230	3,078	16	-4.7
Missouri	0	0	0	
Montana	986	1,481	38.8	50.2
Nebraska	0	0	0	
Nevada	508	0	0	-100
New Hampshire	0	0	0	
New Jersey	2,498	2,720	13.7	8.9
New Mexico	2,155	3,040	43.1	41.1
New York	0	0	0	
North Carolina	330	30	0.1	-90.9
North Dakota	96	0	0	-100
Ohio	1,918	6,259	12	226.3
Oklahoma	6,931	7,149	26.6	3.1
Oregon	0	0	0	
Pennsylvania	0	680	1.4	~
Rhode Island	0	0	0	
South Carolina	0	12	0.1	~
South Dakota	45	34	0.9	-24.4
Tennessee	3,510	7,433	26.4	111.8
Texas	13,985	13,692	8.4	-2.1
Utah	208	0	0	-100
Vermont	0	264	15.2	
Virginia	1,571	1,576	4.2	0.3
Washington	0	0	0	
West Virginia	0	0	0	
Wisconsin	4,337	0	0	-100
Wyoming	275	269	11.3	-2.2
Federal	15,524	34,159	18.1	120
Total	87,369	128,063	8.5	46.6

~ Use of private prisons implemented after 2000; *District of Columbia count incorporated in federal numbers
 Sources: Bureau of Justice Statistics, Prisoners Series (2000, 2016); interviews with North Dakota and Oregon corrections officials.

FEDERAL PRISON PRIVATIZATION

While both federal and state governments have increasingly relied on privatization since 2000, the federal prison system's commitment to privatization grew more dramatically. The number of federal prisoners held in private prisons rose 120 percent from 15,524 in 2000 to 34,159 in 2016, while the number of state prisoners incarcerated privately grew by 31 percent over the same time period, from 71,845 to 94,164. Among those confined under private contracts in the federal system, about 37% are in halfway houses or are on home confinement.⁷

A reduction in the overall federal prison population that began in 2014 resulted from changes in sentencing policy and influenced a modest decline in private prison use in 2016. The overall declines in the prison population helped persuade President Obama's Department of Justice to phase out federal private for-profit prison contracts. The move was bolstered by a report from the Department of Justice's Office of the Inspector General that outlined safety issues in for-profit facilities. The report concluded that private prisons had "more safety and security incidents per capita than comparable BOP [Bureau of Prisons] institutions," in such areas as presence of contraband, prison lockdowns, and inmate discipline.⁸

However, in February 2017, Attorney General Jeff Sessions announced the reversal of this plan, indicating that the Bureau of Prisons would continue to rely on these facilities. Sessions stated that private prison companies would assist in meeting "the future needs of the federal correctional system."⁹ This policy reversal was followed by a directive to prosecutors to pursue the most serious charges and toughest sentences in all federal cases. These changes are projected to increase prison admissions and sentence length, which is likely to contribute to an expansion of private facility contracting.¹⁰

Indeed, in May 2017, the DOJ issued a new solicitation to increase capacity by 1,600 beds in privately-run Criminal Alien Requirement facilities intended for non-citizens charged with lower-level offenses, including drug and immigration offenses.¹¹ This was followed in January 2018 with a Bureau of Prisons memorandum to federal prison officials outlining goals for increasing population levels in private facilities and ordering officials to expedite transfers of people deemed eligible for placement in contract institutions.¹²

PRIVATE IMMIGRATION DETENTION

In 2002, approximately 4,800 Immigration and Customs Enforcement (ICE) detainees were held in privately run facilities.¹³ By 2017, that number had jumped to 26,249 people.¹⁴ This expansion of detention was influenced by a shift in immigration policy enforcement.

Beginning in 2009, Congress established a quota for immigrant detention beds under appropriations law, requiring that the Department of Homeland Security's (DHS) funding be linked to maintaining 33,400 immigration detention beds a day even if there were not a sufficient number of people in detention to fill them. By fiscal year 2013 the quota was raised to 34,000 beds.¹⁵ In 2014, a major influx of migrants from Central America led to an expansion of immigration detention under the Obama Administration. Individuals fleeing violence in Honduras, El Salvador and Guatemala crossed the Southern border in search of asylum;¹⁶ many families were held in privately-run family detention centers. Incidents of assault, hunger protests, and medical neglect were reported at these facilities.

In one GEO Group facility in Colorado, thousands of immigrant detainees were allegedly forced to work for \$1 a day. Nine of those detainees filed a lawsuit against GEO Group claiming that they were paid for labor with "chicken, potato chips, soda, or candy."¹⁷ In Washington State in 2017, the state's Attorney General sued GEO Group for allegations that immigrant detainees were mandated to work for \$1 a day. The Attorney General argued that the state's minimum wage was \$11 an hour, and that the detainees were being held under "civil charges, not criminal charges," meaning that that minimum wage must be upheld.^{18, 19}

According to ICE reports, arrests and detentions of immigrants have increased more than 40 percent since mid-2017. To accommodate the increases, President Trump's 2018 proposed budget to Congress asked for \$1.2 billion to add 15,000 more private prison beds for immigration detention.²⁰ In September 2017 ICE requested that a new immigrant detention center be constructed in South Texas, stating that it would need to hold approximately 1,000 more migrants.²¹ This facility will be operated by GEO Group, and is expected to open in late 2018. GEO Group and Core Civic will reportedly be pursuing additional contracts to meet the detention demands of President Trump's immigration policies.

CHALLENGES OF PRIVATE PRISONS

ILLUSIVE COST SAVINGS

Prison privatization has prospered because of claims that for-profit facilities are more cost efficient at providing services than publicly-run institutions. The evidence does not support this assertion.

In 1996, the U.S. General Accounting Office (GAO) looked at four state-funded studies and one commissioned by the federal government assessing the cost benefits of private prisons. The outcomes of the research varied, leading the authors to conclude that “...these studies do not offer substantial evidence that savings have occurred.”²² Similar conclusions were reached in a 2009 meta-analysis by researchers at the University of Utah that looked at eight cost comparison studies resulting in vastly different conclusions. The analysis led the researchers to state, “...prison privatization provides neither a clear advantage nor disadvantage compared to publicly managed prisons” and that “...cost savings from privatization are not guaranteed.”²³

Many of these findings have been replicated in individual states. In Ohio, state officials have contended that private facilities regularly meet or surpass the legal requirement of containing costs at least five percent below a state-run equivalent. However, a report by the nonpartisan Policy Matters Ohio criticized the state’s measurements for comparing privately operated prisons to hypothetical public facilities, exaggerating overhead and staff costs for public prisons, and failing to account for the higher proportion of prisoners in public institutions requiring expensive high-level security. Accounting for these factors greatly reduced if not completely diminished the purported advantages of private prisons.²⁴

In Arizona, which also has cost-saving requirements for private prisons, research conducted by the state’s Department of Corrections in 2010 found that the state had not saved money by contracting out minimum security beds, and that more money is actually spent on private medium security beds than would be spent in a publicly operated institution.²⁵

QUALITY AND SAFETY CONCERNS

Private prison companies face a challenge in reducing costs and offering services necessary to maintaining safety in prisons while also generating a profit for shareholders. The primary approach to controlling spending is by maintaining lower levels of staff benefits and salary than publicly-run facilities. Labor costs normally account for 60 to 70 percent of annual operating budgets. Such savings, though, risk compromising safety and security within prisons.

Corrections officers employed by private corporations earn up to \$23,850 less on average in annual salary compared to the public sector.²⁶ Oliver Hart, the 2016 winner of the Nobel Prize in economics, contends that for-profit prison contracts lack sufficient incentives for proper job training.²⁷ Consequently, there are higher employee turnover rates in private prisons than in publicly operated facilities.

BOP’s former Director of Research, Gerry Gaes, lamented: “You can begin to squeeze money out of the system. Maybe you can squeeze a half a percent out, who knows? But it’s not as if these systems are overfunded to begin with. And at some point, you start to lose quality. And because quality is very difficult to measure in prisons, I’m just worried that you’re getting in a race to the bottom.”²⁸

These dynamics may contribute to safety problems within prisons. Studies have found that assaults in private prisons can occur at double the rate found in public facilities. Researchers also find that public facilities tend to be safer than their private counterparts and that “privately operated prisons appear to have systemic problems in maintaining secure facilities.”^{29, 30}

PROFITING FROM INCARCERATION

For-profit prison companies exist to make money, and therefore the size and status of the country’s criminal justice system is of utmost importance to them. This connection was summed up in Corrections Corporation of America’s (now-Core Civic) 2010 Annual Report:

Our growth is generally dependent upon our ability to obtain new contracts to develop and manage new correctional and detention facilities. This possible growth depends on a number of factors we cannot control, including crime rates and sentencing patterns in various jurisdictions and acceptance of privatization. The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws.³¹

In order to overcome these challenges, private prison companies at times have joined with lawmakers, corporations, and interest groups to advocate for privatization through the American Legislative Exchange Council (ALEC). This organization is a nonprofit membership association focused on advancing “the Jeffersonian principles of free markets, limited government, federalism, and individual liberty.” This is pursued in part by advocating for large-scale privatization of governmental functions. Core Civic paid between \$7,000 and \$25,000 per year as an association member before leaving the organization in 2010. The company contributed additional funds to sit on issue task forces and sponsor events hosting legislators.³²

Core Civic and GEO Group were involved with ALEC at a time when it worked with members to draft model legislation impacting sentencing policy and prison privatization. These policies promoted mandatory minimum sentences, three strikes laws, and truth-in-sentencing, all of which contribute to higher prison populations. ALEC also helped draft legislation that could increase the number of people held in immigration detention facilities. While no longer a member of ALEC, Core Civic and GEO face the bottom line reality that a decline in incarceration is bad for business.

PRIVATE CONTRACTORS AND THEIR EXPANDING REACH

When established in 1983, Corrections Corporation of America pledged to build and operate prisons with the same quality of service provided in publicly operated prisons but at a lower cost. Core Civic and its closest competitor, GEO Group, collectively manage over half of the private corrections contracts in the United States, with combined revenues of \$3.5 billion in 2015. Core Civic maintains more than 80,000 beds in over 70 facilities, including prisons, immigrant detention, and reentry centers. GEO Group operates a similar number of facilities. Smaller companies, including Management & Training Corporation, LCS Correctional Services, and Emerald Corrections, also hold multiple prison and detention contracts throughout the United States.

In 2016, following the Department of Justice's announcement that it would phase out private prisons, stock prices dropped 50 percent. Damon Hininger, CEO of Corrections Corporation of America, announced the company would change its name to Core Civic. The new name sought to represent the firm's changing status as a provider of "largely corrections and detention services" to a company that works on "a wider range of government solutions."³³

In 2017 private prison stocks for Core Civic and GEO Group more than doubled after the Department of Justice, under Sessions' leadership, announced that it would be maintaining contracts with for-profit prisons. While the firms' stock prices have since declined, in early 2018 they were substantially higher than their 2016 low.

Private prison companies have contributed millions to President Trump's campaign and associated super

PACs. Moreover, at least one prison company appears to be acting in the personal financial interest of President Trump. GEO Group changed the location of its annual meeting from a resort in Boca Raton, Florida to the Trump National Doral Golf Club in Miami. This club is reported to be the "single biggest contributor to Trump's cash flow."³⁴

Private prison companies are seeking to expand their influence with state governments as well. In Montana, lawmakers are fiercely debating the merits of accepting a cash payment of \$35.7 million from Core Civic for renewal of the state's prison contract which ends in 2019.³⁵ The money had originally been set aside to allow the state to purchase the private facility. The state is facing a major budget shortfall and many in the legislature are urging the governor to accept the offer. Negotiations have stalled because of complaints of comparatively low pay for corrections officers compared to the state's publicly-run prisons, and restrictions on staff unionizing.

PRIVATE PRISON COMPANIES' EXPANDED PROGRAMMING

Since 2005, GEO Group and Core Civic have spent \$2.2 billion to acquire smaller companies in order to branch out to new industries beyond incarceration. For instance, in 2011, GEO Group acquired BI Incorporated, an ankle bracelet monitoring company. The companies also provide prison healthcare services and have established residential reentry centers.

Core Civic has embraced the community corrections sector by investing \$270 million in the acquisition of

half-way houses which are often used as a transition point between prison and release. Core Civic has also sought to reconfigure its public image as a supporter of the movement against mass incarceration by lobbying for policies “that reduce recidivism and making campaign contributions to candidates who endorse those policies.”³⁶

GEO Group has also recently attempted to rebrand its services. In 2017, GEO Group purchased the Alabama Therapeutic Education Facility,³⁷ a reentry facility for the Alabama Department of Corrections which set a two-year contract for up to \$18.8 million.³⁸ The facility expects to enroll up to 600 people and provide training, drug treatment and resources for reentry. The contract is an important foothold for GEO in a state without private prisons. It also has a contract in the state to oversee immigrants on community supervision under ICE’s authority.³⁹

Because these companies remain profit-making entities, concerns about the quality of their public safety services persist among critics who question company investments in training, staffing levels and programming.

RECOMMENDATIONS

The United States has experienced 40 years of unprecedented growth in its prison population but a recent stabilization and modest reduction in incarceration has largely ended the prison building boom and now provides an opportunity to reexamine policies of prison privatization. The complications of mass incarceration that include the fracturing of low-income communities of color, the mistreatment of incarcerated people and the subjugation of people with criminal records cannot be wholly laid at the feet of private prison corporations. Over several decades, public institutions and lawmakers, with public consent, implemented policies that led to mass incarceration and the collateral consequences that followed. But private prisons have capitalized on the chaos of this policy approach and have worked to sustain it.

Public corrections systems have been plagued by poor conditions of confinement and mismanagement that require significant reform. But the introduction of profit incentives into the country's incarceration buildup crosses a troubling line that puts financial gain above the public interest of safety and rehabilitation, and with limited transparency. As a result the worst elements of incarceration are exacerbated by privatization.

Developing public awareness about the excesses of the criminal justice system, coupled with the recent nationwide declines in prison populations, provides an opportunity to work towards creating a more humane and restorative prison system that one day will manage only a fraction of the people it does today. With that objective in mind we propose the following recommendations:

ELIMINATE CONTRACTS WITH FOR-PROFIT PRISON COMPANIES

Due to the numerous safety and transparency issues associated with for-profit prisons, states and the federal government should phase out their reliance on these facilities through terminating contracts. States such as North Carolina have demonstrated that it is possible for governments to discontinue their reliance on for-profit prisons. In other jurisdictions where prison capacity may now be exceeding demand due to overall declines in the prison population, the political support for phasing out private prisons should increase.

EXPAND TRANSPARENCY REQUIREMENTS

To the extent that jurisdictions continue to contract with private prisons they should adopt policies requiring greater transparency and openness to public inquiry. Currently, the federal Freedom of Information Act does not apply to private prisons, and therefore there is no legal remedy if a private prison refuses to disclose information about its practices. U.S. Representative Sheila Jackson Lee (D-TX) has introduced the Private Prison Information Act to address this issue by requiring that the Freedom of Information Act apply to private prisons. Such laws would subject private prison companies to the same level of scrutiny as government run prison facilities.

END THE PRACTICE OF INCARCERATING PEOPLE FAR FROM HOME

In contrast to public prisons, private prisons frequently contract with state governments to confine people out-of-state, with 10,500 people housed this way as of 2013.⁴⁰ States such as Vermont—which has no private prisons—shipped people out of state to avoid the cost of building state-run prison facilities. For many years Hawaii has flown prisoners thousands of miles to private prisons in Arizona. Other states that have adopted this practice include California and Idaho, which rely on for-profit prisons in Colorado, Oklahoma, and Mississippi. The practice negatively affects families because it limits opportunities for visitation and strains relationships which are critical to successful reintegration after incarceration. In addition, Vermont’s chief public defender recently noted that it is “much more difficult to communicate with clients” when they are held out of state. It is harder to “meet the needs they might have, or even just to address ongoing legal issues.”⁴¹

ELIMINATE THE FEDERAL BED QUOTA FOR IMMIGRANT DETENTION

The Department of Homeland Security’s bed quota for immigrant detention requires the agency to maintain no less than 34,000 beds at any given time. Because of this quota, Immigration and Customs Enforcement expanded its contracts with private prison companies to house federal immigrant detainees. It provides an incentive to maintain private prison contracts and keep immigration detention beds full.

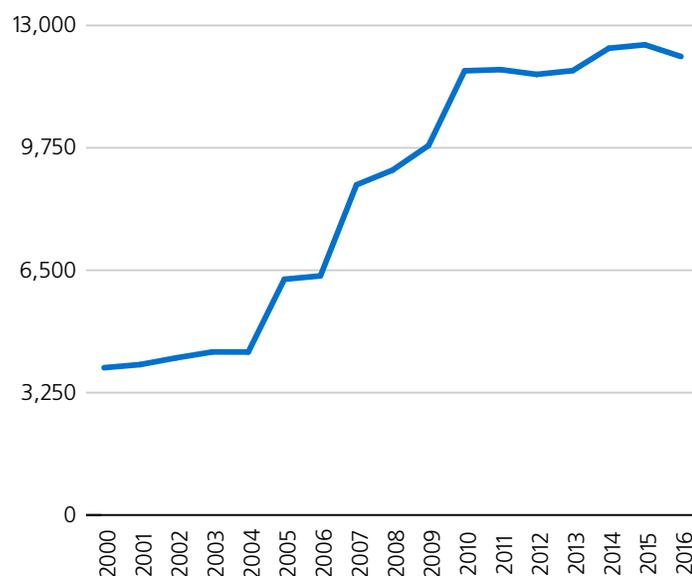
APPENDIX - STATE PROFILES ON PRISON PRIVATIZATION

The following five case studies—featuring Florida, New Mexico, New York, North Carolina and Texas—highlight the significant variation in the use of private correctional facilities across states over the last several decades. The profiles offer historical context about state criminal justice policies, and document the political culture, perspectives and circumstances that influenced the rise or fall of private prisons in each jurisdiction.

FLORIDA

In the early 1990s, Florida became the second state—after Texas—to use private prisons. Proponents of private prisons argued that they would increase the quality of care by improving rehabilitation and reducing recidivism rates. State officials stated that free market incentives would significantly fix the inefficiencies in the adult correctional system.⁴² However, by 2003, a study by Florida State University concluded that Florida’s

Figure 2. Number of People Incarcerated in Private Prisons in Florida



Source: Bureau of Justice Statistics. *Prisoners Series*.

recidivism rates for private and public prison facilities were similar.

There were three key phases to Florida’s private prison build-up. From 2000 to 2004, Florida’s private prison population saw modest growth. Then, from 2004 to 2010, the private prison population more than tripled. In 2010, the population in private prisons began to stabilize and even declined 2.5% between 2015 and 2016.

In 1993, the Florida state legislature passed Chapter 957, a statute that allowed for prison management to be put in the hands of for-profit prison companies⁴³ and established the Corrections Privatization Committee, a body that oversaw Florida’s contracts with private corrections groups.⁴⁴

The Committee subsequently engaged in a series of ethics violations. In 2002, Mark Hodges, director of the Committee, was fined \$10,000 by the Florida Commission on Ethics for earning \$150,000 from his holdings in prison consulting contracts in other states.⁴⁵ Ken Kopczynski, a policing analyst in Florida, notes that Hodges owned thousands of shares in Core Civic. In 2006, another former director of the Committee, Alan Duffee, pled guilty to embezzling \$200,000 from a private prisons maintenance fund.⁴⁶ These violations by officials in the Corrections Privatization Committee led to the office being shut down by the state legislature in 2006.

Today, Florida has eight privately-run prison facilities. The GEO Group has its headquarters in Boca Raton and runs five of the facilities. In addition to adult prisons, 95% of Florida’s juvenile facilities are privately owned.⁴⁷ In 2012, Governor Rick Scott and the Florida State Senate narrowly failed to pass a bill to privatize all adult correctional facilities.⁴⁸

NEW MEXICO

New Mexico leads the nation in its dependence on private prisons. The state incarcerated 43% of its prison population in for-profit prisons as of 2016. It began the contracts during the 1990s when former Governor Gary Johnson proposed the privatization of all the state's prisons,⁴⁹ claiming that they would provide "the same goods and services at two-thirds the cost."⁵⁰ While the legislature never approved the full conversion of the state's prison system to private hands, prison corporations have contributed generously to political leaders there to ensure the industry's prominence in the state.

Beginning in 1998, New Mexico opened two private prisons within two years, the Lea County Correctional Facility and the Guadalupe Correctional Center, both operated by Wackenhut Correctional Center (currently known as GEO Group). Both facilities experienced violent incidents within the first year of opening. By January of 1999, 12 prisoners had been stabbed in Wackenhut correctional facilities. By 2000, four prisoners and one correctional officer had been killed.⁵¹ Riots protesting Wackenhut's poor management in the Guadalupe and Lea County correctional facilities erupted and involved over 100 prisoners.⁵²

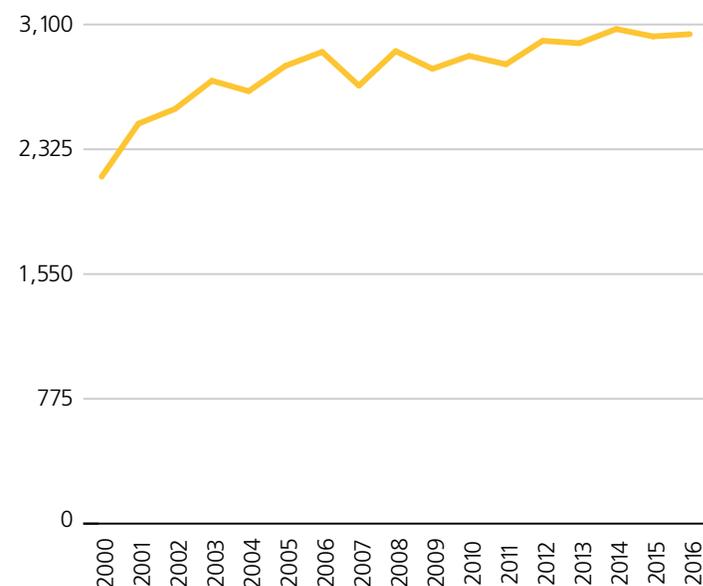
Opponents of New Mexico's private prison system immediately called for reform, but Gov. Johnson refused to implement any shifts in practice at the Wackenhut facilities. Calls for an independent study of the private prison facilities were resisted and deemed "unnecessary."⁵³ Johnson did threaten to transfer people from the troubled facilities to state-run facilities if the violence continued, but his warnings did not curb unrest or assaults. Johnson's corrections head, Rob Perry, claimed the riots were "an attempt to discredit private prisons." Records of political contributions reveal that in 1998 Wackenhut donated \$9,330 to Johnson's re-election campaign.⁵⁴

New Mexico's corrections department may share responsibility for the dangerous conditions at the private prisons. The Department of Corrections' custody classification system made a number of assignment errors by ignoring "known enemies" and "gang affiliations" of prisoners when determining placement in the private facilities.⁵⁵ People who found themselves in danger were denied reassignment.

New Mexico's next governor, Bill Richardson, who served from 2003-2011, maintained many of the Johnson-era policies on private prisons. Richardson also received significant campaign contributions from private prison corporations, with GEO Group donating \$42,750 to his campaigns beginning in 2005.⁵⁶ Overall, during the 2006 election cycle Richardson received more in campaign contributions from private prison corporations than any other official then running for state office in the United States.⁵⁷

From 2000 to 2016 New Mexico witnessed steady growth in its for-profit prisons, increasing the population by 41%. Currently, GEO Group runs three private prisons in New Mexico, while Core Civic and Management and Training Corporation operate two facilities. In August 2017, Core Civic executives threatened to close its Torrance Correctional Facility in Estancia unless there was an expansion of at least 300 people in the local private prison population.⁵⁸ A company spokesman said government officials had 60 days to increase the prison population or the prison would close. Local news reports feared that the prison closure would have detrimental economic effects on the city of Estancia, including the loss of 200 jobs for local residents.⁵⁹ Core Civic ultimately closed the Torrance Correctional Facility in September, 2017.^{60, 61}

Figure 3. Number of People Incarcerated in Private Prisons in New Mexico



Source: Bureau of Justice Statistics. *Prisoners Series*.

NEW YORK

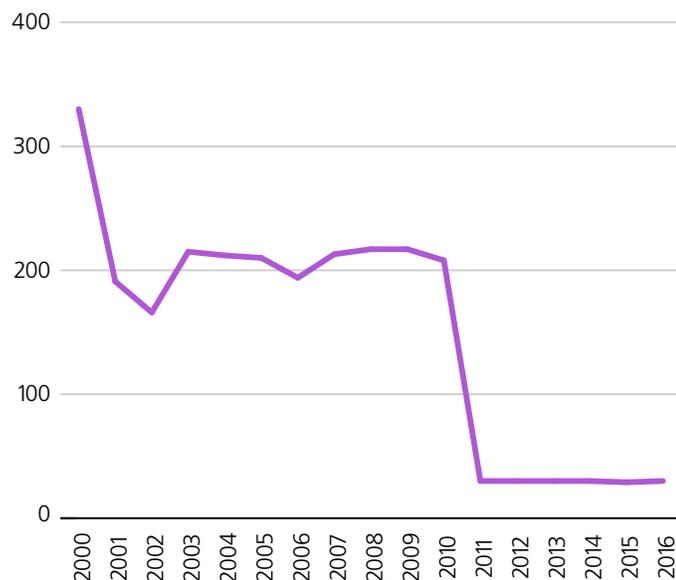
New York has never adopted for-profit prisons. However, in the 1990s, there was a massive expansion in New York's correctional population, resulting in speculation that the state might contract with private facilities.⁶² In response, the corrections officer union began a campaign to lobby for a ban of for-profit prisons in the state. Shortly thereafter, then-State Attorney General Dennis Vacco issued an opinion that New York was precluded from adopting for-profit facilities.⁶³ Vacco's opinion set a major precedent for the state.

At the municipal level, New York City has engaged in a debate about the city's pension holdings in private prison companies. In 2017, the city of New York divested a total of \$48 million in stocks and bonds from a range of for-profit correctional companies, the first municipal government in the country to do so.⁶⁴

NORTH CAROLINA

North Carolina is one of a handful of states to close its for-profit private prison facilities. In 1998, the state's corrections department set up a contract with Core Civic to open two private prison facilities: the Palmico Correctional Institution and the Mountain View Correctional Institution.⁶⁵ Both were medium-security facilities that housed approximately 500 prisoners each, and they were proposed to reduce costs for the state.

Figure 4. Number of People Incarcerated in Private Prisons in North Carolina



Source: Bureau of Justice Statistics. *Prisoners Series*.

However, by 2000, the corrections department found that Core Civic's facilities had produced "little cost-savings" compared to state-run facilities. "It really felt like a failure," said Representative Paul McCrary.⁶⁶ He noted flaws in the state's contract with Core Civic, arguing that the company was "going to take some shortcuts when they can." Even though Core Civic was slated to run these facilities until 2003, the corrections department terminated the partnership early in October 2000.⁶⁷

North Carolina currently has a few dozen individuals housed in a non-profit facility called the Center for Community Transition, which houses women who are finishing their prison sentences. Aside from this institution, the state relies on state-run prison facilities.

TEXAS

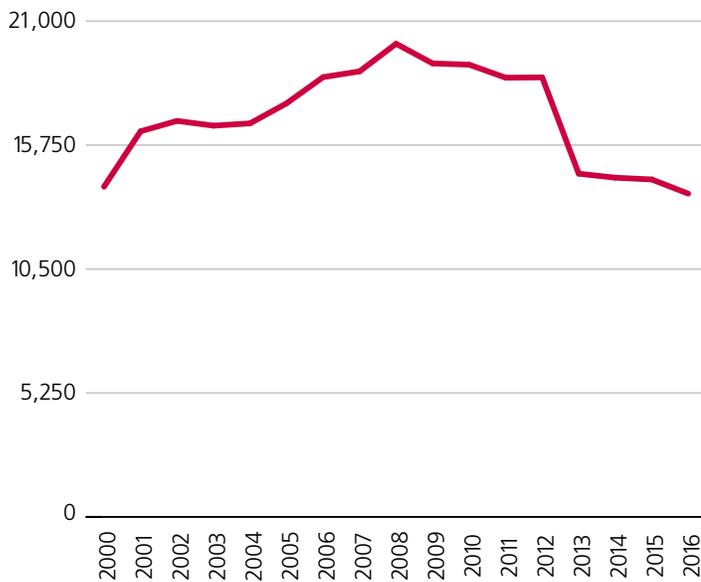
During the 1980s, the Texas Department of Criminal Justice (TDCJ) experienced an overcrowding crisis. Admissions to Texas prisons increased by 113 percent from 1980 to 1986, and outpaced system capacity increases by 52 percent.⁶⁸ A federal court order stemming from a prisoner lawsuit challenging conditions of confinement created prison population caps for TDCJ.⁶⁹ Facing court fines if they violated the capacity restrictions, lawmakers were eager to find a new source of prison beds.

In 1987, Texas legislators overwhelmingly passed Senate Bill 251 to allow contracts with private prison vendors to manage and construct private prison facilities.⁷⁰ As the prison population continued to expand during the 1990s in response to the passage of tougher penalties, the overcrowding problem persisted and private prison growth increased.

By 2007, after an intensive lobbying effort by GEO Group, the Texas legislature passed a bill that expanded the number of people that private prisons could house at their facilities. This bill was sponsored by Rep. Jerry Madden, the head of the House Committee on Corrections, who was a proponent of privately-run prison facilities.⁷¹ Madden's bill proposed raising the number of private prison beds in the state by 1,000.⁷²

Coincidentally, that same year, Texas lawmakers including Madden worked to avoid new prison construction and its associated costs because of the

Figure 5. Number of People Incarcerated in Private Prisons in Texas



Source: Bureau of Justice Statistics. *Prisoners Series*.

state's projected prison growth.⁷³ At the same time, the Texas legislature rejected a proposed open-record law that would have increased transparency of private prison companies.⁷⁴

In 2008 with the private prison population at its peak of 20,000 people, Texas lawmakers recognized that TDCJ had overbuilt its prison capacity. Privately operated county jails, which had been built with an expectation of housing overflow from state facilities, had half their beds empty by 2011.⁷⁵ Crime and incarceration rates were falling, which led many lawmakers to suggest that TDCJ was spending too much on prison beds. Several prisons have closed in Texas since 2011, including private facilities.⁷⁶ By 2016 the number of people in private prisons dropped to 13,692.

ENDNOTES

- 1 Carson, E.A. (2018). *Prisoners in 2016*. United States Department of Justice: Bureau of Justice Statistics. Retrieved from <https://www.bjs.gov/content/pub/pdf/p16.pdf>.
- 2 Detention Watch Network & Center for Constitutional Rights. Retrieved from <https://www.detentionwatchnetwork.org/sites/default/files/DWN%20Spreadsheet%20Memo.pdf>. Data of average daily count obtained from Immigration and Custom Enforcement and Removal Operations division by Detention Watch Network and the Center for Constitutional Rights as part of a Freedom of Information Act lawsuit. Count excludes three privately run detention facilities for families and women.
- 3 Carson, E.A. (2018). See note 1.
- 4 Louisiana is also newly included among states without private prisons but the change results from the state's reclassification of these institutions as "local facilities."
- 5 Sessions, J.B. (2017, February 21). Rescission of Memorandum on Use of Private Prisons. Office of the Attorney General. Retrieved from https://www.bop.gov/resources/news/pdfs/20170224_doj_memo.pdf.
- 6 Carson, E.A. (2018). See note 1.
- 7 Carson, E.A. (2018). See note 1.
- 8 Office of the Inspector General, U.S. Department of Justice (2016). Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons. Retrieved from <https://oig.justice.gov/reports/2016/e1606.pdf>
- 9 Sessions, J.B. (2017, February 21). See note 5.
- 10 Meyersohn, N. (2017, May 19). Justice Department Seeks Increase in Private Prison Beds. CNN. Retrieved from <http://www.cnn.com/2017/05/19/politics/private-prisons/index.htm>.
- 11 Meyersohn, N. (2017, May 19). See note 10.
- 12 Lara, F. (2018, January 24). Increasing Population Levels in Private Contract Facilities. U.S. Department of Justice, Federal Bureau of Prisons. Retrieved from https://admin.govexec.com/media/gbc/docs/pdfs_edit/012518privateprisons.pdf.
- 13 Mason, C. (2012, July 19). *Dollars and Detainees: The Growth of For-Profit Detention*. The Sentencing Project. Retrieved from <http://www.sentencingproject.org/publications/dollars-and-detainees-the-growth-of-for-profit-detention/>.
- 14 Detention Watch Network & Center for Constitutional Rights. See note 2.
- 15 Chan, J. (2017) Immigration Detention Bed Quota Timeline [Blog Post]. Retrieved from <https://www.immigrantjustice.org/staff/blog/immigration-detention-bed-quota-timeline>.
- 16 Nakamura, D. (2016, September 22). Flow of Central Americans to U.S. Surging, Expected to Exceed 2014 Numbers. *The Washington Post*. Retrieved from https://www.washingtonpost.com/politics/flow-of-central-americans-to-us-surging-expected-to-exceed-2014-numbers/2016/09/22/ee127578-80da-11e6-8327-f141a7beb626_story.html.
- 17 Pauly, M. (2017, September 20). Washington Just Sued a Giant Private Prison Company for Paying Immigrant Workers \$1 Per Day. *Mother Jones*. Retrieved from <http://www.motherjones.com/politics/2017/09/washington-just-sued-a-giant-private-prison-company-for-paying-immigrant-workers-1-per-day/>.
- 18 Rosenberg, M. (2017, September 20). Washington State Sues Over \$1/day Wages Paid to Immigrant Detainees. *Reuters*. Retrieved from <https://www.reuters.com/article/us-usa-immigration-strike/washington-state-sues-over-1-day-wages-paid-to-immigrant-detainees-idUSKCN1BV2XN>.
- 19 Associated Press. (2017, June 22). Working for \$1 a Day: Ex-Immigration Detainees Allege Abuse. *CBS News*. Retrieved from <https://www.cbsnews.com/news/working-for-1-a-day-ex-immigration-detainees-allege-abuse/>.
- 20 Montoya, N. (2018, May 29). California, Out of Space, Sending Immigrant Detainees to Arizona. *Arizona Public Media*. Retrieved from <https://news.azpm.org/p/news-topical-border/2018/5/29/130366-california-out-of-space-sending-immigrant-detainees-to-arizona/>.
- 21 Michels, P. (2017, September 28). ICE Issues Plan to Detain 1,000 More Migrants in Texas [Blog Post]. Retrieved from <https://www.revealnews.org/blog/ice-issues-plan-to-detain-1000-more-migrants-in-texas/>.
- 22 Sloane, D., Alexander, D., Stolz, B., Rabinowitz, B., Williams, P., Hamilton, G., Burton, D., Boyles, S., & Svoboda, D. (1996). *Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service*. United States General Accounting Office, General Government Division. Retrieved from <http://www.gao.gov/archive/1996/gg96158.pdf>.
- 23 Lundahl, B., Kunz, C., Brownell, C., Harris, N., & Van Vleet, R. (2009). Prison Privatization: A Meta-Analysis of Cost Effectiveness and Quality of Confinement Indicators. *Research on Social Work Practice*, 19, Pgs. 383-395.
- 24 Paynter, B. (2011). Cells for Sale: Understand Prison Costs & Savings. *Policy Matters Ohio*. Retrieved from <http://www.policymattersohio.org/pdf/CellsForSale2011.pdf>.
- 25 Ryan, L. (2011). *FY 2010 Operating Per Capita Cost Report: Cost Identification and Comparison of State and Private Contract Beds*. Arizona Department of Corrections, Bureau of Planning, Budget, and Research. Retrieved from http://www.azcorrections.gov/adc/reports/ADC_FY2010_PerCapitaRep.pdf.
- 26 CorrectionalOfficerEdu.org (n.d.). *Corrections Officer Salary*. Retrieved from <https://www.correctionalofficeredu.org/salaries/>.
- 27 Mumford, M., Schanzenbach, D., & Nunn, R. (2016). *The Economics of Private Prisons*. The Brookings Institute. Retrieved from https://www.brookings.edu/wpcontent/uploads/2016/10/es_20161021_private_prisons_economics.pdf.
- 28 Paynter, B. (2011). See note 24.
- 29 Camp, S. & Gaes, G. (2001). *Growth and Quality of U.S. Private Prisons: Evidence from a National Survey*. Federal Bureau of Prisons, Office of Research and Evaluation. Retrieved from http://www.bop.gov/news/research_projects/published_reports/pub_vs_priv/orepres_note.pdf 61.
- 30 Lundahl, B., Kunz, C., Brownell, C., Harris, N., & Van Vleet, R. (2009). See note 23.
- 31 Corrections Corporation of America. (2010). *2010 annual report on form 10-K*. Corrections Corporation of America.
- 32 Ortega, B. (2011, September 4). Arizona Prison Businesses are Big Political Contributors. *The Arizona Republic*. Retrieved from <http://www.azcentral.com/news/articles/2011/09/04/20110904arizona-prison-businesspolitics.html>; Owen, S. Director of Public Affairs, Corrections Corporation of America. (2011, September 28). Personal Communication.

- 33 Andrews, B. (2017, June 23). The Corrections Corporation of America is Freeing Itself from its Old Corporate Identity. *Mother Jones*. Retrieved from <http://www.motherjones.com/politics/2016/10/corrections-corporation-america-private-prison-rebranding/>.
- 34 Brittain, A. & Harwell, D. (2017, October 25). Private-Prison Giant, Resurgent in Trump Era, Gathers at President's Resort. *The Washington Post*. Retrieved from https://www.washingtonpost.com/politics/with-business-booming-under-trump-private-prison-giant-gathers-at-presidents-resort/2017/10/25/b281d32c-adee-11e7-a908-a3470754bbb9_story.html?utm_term=.4534b392073e.
- 35 Drake, P. (2018, April 5) State Rejects Offer Over Shelby Prison Contract. *Great Falls Tribune*. Retrieved from <https://www.greatfallstribune.com/story/news/2018/04/05/state-rejects-offer-over-shelby-prison-contract/491372002/>.
- 36 Takei, C. (2017, November 7). *Private Prison Giant Core Civic Wants to Corner the Mass Incarceration 'Market' in the States*. ACLU. Retrieved from <https://www.aclu.org/blog/mass-incarceration/privatization-criminal-justice/private-prison-giant-corecivics-wants-corner>.
- 37 Sheets, C. (2017, April 8) How a Private Prisons Corporation is Creeping into Alabama. *AL.com*. Retrieved from https://www.al.com/news/index.ssf/2017/04/how_a_private_prisons_corporat.html.
- 38 Cason, M. (2017, July 12) Alabama Prison System Renewing Contract for Reentry Program. *AL.com*. Retrieved from https://www.al.com/news/birmingham/index.ssf/2017/07/post_320.html.
- 39 Sheets, C. (2017, April 8). How a Private Prisons Corporation is Creeping into Alabama. *AL.com*. Retrieved from https://www.al.com/news/index.ssf/2017/04/how_a_private_prisons_corporat.html.
- 40 Cohen, D. (2015, October 29). Minnesotans Say "No Thanks" to Private Prison Company. *Huffington Post*. Retrieved from https://www.huffingtonpost.com/donald-cohen/minnesotans-say-no-thanks_b_8423918.html.
- 41 Associated Press. (2017, November 1). Lawyers: Out-Of-State Prison Limiting Inmate Communication. *US News*. Retrieved from <https://www.usnews.com/news/best-states/vermont/articles/2017-11-01/lawyers-out-of-state-prison-limiting-inmate-communication>.
- 42 Associated Press. (2017, November 1). See note 41; Gaes, G. (2005). Prison Privatization in Florida: Promise, Premise, and Performance. *Criminology & Public Policy*, 4(1), Pgs. 83-88.
- 43 Private Corrections Institute. (2012). *Correctional Privatization in Florida: A brief history and timeline*. Private Corrections Institute. Retrieved from https://www.privateci.org/private_pics/PCI%20policy%20brief%20on%20Florida%20private%20prison%20history%202012.pdf.
- 44 Kopczynski, K., Director of Research, Florida Police Benevolent Association. (2017). Personal Interview.
- 45 Associated Press. (2002, February 11). Commission Finds Probable Cause Against Corrections Official. *Corrections.com*. Retrieved from <http://www.corrections.com/articles/11708-commission-finds-probable-cause-against-corrections-official>.
- 46 Kopczynski, K. (2017). See note 44.
- 47 Francilus, J. (2012, October 15). Florida to Completely Privatize Juvenile Correctional Facilities. *Huffington Post*. Retrieved from http://www.huffingtonpost.com/2012/10/15/florida-privatize-juvenile-detention_n_1967464.html.
- 48 Francilus, J. (2012, October 15). See note 47.
- 49 Talvi, S. (2006, September 04). Follow the Prison Money Trail. *In These Times*. Retrieved from <http://inthesetimes.com/article/2797/>.
- 50 Talvi, S. (2006, September 04). See note 49.
- 51 Reutter, D. (2007, August 15). Prison Privatization Launder Taxpayer Dollars into Political Contributions. *Prison Legal News*. Retrieved from <https://www.prisonlegalnews.org/news/2007/aug/15/prison-privatization-launder-taxpayer-dollars-into-political-contributions/>.
- 52 Reutter, D. (2007, August 15). See note 51.
- 53 Talvi, S. (2006, September 04). See note 49.
- 54 Reutter, D. (2007, August 15). See note 51.
- 55 Talvi, S. (2006, September 04). See note 49.
- 56 New Mexico PBS. (2016, August 30). The Line: Private Prisons in New Mexico. *New Mexico in Focus*. Retrieved from <http://www.newmexicopbs.org/productions/newmexicoinfocus/the-line-private-prisons-in-new-mexico/>
- 57 Talvi, S. (2006, September 04). See note 49.
- 58 Haywood, P. (2017, July 25). Company Plans to Close Private Estancia Prison, Lay off 200. *Santa Fe New Mexican*. Retrieved from http://www.santafenewmexican.com/news/local_news/company-plans-to-close-private-estancia-prison-lay-off/article_1ecd4d0e-caa1-5a05-bab2-
- 59 Haywood, P. (2017, July 25). See note 58.
- 60 Haywood, P. (2017, July 25). See note 58.
- 61 Brown, R. (2017, September 18). Will Federal Immigration Crackdown Benefit NM's Private Prisons? *Public News Service*. Retrieved from <http://www.publicnewsservice.org/2017-09-18/human-rights-racial-justice/will-federal-immigration-crackdown-benefit-nms-private-prisons/a59463-1>.
- 62 Greene, J., Director, Justice Strategies. (2017). Personal Interview.
- 63 Greene, J. (2017). See note 62.
- 64 Haskell, P. (2017, June 08). New York City Divests Pension Funds From Private Prisons. CBS. Retrieved from <http://newyork.cbslocal.com/2017/06/08/nyc-pensions-private-prisons/>
- 65 Associated Press. (2000, October 16). North Carolina Takes Back CCA Facilities. *Corrections.com*. Retrieved from <http://www.corrections.com/articles/7040-north-carolina-takes-back-cca-facilities>.
- 66 Associated Press. (2000, October 16). See note 67.
- 67 North Carolina Department of Public Safety (n.d.). *Pamlico Correctional Institution*. North Carolina Department of Public Safety. Retrieved from <https://www2.ncdps.gov/index2.cfm?a=000003%2C002240%2C002380%2C002277>.
- 68 Ethridge, P. & Marquart, J. (1993). Private Prisons in Texas: The New Penology for Profit. *Justice Quarterly*, 10(1).
- 69 Ethridge, P. & Marquart, J. (1993). See note 68.
- 70 Ethridge, P. & Marquart, J. (1993). See note 68.
- 71 House Research Organization. (2007, April 17). *Increasing Cap on Number of Inmates in Private Prisons*. House Research Organization. Retrieved from <http://www.hro.house.state.tx.us/pdf/ba80r/hb0198.pdf#navpanes=0>.
- 72 Madden. (2007, June 15). *Relating to the capacity of certain correctional facilities operated under contracts between the Texas Board of Criminal Justice and a private vendor or county commissioners court*. Texas Legislature. Retrieved from <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=80R&Bill=HB198=80R&Bill=HB198>.
- 73 Texas Public Policy Foundation. (2017, March 01). *Right on Crime Celebrates 10 Years in Texas*. Texas Public Policy Foundation. Retrieved from <https://www.texaspolicy.com/events/detail/right-on-crime-celebrates-10-years-of-criminal-justice-reform-in-texas>.
- 74 N. (2009, July 27). Texas Watchdog Looks at the Big Bad Private Prison Lobby [Blog Post]. Retrieved from <http://www.hro.house.state.tx.us/pdf/ba80r/hb0198.pdf#navpanes=0>.
- 75 Burnett, J. (2011, March 28). Private Prison Promises Leave Texas Towns In Trouble. *NPR*. Retrieved from <http://www.npr.org/2011/03/28/134855801/private-prison-promises-leave-texas-towns-in-trouble>
- 76 Porter, N., Director of Advocacy, The Sentencing Project. (2017). Personal Interview.

Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons

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