



Gaming the System: The Influence of the Private Prison Industry on Incarceration Policies

Remarks by Tracy Velázquez, Executive Director, the Justice Policy Institute

At the Briefing, **“Banking on Bondage: Private Prisons and Mass Incarceration”**

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Good afternoon. Dismantling private prisons must become a top priority for this country. Given the level of power that corporations have in right now, we will not end mass incarceration in the United States while there are those who profit by it. And there is no question that the private prison industry is profiting. Revenues are on the rise at the nation’s two largest private prison companies, with the Corrections Corporation of America – CCA – increasing their annual revenue \$60 million over last year’s, to over \$1.7 billion¹, and GEO Group’s income increasing from \$1.3 billion in 2010 to \$1.6 billion in 2011.² Their combined net *profits* increased over 9 percent last year, to just under \$240 million.

Last year, the Justice Policy Institute released our report, “Gaming the System,” which showed how private prison companies are using their money and political clout to boost their bottom line. While they may have you believe they are only interested in “market share” – that is, moving people from public to private prisons – this is only half the story. For decades, they have been behind some of the most harmful criminal justice policies that have filled our prisons to overflowing and created the demand for the “quick fix” of private prisons.

Since the 1980’s CCA and the GEO Group have been active in the American Legislative Exchange Council, or ALEC, a group that advances “free market” principles. They have been leaders on the Public Safety Task Force, which crafted many pieces of punitive “model legislation.” This included mandatory minimum sentences for a growing variety of offenses; “three strikes” laws that require people to serve long sentences – often 25 years to life – for a repeat offense; and “truth in sentencing,” which denies people the opportunity to be released onto parole and cut back on the amount of “good time” people could earn. These sentences are a big reason why today the U.S. is the world’s leading jailer. Although both CCA and GEO claim to no longer be active in ALEC, the damage has been done. In the past quarter century, the U.S. prison population (state and federal prisons) increased from about 400,000 in 1982 to over 1.6

¹ <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-newsArticle&ID=1658614&highlight=>

² <http://phx.corporate-ir.net/phoenix.zhtml?c=91331&p=RssLanding&cat=news&id=1663040>

million in 2010. As states sought ways to accommodate this massive increase, CCA and GEO stepped in with the “solution”: private prisons. By 2010, over 128,000 people were housed in private prisons in the United States.

How has the private prison industry been able to get these laws passed? In part, they have relied on friendly politicians who wanted to look “tough on crime.” But they have also paid to play, giving money to politicians and parties who are willing to push through these policies.

The private prison industry – mostly made up primarily of GEO and CCA but including some other smaller companies- has contributed over \$3.8 million to state candidates and political parties since 2007.³ Giving was primarily directed toward incumbents, and to parties who can influence their entire delegations. Much of this money was spent in states that were looking to pass policies that would increase incarceration or shift toward private prisons. In Arizona, the private prison industry and ALEC drafted and helped push through SB1070, which gave police the power to question and detain anyone who could not prove they were in the country legally. Clearly, the new law would likely increase the use of private facilities both for incarceration, and for a rapidly expanding use of immigration detention. GEO and CCA spent over \$1.5 million in political contributions Arizona in 2010-2011, including funds for SB1070’s sponsors.

In Florida, the private prison industry gave nearly a million dollars in campaign contributions in 2010. Since then, there have been two attempts to privatize 29 state prisons, one of which was successfully challenged in the Florida courts, the other of which was narrowly defeated in the Florida Senate earlier this month.

At the federal level, CCA and GEO’s PACs have spent over \$1.4 million dollars on federal elections in the 2008, 2010 and 2012 election cycles to date, with somewhat over half going to Republicans⁴. While states are still battling to balance their budgets, and are looking to cut prison populations so they can fund other vital services, Federal lawmakers haven’t gotten the memo, and continue increasing the budget for the Bureau of Prisons. And harsh immigration policies and policing is causing detention numbers to skyrocket. Since 1996 the number of people detained annually has grown from 70,000 to more than 380,000 in 2009. In 2009, ICE had an adult average daily population (ADP) of 32,606 in a total of 178 facilities. Of these, 15,942 detainees – or 49% – were housed in 30 privately-operated detention centers.⁵

In addition to outright donations to influence their favorite politicians, the private prison companies have nurtured cozy relationships with lawmakers and administrators, spending millions on lobbying for policies that will lock more people up. In the past two years, CCA spent over 2 million dollars on federal lobbying, while GEO Group spent another \$880,000. What legislation were they trying to influence? A bill requiring private prisons to make the same information on their operations available to the public as public facilities must; this failed. They also lobbied on bills related to Immigration & Customs Enforcement, or ICE, and Appropriations bills for the Bureau of Prisons, the Federal Detention Trustee, and ICE. As the CCA financial reports for 2011 year end demonstrate, this was money well spent: their federal revenue increased 5.9% in the final quarter of 2011 compared with the same period the year before. CCA

³ www.followthemoney.org

⁴ www.opensecrets.org

⁵ www.detentionwatchnetwork.org/privateprisons

stated that much of “the increase in federal revenue resulted from higher populations from the U.S. Marshals Service”⁶; The director of the Marshals Service came to her job directly from a lucrative consulting position with the private prison industry.

While lobbying at the state level can be difficult to analyze, the National Institute on Money in State Politics found that CCA employed 266 lobbyists from 2003 – 2011, while GEO Group and their subsidiaries employed another 120. Those on the ground fighting private prison bills will tell you when their bills are up, these lobbyists are everywhere, both publicly in the halls and behind closed doors at private dinners they fund.

I want to stress again that the private prison industry is well aware of the possible impact on criminal justice reforms that impact mass incarceration. The following quote is from the CCA 2010 annual report:

“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. For instance, any changes with respect to drugs and controlled substances or illegal immigration could affect the number of persons arrested, convicted, and sentenced, thereby potentially reducing demand for correctional facilities to house them. Legislation has been proposed in numerous jurisdictions that could lower minimum sentences for some non-violent crimes and make more inmates eligible for early release based on good behavior. Also, sentencing alternatives under consideration could put some offenders on probation with electronic monitoring who would otherwise be incarcerated. Similarly, reductions in crime rates or resources dedicated to prevent and enforce crime could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities.”⁷

Make no mistake: the private prison industry will continue to work to create profits for their shareholders, whether it means moving people from public to private prisons, increasing the number of people detained, or fighting reforms that reduce incarceration. Just this week CCA sent a letter to 48 states saying they had earmarked a quarter billion dollars to purchase public facilities, on the condition that they would remain 90 percent full for 20 years. This would effectively destroy the financial incentives to reduce the overall prison population and be a constant drain on taxpayer dollars, as states would be paying even if the beds were empty. In cases where public officials are pursuing reforms that are decreasing incarceration, private prisons are fighting back. In Liberty County, Texas, the local officials had been effectively using alternatives to pretrial detention to help bring down the number of people in the privately run jail. The private facility’s response? To raise the per diem cost. As the judge there stated, “One bid said that if the inmate population goes below 200 the costs per inmate goes from \$63 to \$68

⁶ <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-newsArticle&ID=1658614&highlight=>

⁷ <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-financialInfo>

per day. If we work really hard to decrease the inmate population, the cost will go up to \$70 per day. They are taking all the incentive out of it.”⁸

Even those outside the justice reform world are beginning to take notice. Just yesterday, an investment website columnist noted that CCA’s offer to buy prisons if states keep them full might distort policymaking and sentencing:

“The crime rate is, after all, on the decline. The contracts may make judges feel obliged to dole out longer sentences, or seek out more petty criminals just to fill cells. This is especially interesting in the case of marijuana, which is on an arguably slow but steady track to becoming legalized...Regardless of where one might stand on the issue of marijuana legalization, it reasons that [guaranteed] contracts between [private] prisons and states may not foster a fair consideration of the issue in the courts.”⁹

Today we have heard many reasons why private prisons have no place in our country. As important as any reason is given the harms that mass incarceration causes to people, to communities and to the country as a whole. No one should profit when more, when more people are imprisoned. And more people locked up is exactly what the private prison companies want. As long as there is a profit motive, there will be the corrupting influence of campaign donations, the triangle of influence peddling as people at the state and federal level rotate between working for government and lobbying government, and the myriad of ways this industry will seek to thwart efforts to end this shameful era in U.S. history, this incarceration generation. We look forward to a time when our children and their children say to us, why did we ever think it was OK to allow people to make money from locking other people up? Thank you.

JUSTICE POLICY INSTITUTE

1012 14th Street, NW, Suite 400
Washington, DC 20005
Telephone: 202-558-7974
Fax: 202-558-7978
www.justicepolicy.org

⁸ Vanesa Brashier, “County’s jail inmate population down, but companies now asking for more money per inmate.” Posted 1/12/2012, www.yourhoustonnews.com/cleveland/news/county-s-jail-inmate-population-down-but-companies-now-asking/article_a95463f6-972d-5966-83a1-7d14f628b7bf.html

⁹ www.fool.com/investing/general/2012/02/22/prison-stocks-what-happens-when-marijuana-is-legal.aspx