Prison Privatization in Arizona

A briefing paper prepared by the American Friends Service Committee, Arizona Area Program

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Quaker values in action

Introduction

The American Friends Service Committee (AFSC) is a Quaker organization that works for peace and justice worldwide. Our work is based on a commitment to nonviolence and the belief that all people have value and deserve to be treated with dignity and respect. The AFSC's programs promote social justice by focusing on a diverse set of social concerns. The organization's criminal justice work has always focused on the need for an effective and humane criminal justice system that emphasizes rehabilitation over punishment. Here in Arizona, our criminal justice program advocates for a reduction in the state's prison population through rational sentencing reform and a moratorium on new prison construction. A key focus of that effort is our work to educate the public on the risks inherent in prison privatization through for-profit prison corporations.

This document is an attempt to paint a picture of the current efforts at privatization of prisons in the state of Arizona and raise questions about the potential pitfalls of this practice.

Arizona Overview

Arizona's experiment with for-profit incarceration began in the early 90's when the state faced the first of many prison overcrowding crises. Arizona's first privately operated prison was the Marana Community Correctional Treatment Facility, a minimum-security prison for people with substance abuse issues.

The following summary, published in the *Arizona Republic*, gives a succinct history of the practice in Arizona:

Beginning in 2003, when Arizona was again wrestling with prison overcrowding, Republican lawmakers decided to build 2,000 new prison beds. Then-Governor Janet Napolitano, a Democrat, was not in favor of prison privatization, but was able to strike a compromise with the state Legislature to make half of the new beds private and half publicly operated.

Around the same time, other states like Hawaii and Washington were grappling with the same prison overcrowding problems, and began shipping their inmates to private facilities in other states. Due to Arizona's cheap land and a legislature ideologically in favor of prison privatization, the number of private-prisons , who began accepting inmates from as far as Washington and Hawaii.

Today, Arizona houses 20.1 percent of its prisoners in private facilities, according to state data from July. Exactly how many inmates are here from other states is unclear.

Last year, lawmakers took the unprecedented step of exploring the privatization of almost the entire Arizona correctional system, passing a bill that would have turned over the state's prisons to private operators for an up-front payment of $100 million. The payment would have helped the state close a billion-dollar budget gap.

The bill, which also included a host of changes related to the state's budget, was signed by Gov. Jan Brewer, but the language relating to prison privatization was repealed in a later special session.

The state now has an open contract for the construction and operation of 5,000 new private-prison beds.[1]

There are currently eleven privately operated prisons located in the state of Arizona that we are aware of. Five are contracted with the Arizona Department of Corrections (ADC) to hold Arizona prisoners:

1. Marana Community Correctional Treatment Facility

Operated and managed by: Management and Training Corporation, Ogden Utah

2. Arizona State Prison—Phoenix West

Operated by: GEO Group, Boca Raton, Fla (formerly Correctional Services Corporation)

3. Arizona State Prison—Florence West

Operated by: GEO Group, Boca Raton, Fla (formerly Correctional Services Corporation)

4. Arizona State Prison—Kingman

Operated by: Management and Training Corporation, Ogden Utah

5. Arizona State Prison—Central Arizona Correctional Facility (CACF)

Operated by: GEO Group, Boca Raton, Fla

The other six are all operated by Corrections Corporation of America and all are located in Pinal County (Florence and Eloy areas). These are privately prisons *located* in AZ, but which have no contract obligations with the Arizona Department of Corrections. They typically contract with the federal government (Immigration, Federal Marshalls) or other states' departments of corrections (Alaska, Hawaii) to house their prisoners here. The *Arizona Daily Star*, at the opening of Red Rock Correctional Center, remarked that Tennessee-based CCA is now the town of Eloy's largest employer.

1. Central Arizona Detention Center, Florence, AZ

Contracted with: US Marshals Service, US Immigration and Customs Enforcement (ICE), State of Hawaii

2. Eloy Detention Center, Eloy, AZ

Contracted with: Federal Bureau of Prisons and ICE

3. Florence Correctional Center, Florence, AZ

Contracted with: US Marshals Service, ICE, State of California, State of Washington

4. La Palma Correctional Center, Eloy Arizona

Contracted with: California Dept of Corrections

5. Red Rock Correctional Center, Eloy, AZ

Contracted with: Prisoner population no longer listed on CCA webpage. Formerly listed as: State of Hawaii, Alaska, Washington.

6. Saguaro Correctional Center, Eloy, AZ

Contracted with: State of Hawaii

The state has also contracted with Cornell Corrections to house Arizona prisoners in Oklahoma. This contract is set to expire next year.

This report does not include information about privately operated county jails, tribal facilities, juvenile facilities, or immigrant detention centers in Arizona, although we suspect there are a substantial number of these.

The Arizona Department of Corrections is currently in the process of bidding out a contract for the private management of all medical and mental health care for the state's prisoners, as well as prison food service.

For more information on these prisons and their populations please see our companion publication, "Arizona Privatization Overview 2010."

Prison Privatization and Arizona Law

Arizona Revised Statues refer to privatization of prisons in several places. ARS 41-1609 authorizes the Arizona Department of Corrections (ADC) to enter into contracts with the federal government, other states, and private or public institutions located within or outside Arizona.

The criteria for establishing contracts with private prison operators are discussed in ARS 41-1609.01. Essentially, the private corporation must have qualifications, experience, and personnel sufficient to carry out the terms of the contract; must be able to comply with "applicable correctional standards"; and must have a history of successful management of other facilities. Proposals must offer cost savings to the state and offer a level of service equivalent to that provided in state run facilities in order to be accepted. This statute additionally stipulates that private prison operators may not calculate inmate release dates or sentence credits, decide on prisoner jobs or wages, or take any disciplinary action.

ARS 41-1609.03 states that private prison contractors are financially responsible for reimbursing the state costs related to "emergency, public safety or security services." Additionally, ARS 41-1609.04 states that the private prison operators are also responsible for reimbursing the state for any court costs incurred if an escaped prisoner from a private facility commits a crime while they are at large. This has clearly been applied in the case of the Kingman escapes.

Interestingly, the law does make a distinction between private prisons that "contract exclusively with the state department of corrections" and those that house "adult prisoners who are sentenced…by a court from a state other than this state" (ARS 41-1681). Presumably, these articles are aimed at the prisons operated by Corrections Corporation of America. These prisons have additional financial burdens. For example, ARS 41-1682 mandates these private prison operators cover Arizona's liability in the event of an escape in the amount of $10 million. These private prisons are also required to maintain fingerprints and photographs of all their prisoners (ARS 41-1683) and must notify state officials of transfers of any prisoners from another state to facilities in Arizona. ARS 41-1830.31 establishes a private prison escapee fund to cover the costs that the state will incur in the event of escapes from private prisons. The private corporations must pay a $10,000 penalty or the actual costs of apprehending escaped prisoners, whichever is more.

That is the extent of oversight over private prisons in Arizona. Those companies that contract with the state Department of Corrections are subject to certain oversight requirements that are generally written into those contracts, and the Department retains monitors who are placed at the facilities to ensure compliance. But the prisons that are located in the state of Arizona housing prisoners from other states or the federal government are essentially unregulated. The companies do not have to report who is incarcerated there or the nature of their convictions. They do not have to tell state or county authorities when there is a disturbance or riot. They do not have to share their budget or other financial documents.

Over the years, several legislators have proposed bills that would have imposed some oversight for private prisons, but all have failed. During the last session, one such bill was introduced by Rep. David Lujan, but did not even receive a single committee hearing.

One state law that did offer some regulation of prison privatization quietly disappeared in 2008. ARS 41-1610.04 established the Joint Select Committee on Corrections. This statute states that, "the committee shall consider the populations identified by the department for placement in private prison facilities and include private prison facilities in their recommendations." The statute was first created in 1994 and amended in 1997 to include vague language that, for a time, was interpreted as giving the JSCC oversight over not just private prisons but all of the Department of Corrections:

> "The committee may consider other matters relating to prison operations including the policies and practices of the department and may make recommendations to the legislature."

During this period, the JSCC actually held public hearings and heard testimony from prisoners families, attorneys, advocates, and other interested parties. One result was a new ADC grievance procedure for families of prisoners. The statute was repealed in 2008.

Perhaps the most intriguing aspects of the Arizona Revised Statutes related to privatization are those that appear to *mandate privatization of corrections* in some instances. For example, ARS 41-1609.02 states that, "before expanding an existing minimum or medium security level prison or before establishing a new minimum or medium security level prison, the director shall give consideration to contracting for private prisons for the incarceration of: 1. Prisoners convicted of offenses pursuant to title 28, chapter 4, article 3; 2. Prisoners convicted of offenses pursuant to title 13, chapter 14; 3. Female prisoners; 4. Prisoners over the age of fifty-five years; and 5. Other inmate populations identified by the director."

2010: Unprecedented Expansion

The 2010 criminal justice budget reconciliation bill was, without a doubt, the most dramatic and unprecedented effort toward wholesale privatization of Arizona's prison system. Embedded in that law are four different privatization mandates:

1. The sale of existing prison buildings to private investors, which the state will then lease from those investors (the "sale-lease back" provision)
2. The privatization of existing state prison complexes
3. The construction of 5,000 new prison beds, which will also be operated by for-profit prison companies
4. The privatization of medical care and food service throughout the Arizona Department of Corrections.

The "sale-lease back" provision applied to a wide range of buildings owned by the state, including the capitol building. The humor inherent in a state literally selling its capitol to the highest bidder was not lost on satirist Jon Stewart and the Daily Show, which sent a "fake reporter" to Arizona to investigate. According to the Arizona Department of Administration, the prison buildings that have been sold include:

- Arizona State Prison Complex-Florence: Administration, Central Unit, North Unit and South Unit
- Arizona State Prison Complex-Eyman: Browning (formerly SMUII) and Meadows Units. Note: "SMU" stands for "Special Management Unit," one of the state's super-maximum security units. Meadows Unit houses sex offenders.
- Arizona State Prison Complex-Tucson: Winchester and Manzanita Units[2]

The underwriting firms listed as participating in these transactions include Morgan Stanley, Citigroup, Wells Fargo, Goldman Sachs, JP Morgan. The state reportedly made $298,705,000 for the sale of these buildings.[3]

The privatization of entire state prison complexes was by far the most extreme aspect of the bill. No other state has ever contracted with a for-profit corporation to manage an entire state complex. This is because complexes generally include various prison units of different security levels, from minimum all the way to supermax. Higher security prisons are much more expensive to operate.

The thought of a for-profit corporation running Arizona's Death Row, supermax, or women's prison raised eyebrows everywhere but here in Arizona. The *New York Times* featured an article on the unprecedented move, as did the *Guardian UK*. Again, the satirists at Comedy Central picked it up, this time on the *Colbert Report*, which featured the concept in the popular segment, "The Word," under the heading, "The Green Mile."

In the end, it was the for-profit prison corporations, not the Arizona State Legislature or the state Department of Corrections, that killed the proposal. There simply was no interest on the part of private prison corporations in managing state prison complexes. The Legislature was forced to rescind that the portion of the budget bill.

The RFP for 5,000 new beds was apparently taken much more seriously by the for-profits. The Department reportedly bids from Four corporations: Corrections Corporation of America (CCA), GEO Group, Management and Training Corporation (MTC), and Emerald Corrections.[4] Of course, the specifics of the bids are not public information at this time, but we know from various news reports that:

- CCA approached Pima County about re-zoning land on Wilmot Road south of the other prison complexes there for a possible new state prison[5]
- CCA also approached the Florence Town Council for a re-zoning project for 138 acres behind its current facilities for a state prison[6]
- Emerald and Corplan Corrections (a "consulting firm") approached the City Council of Globe, AZ, for support of their bid for the contract[7]
- MTC reportedly submitted a bid to ADC for a prison in Maricopa, Arizona (west of Florence).[8]
- MTC also received support from the Town Council of Coolidge, Arizona in support of a proposed prison there[9]

We were not able to find any published accounts indicating what GEO's proposal(s) might entail.

We were likewise unable to find any specific information on the privatization of medical and food contracts with the Department. Reportedly, the Department has issued the RFP and received the bids from several private operators but as of this writing, has not awarded any contracts.

Concerns related to prison privatization

Over the past 30 years that prison privatization has been steadily increasing, a number of concerns have been raised about this practice. These concerns grew both from basic ethical questions about the commodification of prisoners and from negative experiences of cities and states in their experimentation with privatization of corrections. These concerns can be grouped into four basic categories: Safety, Cost, Accountability, and Ethics/Values. The Kingman state prison, privately managed by Management and Training Corporation, and the escape in late July of 2010 of three prisoners from the facility will be used as a case study to highlight each of these concerns.

The escapees had all been convicted of serious violent crimes, including murder. The group kidnapped two drivers of a semi trailer in Kingman, Ariz., and forced them at gunpoint to drive two hours east to Flagstaff, said Flagstaff police Sgt. James Jackson. The group left the drivers, unharmed, in the truck at a stop just off Interstate 40 and then fled.[10] The group later split up, and the first escapee was apprehended in Colorado after a shootout with local police. He "fired a shot that struck the front of a patrol car before police rammed his vehicle."[11]

While on the lam, it is believed that one of the escapees and an accomplice murdered an elderly New Mexico couple.

Cost

While some supporters of private prisons are motivated by an ideological belief in privatization of any and all government services, most genuinely believe that private prisons will save the state money. However, solid proof of the cost effectiveness of correctional privatization has yet to be provided by any reliable, large-scale study. Most governmental reports on cost effectiveness have concluded that the results are mixed, at best. The first such report was produced by the US General Accounting Office in 1996, and was a review of existing studies on cost comparisons. The GAO concluded that these studies had major methodological flaws that made it impossible to conclude anything about the cost effectiveness of such prisons.[12]

From 2005-2007, the Arizona Department of Corrections under Director Dora Schriro contracted with a private research firm, Maximus, to do a cost-comparison study of Arizona's public and private prisons. This was significant for two reasons: First, it was Arizona-specific. Second, it was an "apples-to-apples" comparison, examining prison units with similar inmate populations.

For-profit prison corporations tend to "cherry-pick"—they will only house those prisoners who are already the cheapest to incarcerate. For example, most private prisons are low to medium security, and will not accept prisoners who have serious disciplinary infractions, or those with medical or mental health needs. It is also rare for private facilities to incarcerate women, who are generally more expensive to house due to their medical needs. So any study that compares a private prison to a public prison must take into account the security level of the facility and other cost factors in order for the comparison to be valid.

The Maximus study also corrected for a variety of functions provided by state prisons but not by privately operated prisons. These include things like inmate discharge payments, inmate transportation, kennels for security dogs, and wildland fire crews. Finally, the study included depreciation of state prison buildings as an expense to the daily prison bed costs since private prisons include the costs of financing and depreciation in their daily per diem rates.

The Maximus study found that, when the comparison controlled for these additional factors, the results were mixed. The study compared the costs of specific Arizona prison units. At the time of the last Maximus study, there were 6 facilities under contract with ADC. The following graph is copied directly from the 2007 Maximus report[13]:

ARIZONA DEPARTMENT OF CORRECTIONS
STATE VERSUS PRIVATE PRISON COST COMPARISON
BASED ON FY 2007 DATA

FY 2007 COST SAVING/(LOSS)

PRIVATE PRISON	PRIVATE PRISON ADP	STATE PRISON COSTS PER DAY AVERAGE COSTS	STATE PRISON COSTS TOTAL ANNUAL COSTS	PRIVATE PRISON COSTS PER DAY AVERAGE COSTS	PRIVATE PRISON COSTS TOTAL ANNUAL COSTS	SAVINGS/(LOSSES) PER DAY AVERAGE COSTS	SAVINGS/(LOSSES) TOTAL ANNUAL COSTS
Minimum Level Male Inmate Beds							
Florence West DUI	496.15	$50.49	$9,143,396	$51.49	$9,324,876	($1.00)	($181,480)
Kingman	1,162.51	50.49	21,423,539	55.37	23,492,823	(4.88)	(2,069,284)
Marana	497.18	50.49	9,162,377	48.17	8,742,143	2.32	420,234
Phoenix West DUI	508.57	50.49	9,372,280	47.62	8,839,056	2.87	533,224
Total Minimum Level	2,664.41	$50.49	$49,101,592	$51.82	$50,398,898	($1.33)	(1,297,306)
Medium Level Male Inmate Beds							
Kingman	312.33	66.24	$7,551,450	$60.75	$6,925,850	$5.49	625,599
CACF	470.56	66.24	11,377,102	64.33	11,048,632	1.91	328,470
Total Medium Level	782.89	$66.24	$18,928,551	$60.75	$17,974,482	$5.49	954,069
Total Savings/(Losses)							($343,237)

As this graphic illustrates, some for-profit prison beds saved the state up to $5.49 per day, while others cost the state up to $4.88. When the total savings and losses were tallied up, **prison privatization was causing the state of Arizona to *lose* $343,237 annually.**

When Governor Napolitano left Arizona to join the Obama Administration, most of her appointed state agency heads were replaced. Charles Ryan was appointed as Interim Director of ADC. While the Department still puts out a cost comparison document, it is now produced by the Department of Corrections itself, not by the independent research firm. It also no longer provides specific data by facility. The new reports offer a general per capita cost comparison for minimum and medium security public and private beds.

Kingman Case Study

Kingman has both minimum and medium security units. The minimum beds are vastly more expensive than comparable state beds, and there are many more of them, completely negating any cost savings from the medium security beds.

Minimum beds cost Arizona $2,069,284

Medium beds saved Arizona $625,599

Net loss: $1,443,685

According to the most recent of these reports (2009), the **daily per capita cost of a publicly operated prison bed was $46.97 and while those operated by for-profit corporations cost**

$47.20.[14] Again, overall prison privatization was found to be costing Arizona money instead of saving it.

Another hidden cost to privatization is the package of tax breaks and other government subsidies given to these corporations. Many states or counties will offer tax free bonds to finance private prisons, property tax abatements, or infrastructure subsidies (such as water, sewer, or utility hook-ups and access roads) to the companies. An October 2001 study conducted by Good Jobs First reviewed 60 private prisons in 19 states. It found that 73% of these facilities received some sort of development subsidy from local, state, and/or federal government sources.[15]

The report shows that in Arizona, four private prison companies got tax abatements: Correctional Services Corporation's prison for DUI and RTC prisoners (Florence West) and all three of Corrections Corporation of America's Arizona Prisons (Central Arizona Detention Center, Eloy Detention Center, and Florence Correctional Center). The Eloy Detention Center also received some form of infrastructure assistance (not specified) as well as a subsidy for workforce training.[16] It is important to note here that in 1998, the Arizona State Legislature, under pressure from CCA, passed a bill exempting all private prisons in the state from paying municipal sales taxes on the revenues they receive from their operating contracts.[17]

<u>Economic Development?</u>

In this difficult economy, as mines close and manufacturing jobs are outsourced overseas, many rural communities in Arizona are being told that the answer to economic development lies in building a prison in their town. They are promised not only good jobs, but also infrastructure development, increased federal spending, higher tax revenues, and other benefits. But a new report (not yet published) by researchers at the University of Washington has reviewed existing research and concluded that these benefits generally do not materialize or are eclipsed by negative impacts of prisons. The study concluded that:

- In states with at least one private prison as of 1990, prisons are significantly and negatively related to employment growth.

- Authors argue that privatization places downward pressure on staffing, pay and benefits for all prisons in the state. As a consequence, prisons not only fail to help but appear to harm host communities.[18]

Private prisons make their profits by winning contracts. They win contracts by being the lowest bidder. Where do they make the cuts to allow them to bid for so little money? Largely in staff pay and training. Private prison companies often pay less than states or the federal Bureau of Prisons. They often do not offer pensions, opting instead to offer shares in the corporation's stock, which fluctuates in value, as has recently been demonstrated. Private prison corporations also frequently offer minimal staff training, which can leave employees frustrated and unprepared to handle crises. As a result, these facilities frequently have very high turnover rates and are chronically understaffed.

The combination of these factors not only produces a difficult work environment, it can also make these facilities genuinely unsafe for staff, inmates, and the community.

Given the fact that the Arizona Department of Corrections is faced with a severe staff shortage of its own, it is unclear how the state expects to recruit enough competent staff to oversee the 5,000 beds slated for construction in the state.

There is also a question as to how many of these jobs really go to the people in the communities in which they are located. The California Prison Moratorium Project discovered that over 60% of new prison jobs in California, including the best paying jobs, went to people living outside the town.[19] This is because the prison administration promotes from within for high-level positions in order to have an experienced pool of employees. Similarly, when a prison is located in an underdeveloped rural area, many employees opt to commute to work from more urban areas rather than settle in the prison town. This is the case in many of the rural prison towns in Arizona, such as Florence, which has five prisons, but no supermarket.

Hooks, et al cite numerous studies that explode the myth of prisons as economic development:

> *"Critics also make the case that proponents overstate a prison's multiplier effect. Prisons have been criticized for generating few linkages with the host community and thus leak important local dollars that are essential to job creation. During the construction phase, local firms and workers may be squeezed out. Prisons are large facilities. Especially in rural communities, local construction firms and workers typically lack the expertise to compete on such projects. The exclusion of local workers may continue after the prison opens. Gilmore (2007) notes that relatively few corrections officers live in the host community, thereby diffusing their potential contributions to the local economy. King, Mauer, and Huling (2004) estimate that up to two-thirds of potential tax revenues and other economic benefits leave the host community in this way. To make matters worse, if Huling (2002) is correct, prisons may contribute to undermining employment patterns by drawing large box stores and national chains that compete with (and drive out of business) local businesses."*[20]

Safety

While no prison can be entirely safe or problem-free, for-profit prisons demonstrate clear and long-standing patterns of disturbances, staffing and management issues, escapes, and other serious problems. Astonishingly, no independent study has been conducted that compares the performance of public and private prisons on these issues. The closest we have been able to find is a study by the Bureau of Justice Assistance (BJA), which found a significantly higher rate of prisoner-on-prisoner assaults in private prisons (66% more) than in public prisons. Inmate-on-staff assaults were 49% higher in the for-profits.[21]

A review of published news accounts of incidents in private prisons reveals disturbing patterns. AFSC has collected news reports on each of the for-profit prison corporations operating in Arizona for over five years. The patterns are consistent:

Safety Case Study: The 2010 Kingman Escapes

The escapes were blamed on lax security and a failure to follow proper protocol. The prisoners reportedly were able to sneak out of their dormitory and cut through a perimeter fence without being detected. The investigations into the escapes revealed that the for-profit prison management company had overlooked longstanding and serious security problems, including an alarm system that went off so regularly that staff simply ignored it.

> *According to the ADOC security audit, the prison's perimeter fence registered 89 alarms over a 16-hour period on the day the escape occurred, most of them false. MTC staff failed to promptly check the alarms – sometimes taking over an hour to respond – and light bulbs on a control panel that showed the status of the perimeter fence were burned out. "The system was not maintained or calibrated," said ADOC Director Charles Ryan. Further, a perimeter patrol post was not staffed by MTC, and according to a news report from the Arizona Daily Star, "a door to a dormitory that was supposed to be locked had been propped open with a rock, helping the inmates escape." Additionally, MTC officials did not promptly notify state corrections officials following the escape and high staff turnover at the facility had resulted in inexperienced employees who were ill-equipped to detect and prevent the break-out. According to MTC warden Lori Lieder, 80 percent of staff at the Kingman prison were new or newly promoted. Although the ADOC was supposed to be monitoring its contract with MTC to house state prisoners, the security flaws cited in the audit went undetected for years. Ryan faulted human error and "serious security lapses" at the private prison. Although it's a small corporation, since 1995 over a dozen prisoners have escaped from MTC facilities in Utah, Arizona, Texas, New Mexico and Eagle Mountain, California –where two inmates were murdered during a riot in 2003.*[1]

- Riots, fights, assaults, and other disturbances
- For-profit prison staff being investigated, arrested, charged, and convicted of criminal acts including smuggling drugs and other contraband; sexual assaults and sexual relationships with prisoners, including minors; accepting bribes and paybacks; and even first degree murder.
- Escapes as well as accidental releases of prisoners through clerical error
- Mismanagement, financial impropriety, and labor violations
- Negligence and abuse of prisoners

The MTC prison in Marana was Arizona's first private prison. An Arizona Department of Corrections planning department report issued after the first year of the prison's operation declared, "almost literally, everything that could have gone wrong has!" The report stated that "in the first 10 months of operation, the prison was run by four wardens…two assistant wardens, three business managers, and two security chiefs," leading to "an overall haphazard approach to management."[22] This high staff turnover was attributed to the fact that "salaries are 18.1% lower than [what] state employees earn." The company's own security chief estimated that the prison could be as much as 75% out of compliance with state safety inspection criteria.[23]

CCA's Florence Correctional Center in Florence, AZ is notorious for an incident in 2001 in which it was discovered that a prison gang was effectively running the prison. Monitors reported lax security, widespread drug smuggling, assaults, and rioting in the facility[24]. In another CCA prison in Arizona, the Associated Press reported an investigation of numerous reports of sexual contact between guards and women prisoners from Oregon.[25]

For more examples of serious problems in privatized facilities in Arizona and elsewhere, please refer to our "Rap Sheets" on the various for-profit prison operators, available on the AFSC webpage at: www.afsc.org/tucson or the great materials available on the Private Corrections Working Group's webpage: http://www.privateci.org/

Accountability

While it can be very difficult to obtain information from state-run prisons, it is ultimately possible to do so because these are government institutions and thus are subject to laws requiring disclosure of public information. However, private prison companies are not currently subject to the same laws and therefore are immune to the normal checks and balances that protect people from abuse by such institutions.

In addition to this larger concern is the more immediate potential for confusion over delineation of responsibilities between states, counties, private prison corporations, and the entities they contract with. Who is responsible when a prisoner escapes? Who is responsible if a prisoner's rights are violated? These questions become more relevant the farther the prison is removed from the source of its prisoners. For example, a privately operated prison located in State A takes prisoners from State B as well as Federal Agencies X and Y. If the prisoners from State B are found to be assaulting the prisoners from Federal Agency Y, and the private prison management is not able to take care of the problem, who is responsible for rectifying the situation? To whom can the family members of the prisoners being assaulted go for redress? Who should they sue?

Accountability Case Study: The 2010 Kingman Escapes

- When it was built, the Kingman prison was touted as a minimum-security DUI facility. Yet, over the past few years, the Department of Corrections began sending more serious offenders to the facility without public notification.
- The escapes occurred at 9:00 p.m. on a Friday. Management and Training Corporation, the for-profit prison operators, waited until 10:20 p.m. to notify the County Sheriff. Another 80 minutes passed before the company notified the Arizona Department of Corrections (DOC). And the public wasn't alerted until mid-morning the next day.

As previously noted, there is very little state oversight over private prisons in Arizona, particularly in the case of prisons that do not contract with the state. These prisons are accepting prisoners from other states and the federal government, yet are not required to report to local law enforcement or state entities who they are holding, what crimes they were convicted of, what their population numbers are, what their staffing levels are, or what programs they offer to prisoners. They do not have to disclose their budgets or other financial matters. They are not required to report disturbances or assaults.

Ethical Concerns

A number of ethical questions arise when private corporations profit from depriving people of their liberty. What does it mean when a government abdicates such a fundamental responsibility by handing it off to a private, business entity? Governments are free to make laws that incarcerate more and more people without following through on their responsibility to provide for the housing and, more importantly, rehabilitation of those offenders.

A natural concern is that the very nature of the arrangement invites these companies to prioritize their profits over the needs of those in their custody. There are numerous examples of private prison corporations cutting corners in order to maximize their earnings, primarily through cutting back on staff pay and training and inmate programming. These actions lead to unrest among inmates, understaffing of facilities, and a prison staff that is unprepared to handle potentially dangerous situations. This combination of factors is a threat to the safety of inmates and staff alike.

Dade County, Florida cancelled a contract with Correctional Services Corporation after it was discovered that CSC was keeping juvenile inmates past their release dates in order to make more money. An assistant public defender in Dade County was quoted as saying, "They are a completely greedy company. They have a Costco approach to [corrections]."[26]

A larger ethical concern is that private prison companies are dependent on an ever-increasing supply of prisoners in order to stay solvent. When human beings become the "raw material" in a business, there is an inherent pressure on the company to increase the input of people into its system. This creates a *disincentive* for the companies to accomplish the primary mission of a correctional institution: to reform and rehabilitate its prisoners so that they can reintegrate successfully into society.

Instead, the job security of the institutions' staff is partially insured through a high recidivism rate. This issue is particularly important in light of the fact that many private prison corporations offer stock in the company rather than pensions.

A recent editorial in The Economist, titled "The Perverse Incentives of Private Prisons," summarizes the problem:

> "… contractors have every incentive to make themselves seem necessary. It is well-known that public prison employee unions constitute a powerful constituency for tough sentencing policies that lead to larger prison populations requiring additional prisons and personnel. The great hazard of contracting out incarceration "services" is that private firms may well turn out to be even more efficient and effective than unions in lobbying for policies that would increase prison populations."[27]

This issue was highlighted in Arizona when it was revealed that the two of the Governor's top advisors were closely tied to the for-profit prison industry. Brewer's Chief of Staff, Paul Senseman, was formerly a lobbyist for CCA and his wife is currently lobbying for the corporation. Brewer's Campaign Director, Chuck Coughlin, runs a public affairs consulting firm that also counts CCA as a client. CCA was also found to have contributed generously to the Governor's re-election campaign and to the campaign to pass Proposition 100, the sales tax initiative championed by Brewer. [28]

All of this led to widespread speculation as to whether these relationships were a factor in Brewer's support for SB1070, Arizona's controversial "show me your papers" law. CCA holds several contracts with the federal department of Immigration and Customs Enforcement (ICE) to hold immigrant detainees in its facilities in Pinal County. SB1070 was widely expected to increase the numbers of immigrants arrested and detained in Arizona, thus potentially serving as a source of immense profits for the corporation.

The 2010 criminal justice budget reconciliation bill discussed above was passed around the same time as SB1070 and had the same primary sponsor: Sen. Russell Pearce. As previously noted, the bill contained four separate types of prison privatization, and represented an unprecedented surge in the level of privatization in Arizona. The contracts mandated in the bill represent millions of dollars in profits for the industry. CCA is one of four companies bidding for these contracts as well.

While many Arizonans were shocked by this revelation, those who had followed the for-profit prison industry for years were hardly surprised. The Institute for Money in State Politics reported that "Private-prison interests — primarily lobbyists — gave $77,267 to Arizona candidates during the 2002 and 2004 election cycles. The contributions largely went to legislative candidates, 74 percent of whom won their seats."[29] These contributions were correlated with five pieces of legislation during the same period that "sought to either modify Arizona's sentencing laws, increase the number of private-prison beds in the state, address overcrowding by requiring the Department of Corrections to transfer prisoners to private prisons, or prohibit out-of-state prisoners from being housed in Arizona's private prisons."[30]

Conclusion

In difficult economic times, lawmakers and other government officials are faced with difficult decisions. Prison privatization may at first glance appear to be a good deal for states and an option that allows legislators to appear both "tough on crime" and financially conservative. Unfortunately, the reality is much more complex.

Many of the fundamental assumptions that most people, including state legislators, believe about prison privatization have recently been called into question. Research on facilities here in Arizona show that some private facilities are actually more expensive that their public counterparts. While many people assume that businesses can do most things better than government bureaucracy, in many cases the profit motive is fundamentally at odds with the purpose of prisons: public safety and crime prevention. The drive to make a profit causes many corporations to cut corners on staff pay and training, which has a direct impact on the safety and security of these facilities. The push to expand the industry provides a perverse incentive to incarcerate more people for longer periods, and a *disincentive* to rehabilitate offenders.

Prison privatization is far from a cure-all for budget woes, and in fact may create many more problems than the financial ones it claims to solve. How will the state of Arizona pay for the inevitable lawsuits that will be filed against the state for the misdeeds of these corporations? How can we afford the recidivist crime that results when prisoners are not rehabilitated? How can we afford to put the lives of prisoners, staff, and surrounding communities in jeopardy?

These and other questions about prison privatization are now before the state legislature, as it considers contracting for an additional 5,000 beds and possibly the privatization of the entire state system. It is vitally important that decision makers seek out impartial information about the real costs and benefits of privatization. We hope that this document is a start in that process.

Recommendations:

1. Permanently cancel the RFP for 5,000 new private beds
2. Immediate moratorium on new prison construction
3. Pass state legislation that enacts strict oversight and reporting requirements for all private prisons located in or contracted with the state of Arizona, including:
    a. Require immediate notification to local and state authorities of a major incident that threatens the health and safety of the prisoners, staff, or the public.
    b. Allow state inspectors to enter the facility at any time
    c. Prohibit accepting high security prisoners, prisoners convicted of class 1 or 2 felonies, or prisoners with a history of escape, assaults on staff or other inmates, or rioting
    d. Require information about any prisoners prior to their arrival in the facility, including their names and identifying information, the crime for which they are incarcerated, and the state or federal entity that convicted and sentenced them
    e. Require all privately operated prisons in Arizona to provide the Department of Public Safety and the Department of Corrections with a monthly report on the change in the prisoner count and capacity of the facility and information on their staffing levels
    f. Require all privately operated prisons in Arizona to make publicly available their annual budget
    g. Report all assaults, disturbances, deaths and hospitalizations
    h. Require all prisons in Arizona —both publicly and privately operated—to report their recidivism rate annually. These figures should be made available to the public

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[1] "Arizona inmate escape puts spotlight on state private prisons," *Arizona Republic*, 8/22/10

[2] Arizona Department of Administration, Preliminary Official Statement, Certificates of Participation, Series 2010B. http://www.onlinemunis.com/Statement/upload/Arizona.COP.FOS.6.15.10.pdf

[3] Arizona Department of Administration, Certificates of Participation, Series 2010A

[4] "Four companies respond to prison proposal request," The Daily Courier, 6/2/10. http://prescottdailycourier.com/main.asp?SectionID=1&SubSectionID=1&ArticleID=81743

[5] "Private prison gets Pima County OK," KOLD, 6/15/10. http://www.kold.com/Global/story.asp?S=12655226

[6] "Rezoning could help CCA land big prison contract," 4/8/10, http://www.trivalleycentral.com/articles/2010/04/08/florence_reminder_blade_tribune/top_stories/doc4bbce6d8dbd9f774173336

[7] "Prison talks continue," *Arizona Silverbelt*, 6/16/10. http://www.silverbelt.com/v2_news_articles.php?heading=0&page=72&story_id=1570

[8] "New prison could land in Pinal County," 4/14/10, http://www.inmaricopa.com/NEWS/NewsArticleDetails.aspx?mid1=430&&ArticleID=8081

[9] Minutes of Special Meeting, Common Council of the City of Coolidge, May 3, 2010. http://www.coolidgeaz.com/vertical/Sites/%7BAE188E70-DD7F-47BE-99EF-B58B70641DF9%7D/uploads/%7BA3D74F5B-C679-4E4A-8624-159C7597D538%7D.PDF

[10] "Arizona murder convict fired on Rifle police before arrest," Associated Press, Sunday, August 1, 2010

[11] "Arizona murder convict fired on Rifle police before arrest," Associated Press, Sunday, August 1, 2010

[12] US General Accounting Office, *Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service* GAO/GGD-96-158 (Washington, DC:GPO, 1996)

[13] Maximus, "Arizona Department of Corrections State Versus Private Prison FY2007 Cost Comparison," 2009

[14] Arizona Department of Corrections, FY2009 Operating Per Capita Cost Report, February 11, 2010.

[15], Mattera, Philip and Khan, Mafruza, *Jail Breaks: Economic Development Subsidies Given to Private Prisons* Good Jobs First, (Washington, DC, 2001)

[16] Mattera and Khan, *Jail Breaks*

[17] Camp, Camille Graham and Camp, George M., *The Corrections Yearbook 2000: Private Correctional Facilities* Criminal Justice Institute (Middletown, CT, 2000)

[18] Hooks, et al, "Prisons, Jobs, and Privatization: The Impact of Prisons on Employment Growth in Rural US Counties, 1997-2004." Not yet published.

[19] California Prison Moratorium Project, *What Good Is A Prison?* Pamphlet. (Berkeley, CA, No date)

[20] Hooks, et al, "Prisons, Jobs, and Privatization: The Impact of Prisons on Employment Growth in Rural US Counties, 1997-2004." Not yet published.

[21] Bureau of Justice Administration, Emerging Issues on Privatized Prisons, February 2001.

[22] Arizona Daily Star 12/6/95

[23] Arizona Daily Star 12/6/95

[24] "Arizona prison 'in turmoil,'" Honolulu Advertiser, 7/1/01

[25] "Reports of sex between staff, Oregon inmates at Arizona prison," Associated Press, 10/9/97

[26] "Unhappy campers," *Dallas Observer,* 9/27/01

[27] "The Perverse Incentives of Private Prisons," The Economist, 8/4/2010.

[28] Beau Hodai, "The Ties That Bind: Arizona Politicians and the Private Prison Industry," *In These Times*, 6/21/10.

[29] Institute for Money in State Politics, "Policy Lockdown: Prison Interest Court Political Players." April 2006.

[30] Institute for Money in State Politics, "Policy Lockdown: Prison Interest Court Political Players." April 2006.