

Public Hearing on Prison Privatization
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When we speak of the privatization of prisons, one of the first questions we should ask is whether the goals of the private corporation are aligned with the goals of a safe community and of an accountable and responsible state.

My work on behalf of immigrants in detention in Arizona indicates that the goals of the corporation and the goals of the responsible state are not aligned. The primary force behind prison privatization is the profit motive of the corporation, which is achieved by any means and results in a decline in safety and accountability and in many cases, tragic human costs.

Detention and deportation have become multi-billion dollar industries with numerous human costs. Industry giants, such as the Corrections Corporation of America and Wackenhut Corrections or GEO Group have been front and center in the detention of immigrants since the 1980s and more recently during the dramatic expansion of immigration enforcement in the earlier part of this decade. During 2006 for example, ICE detention capacity at the southwest border expanded by 6,300 beds and ICE currently contracts with CCA in Eloy and Florence for approximately 2,000 detention beds. These companies have an incentive to urge the government to build more jails, and in fact, regularly lobby government for more detention, even if it is not the most effective use of taxpayer dollars.

Through our public advocacy and litigation, the ACLU and other organizations have found that the continued contracting and mass incarceration of people has led to a broken and costly system for those incarcerated as well as communities and taxpayers. In the context of immigration detention, we have found that:

- Detention contracting creates additional obstacles in an already complex detention system, making oversight of detention standards even more difficult.
- The delegation of detention management reduces incentives to utilize more humane and cost-efficient alternatives to detention.
- Because the ultimate goal of the corporation is to increase profit, detention contracting allows government and contract facilities to cut corners in providing detainees with adequate care and basic necessities, resulting in regular reports of egregious detention conditions.

There are many cases in the context of immigration detention in which the ACLU has been involved to remedy constitutional and human rights violations, including:

- The T. Don Hutto Residential Center, a 512-bed “family facility” operated by the Corrections Corporation of America, where CCA has been able to charge up to \$200/day per bed. Hutto was built by CCA and had been operated as a prison for men for many years. When it first opened, there were approximately 200 children held there with family members while they awaited immigration hearings. Through investigations by civil and human rights organizations, some of the findings in the prison included young plaintiffs who ranged in age from 3 to 10

years old being housed in prison cells and dressed in prison “scrubs” similar to those worn by adult prisoners. Prior to the lawsuit, CCA offered just an hour a day of recreation and no more than two hours of educational services. The lawsuit also included charges that food was inadequate and guards were psychologically abusive, threatening to separate children from their parents if they misbehaved. Upon findings by the court that the conditions in the facility did not meet the basic minimum standards for children, CCA entered into a settlement agreement with the ACLU and other groups to monitor and make changes to the facility. Ultimately, in the fall 2009, DHS decided to end the use of Hutto for family detention.

- Problems continue to plague the Hutto detention center however. Now used as a facility to detain adult women, there were recently multiple reports of sexual assaults committed by CCA guards against female detainees. These cases are currently under investigation but raise the question about the ability of the government to adequately monitor contracted facilities and the level of accountability in detention generally.
- Another ACLU lawsuit filed in 2006 challenges conditions at the San Diego Correctional Facility run by CCA in California. Adult immigrants held under ICE custody endured severe overcrowding. Triple-celling led to the spread of infectious diseases and severe psychological suffering, while medical and mental health services remained inadequate resulting in significant delays. A report by the DHS inspector general also cited allegations of serious physical and sexual abuse by guards at the San Diego facility. At the same facility, medical care and conditions became so bad that the Department of Immigration Health Services was forced to take over the provision of medical services.

Finally, any meaningful discussion of prison reforms must include a discussion of alternatives to detention. Many of these alternatives have proven to be more cost-effective and allow people to meaningfully participate in their probation/parole and court appearances. In the case of immigration detention, for example, the average cost of detaining one person is approximately \$122 per person/ per day. Alternatives to detention, which generally include a combination of reporting and electronic monitoring, are effective and significantly cheaper, with some programs costing as little as \$12 per day, yielding an estimated 93% appearance rate before the immigration courts.

These are only a few examples of what has resulted from allowing a market approach to drive the detention of persons. We have allowed the state to abrogate its duties of protecting our communities and engaging in fiscal responsibility. We have allowed the private sector to undermine the government’s responsibility of ensuring that basic human and civil rights are met for all people.