

# ***AFSC White Paper: Private, For-Profit Prisons in Arizona***



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## **Introduction:**

The American Friends Service Committee has monitored the growth and performance of the for-profit prison industry in Arizona for over 15 years. While there are significant and long-standing problems in the state's management of its public prisons, privatization has only worsened these problems and added another layer of bureaucracy, making the entire system less effective, less efficient, and more costly.

## **Cost Comparison:**

Arizona's corrections annual budget is over \$1 billion—the third largest appropriation of any state agency (11% of the General Fund). Spending on prisons has grown by 45.5% over the last 10 years.<sup>1</sup> A full 14% of the Corrections budget is dedicated for just the per-diem payments on our private prison contracts. This does not include construction or “annualization” costs.<sup>2</sup>

The Arizona Department of Corrections (ADC) conducted cost comparison reviews of public and private prisons from 2005 until 2011. These reviews of public and private prisons consistently found that medium security private prisons cost more than their public equivalents. In 2010, medium-security state prison beds cost \$48.16 while medium-security private prison beds cost \$55.30.<sup>3</sup> Between 2008 and 2010, Arizona *overpaid* for its private prisons by about \$10 million.<sup>4</sup>

In 2012, the Arizona state legislature repealed the statute requiring cost and quality comparison reviews of the state's public and private prisons. As a result, we now have absolutely no way of knowing whether private prisons in Arizona are delivering on their promises of costs savings.

The justification given was that the legislators did not have confidence that the current assessments were taking into consideration all the factors that they believed made private prisons cheaper, such as pensions and construction costs. However, there was no proposal made to add these factors to the comparison review, instead the law was repealed entirely. Until advocates of privatization commit to a true cost comparison analysis, they cannot credibly claim that private prisons in Arizona are saving money.

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<sup>1</sup> Joint Legislative Budget Committee, <http://www.azleg.gov/jlbc/16AR/bh23.pdf>

<sup>2</sup> Joint Legislative Budget Committee, “Fiscal Year 2016 Appropriations Report,” Arizona Department of Corrections. <http://www.azleg.gov/jlbc/16AR/adc.pdf>

<sup>3</sup> Arizona Department of Corrections, “FY2010 Per Capita Operating Cost Report,” [https://corrections.az.gov/sites/default/files/adc\\_fy2010\\_percapitarep.pdf](https://corrections.az.gov/sites/default/files/adc_fy2010_percapitarep.pdf)

<sup>4</sup> AFSC, “Private Prisons: The Public's Problem,” February 2012. <https://afsc.org/resource/arizona-prison-report>

### **Safety and Performance:**

All prisons in Arizona for which security assessment information was available had serious security flaws. The Arizona Auditor General found a total of 157 security failures in the 5 private prisons under contract with ADC for just the first three months of 2011, including malfunctioning cameras, doors, and alarms; holes under fences; broken perimeter lights and cameras; and inefficient or outright inept security practices across the board by state and private corrections officers and managers.<sup>5</sup>

Private prisons have serious staffing problems. Many of their problems stem from low pay, inadequate training, insufficient background screening procedures, high rates of turnover, and high staff vacancy rates. These problems contribute to larger safety problems in private facilities, where inexperienced and undertrained guards often are unprepared or unwilling to handle serious security breaches or disturbances.

A security audit in 2011 found that all 5 of the state's contracted private prisons had high vacancy and turnover rates. Turnover rates in GEO's Phoenix West facility and MTC's Marana prison were over 50% in 2011.

The issue of staff training was clearly a factor in the riots at Kingman in 2015. The ADC review found that:

MTC withheld from ADC its failure to conduct critical staff training and its substantial dilution and compression of contractually mandated staff training. MTC leadership's approach to training clearly indicates that staff training is not an MTC priority. MTC drastically reduced critical topic training hours in MTC's pre-service academy compared to ADC's academy curriculum, and compressed 60 hours of training into a five day training week. The immediate consequence of MTC's withholding and failures is the "graduation" of officers from MTC's training academy who are ill-prepared to work in a prison.<sup>6</sup>

These problems are not isolated cases of a few bad actors. They are inherent in the business model of for-profit corrections. All three of the corporations that operate prisons in Arizona have poor track records:

- CCA's Eloy Detention Center, which houses immigrant detainees, had the most deaths of any immigration detention center in the country. From 2004 to June 2015 there have been 32 deaths reported at CCA-operated immigration detention facilities nationwide. Fourteen of those deaths occurred at Eloy ("Eloy detention center: why so many suicides?" *Arizona Republic*, 7/29/15).
- In 2010, the U.S. Equal Employment Opportunity Commission filed a lawsuit against GEO Group Inc. alleging the company and some male managers supervising correctional officers fostered a "sexual and sex-based hostile work environment" at two Florence prisons that allowed harassment and retaliation against female employees. The EEOC said the male employees

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<sup>5</sup> Arizona Auditor General, Performance Audit, Arizona Department of Corrections, Oversight of Security Operations, September, 2011. REPORT NO. 11-07

<sup>6</sup> Arizona Dept of Corrections, "Arizona State Prison-Kingman Riots Assessment," [https://corrections.az.gov/sites/default/files/REPORTS/Kingman/adc\\_kingman\\_riots\\_assessment\\_-\\_section\\_1.pdf](https://corrections.az.gov/sites/default/files/REPORTS/Kingman/adc_kingman_riots_assessment_-_section_1.pdf)

engaged in verbal and physical harassment of female employees. The Arizona Attorney General's Office previously filed suit and investigated complaints against the prison operator. ("Lawsuit alleges Florence prison operator allowed sexual harassment," *Arizona Republic*, 10/4/10).

- Earlier this year, GEO was sued a second time by the EEOC for continued harassment and retaliation against the woman who filed the original lawsuit. EEOC charges that GEO failed to adequately respond to her complaints of sexual harassment and that GEO retaliated against her for participating in the agency's prior lawsuit against GEO.<sup>7</sup>

And these are just the examples from Arizona.

### **Efficiency and Effectiveness**

Proponents of privatization argue that the free market ensures that for-profit prisons will be more efficient than government. However, privatization necessitates a whole new set of rules, standards, oversight, and reporting requirements. The ADC needs additional staff to write, review, negotiate, amend, and monitor contracts. Communications among the various actors must be facilitated. This results in less efficiency, not more.

While all for-profit prison corporations tout various educational and rehabilitative programs and make claims that they are in the business of crime reduction, there is absolutely no proof to justify this claim. Private prison operators do not measure recidivism. They offer no measureable results to justify the millions of dollars our state is investing in their operations. They claim that it is impossible to track recidivism, due to the fact that prisoners move back and forth from private to public prisons.

This flies in the face of simple logic: The Arizona Dept. of Corrections could easily compile data on recidivism rates for those who have been housed in private prisons vs. those who have not. They could correlate this by individual facility. They could track the programs in which those prisoners participated. But they do not. Until the for-profit prison operators offer the people of Arizona some measurement of their effectiveness, they cannot claim to be rehabilitating offenders or increasing public safety.

## **Accountability: Kingman Case Study**

In the aftermath of the 2010 escapes from Kingman, MTC failed to address security deficiencies at the prison. In response, the state pulled 238 prisoners out of Kingman and said it would stop sending new prisoners until MTC fixed its security problems and retrained its corrections officers.

By contract, MTC was being paid \$60.10 per inmate per day, with a guaranteed minimum occupancy of 97 percent. But Corrections Director Charles Ryan suspended that guarantee, saying that MTC was out of compliance with its contract and that until MTC fully addressed lax security, it would be paid only for the inmates it actually housed.

Rather than taking responsibility to fix the problems, the company threatened to sue the state for \$10 million for breach of contract, saying the state had no right to refuse to pay the guaranteed 97 percent. The state relented, and paid MTC—a company whose negligence let three prisoners escape and murder two people—over \$3 million for empty beds.<sup>1</sup>

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<sup>7</sup> Equal Employment Opportunity Commission, Press Release, "Florence Private Prison GEO Group Sued a Second Time by EEOC for Sexual Harassment and Retaliation," 9/24/15 <http://www1.eeoc.gov/eeoc/newsroom/release/9-24-15a.cfm>

### **Transparency and Accountability**

For-profit prison corporations are not subject to the same transparency, reporting or oversight requirements as government agencies. This is in spite of the fact that the corporations are doing the job of the government and are paid with tax dollars.

**For-profit prison corporations are buying influence in Arizona government.** The companies operating prisons lobby aggressively, make large political campaign contributions, hire former state corrections officials as lobbyists and secure high-level government appointments for corporate insiders.

Corrections Corporation of America has 22 lobbyists registered in Arizona; GEO Group has seven. Both companies have given \$35,000 and \$39,000, respectively, to a number of high-ranking state officials.<sup>8</sup>

While the corporations argue strenuously that they do not seek to influence legislation in order to increase corrections populations, it is clear that they are not making these massive expenditures for nothing. Even without writing criminal sentencing laws, private prisons are a major driver of Arizona's high incarceration rate. Each contract signed has a 20- year term and a guarantee that the beds will be filled anywhere from 90-100%. This essentially creates a disincentive to reduce prison populations.

### **Arizona at the Crossroads**

The state is poised to award a new contract for up to 2,000 more medium security prison beds to Corrections Corporation of America (the sole bidder for the contract). During a recent public hearing, it was disclosed that the state would guarantee a 90 percent occupancy rate for the contract. If the state pays the same daily rate of \$65.43 that it pays for the inmates already housed at Red Rock, that would result in a guaranteed payment of roughly \$21.5 million a year -- over \$430 million over the 20 year life of the contract.

If the second 1,000 beds are approved this legislative session, the state will be paying twice that much—almost a billion dollars for this contract alone. And the Department of Corrections is seeking legislative approval to bid out an additional 2,500 beds in subsequent years, adding billions more, and locking Arizona into these funding commitments for the next 20 years.

### **Conclusion:**

Regardless of differing political views, most Arizonans want the same thing from their prisons: Increased public safety. Corrections is a core public safety responsibility, and should not be hired out to the lowest bidder or subjected to short-sighted cost-cutting strategies.

In the end, the key discussion is not about public vs. private prisons, it should be about *alternatives to prison*. The majority of other states—including very conservative ones like Mississippi, South Carolina, and Texas—have opted to reduce their prison populations through evidence-based sentencing reform. These states have experienced significant drops in crime and reaped millions of dollars in savings.

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<sup>8</sup> "America on Lockdown: Why the Private Prison Industry is Exploding," Salon.com, 4/14/15.

[http://www.salon.com/2014/04/15/america\\_on\\_lockdown\\_why\\_the\\_private\\_prison\\_industry\\_is\\_exploding\\_partner/](http://www.salon.com/2014/04/15/america_on_lockdown_why_the_private_prison_industry_is_exploding_partner/)

Public or private, we cannot incarcerate our way out of social problems like drug addiction and mental illness. True public safety depends on addressing the root causes of crime, not warehousing people for the financial benefit of a handful of corporations.

*The **American Friends Service Committee** is a non-profit organization that works for justice and human rights both nationally and internationally. The Arizona office, based in Tucson, advocates for criminal justice reform.*

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