

PRIVATE PRISONS

THE WRONG CHOICE FOR ALABAMA

OCTOBER 2017



Alabama is grappling with how to reform an overcrowded, understaffed prison system that perpetuates violence and fails to rehabilitate prisoners. It's a problem that has confronted many other states as their prison populations mushroomed during the era of "tough-on-crime" policies that made America the incarceration capital of the world.

Beginning in the late 1980s, some states turned to private, for-profit companies to operate their prisons in hopes of controlling costs. As Alabama contemplates prison expansion, state officials may be tempted to follow suit in a misguided effort to cut costs. At least one major prison company – GEO Group – has already established a foothold in Alabama by buying a re-entry facility in Columbiana and a vacant building in Perry County.¹

Private prisons, however, are not the answer. Focused solely on their bottom line, private prisons cut costs wherever possible. While these shortcuts raise profits for the corporations that run these facilities, they don't necessarily save taxpayers any money – nor do private prisons absolve the state of its responsibility to ensure a constitutional level of care and living conditions to those incarcerated. In fact, the most up-to-date research finds that private prisons cost more than their public counterparts, while having fewer rehabilitative services, inade-

quately trained corrections officers and remarkably high staff turnover.

In recent years, many states have ended their contracts with such companies, realizing that the long-term cost savings originally promised were largely illusory. Between 1999 and 2010, nine states² eliminated their reliance on private prison companies. In addition, Wisconsin has reduced the number of prisoners in private facilities from thousands to dozens.³

The Federal Bureau of Prisons announced in late 2016 that it would follow suit by phasing out its use of private prisons in light of findings that the facilities aren't as safe and effective as government-operated prisons – a reform that was reversed only with the changing of administrations in 2017, not the discovery of new evidence buoying the case for such facilities.

Alabama should heed the hard lesson other states have already learned: Private prisons are not the solution.

BETWEEN 1999 AND 2010, 9 STATES ELIMINATED THEIR RELIANCE ON PRIVATE PRISON COMPANIES

PRIVATE PRISONS ARE NOT LESS EXPENSIVE THAN STATE PRISONS

Despite cost-saving claims made by proponents of prison privatization, there are no independent studies that suggest private prisons are more cost-effective than state facilities. And that only makes sense. How could a private company possibly operate an Alabama prison more economically than the state already does

– without sacrificing safety or rehabilitative programs – while still paying overhead costs and returning a profit to shareholders?

In the most comprehensive analysis of the costs associated with prison privatization to date, researchers at the University of Utah found that private facilities

provide “neither a clear advantage nor disadvantage compared to publically managed prisons.” Public facilities slightly outperformed their private counterparts

in terms of skills training and the number of grievances reported by prisoners. Moves toward privatization, the researchers concluded, were “questionable.”⁴

PRIVATE PRISONS CAN INCREASE CORRECTIONS COSTS FOR STATES

Private prisons can sometimes appear to cost less than public facilities because private operators favor low- and medium-security prisons that are cheaper to run than maximum-security facilities⁵, where aging prisoners who are more costly to house and treat are incarcerated. But when the differences between populations and practices are taken into account, state-level studies suggest private facilities cost more than public prisons.

In a 2014 survey of state-level cost analyses, the research and policy group In the Public Interest found that the cost of private facilities exceeded the cost of publicly operated counterparts in Arizona, Florida, Georgia, New Mexico, and Ohio. In New Mexico, for instance, annual spending on private prisons increased by 57 percent between 2001 and 2006, despite the only 21 percent increase in the prison population. Most of the increase was due to automatic price increases included in private prison contracts with the state. In Arizona, prisoners in private facilities each cost up to \$1,600 more per year than those housed in public prisons – even though private prisons handpicked the healthiest, and therefore least costly, prisoners.⁶

Private prisons have been found to hold people longer than state-run facilities. In a Mississippi study, prisoners in private facilities spent an average of 60 to 90 days longer behind bars than prisoners in state-operated facilities – at an additional cost of at

least \$3,000 per prisoner. That’s because prisoners in private facilities received twice as many conduct violations, which were used by the state parole board to assess whether they should be granted early release.⁷

Through campaign contributions and lobbying, the private prison industry has also quietly supported laws that place more people in prison and subject them to harsher sentences – changes that offer no rehabilitative value and increase the burden on taxpayers. Reports document the industry’s support of Arizona’s controversial “show me your papers” anti-immigration law⁸, as well as legislation that mandates harsher punishments for drug offenders.⁹ Indeed, CoreCivic (formerly Corrections Corporation of America) admitted in a 2010 report to its shareholders that “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.”¹⁰ In other words, private prisons not only fail to save taxpayer money, they impede efforts to reduce mass incarceration and decrease costs to states in the future.

The most up-to-date research finds that private prisons cost more than their public counterparts.

PRIVATE PRISONS DO NOT IMPROVE PUBLIC SAFETY

People confined in private facilities are more likely to commit another crime after they’re released than those housed by the state. A study of Minnesota prisoners released between 2007 and 2009 found that people incarcerated in private prisons were 13 percent more likely to be arrested again, and 22 percent more likely to be convicted again compared to their counterparts released from state prisons.¹¹ A study of Oklahoma prisons similarly found that imprisonment in a private facility increased the likelihood a person would go on to commit another crime after release by up to 17 percent.¹² If privatization is touted as a way of improv-

PEOPLE IN PRIVATE PRISONS ARE MORE LIKELY TO COMMIT ANOTHER CRIME

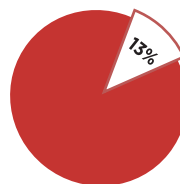
ing performance, private prisons fail on the most basic measure of a prison’s effectiveness: rehabilitation.

What explains the higher rates of recidivism among people held in private prisons? For one, because private prison corporations are interested in cutting costs in order to increase their profit margins, these facilities tend to offer fewer programs for prisoners. These services are crucial not only for occupying prisoners’ time during their incarceration but also for helping them address underlying mental health problems and learn skills they can put to use after release – making prisoners who receive them significantly less

likely to reoffend.¹³ A Minnesota study found that 33.3 percent of prisoners in public prisons participated in general education classes, compared to 21.2 percent in private facilities. Similarly, 42.2 percent of prisoners housed by the state received treatment in chemical dependency programs, but only 9.1 of those in private facilities received these services.¹⁴

Additionally, ensuring prisoners have contact with their support system is crucial to curbing recidivism. One study of 7,000 people released from Florida prisons found that those receiving visitors were 31 percent less likely to commit another crime than those

who did not.¹⁵ However, prison privatization can make it considerably more difficult for prisoners to see their friends and family. Looking to maximize their profits, private prisons sometimes contract out unused beds – using private companies like JailBedSpace.com – sending prisoners across state lines and far away from their social networks.¹⁶



A study of Minnesota prisoners released between 2007 and 2009 found that people incarcerated in private prisons were 13% more likely to be arrested again.

PRIVATE PRISONS ARE NOT SAFER FOR STAFF OR PRISONERS

Cutting staffing costs is the primary strategy private prisons use to lower costs – leading to lower wages, poorly trained staff, chronic understaffing, and high turnover. As a result, both staff and prisoners face a greater risk of violence, while the latter receive lower-quality rehabilitative care.

The Alabama prison system – which is the most overcrowded in the nation and faces a profound staffing crisis – already confronts countless obstacles. Indeed, conditions are so egregious that the U.S. Department of Justice launched an unprecedented investigation into the state’s prisons in 2016. That investigation is still ongoing, but only months after its launch a federal judge deemed mental health care in Alabama’s prisons “horrendously inadequate.” The ruling, the result of an SPLC lawsuit, referred to the broken mental health care system as a driving force behind the “skyrocketing suicide rate” among the state’s prisoners and pointed to understaffing as a contributing factor.¹⁷ Some of Alabama’s prisons are already the most violent in the country; one corrections expert said the frequency of life-threatening assaults at the St. Clair Correctional Facility was the highest he had seen in his 43-year career.¹⁸ Privatizing Alabama prisons would likely only exacerbate these existing staffing and safety issues.

With 65 to 70 percent of prison operating costs going toward staff salaries, benefits, and overtime, private prison corporations first look to these expenditures to cut costs.¹⁹ In 2015, the U.S. Bureau of Labor statistics found that correctional officers in private facilities made \$7,000 less per year than those who were public employees.²⁰ Private prisons also hire fewer

corrections officers – resulting in an average of 6.9 prisoners per officer in private prisons as compared to 5 per officer in facilities owned by the state – and are less inclined to fill staff vacancies.²¹ In Tennessee, for instance, public prisons in 2016 reported a vacancy rate of 11 percent compared to a rate of 18.6 rate for privately operated prisons.²²

As a result of poor working conditions, turnover rates in private prisons are extremely high. A 2008 Texas study reported a 90 percent turnover rate for the state’s seven private prisons, whereas the rate for public facilities was 24 percent.²³ Similarly, a 2002 nationwide study found a staff turnover rate of 52.2 percent in private prisons as compared to 16.6 percent in those run by the government. Private prison personnel tend to be inexperienced as a result: A report from the Arizona Department of Corrections examining the 2010 escape of three prisoners from the private Kingman Arizona State Prison found that the staff was “fairly ‘green’” and that roughly one-third of security staff members had held their position for less than three months.²⁴

An overwhelmed and undertrained staff compromises everyone’s safety. According to a recent Department of Justice report, in private facilities these factors lead to more frequent incidents of assault, uses of force, lockdowns, and discoveries of contraband.²⁵ State-level studies report similar findings. In 2007, written testimony presented to the Texas Senate Criminal Justice Committee reported 65 percent more inmate-on-inmate assaults and 49 percent more inmate-on-staff assaults in private facilities as compared to comparable

In 2008,
Texas had a
90%
staff turnover
rate for its
seven private
prisons.

TROUBLESOME REPORTS FROM THE NATION'S PRIVATE PRISONS

- After an SPLC lawsuit over conditions at the now-shuttered Walnut Grove Youth Correctional Facility in Mississippi, U.S. District Judge Carlton W. Reeves wrote that the GEO Group-owned facility “allowed a cesspool of unconstitutional and inhuman acts and conditions to germinate.”²⁷ An earlier Department of Justice investigation found that sexual abuse – including brutal youth-on-youth rapes and “brazen” sexual misconduct by prison staffers who coerced youths – was “among the worst that we have seen in any facility anywhere in the nation.”²⁸
- In Oklahoma, four prisoners died after a 2015 altercation in a medium-security facility run by CCA (now CoreCivic). A lawsuit filed on behalf of one of the deceased claimed that the fight was a result of staff negligence. Prison employees allegedly allowed contraband and encouraged competition in drug trafficking among prisoners.²⁹
- In 2015, Arizona ended its contract with the private prison operator Management & Training Corp. after a riot at Kingman Arizona State Prison left 16 people injured. A report found that the for-profit corporation failed to properly train its staff or to “promptly and effectively quell the riots.” Three people escaped from the same facility in 2010.³⁰
- A 2017 audit of Florida’s Gadsden Correctional Facility, operated by Management & Training Corp., found that the company deprived prisoners of heat and hot water for months in order to cut costs.³¹

public ones, while a later study in Idaho showed prisoners were twice as likely to be assaulted in private rather than public facilities.²⁶

Private prisons also perpetuate the racial disparities that plague the criminal justice system. Because people of color are substantially overrepresented in for-profit prisons relative to those that are state-owned, they are more likely to be subjected to the poorer conditions found in these facilities. This is

the result of carefully devised contracts that allow private prisons to select less-costly younger, healthier prisoners who – because of the increased targeting of minority communities after the 1970s – are more likely to be people of color. In California, for example, people of color represent 76 percent of the public prison population but 89 percent of the population of private facilities.³²

PRIVATE PRISONS OPPOSE ACCOUNTABILITY AND TRANSPARENCY

Unlike public prisons, which are required to keep meticulous, publicly available records pertaining to costs and conditions, privately owned prisons are not obligated to collect or share comparable data. This lack of accountability shields for-profit prisons from scrutiny while, as a U.S. Government Accountability Office report put it, “key decision makers, including BOP [Bureau of Prisons] managers, OMB, and Congress, are not positioned to have the information needed to make the most cost-effective investment decisions.”³³

With these poor oversight mechanisms, states have had trouble negotiating fair contracts with the corporations that run private prisons. In Florida, for instance, it took the work of a forensic auditor to uncover the fact that private prison vendors were relying on excessive cost estimates in order to ensure the appearance of savings. In 2011, for instance,

the governor’s office promised that the private contractor running six work-release programs would save the state \$550,000 annually. In reality, the contract resulted in a loss of \$3.3 million over the next three years.³⁴

The lack of accountability also prevents states from enforcing contracts with private prisons. In New Mexico, legislators believed both GEO and CCA (now CoreCivic) prisons had allowed staffing vacancies to exceed the 10 percent threshold dictated in their contracts, but – due to spotty record-keeping – the state corrections agency couldn’t decisively verify that the companies were in violation of the provision.³⁵ When the state ordered the Office of Inspector General to monitor the contracts, however, the state proved to be correct and the two corporations were fined more than \$1 million.³⁶

RECOMMENDATIONS

Private prisons are not the answer for Alabama. Focused solely on profits, they are incentivized to act completely counter to what the state's troubled prison system needs. If the governor and legislators want to reform our broken prison system, they must focus on solutions that reduce overcrowding and create an efficient, humane system that truly rehabilitates prisoners, reduces recidivism and makes our communities safer.

Here are recommendations for effective reform:

REFORM SENTENCING PRACTICES AND OTHER POLICIES THAT CONTRIBUTE TO OVERCROWDING Researchers have consistently found that longer prison terms are not better at changing criminal behavior than shorter terms. Policymakers must back measures that eliminate needlessly harsh sentences. They must also reform policies that keep prisoners incarcerated long after they are no longer a danger due to age or health.

PROMOTE ALTERNATIVES TO PRISON Drug and mental health courts confront underlying causes of crime and reduce recidivism. Alabama should spend more on public education, treatment and intervention rather than continued spending on incarceration and harsh sanctions.

ELIMINATE RE-ENTRY BARRIERS A key to reducing recidivism is eliminating obstacles that make it difficult for formerly incarcerated individuals to successfully return to their communities after release. Alabama must reform laws that make it difficult for people to get a job, find housing and access basic services due to their convictions.

ENSURE THE SAFETY OF PRISON STAFF AND PRISONERS Ensuring safety means attracting and retaining highly skilled and experienced prison staffers by offering adequate pay and benefits. Prisoners must receive appropriate medical and mental health care in a timely manner.

TAX DOLLARS SPENT ON REFORMS SHOULD BE CONSIDERED INVESTMENTS IN LONG-TERM SOLUTIONS Public officials should ask if the money being spent today will have lasting benefits, such as improving public safety, reducing the prison population, ensuring safer prisons and discouraging recidivism. Private prison companies, which depend on keeping prison cells full to sustain their business, are not such an investment.

ENDNOTES

- ¹Connor Sheets, "How a Private Prison Corporation is Creeping into Alabama," *AL.com*, April 8, 2017. http://www.al.com/news/index.ssf/2017/04/how_a_private_prisons_corporat.html
- ²Arkansas, Kansas, Maine, Michigan, Minnesota, Nevada, North Dakota, Utah and Washington.
- ³Cody Mason, "Too Good to be True: Private Prisons in America," The Sentencing Project, January 2012. <http://sentencingproject.org/wp-content/uploads/2016/01/Too-Good-to-be-True-Private-Prisons-in-America.pdf>
- ⁴Brad W. Lundhahl et al., "Prison Privatization: A Meta-Analysis of Confinement Indicators," *Research on Social Work Practice* 19, no. 4 (July 2009): 392. <https://utah.pure.elsevier.com/en/publications/prison-privatization-a-meta-analysis-of-cost-and-quality-of-confi>
- ⁵Marie Gottschalk, *Caught: The Prison State and the Lockdown of American Politics* (Princeton: Princeton University Press, 2015), 70.
- ⁶In the Public Interest, "The Cost of Private Prisons," backgrounder brief, April 2014. https://www.inthepublicinterest.org/wp-content/uploads/Prison-Costs-Backgrounder-Brief_Template2.pdf
- ⁷Anita Mukherjee, Impacts of Private Prison Contracting on Inmate Time Served and Recidivism (August 20, 2017). Available at SSRN: <https://ssrn.com/abstract=2523238>
- ⁸Laura Sullivan, "Prison Economics Help Drive Ariz. Immigration Law," NPR, October 28, 2010. <http://www.npr.org/2010/10/28/130833741/prison-economics-help-drive-ariz-immigration-law>
- ⁹Justice Policy Institute, "Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies," June 2011. http://www.justicepolicy.org/uploads/justicepolicy/documents/gaming_the_system.pdf
- ¹⁰Justice Policy Institute, "Gaming the System," 2.
- ¹¹Grant Duwe and Valerie Clark, "The Effects of Private Prison Confinement in Minnesota on Offender Recidivism," Minnesota Department of Corrections, March 2013, 22. https://www.privateci.org/reports_files/MNPrivatePrisonEvaluation_WebsiteFinal.pdf
- ¹²Andrew L. Spivak and Susan F. Sharp, "Inmate Recidivism as a Measure of Private Prison Performance," *Crime and Delinquency* 54, no. 3 (July 2008): 482-508.
- ¹³Louis M. Davis et al., "Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs that Include Education to Incarcerated Adults," Santa Monica, CA: RAND Corporation, 2013. https://www.rand.org/pubs/research_reports/RR266.html
- ¹⁴Judith Greene, "Comparing Private Prison Service Programs in Minnesota: Findings from Prisoner Interviews," *Current Issues in Criminal Justice* vol. 2, no. 2: 18. https://www.inthepublicinterest.org/wp-content/uploads/Greene_Comparing-Private-and-Public-Prisons-in-MN.pdf
- ¹⁵In the Public Interest, "How Private Prison Companies Increase Recidivism," research brief, June 2016, 6. <https://www.inthepublicinterest.org/wp-content/uploads/ITPI-Recidivism-ResearchBrief-June2016.pdf>
- ¹⁶Gottschalk, *Caught*, 37-38.
- ¹⁷Southern Poverty Law Center, "Federal Judge in SPLC Case Orders Drastic Overhaul of Alabama Prison Mental Health Care System," June 27, 2017. <https://www.splcenter.org/news/2017/06/27/federal-judge-splc-case-orders-drastic-overhaul-alabama-prison-mental-health-care-system>
- ¹⁸Campbell Robertson, "An Alabama Prison's Unrelenting Descent Into Violence," *New York Times*, March 28, 2017. <https://www.nytimes.com/2017/03/28/us/alabama-prison-violence.html>
- ¹⁹James Austin and Garry Coventry, "Emerging Issues on Privatized Prisons," Bureau of Justice Association, National Council on Crime and Delinquency, February 2001, 16. <https://www.ncjrs.gov/pdffiles1/bja/181249.pdf>
- ²⁰Megan Mumford et al., "The Economic of Private Prisons," The Hamilton Project, October 20, 2016, 5. https://www.brookings.edu/wp-content/uploads/2016/10/es_20161021_private_prisons_economics.pdf
- ²¹James J. Stephan, "Census of State and Federal Correctional Facilities, 2005," Bureau of Justice Statistics, National Prisoner Statistics Program, October 2008, 5. <https://www.bjs.gov/content/pub/pdf/csfcf05.pdf>
- ²²Dave Boucher, "More than 800 Staff Vacancies in Tennessee Prisons, *Tennessean*, November 28, 2016. <http://www.tennessean.com/story/news/2016/11/28/more-than-800-staff-vacancies-tennessee-prisons/94246750/>
- ²³Mumford, "The Economics of Private Prisons," 5. https://www.brookings.edu/wp-content/uploads/2016/10/es_20161021_private_prisons_economics.pdf
- ²⁴Elaine Rizzo and Margaret Hayes, "An Assessment of the Risks and Benefits of Prison Privatization," Prepared for the Citizens' Advisory Board of the New Hampshire State Prison for Women, January 20, 2012, 6. <http://www.anselm.edu/Documents/Academics/Departments/Criminal%20Justice/DOC%20Privatization%20Final%20Report.pdf>
- ²⁵"Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons," Office of the Inspector General, Department of Justice, August 2016. <https://oig.justice.gov/reports/2016/e1606.pdf>
- ²⁶Rizzo and Hayes, "An Assessment of the Risks and Benefits," 6. <http://www.anselm.edu/Documents/Academics/Departments/Criminal%20Justice/DOC%20Privatization%20Final%20Report.pdf>
- ²⁷*DePriest v. Epps*, 2010 https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/case/Walnut_OrderApprovingSettlement.pdf
- ²⁸"Investigation of the Walnut Grove Youth Correctional Facility," U.S. Department of Justice Civil Rights Division, March 20, 2012, 1. https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/case/walnutgroveDOJ.pdf
- ²⁹Samantha Vincent, "Estate of Oklahoma Man Who Dies in 2015 Prison Fight Sues Private Prison Company," *Tulsa World*, September 7, 2016. http://www.tulsaworld.com/news/crimewatch/estate-of-oklahoma-man-who-died-in-prison-fight-sues/article_b3c28f4b-4074-56ac-8c58-5daf2a1bb457.html
- ³⁰Craig Harris, "Arizona Cuts Ties with Private Prison Operator After Kingman Riots," *AZ Central*, August 26, 2015. <http://www.azcentral.com/story/news/arizona/politics/2015/08/26/arizona-kingman-riot-cause-corrections-department-report/32432963/>
- ³¹Mary Ellen Klas, "Private Prisons Deprived Inmates of Heat and Hot Water for Months, Lawmaker Finds," *Miami Herald*, February 25, 2017. <http://www.miamiherald.com/news/local/article134892534.html>
- ³²Christopher Pettralla, "The Color of Corporate Corrections, Part II: Contractual Exemptions and the Overrepresentation of People of Color in Private Prisons," *Radical Criminology* no. 3 (2014). <http://journal.radicalcriminology.org/index.php/rc/article/view/44/html>
- ³³Government Accountability Office, "Costs of Prison: Bureau of Prisons Needs Better Data to Assess Alternatives for Acquiring Low and Minimum Security Facilities," October 2007, pg. 7. <http://www.gao.gov/assets/270/267839.pdf>
- ³⁴Mary Ellen Klas, "Do Private Prisons Save Money as Promised? Maybe Not, but Legislature Keeps Approving," *Miami Herald*, April 12, 2017. <http://www.miamiherald.com/news/politics-government/state-politics/article144269749.html>
- ³⁵Trip Jennings, "Private-Prison Staffing Could Trigger Fines," *Santa Fe New Mexican*, April 25, 2011. http://www.santafenewmexican.com/news/local_news/private-prison-staffing-could-trigger-fines/article_64a96428-73ed-5587-b551-3b146d49274b.html
- ³⁶Deborah Baker, "N.M. Private Prisons Fined \$1.6M," *Albuquerque Journal*, March 17, 2012. <https://www.abqjournal.com/94558/nm-private-prisons-fined-16m.html>