

**WRITTEN STATEMENT
OF THE
HUMAN RIGHTS DEFENSE CENTER**

FOR THE HEARING ON

Ending the School-to-Prison Pipeline

BEFORE THE

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

**SUBCOMMITTEE ON THE CONSTITUTION, CIVIL
RIGHTS AND HUMAN RIGHTS**

PRESENTED ON

December 12, 2012

STATEMENT OF THE HUMAN RIGHTS DEFENSE CENTER

Chairman Durbin, Ranking Member Graham and Members of the Committee:

The Human Rights Defense Center (HRDC) is a 501(c)(3) non-profit organization dedicated to protecting the human rights of persons incarcerated in prisons, jails and other detention facilities. HRDC publishes *Prison Legal News* (PLN), a monthly print magazine that reports on corrections and criminal justice-related issues nationwide.

Although PLN's coverage primarily concerns the approximately 2.3 million people held in state and federal prisons and jails in the United States, PLN also reports extensively on issues related to the juvenile justice system.

Recently, PLN staff assisted in investigative reporting concerning a disturbing development in Arizona that Caroline Isaacs, program director for the Tucson office of the American Friends Service Committee, described as “the most direct expression of the ‘schools-to-prison pipeline’ I’ve ever seen.”

The school-to-prison pipeline is generally defined as a process in which certain students – often minorities, those with social and financial disadvantages, and those with learning disabilities or mental health problems – are channeled into a path that leads to incarceration as part of a continuum that includes school disciplinary actions, alternative programs for “problem” students, involvement

of the juvenile justice system and, eventually, placement in adult prisons. Elements that contribute to the school-to-prison pipeline include zero-tolerance policies and high levels of law enforcement participation in the education system, with the latter involving school police resource officers, the use of metal detectors and school drug sweeps/searches.

In Arizona, several public schools in Casa Grande, the largest town in Pinal County, are using a private prison company – Corrections Corporation of America (CCA) – alongside police officers to conduct drug sweeps. PLN assisted in reporting on this issue, which was published by DBA Press (dbapress.com) and by The Center for Media and Democracy’s PR Watch (www.prwatch.org) on November 27, 2012. A condensed version of the resulting report is included in the December 2012 issue of *Prison Legal News*, and is attached as Exhibit 1 to this Statement.

On October 31, 2012, the Casa Grande Police Department, Arizona Department of Public Safety, Gila River Indian Community Police Department and CCA – which operates six correctional facilities in Pinal County – conducted a joint drug sweep at the Vista Grande High School.

According to Principal Tim Hamilton the school was placed on “lockdown” status, in which “everybody is locked in the room they are in, and nobody leaves – nobody leaves the school, nobody comes into the school. Everybody is locked in, and then they bring the dogs in, and they are teamed with an administrator and go in and out of classrooms. They go to a classroom and they have the kids come out and line up against a wall. The dog goes in and they close the door behind, and then the dog does its thing, and if it gets a hit, it sits on a bag [e.g., student’s backpack] and won’t move.”

Although Arizona state law requires that persons engaging in the duties of a “peace officer” must be certified by the Arizona Peace Officer Standards and Training (POST) Board, according to POST executive director Lyle Mann, CCA employees are not POST certified.

Regardless, CCA provided two canine units, consisting of dogs and handlers, to participate in the October 31, 2012 Vista Grande High School drug raid. Previously, CCA canine units were used in a similar drug sweep at the Casa Grande Union High School in Pinal County in 2011. According to Casa Grande Police Department public information officer Thomas Anderson, the involvement of CCA employees in the drug sweeps was “pretty regular,” and he assumed the police department would continue partnering with CCA in future drug operations at public schools.

Three students were arrested on marijuana-related charges as a result of the Vista Grande High School drug sweep: two female students, ages 15 and 17, and a 15-year-old male student. Principal Hamilton stated the school was commencing expulsion proceedings against the three students, thus starting them on their journey through the school-to-prison pipeline.

The Human Rights Defense Center believes that involving employees from private prison companies – which directly profit from incarceration – in law enforcement operations at public schools is a disturbing addition to the existing practices that contribute to the school-to-prison pipeline.

The use of private prison employees in drug sweeps at public schools, which result in arrests and channeling students into the school-to-prison pipeline, ultimately leads to increased incarceration and thus greater profits for the multi-billion-dollar private prison industry.

HRDC believes that such involvement of for-profit prison companies constitutes a clear conflict of interest and should be prohibited. For example, legislation could be introduced on the federal level to prohibit schools which receive federal funds from allowing private prison companies or their employees to participate in drug sweeps or other law enforcement operations on school property.

This Statement is submitted on behalf of the
Human Rights Defense Center by:

Executive Director Paul Wright. Mr. Wright founded the Human Rights Defense Center and serves as editor of *Prison Legal News*. He was incarcerated for 17 years in the Washington State prison system.

Associate Director Alex Friedmann. Mr. Friedmann serves as the managing editor of *Prison Legal News* and president of the Private Corrections Institute. He was incarcerated for 10 years in Tennessee.

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America Eats its Young: Arizona Communities Embrace use of Private Prison Employees in Drug Raids at Public Schools

by Beau Hodai

In Arizona an unsettling trend appears to be underway: the use of private prison employees in law enforcement operations.

The state has graced headlines in recent years as the result of its cozy relationship with for-profit prison companies – for the role of the private prison industry in assisting in the dissemination of constitutionally-questionable immigration enforcement laws based on Arizona’s controversial SB 1070, for a private prison escape that resulted in the death of an elderly couple and a nationwide manhunt, and for a failed attempt to privatize almost the entire state prison system.

And now, recent events in the central Arizona town of Casa Grande show the hand of private prison corporations reaching into the classroom, assisting local law enforcement agencies in drug raids at public schools.

Trick or Treat

At 9 a.m. on the morning of October 31, 2012, students at Vista Grande High School in Casa Grande were settling in to their daily routine when something unusual occurred.

Vista Grande High School Principal Tim Hamilton ordered the school – with a student population of 1,776 – on “lock down,” kicking off the first “drug sweep” in the school’s four-year history. According to Hamilton, “lock down” is a state in which, “everybody is locked in the room they are in, and nobody leaves – nobody leaves the school, nobody comes into the school.”

“Everybody is locked in, and then they bring the dogs in, and they are teamed with an administrator and go in and out of classrooms. They go to a classroom and they have the kids come out and line up against a wall. The dog goes in and they close the door behind, and then the dog does its thing, and if it gets a hit, it sits on a bag and won’t move.”

While such “drug sweeps” have become a routine matter in many of the nation’s schools, along with the use of metal detectors and zero-tolerance policies, one feature of this raid was unusual. According to Casa Grande Police Department (CGPD) Public Information Officer Thomas Anderson, four “law enforcement” agencies took part in the operation: CGPD (which served as the lead agency and operation coordinator), the Arizona Department of Public Safety, the Gila River Indian Community Police Department, and Corrections Corporation of America (CCA).

It is the involvement of CCA – a private, for-profit prison corporation – that causes this high school “drug sweep” to stand out; CCA is not, despite CGPD’s evident opinion to the contrary, a law enforcement agency.

“To invite for-profit prison guards to conduct law enforcement actions in a high school is perhaps the most direct expression of the ‘schools-to-prison pipeline’ I’ve ever seen,” said Caroline Isaacs, program director of the Tucson office of the American Friends Service Committee, a Quaker social justice organization that advocates for criminal justice reform.

Welcome to Prison Town, U.S.A.

CCA, the nation’s largest for-profit prison/immigrant detention center operator, with more than 92,000 prison and immigrant detention “beds” in 20 states and the District of Columbia, reported \$1.7 billion

in gross revenue last year. This revenue is derived almost exclusively from taxpayer-funded government (county, state and federal) contracts for the warehousing of prisoners and immigrant detainees.

CCA has a substantial presence in Casa Grande and throughout Arizona's Pinal County (Casa Grande is the largest town in the county). The corporation owns and operates a total of six correctional/detention facilities in Pinal County, distributed through the towns of Florence and Eloy.

In 2009, the Central Arizona Regional Economic Development Foundation listed CCA as the largest non-governmental employer in Pinal County. To boot, CCA is a "Board Level" member of the Arizona Chamber of Commerce and Industry, a powerful trade/lobby organization, and is active in the Eloy, Florence and Casa Grande chambers of commerce.

And in September 2012, CCA was awarded a contract with the Arizona Department of Corrections (ADC) to house 1,000 medium-security prisoners at the corporation's Red Rock Correctional Center in Eloy.

This strong CCA presence, coupled with the location of two correctional facilities operated by GEO Group (the nation's second largest for-profit prison/immigrant detention center contractor) in the county, as well as two ADC-run prison complexes, makes Pinal County – which once cited mining and agriculture as its economic bedrock – a *de facto* prison industry community.

Despite the obvious differences between CCA and actual law enforcement agencies, those involved in the Vista Grande High School drug sweep seem unable to differentiate between CCA employees and law enforcement officers.

"CCA is like a skip and a hop away from us – as far as the one in Florence," said Anderson. "We work pretty closely with all surrounding agencies, whatever kind of law enforcement they are – be they police, or immigration and naturalization, or the prison systems. So, yeah, this seems pretty regular to me."

Questions of Legality

But they are not the same. Aside from the fact that CCA is a private corporation that derives its profits from the incarceration of human beings, the Arizona Administrative Code provides that, in order for any individual to engage in the duties of a "peace officer," that individual must obtain certification from the Arizona Peace Officer Standards and Training (POST) Board.

And the Arizona Administrative Code is very clear on this point: "[A] person who is not certified by the Board or whose certified status is inactive shall not function as a peace officer or be assigned the duties of a peace officer by an agency...."

According to POST Executive Director Lyle Mann, POST provides two types of certification: standards and training certification for "peace officers," and standards and training certification for correctional officers. The Arizona Administrative Code mandates that ADC officers be POST certified. However, according to Mann, employees of private prison contractors are exempt from these standards and training requirements. As such, said Mann, no CCA employee is POST certified – as either a "peace officer" or a correctional officer.

It is important to note that the Arizona Administrative Code explicitly states that non-regular "peace officers" – secondary parties engaging in certain limited aspects of law enforcement under the command or supervision of regular peace officers – must also be POST certified.

According to the Code, a "limited-authority peace officer" is defined as "a peace officer who is certified to perform the duties of a peace officer only in the presence and under the supervision of a full-authority peace officer." The Code goes on to state that duties which may be performed by a "limited-authority peace officer" in the presence of a "full-authority peace officer" include: "investigative activities performed to detect, prevent, or suppress crime, or to enforce criminal or traffic laws of the state, county, or municipality."

This definition seems to fit the description of what occurred at Vista Grande High School on the morning of October 31, 2012 – with the exception that the CCA employees aiding CGPD “peace officers” are not POST certified.

According to Anderson, CCA provided two canine units consisting of handlers and dogs to aid in the high school “drug sweep.”

As to the general role canine units play in school drug raids, Anderson stated that the dogs and their handlers are typically utilized to detect the presence of illicit materials in classrooms and school parking lots.

The use of the CCA canine teams would seem to fall squarely under the Arizona Administrative Code description of duties performed by “limited-authority peace officers” – officers who may perform “investigative activities” for the purpose of detecting, preventing, or suppressing criminal activity, and who are only authorized to do so while in the presence of “full-authority peace officers,” such as CGPD. Such “limited-authority peace officers” are required to be POST certified.

According to Anderson, a similar “drug sweep” utilizing CCA canine units was conducted at Casa Grande’s Union High School in 2011. He was unable to provide further details related to that event.

CCA did not respond to multiple requests for comment regarding their involvement in law enforcement operations at public schools in Pinal County.

Conflict of Interest: From the Cradle to the Cell

According to Anderson, three students were arrested as a result of the October 31 Vista Grande raid: two female students, ages 15 and 17, as well as one 15-year-old male. He said the 15-year-old female was found in possession of .10 grams of marijuana; the 15-year-old male student was found in possession of .50 grams of marijuana; and the 17-year-old female was found in possession of 10 ounces of marijuana that was “individually packaged.”

Under Arizona law, individuals arrested for illicit activity/possession of illicit substances on or near school grounds may face “drug-free school zone” sentencing enhancements. Those convicted of drug offenses (including marijuana), and sentenced under “drug-free school zone” sentencing enhancements, lose the possibility of sentence suspension, parole or probation. The sentencing enhancement also adds a year to any prison term handed down by the court.

While the 1,000 Arizona prison beds recently contracted to CCA have yet to come online, it is exactly this kind of low-risk, minimum- to medium-security drug offender that corporations such as CCA derive much of their profit from.

Furthermore, according to Anderson, the Vista Grande High School marijuana arrests have sparked a broader, ongoing investigation. Given the fact that such high school raids may serve as the foundation for larger narcotics investigations which may net adult offenders, concerned citizens say that CCA’s involvement in such raids constitutes a clear conflict of interest.

“They’re [CCA] not the criminal justice system. They are benefactors of the criminal justice system,” said correctional specialist and prison reform advocate Carl Toersbijns.

Toersbijns, now retired, served as a deputy warden of operations at ADC-operated Arizona State Prison (ASP) Eyeman, deputy warden of operations at ASP Safford, deputy warden of operations at the New Mexico Department of Corrections-operated Western New Mexico Correctional Facility (in Grants, New Mexico), and associate warden at the Central New Mexico Correctional Facility (in Los Lunas, New Mexico). Collectively, Toersbijns’ career in corrections has spanned over 25 years in both Arizona and New Mexico. Such work, he said, has entailed everything from details with prison canine units to prison gang units.

“They [CCA] use the criminal justice system as a means of making income – for profit,” added Toersbijns. “So, their interest in the criminal justice system is totally opposite of the police officer. The

police officer is public safety. The primary interest for CCA and associated entities is profit. So, there most definitely is a conflict of interest.”

Introducing the “War on Drugs” to the Classroom

As some opponents of prison privatization attest, CCA embodies the worst pitfalls of public-private partnerships, in that the corporation has worked in the past to advance criminal justice legislation that has contributed to both a swell in U.S. prison/detention center populations and, consequently, CCA’s bottom line.

For example, CCA was active (both as a co-chair and member) in the American Legislative Exchange Council’s (ALEC) Public Safety and Elections Task Force, formerly the ALEC Criminal Justice Task Force, through the 1990s to the end of 2010.

ALEC is a public-private legislative partnership whose membership is overwhelmingly comprised of Republican state lawmakers, over 300 of the nation’s largest corporations and influential law/lobbying firms. ALEC’s primary objective is to adopt and disseminate “model legislation,” much of which is drafted entirely by its private sector members.

ALEC’s Public Safety and Elections Task Force was instrumental, during the years of CCA’s membership and leadership, in proliferating such tough-on-crime legislation as “three strikes,” “truth in sentencing” and “mandatory minimum” sentencing laws.

Largely as a result of such harsh sentencing laws advanced by ALEC, the U.S. experienced a boom in its prison and jail population – from just over 1.1 million people incarcerated in 1990 to nearly 2.3 million in 2010.

During the years of CCA’s Criminal Justice/Public Safety and Elections Task Force involvement, ALEC also advanced “model legislation” for greater law enforcement presence in public schools. ALEC’s “Drug-Free Schools Act,” for example, called for “enhanced apprehension, prevention and education efforts” in joint cooperation between law enforcement agencies and school districts.

In April 2012, following widespread criticism and loss of corporate sponsorship due to such pieces of “model legislation” disseminated by the Public Safety and Elections Task Force as the “Stand Your Ground Act,” “Voter ID Act” and “No More Sanctuary Cities for Illegal Immigrants Act,” ALEC announced that it would disband the task force.

And in the wake of reporting on CCA’s involvement with ALEC and the spread of immigration laws based on Arizona’s SB 1070, CCA told the *Arizona Republic* in September 2011 that the corporation left ALEC in 2010.

Unfortunately, as the October 31 Vista Grande High School drug raid illustrates, the purported discontinuation of the ALEC task force, and CCA’s exit from ALEC, came only after the damage of two decades of private prison industry influence has taken its toll.

Thanks to Alex Friedmann, associate editor of Prison Legal News, for his contribution to this article. Center for Media and Democracy staff researchers Rebekah Wilce and Alex Oberley also contributed to this article. A longer version of this article was originally published on dbapress.com and www.prwatch.org.