

# Private Prisons: The Public's Problem

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## A Quality Assessment of Arizona's Private Prisons

February, 2012



Illustration by Jeffrey Collins



**American Friends  
Service Committee**

**Arizona Program**

103 N. Park Avenue, Suite #111  
Tucson, AZ 85719

520-623-9141  
afscaz@afsc.org

The American Friends Service Committee (AFSC) is a Quaker organization that includes people of various faiths who are committed to social justice, peace, and humanitarian service. Our work is based on the principles of the Religious Society of Friends, the belief in the worth of every person, and faith in the power of love to overcome violence and injustice. AFSC was founded in 1917 by Quakers to provide conscientious objectors with an opportunity to aid civilian war victims. The Arizona office of AFSC was established in 1980 and focuses on criminal justice reform.

## **About the Author**

*Caroline Isaacs* is the Program Director for the American Friends Service Committee office in Tucson, Arizona. She has worked at AFSC for over 15 years, focusing on criminal justice reform in Arizona. Isaacs has a Bachelor's in Political Science from the College of Wooster and a Master's in Social Work from Arizona State University, where she teaches as an adjunct faculty member and serves as a Field Student Liaison.

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103 N Park Avenue, Suite #111  
Tucson, AZ 85719  
520.623.9141  
afscaz@afsc.org

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# Table of Contents

Executive Summary .....	i
Introduction and Overview .....	1
Purpose of this Report .....	1
Department of Corrections' 2011 Biennial Comparison of Private and Public Prisons .....	3
Methodology .....	6
Background and History .....	10
Arizona Prison Population Growth .....	12
2010: Unprecedented Prison Expansion in Arizona .....	15
Arizona's Cost Comparison Study .....	19
Who's Doing Business In Arizona? .....	22
Performance Measure I: Safety and Security: .....	29
State-Contracted Private Prison Security Assessments .....	30
Security Assessments of CCA Facilities .....	40
Assaults: Inmate-on-Inmate .....	41
Assaults: Staff on Inmate .....	47
Riots .....	49
Escapes .....	57
Conclusions .....	59
Performance Measure II: Staffing .....	60
Staffing: State Contracts .....	62
Staffing in CCA Prisons in Arizona .....	67
Conclusion .....	69
Performance Measure III: Programs and Services .....	70
Deaths in State-Operated Facilities: .....	70
Deaths in Privately Operated State Prisons .....	71
Recidivism .....	74
Conclusion .....	79
Performance Measure IV: Transparency and Accountability .....	80
Transparency .....	80
Accountability .....	82
Are Prison Corporations Writing Arizona's Laws? .....	84
Private Prison Influence-Peddling in Arizona .....	86
Conclusion .....	93
Conclusions .....	95
Recommendations .....	97

## Executive Summary

Arizona has enthusiastically embraced prison privatization, with 13% of the state prison population housed in private facilities (the 11th highest percentage in the nation). Motivated by a belief that private enterprise could build and manage prisons safely and at lower cost than the state, the legislature has mandated construction of thousands of private prison beds. Little was done over the years to test actual performance of private prisons or to determine their cost effectiveness.

In the summer of 2010, three inmates escaped from the privately operated Kingman prison, killed two people, and shattered the myth that private prisons can keep us safe. Since that time, more evidence has come to light unmasking the truth about the private prison industry in Arizona: *It is costly, plagued by security problems, and in some cases is violating state and federal law.* State leaders have failed in their responsibility to protect the public, to provide adequate oversight of this industry, or to hold the corporations accountable for their failures.

This report is the first of its kind in Arizona. *To date, no independent analysis of the performance and quality of all private and public prisons has been undertaken.* Such an analysis is long overdue, given that private prisons have operated in Arizona for decades, and the state has invested billions of taxpayer dollars into this industry. The people of Arizona have had little or no evidence that these prisons are safe, cost effective, or competent at fulfilling the job taxpayers pay them to do.

When AFSC learned that the state had not properly monitored and reported on private prison operations since state law mandated it in 1987, AFSC undertook its own investigation into the private prison industry in Arizona. The Arizona Department of Corrections (ADC) later announced that it would complete the statutorily-required biennial comparison review, which was released on December 21, 2011.

The ADC study contains very little methodological information or supporting data, suffers from inconsistent data collection procedures, and overlooks important measures of prison safety. By contrast, AFSC's report incorporates data that was omitted or deemed to be outside the scope of the ADC review, including security audits of private prisons before and after the Kingman escapes and data on six prisons operated by Corrections Corporation of America that are located in Arizona but do not contract with the state, putting them outside state oversight.

In addition, AFSC's analysis incorporates additional performance measures which have emerged as important aspects of the debate over prison privatization: recidivism, accountability, and transparency.

The most common measurement of the effectiveness of a prison is its ability to reduce recidivism. *Yet private prison corporations flatly refuse to measure their recidivism rates.*

The issues of accountability and transparency made headlines in 2010 when it was

revealed that lobbyists for Corrections Corporation of America may have had a hand in drafting SB 1070, Arizona's controversial anti-immigrant bill, which potentially represented millions of dollars in revenue for the corporation through lucrative immigrant detention contracts.

Since then, more and more evidence has surfaced revealing the various prison corporations' efforts to buy influence with state and federal governments, particularly through the involvement of the American Legislative Exchange Council (ALEC), a group whose members consist of elected officials and corporate lobbyists. ALEC holds conferences at exclusive resorts where legislators and corporate representatives draft model legislation that members introduce in their various home states. Yet this activity is not considered lobbying under many states' law, and the reimbursements ALEC provides to legislators (and their spouses) for travel and lodging at these conferences are not reported as political contributions.

Most importantly, AFSC's analysis found patterns of serious safety lapses in all the private prisons for which data was available. Together, this data demonstrates a set of problems endemic to the industry that could lead to future tragedies like the Kingman escapes.

Malfunctioning security systems go unrepaired for months, leading staff to ignore safety protocols. Under-trained guards

combined with poor state oversight leads to assaults, disturbances, and riots. For-profit prison staff members are too often unprepared, or unwilling, to intervene in these events, and risk losing control of the facilities. Insufficient rehabilitation programs, educational opportunities, or jobs for the prisoners provide idle time for conflicts to brew. The result is facilities that are unsafe for the people living and working inside them, as well as the surrounding community.

*Regardless of differing political views, most Arizonans want the same thing from their prisons: Increased public safety.*

Yet the state has deliberately obscured information that would cast private prisons in a negative light. It is critical that the people of Arizona and our elected representatives have solid, objective data on which to base important decisions about the future of our prisons. Billions of taxpayer dollars and the safety of our communities hang in the balance.

ADC cancelled the Request for Proposals (RFP) for 5,000 private prison beds in December 2011, but issued a new RFP for 2,000 private prison beds in early February 2012. The taxpayers of Arizona deserve an honest accounting of what we stand to gain and lose if we continue to follow the "tough on crime" mantra. This report offers new insights and original data that reveals the truth about for-profit prisons in Arizona.

## Key Findings

### 1. Arizona does not need more prison beds.

Arizona's prison population grew by only 65 prisoners (net) in 2010 and actually declined by 296 prisoners in FY2011—the two lowest growth rates on record (dating back to 1973). ADC projects zero growth in the adult prison population for fiscal years 2012 and 2013.

## **2. Arizona is wasting money on prison privatization.**

ADC cost comparison reviews of public and private prisons found that in many cases, private prisons cost more than their public equivalents. Between 2008 and 2010, Arizona overpaid for its private prisons by about \$10 million. If the requested 2,000 medium security private prison beds are built, Arizona taxpayers can expect to waste at least \$6 million on privatization every year.

## **3. 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.

## **4. Private prisons have serious staffing problems.**

Many of the problems in private prisons stem from low pay, inadequate training, poor 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.

## **5. For-profit prison corporations do not measure recidivism rates.**

The main purpose of a prison is to reduce crime. The only measurement available of how well a prison performs this function is its recidivism rates. **None of the corporations operating in Arizona measure recidivism.**

## 6. For-profit prison corporations are buying influence in Arizona government.

The companies operating prisons lobby aggressively, make large political campaign contributions, and secure high-level government appointments for corporate insiders.

## 7. For-profit prison corporations are not accountable to Arizona taxpayers.

They are not subject to the same transparency, reporting or oversight requirements as government agencies. For the six private prisons that do not contract with the state of Arizona, there is virtually no state oversight whatsoever. Attempts to hold the corporations accountable are sometimes thwarted by threats of legal action.

### *The solution is greater public control over prisons in Arizona, not less.*

Given that private prison corporations are not required to make their records public, it was impossible to present a full quantitative comparison of public and private prisons housing similar types of offenders. Instead, this report presents the detailed information that has been collected on the many failings of private prisons in Arizona, to help state leaders make informed decisions about Arizona's prisons. If anything, this report points to the need for further study and analysis of the cost, quality, and performance of the private prison industry. The fact that this data is so difficult to obtain reveals the lack of transparency and accountability of private prisons in Arizona.

The ADC is far from blameless in the troubles plaguing the private prisons contracting with the state, and AFSC has substantial criticisms of the Department's management of its own facilities. Rather than a simplistic black-and-white assess-

ment, this report reveals that all prisons in Arizona require more oversight and monitoring to ensure that the public is protected and getting its money's worth. It is clear that simply handing over control of prisons to private corporations does not provide higher quality or effectiveness, but instead creates a new set of problems that are often harder to eradicate.

There is ample evidence of systemic, chronic and endemic failures in the privatization of incarceration. These failures put the public at risk. They compromise the integrity of our legislative process and they undermine the state's ability to fund programs that support education and other important state services.

Fortunately, states like Texas, Mississippi, and South Carolina point the way toward a long-term solution: Sentencing reform.

Over half of US states have reduced their prison populations through evidence-



based reforms utilizing diversion, alternative sentences, and reform of parole and probation. *These states have not only saved millions of taxpayer dollars, but reduced crime rates significantly.*

Arizona legislators could render the need for more prison beds—public or private—

completely unnecessary by reserving prisons for those who truly need to be separated from society and by using a range of less expensive and more effective interventions with the rest.



## Recommendations

### Immediate Measures

1. The Governor or Legislature should institute an immediate moratorium on new prison construction. Existing RFP's should be cancelled, no new RFP's should be issued and no new state beds, private or state, should be funded.
2. Existing contracts with private prison operators should be closely reviewed in light of the findings in this report and the report issued by the Arizona Department of Corrections. In particular, the state should consider cancelling contracts for those private prisons that are found to be more expensive or of poorer quality than equivalent state beds.
3. The Secretary of State and/or the Attorney General of Arizona should investigate:
  - a. Expense reimbursement policies of the American Legislative Exchange Council (ALEC) and for-profit prison corporations to Arizona legislators, pursuant to ARS 41-1232.03: 'Expenditure reporting; public bodies and public lobbyists; gifts'.
  - b. ALEC's legal status as a non-profit organization.
  - c. The role of lobbyists or other for-profit prison industry representatives in the creation of specific legislation in Arizona, including ALEC's model legislation.

### Additional Measures

1. All prison and detention facilities in Arizona should be subject to permanent review and monitoring by an independent body empowered to hold the prison operator and the state accountable and enact necessary reforms.
2. The legislature should pass legislation that enacts strict oversight and reporting requirements for those private prisons located in, but not contracted with, the state of Arizona. These rule must:
  - a. Require immediate notification to local and state authorities in the event 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 acceptance of 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 to be reported to the Department of Public Safety and the Department of Corrections, 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 prisoner count, the capacity of the facility, and information on their staffing levels.
  - f. Require all privately operated prisons in Arizona to make their records public to the same extent that is required of the Department of Corrections and county jails.
  - g. Report all assaults, disturbances, deaths, and hospitalizations.

3. The Legislature should require all prisons in Arizona—public and private—to publicly report their recidivism rate annually
4. All state contracts with for-profit prison operators should include the following requirements (current contracts should be amended at the earliest opportunity):
  - a. The state may cancel a contract without cause with 90 days notice.
  - b. The state may assess damages using the formula in Attachment A for non-compliance with contract requirements, including: Security and control, use of force, escapes, employee qualifications and training, operating standards, maintenance and repairs, food service, and medical care.
  - c. The private operator must demonstrate compliance with all Department of Corrections policies.
  - d. The state has unimpeded access to all areas of a facility at all times, including unannounced visits.
  - e. The state may assess damages for staff vacancies and high turnover rates.
  - f. The state may view facility cameras from a remote site.
  - g. The Director of the Department of Corrections may take over control and operation of the facility if there are substantial or repeated breaches of contract or if the Director determines that the safety of the inmates, staff, or public is at risk.
5. Arizona should follow the recommendations of the state Auditor General and the example of states like Michigan, Texas, and Mississippi and enact sensible reforms to their criminal sentencing laws to safely reduce prison populations. Through expansion of diversion and early release, use of non-prison alternatives and reduction of parole violation revocations, these states have saved millions of taxpayer dollars and significantly reduced their crime rates.<sup>1</sup>

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<sup>1</sup> Office of the Auditor General, *Department of Corrections-Prison Population Growth*, September, 2010,

## Introduction and Overview

Quakers have a long history of involvement in prison reform efforts, dating back to the 18<sup>th</sup> century. The American Friends Service Committee (AFSC), a Quaker organization, has worked for reform of the criminal justice system since the early 20<sup>th</sup> century. That work has always focused on the need for an effective and humane criminal justice system that emphasizes rehabilitation over punishment. AFSC's Arizona Criminal Justice Program advocates for a reduction in the state's prison population through careful sentencing reform. In recent years, a key focus of that effort has been to oppose continued prison expansion and to educate the public on the risks inherent in prison privatization.

For 35 years AFSC's office in Arizona has followed the rise of prison privatization. AFSC staff have organized public events, met with the Arizona Department of Corrections (ADC), worked to educate legislators, and given public testimony. State leaders have displayed shocking indifference, and sometimes outright hostility, toward the suggestion that these facilities be monitored and investigated to ensure that they are safe, efficient, and accountable.

### Purpose of this Report

Astonishingly, no comprehensive, independent study has been conducted that compares the performance of public and private prisons, either nationally or in Arizona. The closest national research is a 2001 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 private prisons.<sup>2</sup>

In the summer of 2011, the *Arizona Republic* reported<sup>3</sup> that a section of the state law governing privatization of prisons, ARS 41-1609.01, was being violated by the ADC. The law stipulates that private corporations 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. It further requires that proposals for new private prisons 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. In order to ensure that these requirements are met, the statute re-

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<sup>2</sup> Bureau of Justice Administration, *Emerging Issues on Privatized Prisons*, February 2001; <https://www.ncjrs.gov/pdffiles1/bja/181249.pdf>

<sup>3</sup> "Arizona prison oversight lacking for private facilities," *Arizona Republic*, August 7, 2011

quires that a detailed comparison study of public and private prisons be completed every two years.<sup>4</sup>

In September 2011, AFSC sued Governor Jan Brewer and ADC because of their failure to comply with state law for more than two decades by not reviewing private prisons as required by that law.<sup>5</sup> The suit sought an injunction to force ADC to hold off on awarding new prison contracts until the review study was completed. While the suit was initially denied on procedural grounds, AFSC appealed, and effectively forced the ADC to conduct the required study. The first such comparison review was released by ADC on December 21, 2011.

Following release of their report, ADC cancelled an RFP for 5,000 minimum and medium security private prison beds for male prisoners, citing declining prison populations. ADC then announced that it would release a revised RFP for only 2,000 medium security beds and will also seek to build 500 additional state-run beds for maximum-security inmates. The new RFP was issued on February 2, 2012.

Before ADC began working on their report and concerned that any ADC study would likely be incomplete, AFSC began an independent study of private prison performance during the spring of 2011. In particular, AFSC feared the ADC study would omit information that may be damaging to the prison corporations to avoid incurring the wrath of state legislators supportive of the industry.

In addition, AFSC was aware that any ADC study would not include the six Corrections Corporations of America prisons located in Arizona that do not contract with the state and therefore are not under state jurisdiction. News reports, correspondence with prisoners and their families, lawsuits, and published research have clearly demonstrated that there are very serious problems in these facilities that deserve close scrutiny. Therefore, they are included in this report's analysis of private prisons in Arizona.

This report is a needed step toward transparency and accountability of private prisons in Arizona. A robust public debate is critical to ensure that taxpayer dollars are wisely spent and public safety is preserved. It is the hope of the American Friends Service Committee that the compilation of this data will encourage further study by independent, expert bodies to answer the critical questions about prison privatization: Is it safe? Is it working? Is it cost-effective?

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<sup>4</sup> Full text of the law can be found on the Arizona State Legislature's web site: <http://www.azleg.state.az.us/ars/41/01609-01.htm> Sub-Sections (K) and (M) cover the required reporting.

<sup>5</sup> <http://afsc.org/resource/arizona-department-corrections-lawsuit-resources>

## **Department of Corrections' 2011 Biennial Comparison of Private and Public Prisons**

The Arizona Department of Corrections finally released their first required comparison review on December 21, 2011, after some 20 years of delay.<sup>6</sup>

The ADC Biennial Comparison has serious methodological problems and omits key safety inspection data. It fails to provide a coherent analysis or answer serious questions about cost and security, questions that are crucial to make informed choices about the future of prisons in our state.

The report deems all the state's contracted private prisons – except the unit at the Kingman prison from which three people escaped in 2010 – to be “comparable” to state-run prisons in quality and cost. ADC provides very little explanation of the methodology used to arrive at this conclusion, and practically no source data to allow independent verification of its findings.

ADC used three sets of data in its comparison:

- Fiscal year 2010-2011 correctional operations comparative data. This is statistical data reporting the numbers of escapes, lost keys, confiscated drugs or cell phones, fights, assaults, riots, etc.
- Fiscal year 2010-2011 inmate grievance data related to issues such as legal access, mail and property, and medical care.
- Calendar year 2011 annual audit comparative data. This appears to be the newly developed Green-Amber-Red evaluation system ADC recently developed in response to criticism after the Kingman escapes.

It is significant that ADC chose not to incorporate data from security audits conducted shortly after the 2010 escapes from the Kingman prison. These inspections revealed widespread and serious security failings in all state-operated and private prisons. In particular, the audits found malfunctioning alarms, cameras, and perimeter lights and sensors; insufficient searches of both staff and inmates, and inaccurate inventories of weapons, tools, and keys. The ADC Biennial Comparison also does not incorporate data on deaths in custody, suicides or homicides.

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<sup>6</sup> Arizona Department of Corrections, *Biennial Comparison of "Private Versus Public Provision of Services Required per A.R.S. § 41-1609.01*, December 21, 2011; [http://www.azcorrections.gov/ARS41\\_1609\\_01\\_Biennial\\_Comparison\\_Report122111\\_e\\_v.pdf](http://www.azcorrections.gov/ARS41_1609_01_Biennial_Comparison_Report122111_e_v.pdf)

While a number of different performance measures are used, ADC does not explain how they are weighted. It appears that security issues are scored the same as less critical performance categories, like food service. It seems that if a private prison has a high rate of assaults or riots, but decent food, it is considered comparable to a state run prison.

There is very little analysis offered as to the significance or meaning of ADC's findings. Despite a paucity of documentation, there were clear patterns evident that raise important questions about the performance of private prisons in several areas. For example, every private prison was found to be performing below the state on the issue of staffing. Across the board, private prisons were found to have higher turnover and vacancy rates, and their guards frequently scored lower on core competency tests.

In addition, four out of the six state-contracted private prisons had higher levels of inmate disciplinary reports for major and minor violations. The importance of staffing and inmate discipline is never made clear in the report. Yet these measures provide an indication of the overall safety and security of a prison. For example, high numbers of disciplinary tickets given to prisoners may indicate that the inmates do not have enough programming to occupy their time or that the officers are not adequately monitoring the prisoners to prevent rule-breaking and defuse conflicts.

**Staffing:**

- Central Arizona Correctional Facility: Higher vacancy rates in 2010 and 2011, higher turnover rate in 2011, lower Corrections Officer (CO) test scores in 2010 and 2011, and lower CO supervisor test scores in 2010.
- Phoenix West: Significantly higher turnover and vacancy rates in 2010 and 2011.
- Florence West: Higher vacancy rates in 2010 and 2011, higher turnover rate in 2011, and lower correctional officers supervisor test scores in 2010 and 2011
- Kingman Hualapai: Higher vacancy rate in 2010 and higher turnover in 2010 and 2011
- Kingman Cerbat: Higher turnover rate in 2011 and lower core competency test scores in 2011
- Marana: Turnover rate in 2011 was 56.8% (compared to Graham unit at 12.5%)

**Inmate discipline:**

- CACF: Higher levels of major and minor inmate violations in 2010 and 2011
- Phoenix West: higher number of minor and major violations in 2010 and 2011
- Florence West: More reported major and minor violations in 2010
- Kingman Hualapai: Significantly higher number of major and minor violations in 2011

**Table 1: A Summary of staffing and disciplinary issues raised in the Arizona Department of Corrections Biennial Comparison Report.**

High turnover and vacancy rates may reflect that the pay, benefits, or work environment are not good enough to keep qualified guards on staff. High vacancy and turnover rates also can lead to having inexperienced guards who are not adequately trained to handle serious incidents. Security audits found that 80% of the staff at the Kingman prison prior to the 2010 escapes were new or newly promoted.<sup>7, 8</sup>

The report also presents a cost comparison of the various units appears to contradict its own past cost audits.

ADC has completed a cost comparison report annually since 2005, which has consistently found that private prisons are generally not saving the state of Arizona money. These findings were echoed by the state Auditor General, who in 2009 used ADC's data to report that minimum security private prison beds cost an average of \$121 more per prisoner per year than equivalent state beds, and medium security private beds were a whopping \$2,834 more.<sup>9</sup>

However, the comparison included in ADC's 2011 Biennial Comparison report presents the costs in a radically different method, one that allows it to claim that the private prisons costs are "comparable" to those of the state. It does this by presenting a cost range as opposed to an average cost. By presenting the range of least to most expensive state prison beds in the two security levels, it can then claim that the private prisons costs fall within this range and are therefore comparable to the state.

The ADC report contains one important revelation: Two of our state private prisons – GEO Group's Central Arizona Correctional Facility and Management and Training Corporation's Cerbat Unit at Kingman – are exempt from a state statute that requires private prisons to provide an equivalent or better level of quality than the state. State legislators apparently don't care whether these are good prisons. They don't care whether they are safe prisons. They just want them to be private prisons.

It is clear that this study was specifically designed to show the state's private prisons in a good light, in spite of the evidence of widespread security problems that have surfaced in the past year. The report also fails to offer any analysis of the various findings or to offer any plans for improvement of services. The people of Arizona are left with a vague and shallow set of tables that assure us that private prisons are providing a "comparable" level of cost and quality to state-run prisons.

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<sup>7</sup> Charles Ryan, "Cure Notice" memo to MTC, December 29, 2010.

<sup>8</sup> See section *Performance Measure II: Staffing*, for more information on staffing issues.

<sup>9</sup> Arizona Auditor General, Performance Audit, Arizona Department of Corrections, Prison Population Growth, September, 2010. REPORT NO. 10-08

*The ADC report does not answer the questions at the heart of the debate – are private prisons safe? Are private prisons well run?*

If we wish to understand how safe and effective the prison system in Arizona is, it is clear that ADC run prisons should not be the only basis of comparison. Recent data show high levels of assaults, suicides, and homicides. There are also threats of legal action over widespread denial of basic medical and mental health care.

State prisons have major problems that need to be addressed, and all prisons—public and private—must be held to a higher standard of performance. An independent expert body should develop clear and concrete performance standards and measurement criteria that all prisons can be evaluated on regularly.

The glaring oversights in the report are further evidence that ADC cannot, or will not, hold the private corporations accountable for their serious and chronic failures.

## **Methodology**

It is virtually impossible to conduct a comprehensive quantitative comparison between private and public prisons operating in the state of Arizona. This is due to a number of factors including the variations in size, types of inmate, security levels, programs provided, and record keeping policies and procedures among the various facilities. This dilemma is acknowledged repeatedly in the Arizona Department of Corrections' own comparison review:

*“...exact private prison unit versus state prison unit comparisons are not possible due to inherent complexities resulting from the many differences in operating structure and requirements. This is equally true when comparing facilities and when comparing cost.”<sup>10</sup>*

Further complicating matters, there is no law or other requirement that private prisons collect the same data that state prisons are required to collect or to make this information public. As private corporations, they are not subject to public information laws that require government agencies to disclose information—even though they are performing a government function and are paid with taxpayer dollars. This made it particularly difficult to gather reliable information on the six private prisons operating in the state of Arizona which do not contract with the Arizona Department of Corrections. One of the purposes of this study is to illustrate this deficiency and encourage policy to enforce collection of data using the same methods applied to state institutions that will allow for accurate comparisons to be completed.

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<sup>10</sup> Arizona Department of Corrections, *Biennial Comparison of Private Versus Public Provision of Services Required per ARS 41-1609.01 (K)(M)*, December 21, 2011, note 11



As a result, AFSC has endeavored to collect as much available data from the greatest diversity of sources, in order to provide as complete a picture as possible of the quality of the state's for-profit correctional facilities. This report is a combination of qualitative and quantitative data.

Every effort was made to collect official data from the facilities themselves. Because private, for-profit corporations are not subject to the Freedom of Information Act or equivalent state laws that require disclosure of documents to the public, AFSC instead sent public records requests to the government agencies that have send their prisoners to private correctional facilities in Arizona: Arizona, Hawaii, California, and Washington states.

AFSC's records request solicited data that could most reliably reflect the safety, performance, and effectiveness of the various facilities. Specifically, AFSC requested statistics on:

1. Homicides
2. Disturbances, fights, or riots
3. Escapes
4. Assaults on staff
5. Assaults on inmates by other inmates
6. Assaults on inmates by staff
7. Employee turnover rate
8. Employee vacancy rates
9. Major conduct report rule violations
10. Serious staff misconduct, including inappropriate sexual and other staff/inmate relationships. Arrests, criminal charges or legal proceedings against current staff members
11. Lawsuits concerning conditions of confinement

An example of the public records requests that were sent to the Departments is included as Attachment B to this report.<sup>11</sup>

Data on the US Department of Immigration and Customs Enforcement was gleaned from the agency's webpage and also provided by third parties who have been researching conditions in these facilities, most notably the American Civil Liberties Union.

Despite AFSC's efforts to be as specific as possible in the parameters of its request, the data received can best be described as "piecemeal." Arizona, Hawaii, and Washington sent compiled statistics rather than the source documents. The date ranges are often different, making proper comparison difficult or impossible. In many cases states provided only

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<sup>11</sup> Supporting data is available through AFSC's web site: <http://afsc.org/arizona-prison-report>

some of the information requested. California provided an extensive amount of data, often in original source documents. This data had to be compiled in order for it to be compared to the aggregate statistics provided by the other states.

Further complicating matters, the Arizona Department of Corrections' response to our information request did not correlate the data by facility or unit. In some cases there is no way to know whether an incident occurred in a public or privately-operated state prison.

It is worth noting that the ADC's recently-released Biennial Comparison report includes data that was requested by AFSC but which was not provided in the ADC's response. For example, ADC provided AFSC with assault data, but it was not correlated by unit, so it was impossible to determine whether the assaults were taking place in public or private prisons. In addition, the ADC did not provide some data that was specifically requested, including statistics on riots, fights, and disturbances; staff turnover and vacancy rates; and major conduct rule violations—all of which are included in ADC's Biennial Comparison review.

Other documentation used in this report includes:

1. Reports, research, and other official documents from the Arizona Department of Corrections, including security inspections and other documents on private prison security that were obtained by the *Arizona Republic* through a public records request and made available on the Republic's website.
2. Reports released by state and federal governmental agencies, such as the US General Accounting Office and the Arizona Auditor General
3. Reports and studies by national organizations such as the ACLU, Justice Policy Institute, Justice Strategies, Private Corrections Working Group, Detention Watch Network, Grassroots Leadership, and the Institute for Money in State Politics
4. Published newspaper and magazine articles
5. Letters and testimonies from prisoners, formerly incarcerated people, and their families

Any comparison of public and private facilities must take into account the fact that the populations in these facilities are fundamentally different. For-profit prison corporations, as a rule, do not operate close custody or maximum security units and refuse to house prisoners with major disciplinary problems, mental health issues, or major medical problems requiring ongoing treatment. These populations are not only much more costly to house, they also require specialized services that the corporations' staff are not trained to provide.

AFSC has previously done extensive research, published in a 2007 report, *Buried Alive*, documenting the tendency for prisoners with serious mental health issues to collect disciplinary infractions and wind up in higher security units, including supermax isolation units.<sup>12</sup> Combined with the harmful mental health impacts of the sensory-deprivation conditions in maximum and supermax units, it is unsurprising that these units have a high rate of suicide.

All of these factors put together mean that the rate of assaults, suicides, and deaths will generally be higher in higher security units or units that provide mental health treatment. This in turn skews these statistics in favor of private prisons.

AFSC made every attempt to present an accurate comparison. But given the incomplete and inconsistent reporting, it was impossible to separate out the data by security level or year in every case. The fact that this information is so difficult to obtain should give Arizona taxpayers pause. The people of this state deserve a complete accounting of the return on their billion dollar investment in Corrections. We encourage the State of Arizona and other independent research groups to further explore these complex issues in order to provide a more complete picture of prison safety in Arizona. To support other researchers and to validate our claims, the materials gathered by AFSC in the process of developing this report are available online: <http://afsc.org/arizona-prison-report>.

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<sup>12</sup> Caroline Isaacs and Matthew Lowen, *Buried Alive: Solitary Confinement in Arizona's Prisons and Jails*, American Friends Service Committee – Arizona, May 2007; <http://afsc.org/sites/afsc.civicaactions.net/files/documents/Buried%20Alive.pdf>

## Background and History

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 problems.

In August 2010, the *Arizona Republic*, gave a succinct history of the practice in Arizona:

*Rapid growth began in 2003 and the years immediately following, when Arizona was again wrestling with prison overcrowding.*

*To ease the shortage, Republican lawmakers agreed to build 2,000 new prison beds, compromising with a reluctant Gov. Janet Napolitano, a Democrat, to make half of them private.*

*Around the same time, nearly a dozen other states grappling with the same issues began shipping their inmates to private facilities elsewhere in the country.*

*Arizona, with cheap land and a receptive political climate, became a go-to destination for private-prison operators, 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.<sup>13</sup>*

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<sup>13</sup> Casey Newton, Ginger Rough and JJ Hensley "Arizona inmate escape puts spotlight on state private prisons," *Arizona Republic*, August 22, 2010;

The State of Arizona operates 10 prison complexes: Florence, Eyman, Tucson, Yuma, Perryville, Safford, Winslow, Phoenix, Lewis, and Douglas. There are five additional state prisons that are managed by for-profit prison corporations who are contracted with the ADC to hold Arizona prisoners:

1. *Marana Community Correctional Treatment Facility*  
Operated by: Management and Training Corporation, Ogden, Utah
2. *Arizona State Prison—Phoenix West*  
Operated by: GEO Group, Boca Raton, Florida. (formerly Correctional Services Corporation)
3. *Arizona State Prison—Florence West*  
Operated by: GEO Group, Boca Raton, Florida. (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, Florida.<sup>14</sup>

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<http://www.azcentral.com/news/articles/2010/08/22/20100822arizona-private-prisons.html#ixzz1lNn8ufqI>

<sup>14</sup> Arizona Department of Corrections, *ADC Prisons*;  
[http://www.azcorrections.gov/prisons/prisons\\_1.aspx](http://www.azcorrections.gov/prisons/prisons_1.aspx).

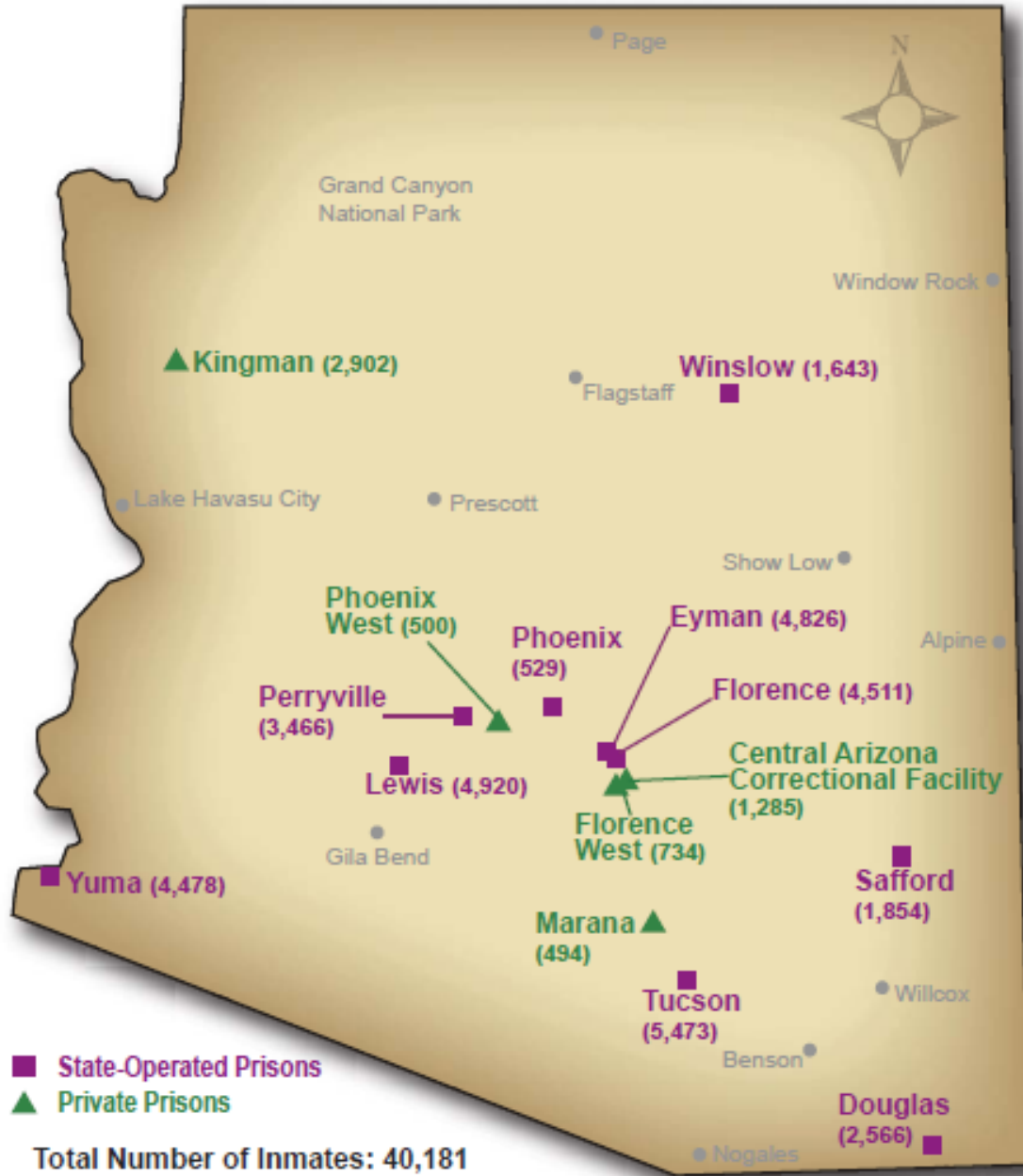
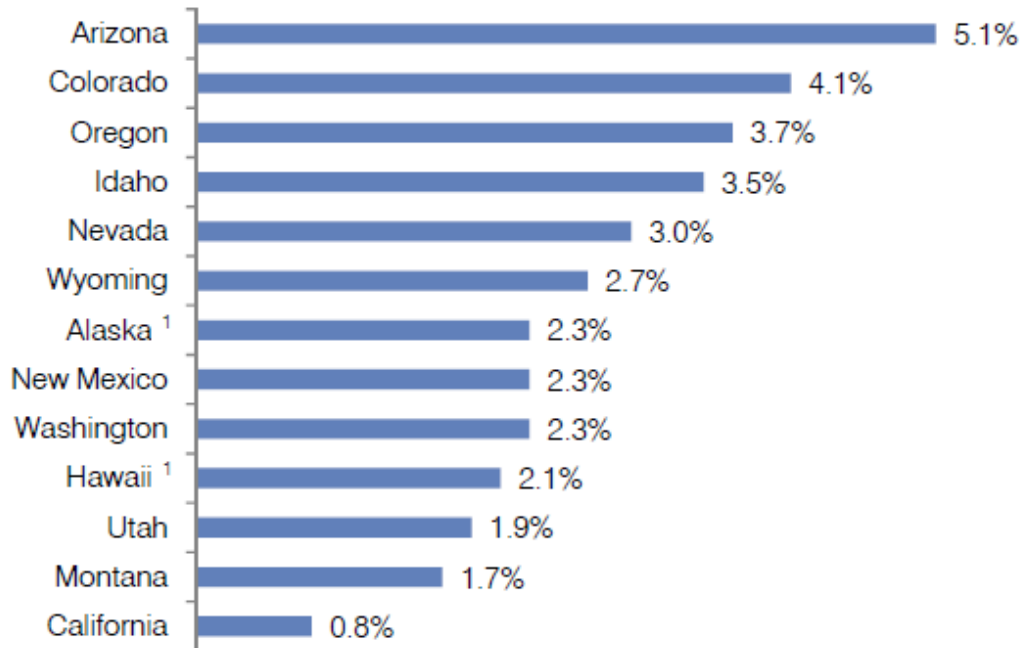


Figure 2: Map of Arizona state and private prisons, with populations. Source: Arizona Department of Corrections<sup>15</sup>

## Arizona Prison Population Growth

<sup>15</sup> [http://www.azcorrections.gov/prisons/prisons\\_1.aspx](http://www.azcorrections.gov/prisons/prisons_1.aspx)

According to the Arizona Auditor General, the number of felony adult offenders in Arizona state prisons grew by nearly 12 fold between 1979 and 2009. The report notes several factors for this large growth, including population growth, sentencing policies, and unemployment. This growth caused the cost of the system to balloon from just over 4 percent of the state’s budget in 1979 to just over 11 percent in 2011. The report also notes that according to “a 2010 federal Bureau of Justice Statistics report, Arizona ranked third na-



<sup>1</sup> Numbers for Alaska and Hawaii include total jail and prison populations because they form one integrated system in these states.

Source: Auditor General staff analysis of state prison population data reported in the Bureau of Justice Statistics' *Prisoners at Yearend 2009—Advanced Counts*.

**Figure 3: Comparison of Western States' Average Annual Prison Population Growth.** Office of the Auditor General, *Prison Population Growth*, REPORT NO. 10-08, September, 2010.

tion-wide and first among western states in its average annual prison population growth rate between 2000 and 2008.”<sup>16</sup>

To accommodate this rapid growth, the Arizona Department of Corrections increasingly turned to the private prison industry—contracting for thousands of private prison beds.

<sup>16</sup> Office of the Auditor General, Performance Audit, Department of Corrections, *Prison Population Growth*, Report No. 10-08, September, 2010.

As of June 2010, the ADC held contracts for 5,680 beds in five private prisons in Arizona, roughly 14 percent of the total state prison population. Arizona has the 12<sup>th</sup> highest rate of prisoners in private facilities among US states (there are the 17 states without private prisons).<sup>17</sup>

**Prison Population Projections**

The explosive prison population growth observed through the last decade appears to have slowed dramatically, both nationally and in Arizona. Arizona’s prison population grew by only 65 prisoners (net) in 2010 and actually *declined* by 296 prisoners in FY2011—the two lowest growth rates on record (dating back to 1973).<sup>18</sup> **The Department of Corrections projects zero growth in the adult prison population for fiscal years 2012 and 2013.**<sup>19</sup> The decline is attributed to a number of factors, including a national drop in crime as well as the impact of several reforms in Arizona, including the 2008 Safe Communities Act, which reduced technical revocations of probation and parole as well as a dramatic decrease in the Maricopa County Jail population.

The Governor’s proposed 2013 budget allocates \$60 million for prison construction. Although the Department of Corrections acknowledged the lack of

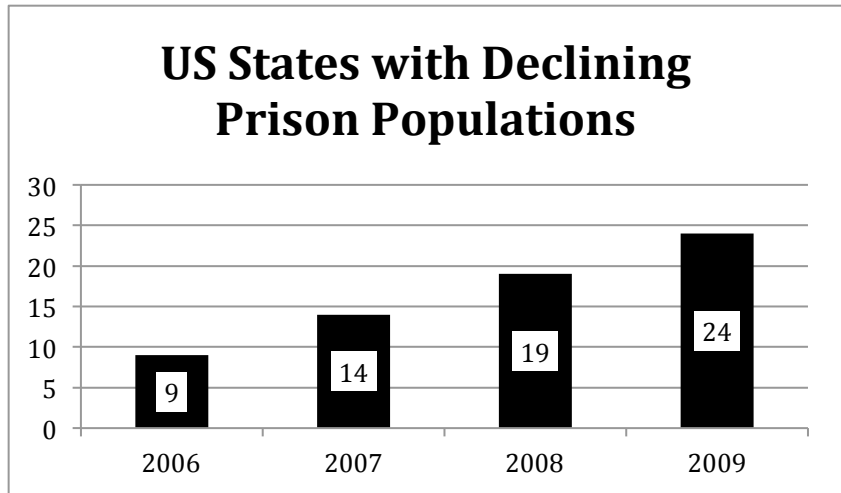


Figure 4: Since 2006 the number of states with a declining prison population has increased dramatically.

<sup>17</sup>Guerino, Paul, Paige m. Harrison, and William J. Sabol, *Prisoners in 2010*, U.S. Department of Justice, Bureau of Justice Statistics, December 2011, NCJ236096, Table 20, Page 31 <http://bjs.ojp.usdoj.gov/content/pub/pdf/p10.pdf>

<sup>18</sup> “Arizona Department of Corrections, Fiscal Year 2011 ADC Data and Information” PowerPoint presentation, January 14, 2011, [http://www.azcorrections.gov/data\\_info\\_081111.pdf](http://www.azcorrections.gov/data_info_081111.pdf)

<sup>19</sup> Janice K. Brewer, Executive Budget Summary, Fiscal Year 2013. January 2012: <http://www.azospb.gov/documents/2012/FY2013-ExecutiveBudget-Summary.pdf>



growth in the overall prison population, it now claims that it needs 2,000 private prison beds for sex offenders and protective segregation inmates and 500 maximum security beds (built and operated by the state).<sup>20</sup>

In truth, the state could avoid any spending for additional prison beds by following the lead of a number of other states in making reforms to its criminal sentencing laws to reduce prison populations. Over 25 states, including conservative-leaning states like Mississippi and South Carolina, have safely reduced their prison populations and reaped impressive cost savings. The 2008 Safe Communities Act is a clear example to lawmakers in Arizona that such reforms can be successful and will not incur the wrath of “tough on crime” constituents.

Potentially, such reforms could produce a dramatic decrease in Arizona’s prison populations, as they have in other states. Since 2005 the number of states with declining prison population levels has grown steadily – from nine in 2006, 14 in 2007, 19 in 2008, to 24 in 2009.<sup>21</sup>

Given this reality, it is likely that Arizona simply will not need any additional prison beds. It can safely reduce the prison population to use the beds it already has more efficiently and put non-dangerous offenders in community programs where they will get the services they need at a fraction of the cost. The state’s budget struggles make it hard for any legislator to advocate spending millions on prison construction as the state’s education, healthcare and social services systems teeter on the brink of collapse.

## **2010: Unprecedented Prison Expansion in Arizona**

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 and operation of 5,000 new prison beds by for-profit prison companies
4. The privatization of medical care and food service throughout the Arizona Department of Corrections.

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<sup>20</sup> Janice K. Brewer, Executive Budget Summary, Fiscal Year 2013. January 2012. Accessed at: <http://www.azospb.gov/documents/2012/FY2013-ExecutiveBudget-Summary.pdf>

<sup>21</sup> Greene, Judy “Turning the Corner: Opportunities for Effective Sentencing and Correctional Practices in Arizona,” Arizona Attorneys for Criminal Justice, January 2011

The “sale-lease back” provision applied to a wide range of buildings owned by the state, including the capital building. 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.<sup>22</sup>
- Arizona State Prison Complex-Tucson: Winchester and Manzanita Units<sup>23</sup>

The underwriting firms listed as participating in these transactions include Morgan Stanley, Citigroup, Wells Fargo, Goldman Sachs, and JP Morgan. The state reportedly made \$298,705,000 on the sale of these buildings.<sup>24</sup>

No specific information on the privatization of medical and food contracts with the ADC was available at the time of this report. The ADC issued the Request for Interest (RFI) and received responses, but the statutory language mandating privatization of medical services was later amended by additional legislation passed in the 2011 session. That bill, HB2154, revoked the requirement that the bids submitted by vendors provide medical services at or below the cost of medical services in fiscal year 2008. Instead, it requires that the Department pay only the rate paid by AHCCCS, the state Medicaid program.

Beyond that, the only quality assurance requirement is that ADC should “award a contract to the best qualified bidder.” Interestingly, it also forbids the Arizona Department of Corrections from bidding for the contract, ensuring that it will be awarded to a for-profit corporation rather than the state.<sup>25</sup>

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

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<sup>22</sup> SMU stands for “Special Management Unit,” one of the state’s super-maximum security units. Meadows Unit houses sex offenders.

<sup>23</sup> 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>

<sup>24</sup> Arizona Department of Administration, Certificates of Participation, Series 2010A

<sup>25</sup> Arizona State Legislative Information System, HB2154, Amended Senate Fact Sheet, Appropriations, 4/19/11 As passed. [http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/50leg/1r/summary/s.2154approp\\_assessed.doc.htm&Session\\_ID=102](http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/50leg/1r/summary/s.2154approp_assessed.doc.htm&Session_ID=102)

different security levels, from minimum all the way to supermax. The higher the security level, the more expensive a unit is to operate.

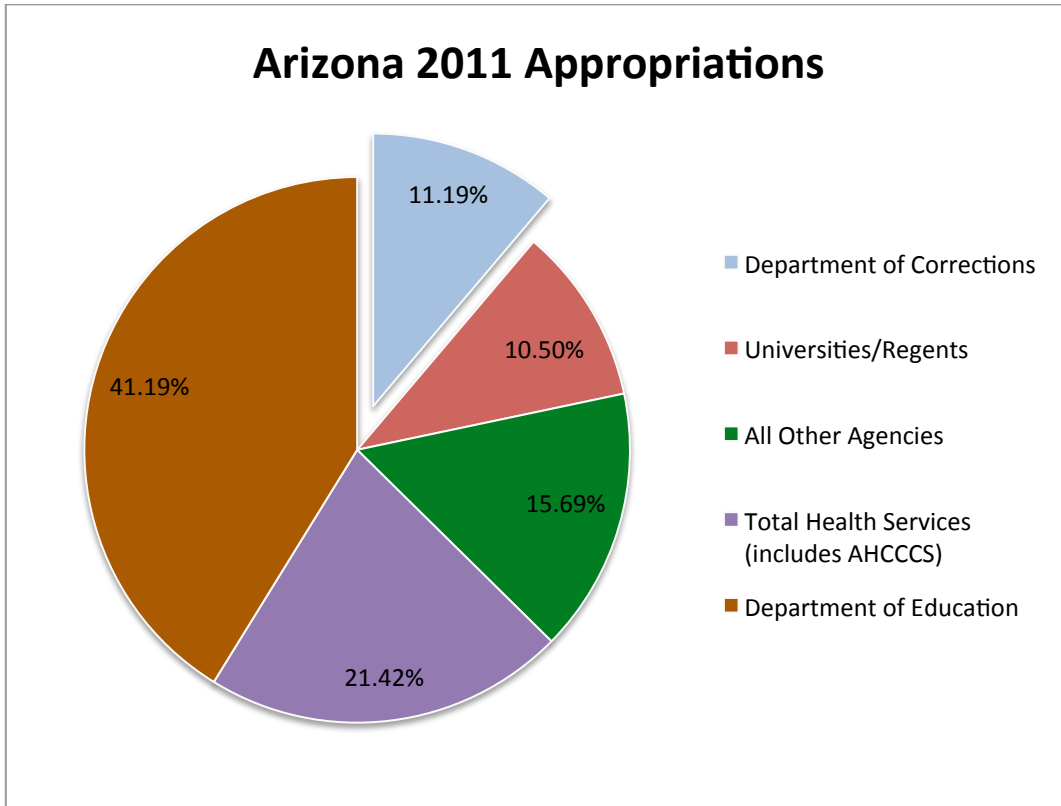


Figure 5 Data from Arizona Auditor General report of Prison Population Growth.<sup>26</sup>

In the end it was the for-profit prison industry, not the Arizona State Legislature nor the state Department of Corrections that killed the proposal. There was simply no interest in managing state prison complexes. The Legislature was forced to rescind that the portion of the budget bill.

The Request for Proposal (RFP) for 5,000 new beds was taken much more seriously by private interests. The ADC received bids from four corporations when it was initially issued: Corrections Corporation of America (CCA), GEO Group, Management and Training Corporation (MTC), and Emerald Corrections.<sup>27</sup> The state cancelled the process after the escapes from the Kingman prison in July 2010, but reissued the RFP in January of 2011, saying that it had inserted stricter safety requirements from the vendors. The specifics of

<sup>26</sup> Office of the Auditor General, Performance Audit, Department of Corrections, *Prison Population Growth*, Report No. 10-08, September, 2010.

<sup>27</sup> "Four companies respond to prison proposal request," *The Daily Courier*, 6/2/10.

the bids are not public information at this time, but ADC identified the corporate vendors and bed capacities in notices to the legislature:<sup>28</sup>

- CCA (currently operating Eloy – 1,500 beds and 3,000 beds; total of 4,500 beds).
- GEO (currently operating Yuma– 2,000 or 3,000 beds; Perryville 2,000, 3,000, 4,000 or 5,000 beds).
- LaSalle/Southwest Corrections (currently operating Winslow – 1,000 beds).
- MTC (currently operating Yuma - 3,000 beds, Coolidge - 3,000 or 5,000 beds).<sup>29</sup>

After several delays, the department again canceled the RFP on December 22, 2011, citing the reduction in the prisoner population. Director Charles Ryan announced that the Department would re-issue a new RFP for 2,000 beds and would also request funding from the legislature to build 500 state-operated maximum security beds.<sup>30</sup> The RFP for 2,000 medium security private prison beds was released on February 2, 2012.

The Governor's 2013 budget proposal included \$50 million for 500 maximum security beds and \$17.9 million in fiscal 2014 for a privately run prison to house medium-security prisoners. But these are just the construction costs.

The Department of Corrections reports that the average daily per capita cost of a medium security private prison bed in 2010 was \$53.02.<sup>31</sup> For 2,000 beds, that adds up to \$106,040 per day, or **\$38,704,600 per year**. This is an extremely conservative estimate, as per diems generally increase every year.

The average adjusted per capita daily cost of a maximum security bed (excluding complex detention and minors units) was \$54.60. Multiplied by 500 beds, **the new maximum security unit would cost a minimum of \$9,964,956 per year**. Again, this is a very conservative estimate, based on what are now outdated cost assessments.

The ADC budget was over \$1 billion in 2011. In a year of drastic spending cuts to health care, social services, and education, ADC was the only state agency whose budget was increased—by 10%. ADC consumes over 11% of the state's General Fund, more than

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<sup>28</sup> ADC, Notification letter, intent to contract for 5000 bed private prison facility, July 14, 2011; <http://www.azcorrections.gov/adc/divisions/adminservices/5000bedPrivPrisonNotifLetters.pdf>

<sup>29</sup> Arizona Department of Corrections, "5,000 bed RFP timeline, 7/26/2011; [http://www.azcorrections.gov/adc/divisions/adminservices/5000bedrfptimelineREV5\\_072611.pdf](http://www.azcorrections.gov/adc/divisions/adminservices/5000bedrfptimelineREV5_072611.pdf)

<sup>30</sup> "Corrections ends plans for private prisons to house 5,000 inmates," Arizona Capitol Times, December 2, 2011

<sup>31</sup> Arizona Department of Corrections, FY2010 Operating Per Capita Cost Report, April 13, 2011

higher education. More and more, Arizonans are beginning to re-evaluate their priorities, and question whether these priorities are shared by the representatives who write the state budget.

## Arizona's Cost Comparison Study

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.<sup>32</sup>

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.

The Maximus study corrected for differences in populations and 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 wild land 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.

When Charles Ryan succeeded Schriro as Director, he continued the practice of conducting cost comparisons, but chose to do the research in-house. The studies continue to factor in those hidden costs that are not accounted for in the per-diem rates charged by private vendors. The results across the last six years are consistent: All told, Arizona is not saving money on privatization; in fact it is overpaying for these units.

2008<sup>33</sup>

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<sup>32</sup> 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)

<sup>33</sup> Arizona Department of Corrections, *Revised FY2008 Operating Per Capita Cost Report*, September 28, 2010. [http://www.azcorrections.gov/adc/reports/ADC\\_FY2008\\_PerCapitaRep.pdf](http://www.azcorrections.gov/adc/reports/ADC_FY2008_PerCapitaRep.pdf)



	Cost differential per prisoner/per year*	Avg. Daily Population	Savings/(Overpayment)
Minimum	(\$120.53)	2,888	(\$248,098)
Medium	(\$2,615)	1,368	(\$3,577,580)
TOTAL LOSS: \$3,925,768			

\*Scenario IV

2009 <sup>34</sup>			
	Cost differential per prisoner/per year*	Avg. Daily Population	Savings/(Overpayment)
Minimum	(\$84.01)	2,962	(\$248,830)
Medium	(\$2,609)	1,334	(\$3,478,918)
TOTAL LOSS: \$3,727,749			

\*Scenario IV

2010 <sup>35</sup>			
	Cost differential per prisoner/per year*	Avg. Daily Population	Savings/(Overpayment)
Minimum	\$10.96	2,979	\$32,642
Medium	(\$1,680)	1,648	(\$2,768,887)
TOTAL LOSS: \$2,736,245			

\*Only one cost scenario was offered in the Department's report in 2010, but it appears to be closest to Scenario IV in the 2009 report.

These figures demonstrate that the state overspent on private prisons by an average of \$3.5 million every year. **Arizona wasted over \$10 million on private prisons in those three years alone.**

All of the proposed 2,000 new private prison beds in the newly issued RFP would be medium-security, which are much more expensive. 2010 ADC cost estimates put the average daily cost of a medium security private prison bed at \$53.02 per day<sup>36</sup>. For 2,000 beds, that adds up to \$106,040 per day or \$38,704,600 per year—\$3,358,000 more than state medium security beds.

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<sup>34</sup> Arizona Department of Corrections, *Revised FY2009 Operating Per Capita Cost Report*, September 28, 2010. [http://www.azcorrections.gov/adc/reports/ADC\\_FY2009\\_PerCapitaRep\\_revised.pdf](http://www.azcorrections.gov/adc/reports/ADC_FY2009_PerCapitaRep_revised.pdf)

<sup>35</sup> Arizona Department of Corrections, *FY2010 Operating Per Capita Cost Report*, April 13, 2011. [http://www.azcorrections.gov/adc/reports/ADC\\_FY2010\\_PerCapitaRep.pdf](http://www.azcorrections.gov/adc/reports/ADC_FY2010_PerCapitaRep.pdf)

<sup>36</sup> *ibid*

Using the 2010 cost figures provided by the Department, if the new prisons are built, **Arizonaans can expect to overpay for private prisons by at least \$6 million every year.**

## Who's Doing Business In Arizona?

There are six additional private prisons, all operated by Corrections Corporation of America and all located in Pinal County (Florence and Eloy areas). These are private prisons *located* in AZ, but which have no contract 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

### Prisoner Exporter: Hawaii

From FY 2000 to FY 2010, Hawaii's prison population grew 16 percent, from 5,118 to 5,921. But given that these are islands and real estate is a very precious commodity, it has been next to impossible to approve prison construction. As a result, the state ships its prisoners to privately-managed facilities in the "lower 48." Approximately one-third of Hawaii's prison population is housed in out-of-state facilities on the mainland. The cost of housing these offenders out-of-state was \$45 million in FY 2010.<sup>37</sup>

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<sup>37</sup> Hawaii Department of Accounting and General Services, State Procurement Office. (2011). Contract 55331. <http://webdev5.hawaii.gov/spo2/health/contracts/index.php>.



Native Hawaiians make up the highest percentage of people incarcerated in out-of-state facilities. In 2005, of the 6,092 people who were in state custody, which includes people in jails, 29 percent (1,780) were in facilities operated by other states or private companies on behalf of states. Of the people in out-of-state facilities, 41 percent are Native Hawaiian.

**Prisoner Exporter: California**

In May of 2011, the US Supreme Court ruled that overcrowded conditions in California's prison system violated the 8<sup>th</sup> Amendment protections against cruel and unusual punishment. The 5-4 ruling ordered the state to cut its prison population by over 30,000 inmates. The problem is not new, and the case itself was initiated in 1990. For some time, the state had attempted to relieve overcrowding by sending its prisoners out of state, including three contracts with CCA in Arizona. It is unclear to what extent this practice will increase as part of the package of reforms the state was ordered to implement

This report does not include information about privately-operated county jails, tribal facilities, or juvenile detention centers in Arizona.

**Prisoner Exporter: Immigration and Customs Enforcement (ICE)**

A significant source of business for private prison corporations operating in Arizona is the federal government, particularly the US Department of Immigration and Customs Enforcement (ICE). The ACLU reports that, through contracts with private corporations and local county jails, ICE detains 3,000 immigrants on any given day in Arizona—a 58 % increase over the last six years. These men, women and children represent 10 percent of the United States' detained immigrant population."<sup>38</sup>

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<sup>38</sup> *In Their Own Words*, American Civil Liberties Union of Arizona, June 2011

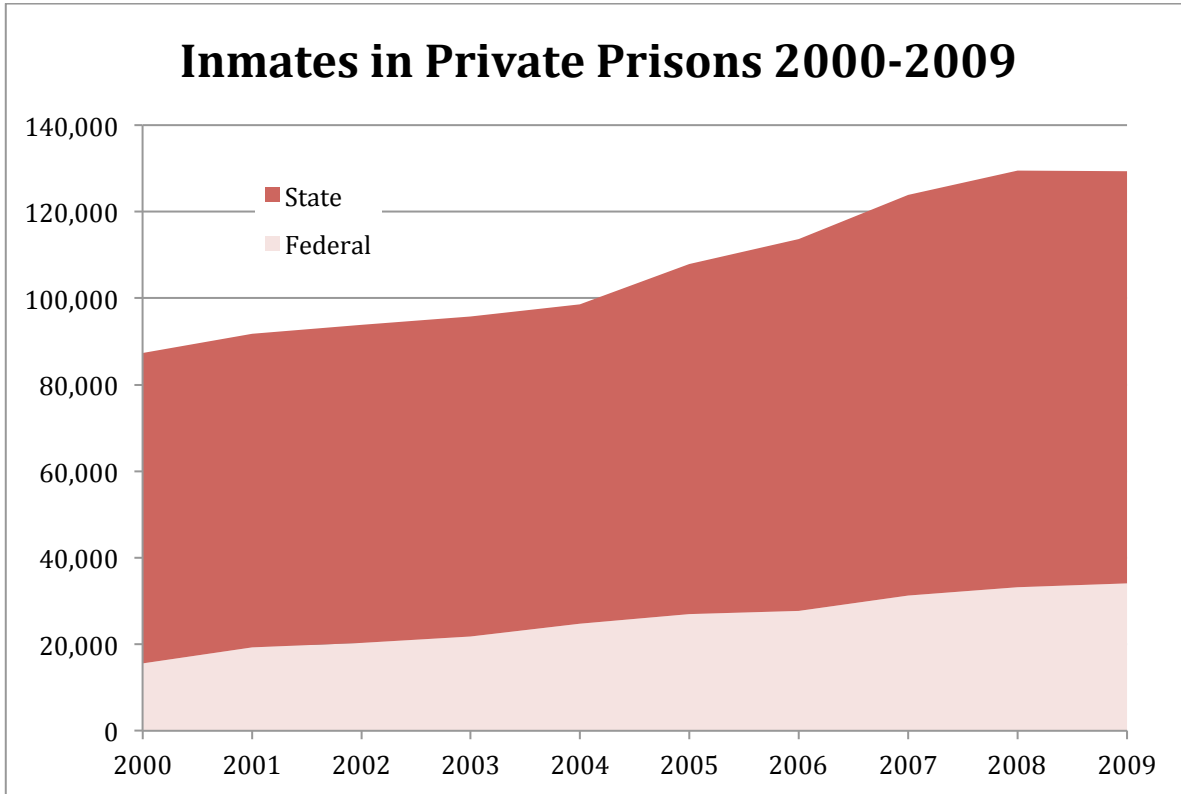


Figure 6 Private Prison population 2000-2009, based on West, Heather C., and William J. Sabol, Sarah J. Greenman, *Prisoners 2009*, appendix table 19 <http://bjs.ojp.usdoj.gov/content/pub/pdf/p09.pdf>

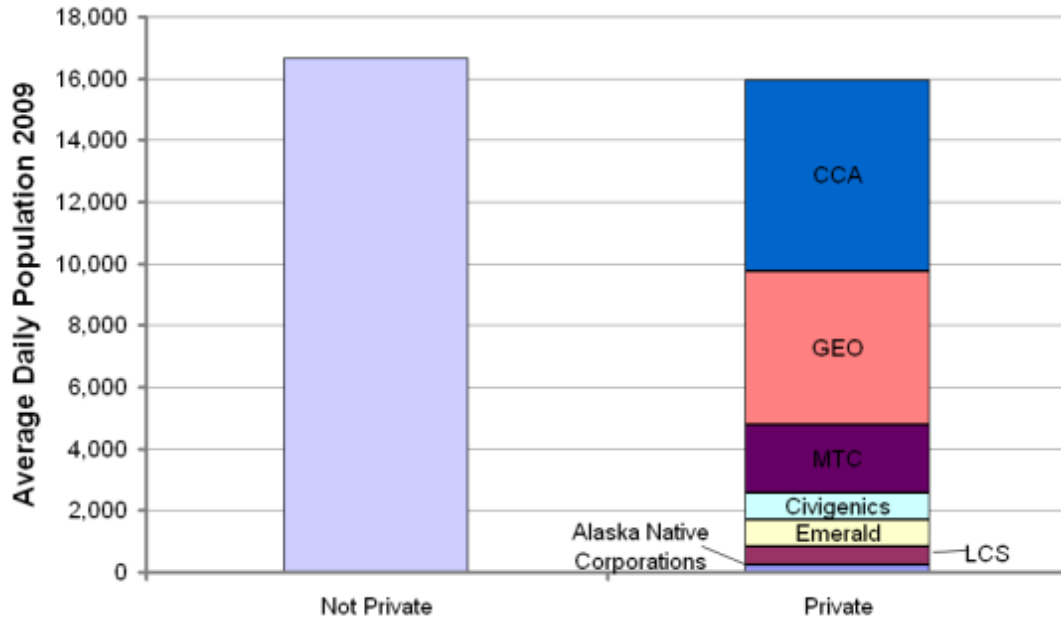
On the federal level, private prison companies control 49% of the beds used for immigration detention, while only 7-8% of federal criminal detainees are held in for-profit prisons.  
39

The federal bureau of Immigration and Customs Enforcement has seen an incredible increase in the use of detention, and the bulk of this expansion has been handled by contracting with for-profit prison corporations. The combination of increased immigration enforcement by the federal government with state-based measures like Arizona's infamous SB1070 have made immigrant detention one of the industry's most profitable sectors.

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<sup>39</sup> Emily Tucker, Detention Watch Network PowerPoint presentation October 2011

## Privatization of ICE Beds



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There are a total of five long-term detention centers in Arizona that are ICE-operated or under contract with ICE to detain immigrants:

- Florence Detention Center (ICE-Operated). 717 beds, both men and women
- Pinal County Adult Detention Center, also known as the Pinal County Jail. ICE has an Inter-Governmental Agreement with Pinal County to house immigrants in the jail, which houses 625 male detainees
- Eloy Detention Center (CCA). A 1,500-bed detention center for men and women
- Florence Correctional Center (CCA)
- Central Arizona Detention Center (CCA)<sup>41</sup>

For the purposes of this report, we will focus only on those facilities operated Corrections Corporation of America (CCA): Eloy Detention Center, Florence Correctional Center, and Central Arizona Detention Center.

<sup>40</sup> *ibid*

<sup>41</sup> *In Their Own Words*, American Civil Liberties Union of Arizona, June 2011

**The Corporations**

The three correctional corporations currently operating in Arizona are the three largest in the nation. All three submitted bids for the now-canceled RFP to construct and manage an additional 5,000 prison beds in Arizona, and all are expected to submit bids for the new RFP for 2,000 beds.

**Corrections Corporation of America (CCA):** CCA is the largest private-prison company in the U.S., housing about 80,000 federal and state prisoners in 66 facilities across 19 states and the District of Columbia. A publicly-traded company, CCA reported net income of \$157 million on \$1.67 billion in revenues for 2010.<sup>42</sup> It has no contracts ADC, but houses federal inmates and inmates from Hawaii, California and Washington at six prisons in Eloy and Florence.

**GEO Group (formerly Wackenhut):** A publicly-traded company, GEO is the second largest private prison company in the US. It operates about 80,000 prison beds at 116 federal, state and local prisons and treatment facilities in the U.S. and three other countries. On August 12, 2010 the GEO Group acquired Cornell Companies—a for-profit private prison company with revenues over \$400 million in 2009—in a merger estimated

**50 percent of CCA's revenue comes from state contracts.**

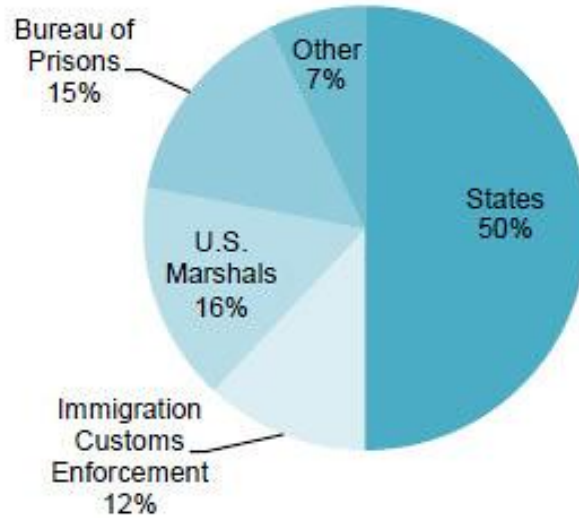


Figure 7: Sources of revenue for CCA. From: *Gaming the System*,

**The majority of GEO's corrections revenue comes from state contracts.**

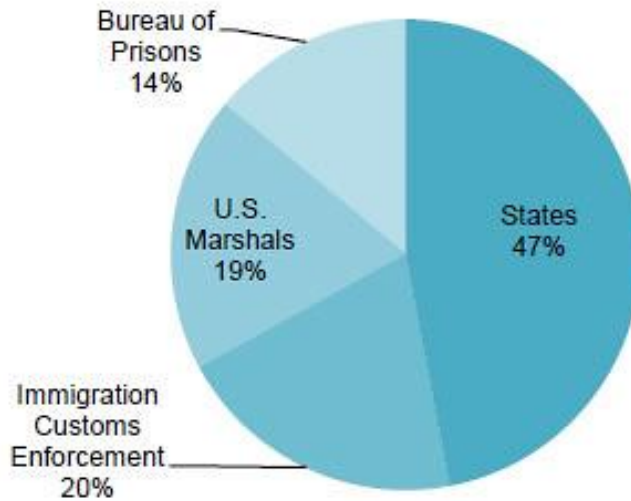


Figure 8 Sources of revenue for GEO. From: *Gaming the System*, Justice Policy Institute, page 8: <http://afsc.org/document/gaming-system>

<sup>42</sup> "Arizona prison businesses are big political contributors," Arizona Republic, September 4, 2011

at \$730 million. The acquisition Cornell by GEO signifies a change in the landscape of the private prison industry the majority of private prisons now under management of either GEO or CCA.<sup>43</sup> GEO reported \$62.8 million in net income on \$1.27 billion in revenues for its most recent fiscal year ending Jan. 2nd. It operates three prisons under contract with the Arizona Department of Corrections: the Central Arizona Correctional Facility (medium security) in Florence, and the minimum-security Phoenix West and Florence West prisons.<sup>44</sup>

**Management and Training Corporation (MTC):** A privately-held company, MTC operates 20 prisons in seven states, with a capacity of 26,000 prisoners. It does not publicly release financial data. It began in 1981 operating federal Job Corps centers. MTC operates two prisons under contract with the Arizona Department of Corrections, a medium/minimum security facility in Kingman and a minimum-security facility at Marana.<sup>45</sup>

Each of these for-profit prison corporations has clear and long-standing patterns of disturbances, staffing and management issues, escapes, and other serious problems. A review of published news accounts of incidents in private prisons reveals troubling 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:

- 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 checkered history of each corporation would be far too much to reproduce in this report. The four corporations that were bidding on the last RFP (for 5,000 beds) in Arizona were profiled in a series of reports in August 2011 in the Arizona Republic<sup>46</sup>. AFSC has

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<sup>43</sup> Justice Policy Institute, *Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies*, June 2011

<sup>44</sup> "Arizona prison businesses are big political contributors," Arizona Republic, September 4, 2011

<sup>45</sup> "Arizona prison businesses are big political contributors," Arizona Republic, September 4, 2011

<sup>46</sup> For more information see the Arizona Republic's series "Price of Prisons": <http://www.azcentral.com/news/articles/2011/08/08/20110808arizona-prison-firm-bid-beds.html>



also produced “Rap Sheets” on each of the corporations operating or bidding for a contract in Arizona.<sup>47</sup>

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<sup>47</sup> <http://afsc.org/arizon-prison-report>

## Performance Measure I: Safety and Security

### *Key Findings:*

- *Security assessments for all Arizona state-contracted private prisons as well as one CCA prison housing California inmates showed consistent patterns of serious security flaws, including malfunctioning alarms, sensors, and cameras*
- *Several of CCA's facilities had extremely high rates of assaults in 2009 and 2010. The rate of inmate on inmate assaults among California prisoners in Red Rock in 2010 was 101 per 1,000 prisoners.*
- *AFSC found evidence of at least 28 riots in private prisons since 2009. The number of riots is likely underreported. AFSC also found evidence of over 200 other serious disturbances involving groups of prisoners classified under "refusal to obey," "tampering with state property," and "obstructing an officer." Some of these incidents required use of force and involved as many as 10, 20 and even 50 prisoners.*
- *There were at least 6 escapes from Arizona private prisons in the past 10 years*
- *Out of over 200 documented complaints of sexual abuse of immigrants in ICE detention centers across the US, 16 occurred in Arizona. Half of these were in CCA's Eloy Detention Center.*
- *The Governor of Hawaii pledged to return the state's inmates from out of state facilities after a lawsuit alleged that guards and even a warden in CCA's Saguaro Correctional Center stripped, beat, and kicked inmates and threatened to kill them, banged their heads on tables while they were handcuffed, and threatened to harm their families.*

The primary purpose of prisons is to preserve public safety. But beyond the immediate function of incapacitating individuals and holding them away from the rest of society, how safe do these facilities really make society? And how safe are the facilities themselves for the people living and working inside them day after day?

One measurement of the safety and stability of a prison is the number of assaults, riots, escapes, homicides, and suicides occur each year, and, to some degree, the number of lawsuits brought against facility management by either staff or prisoners. But some critical questions require more information, like: 'how safe are the surrounding communities? Are the facilities addressing the underlying issues (i.e. drug and alcohol addiction, mental illness, lack of education and job skills, gang involvement, and other socio-economic factors) that put prisoners and the community at risk when prisoners are released?

The American Friends Service Committee has amassed an extensive data set on these issues from a broad variety of sources, including public records requests to various gov-

ernment agencies, security inspection reports, the Arizona Auditor General, academic research, testimonies from prisoners housed in the facilities themselves, and published news accounts. Together they paint a stark picture of the state of Arizona's prison facilities, public and private.<sup>48</sup>

## State-Contracted Private Prison Security Assessments

In late July 2010, three prisoners were able to get past locked doors, avoid surveillance cameras, deter ground and fence sensors, and went unnoticed by guard towers and ground patrol while they cut a hole in some perimeter fencing. This may be in part because reports show that guards had learned to ignore alarms because the system was so faulty and false alarms so common.<sup>49</sup>

After the MTC employees noticed the missing inmates during a headcount they sounded the alarm but it took them over an hour to notify the Mohave County Sheriff's Office that these dangerous men were at large, and the public was not notified until the next day.<sup>50</sup>

Casslyn Welch, the cousin and fiancé of one of the inmates, was able to assist the three men in their escape by tossing wire cutters over the perimeter fence. Welch had previously been detained for smuggling heroin into the prison, and she admitted to smuggling on three prior occasions. Welch was not arrested on these charges because she had agreed to act as an informant.<sup>51</sup>

*My name is Vivian Haas. I live in Joplin, Missouri. My son and daughter-in-law, Gary and Linda Haas, were murdered last year by convicts who escaped from the MTC prison in Kingman.*

...

*MTC wrote a letter to the state saying it accepted full responsibility for the escape.*

*I've been through a lot of painful times in 82 years, even surviving a direct hit by the terrible Joplin tornado that destroyed my home. But nothing compares to the pain of having my kids brutally murdered because MTC couldn't do its job of keeping criminals locked up.*

*I want to prevent anyone else from suffering the same type of pain. So, I came here to urge you not to reward MTC's failure to do its job by giving it another prison to mismanage. –Testimony given by Vivian Haas at public hearing on proposed private prison in San Luis, Arizona on August 16, 2011.*

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<sup>48</sup> <http://afsc.org/arizona-prison-report>

<sup>49</sup> "Prison chief says that state didn't detect prison flaws," *Arizona Republic*, 8/19/10

<sup>50</sup> "Arizona cons' escape raises many questions," *Arizona Republic*, 8/3/10

<sup>51</sup> "Fugitives accomplice was an informant before escape," *AP*, 8/13/10



A couple from Oklahoma who were found dead and badly burned in their camper in New Mexico are thought to have been murdered by two of the fugitives from MTC's prison while on the run from police.<sup>52</sup> The Oklahoma couple's survivors are suing the state and the company for \$40 million. The family's attorney noted that, "the state and MTC had notice of these problems," and charged that MTC was a "private prison company that was cutting corners to make profits."<sup>53</sup>

The escapes from the Kingman facility triggered a series of investigations and follow-up inspections. Five days after the escape, an inspection team from the Department of Corrections found a broken alarm system, eight burned-out perimeter lights, other broken security equipment, and new and undertrained staff and rookie supervisors who ignored alarms, left long gaps between patrols of the perimeter, left doors leading out of some buildings open and unwatched, didn't alert the state or local police until hours after the escape, and failed in all manner of basic security practices.

A summary of findings from the Arizona Auditor General indicated that the Department shared some of the blame for the escapes:

*"...the Department's monitoring practices prior to the escapes failed to identify the issues at the Kingman private prison and ensure that they were corrected. For example, according to the investigation, the Department was unaware that the Kingman private prison's perimeter alarm system was not working properly. The investigation concluded that the Department's contract monitor assigned to the Kingman private prison and the Department's contract beds bureau operations director at the time both failed to perform their duties as required, and staff in those two positions were replaced following the escapes. Based on interviews conducted during the investigation, this failure appeared to result in part from inadequate training and supervision of department monitoring staff. In addition, the contract beds bureau operations director had suspended reporting requirements for monitoring activities, contrary to department policy. Moreover, the Department's annual audit of the Kingman private prison conducted in March 2010, 4 months prior to the escapes, did not report any of the security issues that contributed to the escapes and were identified during the Department's subsequent investigation."<sup>54</sup>*

The state's monitor assigned to Kingman admitted that in his 14 months in the position, he had never read the contract with MTC, was unclear as to what was required of the

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<sup>52</sup> "Arizona prison escapees links to N.M. killings," AP, 8/7/10

<sup>53</sup> "Family of couple killed by Arizona inmates files lawsuit against state," Arizona Republic, 3/18/11

<sup>54</sup> Arizona Auditor General, Performance Audit, *Department of Corrections: Oversight of Security Operations*. Report No. 11-07, September 2011.

vendor, and was not aware of the malfunctioning alarm system. It was also revealed that MTC had no agreements with local support agencies regarding emergencies even though the prison had been in operation for 6 years.

In the wake of the escapes from Kingman, the ADC conducted security audits on all of its prisons, both public and private; the results of these reviews are sobering. Security flaws of the same type that allowed the Kingman escape were found across the entire Arizona prison system, according to records obtained by *The Arizona Republic* through Freedom of Information requests.<sup>55</sup>

### **Kingman (MTC)**

In response to the problems at Kingman, Corrections Director Ryan sent a “Cure Notice” to MTC, dated December 29, 2010, details a litany of problems with the facility’s security that had not been adequately addressed months after the escapes. The notice includes several items of ongoing concern:

1. Inmates continuously observed not in compliance with required wearing of ID cards
2. Poor communication routinely reported by inmate population which have contributed to inmate groupings
3. Briefings are not occurring for all staff, “phone tree” briefings occur intermittently and are not available to all staff
4. Inmate housing areas are continuously observed to contain unauthorized items and excess hobby craft and inmates observed laying in bed under sheets and blankets passed 07:30 HRS
5. Assigned perimeter officers remain unfamiliar with proper escape response/use of force protocols. No training program for case managers.
6. Dirt piles in no man’s land, excess weed growth in inner perimeter, inner perimeter hard packed and perimeter soil erosion observed.
7. Relevant Post Orders are not inclusive of perimeter response protocols
8. Security challenge on outer perimeter routinely missed by assigned Perimeter Patrol Officers.
9. Perimeter Post Orders contain no information regarding escape response protocols.
10. Perimeter lighting in Zone 9 was observed malfunctioning
11. Inmates continue to be observed unescorted in no man’s land. Ice freezers are stored in no man’s land.

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<sup>55</sup> “Security lapses found at all of Arizona’s prisons,” *Arizona Republic*, June 26, 2011. The Republic has posted many of the documents online: <http://azdatapages.com/datacenter/security-lapses-in-AZ-prisons.html>

12. External inmate movement not entered into AIMS. No procedure in place for “red lining of beds,” Proper signatures missing on Out Count Forms, Shift Commander not consistently clearing count, and signing count sheets, rather cleared by Accountability Officer. Shift Commanders inconsistent.
13. Inmates observed secured in runs not assigned to them after meal turn outs and requesting release from respective runs at count time in order to return to assigned runs. Uncontrolled inmate movement occurring during counts.
14. Staff food items and property entering the facility are not consistently inspected. Increased rate of occurrence during high traffic periods/shift change.
15. Random pat searching seldom observed.
16. Emergency keys stored at complex were only labeled as “D,” with no additional designation or number. Exterior/yard gates are not labeled with a specific color code for Emergency Key use. Hot Boxes contained key sets in excess of the number of hooks available in the box.
17. Officers are not consistent in with logging Security Device Inspections on their daily post longs/journals.
18. Lack of consistent enforcement of Department Order (policy) 704—Inmate Regulations
19. Hanging metal file folders within units
20. Though enhancements are complete for Hualapai Sweat Lodge, Cerbat remains without a Sweat Lodge.
21. Fence ties at base of Hualapai Detention enclosure, officer’s station in detention and property storage enclosure in detention need to be properly marked.
22. Staff assigned to Detention unit are routinely observed not wearing personal protection equipment and have been observed opening doors without a second officer present.
23. Tools not properly shadowed. Tool check out forms not maintained in unit for 30 days. Inaccurate inventory of Main Control toolbox at Hualapai Unit...Master tool inventories not in place. Inmates in Cerbat were observed using Class A tools without supervision. Proper tool check in and out protocols not occurring with Class B tools (spade shovels and wheelbarrows). Tool inventories did not match check out log. Inconsistent accounting of tools begin/ending of shift.
24. Awnings in inmate accessible areas lend themselves to potential breach points.
25. Journal entries annotating Security Device Inspections are inconsistent. Security Device tracking and logging is inconsistent and items remain open for extended periods. As exemplified the week of 12/06/2010 when a malfunctioning security gate at Cerbat unit was not repaired for 3 days.
26. Food service not consistently adhering to food safety, health, sanitation and security requirements.
27. Fire detection and suppression system in trouble/silence mode.
28. Staff not logging seals on weapons at beginning and ending of shift. Information reports/journal entries are not occurring at time of seal breakage.

29. Damaged and potentially inoperable ammunition was discovered in service on perimeter patrols
30. Inventories found to be inaccurate regarding weapons and munitions present. No evidence of monthly inventories occurring by Chief of Security. Proper form utilization for signing out weapons not in place.<sup>56</sup>

**Marana (MTC):**

Inspectors in 2010 noted broken monitors, a control-room panel that didn't work, missing perimeter lights, missing razor wire, and missing visitor passes. The inspection was conducted in August, and found that Marana's swamp coolers weren't working, making it hotter inside the prison buildings than outside:

*"All inmate living areas and line were extremely warm and humid. The temperature felt to be above normal threshold for this time of the year. Many of the swamp coolers were not blowing air. Inmates were very vocal about the heat. All audit team members were keenly aware the temperature was extremely uncomfortable beyond expected levels. In discussions with the inmates this was the predominant issue raised.... It was noted that it was cooler outside than in the buildings. The blowers were not blowing cool air through the buildings. Advised Warden Royal and DW Foley of the concerns and was advised maintenance was working on the coolers at the time"<sup>57</sup>*

While some people may not care much about the comfort of prisoners, there are reasons beyond the violation of basic human rights that should be of concern to all Arizonans. When human beings are uncomfortably hot in tight living conditions for long stretches of time, conflicts inevitably erupt. These conditions decrease the overall safety and security of a prison unit and make it harder for guards to do their jobs safely. Hot, humid conditions in overcrowded facilities can also lead to mold infestations and disease break-outs, which pose a general risk to public health. Prison disturbances requiring local law enforcement intervention and increased need for and medical care also come with an increased price tag for taxpayers, not to mention costly lawsuits over prison conditions.

Other findings from the 2010 security inspection include:

1. Unit sanitation was poor. No inmates were observed cleaning, inmate clothing was in common areas and on the recreation field.
2. Rugs were used by prisoners to prop doors open

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<sup>56</sup> Charles Ryan, *Cure Notice* to MTC. Memo dated December 29, 2010.

<sup>57</sup> Shelly Sonberg, Memo to Robert Patton, "Security Assessment—MTC: Marana and GEO: Phoenix West, Florence West, and CACF." September 22, 2011



3. Kitchen sanitation was substandard. Inspectors stated that it likely would have failed a state inspection
4. The Control Room did not have bars or barriers other than plexiglass, making it easy for inmates to gain access during a disturbance
5. Weapons material was observed throughout the unit, including broken pieces of plexiglass; brooms, mops, and squeegees left in living units and bathrooms; and an 8-ft hose
6. The camera system does not have any recording capability. The monitors for two housing units were down
7. Doors were not secured in a consistent manner
8. The facility does not have an alarm zone system and the perimeter lighting is not motion-sensored
9. The control room door indicator panel was not functioning properly. Multiple doors show up as being constantly unsecured. Staff do not check the doors as it has become common knowledge that the panels are not working. The Chief of Security acknowledged that they had been broken for several months. Management staff stated they had not been replaced “due to fiscal reasons.”
10. The sand traps are hard packed and do not reveal footprints
11. Perimeter lighting is inadequate, which hinders the visibility of the functioning cameras
12. The sally port has several areas that can be breached with little effort and minimal contact with razor wire. There are railings on the fence that can be used as ladders.
13. The roof of the administration building toward the sally port has hand railing above a wall ladder with a tunnel trap installed. This is adjacent to a door awning which could be used to climb the roof. The handle can be used to reach the hand rail as a pull-up bar. No razor wire is present on the roof in this area.
14. Actual weapon inventory is not conducted per policy
15. Staff were not searched consistently when entering or leaving the prison
16. The metal detector was set on silent
17. Visitor pass inventory was inaccurate—5 passes were missing<sup>58</sup>

When the state went back seven months later, MTC still hadn't fixed the control room panel, security cameras, or the doors and windows, despite promises that they would.<sup>59</sup>

### **GEO Group Prisons**

At the three GEO prisons - Florence West, Phoenix West and the Central Arizona Correctional Facility - Corrections Department inspectors found such issues as inmates having

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<sup>58</sup> Shelly Sonberg, *Security Assessment—MTC: Marana and GEO: Phoenix West, Florence West, and CACF*, memo to Robert Patton, September 22, 2011

<sup>59</sup> “2010 escape at Kingman an issue for MTC’s bid,” *Arizona Republic*, 8/11/11

access to a control panel that could open emergency exits; an alarm system that didn't ring properly when doors were opened or left ajar; and that staff didn't carry out such basic security practices as searching commissary trucks and drivers, among many other failures.

### **Florence West**

The Florence West inspection noted:

1. Lacked administrative review and follow up for security device tracking. The assessment noted that 11 security device deficiencies that required work orders were not reported in the log.
2. Inmates in detention status were allowed to recreate freely with the door open between the detention pod and the recreation enclosure. The inmates' cell doors remained open during this period.
3. Inmates were allowed in the Housing Officer Work Station, where a control panel that opens the emergency doors was not disabled while the prisoners were present.
4. The sand traps lack a consistent degree of attention. In some areas, the dirt is hard packed and does not show footprints
5. Routine inventories of the weapons in the armory were not being conducted as often as required by ADC policy, and the inventories were outdated, some dating back to January or April 2008.
6. Searches of staff entering and leaving the facility were not up to par. Staff lacked control of the area, boots were not checked if removed to clear the scanner, not all cell phones were checked to ensure they were state issue, and the process was not organized at all.
7. Searches of prisoners' cells were not conducted in a systematic or consistent fashion. Inmates were not searched prior to their living area being searched. Televisions were not searched and most of the clothing items were merely squeezed and set aside. The bunks themselves were not checked for any tampering or examined at all.
8. There were no pat searches being conducted, nor was there evidence of any searches of the common areas
9. The emergency response plan does not meet ADC requirements<sup>60</sup>

### **Central Arizona Correctional Facility**

The Central Arizona Correctional Facility inspection noted:

1. There were several doors that, once opened could not be reset to display secure
2. There was a huge pile of wood behind a building that could be used to cover footprints

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<sup>60</sup> Shelly Sonberg, *Security Assessment—MTC: Marana and GEO: Phoenix West, Florence West, and CACF*, memo to Robert Patton, September 22, 2011



3. During busy shift changes, the officer in charge of security checks lost control of who had cleared and who had not cleared the inspection. Staff were not consistently asked to take their boots off if they could not clear the scanner. The officer did not always check the boots, even if the guards did remove them
4. Tools and other sharp objects were not being logged appropriately<sup>61</sup>

### **Phoenix West**

The Phoenix West inspection noted:

1. Metal detectors at unit ingress and work crew return are set too high, requiring staff and inmates to be scanned with a wand. Staff are not patted down if the wand goes off over a zipper.
2. There were no bars or barriers other than plexiglass in the control room windows that would prevent prisoners from gaining access during an incident.
3. Potential weapons material was found adjacent to the recreation yard. A ladder secured by a padlock in this area could be propped against the building providing access to the roof of the recreation field entrance adjacent to the perimeter fence.
4. There were approximately 75 beams measuring 8'X2"X4" on the recreation field that could be uprooted and used in a disturbance or as escape material
5. There was an unsecured manhole on the recreation field that drops down 12 feet into a dry well
6. The facility does not have an alarm zone system and the perimeter lighting is not motion-sensor
7. When emergency doors are opened in the inmate housing areas, a light goes on in the control room, but there is no alarm that sounds
8. The inspectors conducted a "perimeter challenge" by placing an orange shirt on the perimeter fence. The shirt was seen, but the officer failed to immediately activate ICS and the supervisor failed to direct him over the radio upon briefing of observation and halt all unit traffic.
9. Razor wire was stretched beyond recommended installation, reducing effectiveness
10. Trash receptacles were kept too close to the fence line and could be used to allow inmates to breach the fence.
11. The facility does not have a separate recreation yard for inmates in detention. Instead, they recreate on the large outdoor recreation field. This creates a staff and inmate safety issue with Level 5 inmates being escorted out, unrestrained, then placed back into restraints without barriers. It also creates an escape risk, which Level 5 inmates being unsecured at night on a large recreation field.

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<sup>61</sup> Shelly Sonberg, *Security Assessment—MTC: Marana and GEO: Phoenix West, Florence West, and CACF*, memo to Robert Patton, September 22, 2011

12. Staff searches upon entering the prison were inconsistent. Inspectors were able to bring contraband in without it being searched.
13. A gate was able to be breached with a comb due to the space between the striker plate and lock
14. A commissary truck was allowed in without search of the truck or driver. The driver was in contact with inmate workers unloading the vehicle, allowing for potential introduction of contraband.
15. There was no check or balance system for tool accountability. In a “security challenge,” inspectors removed a box cutter and it was not noted as missing.<sup>62</sup>

### **Auditor General’s Report, 2011**

In response to criticism on its lax oversight over the Kingman prison and concern over the safety lapses in the state’s other private prisons detailed above, the Department of Corrections instituted a new system of inspection called the Green-Amber-Red (GAR) in January of 2011. The Auditor General explains:

*“The GAR is essentially a monitoring checklist that, through June 2011, consisted of 220 performance measures grouped under 16 operational areas called “competencies... Through June 2011, department monitoring staff were required to assess compliance with each performance measure at least once per month ... In July 2011, the Department expanded the GAR tool by adding another 19 competencies, each containing 4 to 5 performance measures. These additional competencies include areas related to security and safety such as security staffing, inmate classification, inmate behavior control, security incident reporting, and additional performance measures related to inmate regulations.”<sup>63</sup>*

The GAR uses a color-coded reporting system:

- Green means the prison is in compliance
- Amber “indicates minor issues that require corrective action. Amber findings result in notification to the prison warden and deputy warden.”
- Red means there are “threats to life and safety that require immediate corrective action.” Red findings trigger notification of the warden and deputy warden, as well as the Department’s regional operations director, offender operations division director, and/or director depending on the performance measure.<sup>64</sup>

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<sup>62</sup> Shelly Sonberg, *Security Assessment—MTC: Marana and GEO: Phoenix West, Florence West, and CACF*, memo to Robert Patton, September 22, 2011

<sup>63</sup> Office of the Auditor General, *Performance Audit, “Department of Corrections: Oversight of Security Operations.”* September 2011. Report No. 11-07; <http://afsc.org/document/audit-arizona-department-correction-oversight-security-operations>

<sup>64</sup> *ibid*





The first two months of GAR inspections results were reviewed by the state Auditor General in September of 2011. The inspections resulted in a **total of 157 findings of fault**.

These findings included the failure to properly search the personal property or verify the identity of persons entering the prison unit, to store tools, to inventory keys, to document security device inspections, and to ensure inoperative security devices are repaired in a timely manner.

For example, at one private prison, contract monitoring staff reported that the control room panel indicator lights, which indicate whether inmate doors leading to the recreation yard are unsecure or ajar, had been nonfunctional for several months. At another private prison, contract monitoring staff reported that work crew supervisors coming to pick up inmates routinely gained access through gates prior to any staff member checking the identity of the drivers or searching their vehicles. At a third private prison, contract monitoring staff reported that private prison staff were not thoroughly pat searching inmates, a procedure used to detect hidden contraband.<sup>65</sup>

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<sup>65</sup> *ibid*

Competency (Number of Performance Measures)	Number of Findings Reported for All 5 Private Prisons		
	February 2011	March 2011	Total
Administrative (11)	3	3	6
Counts/Inmate Movement (6)	3	0	3
Detention (8)	2	5	7
Ingress/Egress (6)	11	5	16
Inmate Regulations/Inmate Discipline (2)	0	0	0
Key Control (18)	14	19	33
Mail/Property (7)	1	1	2
Perimeter (43)	11	4	15
Radios (6)	2	1	3
Searches (12)	4	4	8
Security Devices (33)	10	9	19
Tool Control (19)	16	15	31
Towers (4)	0	0	0
Transportation (9)	2	0	2
Visitation (12)	3	2	5
Weapons (24)	<u>3</u>	<u>4</u>	<u>7</u>
<b>Total (220)</b>	<b><u>85</u></b>	<b><u>72</u></b>	<b><u>157</u></b>

Figure 9: GAR Findings in Arizona Private Prisons February and March 2011. From Arizona Auditor General, Performance Audit, "Department of Corrections: Oversight of Security Operations." <http://afsc.org/document/audit-arizona-department-correction-oversight-security-operations>

It is sobering to think that, over a year after the horrific escapes from the Kingman prison, the same chronic security problems are still prevalent in the state's private prisons. While it is logical that the problems requiring additional staff training would take some time to correct, it is puzzling how an issue as obvious as fixing a control panel or malfunctioning alarm system would take so long to rectify.

## Security Assessments of CCA Facilities

### California

The only security assessment information AFSC was able to obtain on the private prisons that are located in Arizona but not under contract with the state was from the state of California. During December 2010, California's Inspector General found serious security flaws and improper treatment of California inmates held in three CCA prisons in Arizona – the La Palma, Red Rock, and Florence Correctional Centers. Inspectors found flaws with the incident alarm-response systems at the three prisons because there was no audible alarm. La Palma and Florence were found to have malfunctioning and out-of-focus security cameras.

The inspectors raised concerns over poor security practices, noting that inmates were able to easily get around metal detectors at La Palma because CCA didn't have adequate staff on hand when it was moving inmates. Many inmates at Red Rock had no ID cards, or damaged ID cards, which makes it more difficult for officers to identify when a prisoner is missing. At all three prisons, inmates had unsupervised access to secure areas.

At Florence, cell searches weren't well-documented. And at Red Rock, inspectors found no evidence that 31 significant incidents from January to May 2010 were investigated for wrongdoing. Procedures governing the proper storage of evidence for investigations were not being followed.

The report also states that “[California Department of Corrections and Rehabilitation (CDCR)] has never approved of CCA’s use-of-force policy, even though the contract terms require the policy’s approval prior to inmate occupancy.” As a result, CCA guards may not be trained in the proper procedures for handling serious incidents. CCA currently has no CDCR-approved policy for whether guards in the perimeter towers can use deadly force in the event of a riot.

Inspectors also flagged the possibility that security level IV prisoners may be held in out-of-state facilities, a possible violation of the California Code of Regulations, which mandates that only inmates in levels I-III be sent out of state. Inspectors further noted that “CCA facilities do not meet the California Code of Regulation’s Level IV security requirements for internal armed coverage.”<sup>66</sup>

## **Assaults: Inmate-on-Inmate**

One important measurement of the security of a facility is the rate of prisoner assaults. While most people think about prisons in relationship to public safety, they are also constitutionally bound to preserve the health and safety of the prisoners themselves and the staff working in them. While some Arizonans may not be particularly concerned about prisoner rights or prison conditions, prisoner assaults should be of concern to the public because of what they say about a prison operators ability to maintain control of its facility, which certainly can have implications for the surrounding community.

A high rate of assaults may indicate deeper systemic problems:

1. Some prisoners are improperly classified (higher or lower security scores than appropriate)
2. The prison operator is ignoring or unaware of issues that create friction between prisoners or groups of prisoners (gang affiliations, race conflict etc.)
3. The prisoners do not have enough positive rehabilitative programming (work, education, treatment) and too much idle time
4. Prison staff are not effectively working to diffuse prisoner conflicts before they escalate to violence, possibly due to a lack of training, experience, or motivation to become involved at potential risk to themselves. AFSC found evidence of all of these problems in its research for this report.

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<sup>66</sup> David R. Shaw, Inspector General, *Out-Of-State Facility Inspection Results*. Enclosure—OIG Areas of Concern with CDCR Out-of-State Facilities. December 2, 2010

### Inmate Assaults in Arizona Public Prisons and Privately Operated State Prisons

The number of assaults and fights across ADC prisons (including private prisons under contract with ADC) went from 381 in 2005 to 1,478 in 2011. It rose gradually from 2005-2009, but there was a dramatic spike from 2009-2011. The number went from 778 in 2009 to 1,335 in 2010 and 1,478 in 2011—a rate of 36.85 per 1,000 prisoners.

During the same period there was only a gradual increase in the prisoner population; the assaults increased despite a corresponding increase in the number of correctional officers.<sup>67</sup>

In its response to AFSC’s information request, the Department of Corrections did not provide assault data organized by prison complex or unit. However, the recently released Biennial Comparison Review includes some data that reflect the rate of assaults in Arizona’s contracted private facilities.

Correctional Operations Data 2010-2011 <sup>68</sup>							
	GEO Group			MTC			Total
	CACF	Phx. West	Flo. West	Hualapai	Marana	Cerbat*	
Inmate on Inmate Assaults	5	2	9	43	4	9	72
Assaults per 1,000 inmates	3.9	4	12	28.51	8	5.7	
Assault on staff	1	0	1	23	2	4	31
Assaults per 1,000 inmates	0.78	0	1.33	15.25	4	2.53	
<b>Total assaults</b>							<b>103</b>

\*Data available for 2011 only

Perhaps unsurprisingly, the troubled Hualapai unit at the Kingman prison had an unusually high rate of assaults on both prisoners and staff. This unit was beset by a series of disturbances and riots in 2010, and was the site of the infamous escape of three prisoners in 2010. However, the rate of inmate on inmate assaults at Florence West was also notably high.

ADC also saw an alarming rise in homicides during this period. Out of a total of sixteen murders between 2007 and September of 2011, four occurred in 2009 and five in 2010. Data provided by the Department of Corrections in response to a public information request reveals that the majority of these incidents occurred in prison complexes that contain

<sup>67</sup> Interestingly, 2009 was the year that Chuck Ryan, appointed to be ADC Director by Jan Brewer.

<sup>68</sup> Arizona Department of Corrections, *Biennial Comparison of Private Versus Public Provision of Services Required per A.R.S. § 41-1609.01*, December 21, 2011; [http://www.azcorrections.gov/ARS41\\_1609\\_01\\_Biennial\\_Comparison\\_Report122111\\_e\\_v.pdf](http://www.azcorrections.gov/ARS41_1609_01_Biennial_Comparison_Report122111_e_v.pdf)

units of the highest security levels (Eyman, Tucson, Lewis, Perryville, and Yuma) which are all publicly operated. The highest number (7) took place at Lewis.

A review of the ADC's Inmate Death Notices on December 11, 2011, yielded an astonishing number of notifications with similar, vague wording. The notifications generally state that "Inmate John Doe, #0000000, was found unresponsive in his housing unit. He was pronounced dead after medical responders attempted life saving measures." The notifications do not indicate whether the death was a suspected suicide or homicide, only that "the death is under investigation by the Department." Our casual review yielded 9 such notices since April 26, 2011. The majority of these incidents occurred in close and maximum security units.<sup>69</sup>

It is unsurprising that these high-security units would have higher rates of violence. These numbers may give the appearance that state-run prisons are less safe than private prisons. However, it is critical to again note that the ADC data only reported the homicides by prison complex (which may contain units of all five security levels) rather than by individual unit. Since private prisons only accept low to medium security prisoners, an apples to apples comparison requires knowledge of the security level of the housing unit where an assault took place. Unfortunately, the Department of Corrections failed to provide this information in its response to AFSC's public information request. As a result, it is impossible to make an accurate comparison. It is up to the Department of Corrections to provide this comparison.

That said, the rate of homicides, even if they are taking place in maximum security units, is deeply concerning, and raises questions about the management and security practices of the Department of Corrections. Clearly, further inquiry is needed to determine what contributed to the spike of homicides in 2010 and to prevent further bloodshed.

### **Assaults in CCA Prisons In Arizona**

As noted previously, data received from the various government entities supplying prisoners to CCA prisons in Arizona was variable. The majority of it will be presented here, augmented with details gleaned from press reports and prisoner correspondence.

### **Assaults Among Washington State Prisoners in Arizona**

The state of Washington housed prisoners in four CCA prisons in Arizona between 2006 and 2010:

- Florence Correctional Center (1,451 total prisoners from 2006-2009)
- Eloy Detention Center (165 prisoners in 2006 and 135 in 2008)

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<sup>69</sup> Arizona Department of Corrections, News Releases, ADC News Archive for 2010 and 2011. [http://www.azcorrections.gov/Minh\\_news\\_gov.asp?DisplayYear=2011](http://www.azcorrections.gov/Minh_news_gov.asp?DisplayYear=2011).

- Red Rock Correctional Facility (788 total prisoners from 2007-2010)
- Saguaro Correctional Facility (236 total prisoners from 2008-2010)

Washington provided relatively detailed data for a variety of incidents, disturbances, and infractions, but provided no definitions or descriptions for these categories. Below is a table representing the categories of incident related to assault.

<b>Washington State Prisoners in Arizona 2006-2010</b>					
<b>Violation</b>	<b>Florence CC</b>	<b>Eloy DC</b>	<b>Red Rock</b>	<b>Saguaro</b>	<b>Total</b>
<b>Aggravated Assault/Inmate</b>	26	0	4	3	33
<b>Possess Weapon</b>	24	5	4	4	37
<b>Aggravated Assault/Staff</b>	3	0	2	0	5
<b>Assault/Offender</b>	5	4	3	3	15
<b>Strongarming/Intimidation</b>	21	0	9	0	30
<b>Assault non hosp assault staff</b>	14	0	4	0	18
<b>TOTAL INCIDENTS</b>	93	9	26	10	138

These numbers reveal a serious pattern of assaults in the Florence Correctional Center, with significantly higher numbers of aggravated assaults, assaults on staff (both serious and “non-hospital”), and incidents of strong-arming or intimidation. It is possible that this pattern led to the early termination of the contract with CCA for this facility.

**Assaults Among Hawaiian prisoners in Arizona CCA prisons**

In 2010, Hawaii held 1,906 prisoners in two CCA prisons in Arizona: Red Rock Correctional Center and Saguaro Correctional Center. Red Rock and Saguaro were opened in 2006 and 2007, respectively. Red Rock started out with a population of 222, which had dwindled to 56 by 2010. Saguaro, on the other hand, has slightly increased its population from 1,732 in July of 2007 to 1,850 in 2010.

The two facilities, despite their differences in population, have seen a roughly equivalent number of assaults between 2008 and 2010. Therefore, the rate of assaults in Red Rock was extremely high.

<b>Hawaiian Prisoners in Arizona 2008-2010</b>		
	<b>Red Rock</b>	<b>Saguaro</b>
<b>Avg. Daily Population</b>	61	1,851
<b>Inmate on Inmate Assaults</b>	26	28
<i>Rate per 1,000</i>	426	15
<b>Inmate on Staff Assaults</b>	7	8
<i>Rate</i>	114.75	4
<b>Homicides</b>	0	2
<i>Rate</i>		1.08

One of the two homicides was a stabbing in May of 2010 by two inmates who now face the death penalty in Arizona (Hawaii has no death penalty).<sup>70</sup> The two prisoners were indicted on first degree murder and gang related charges. They are the first to face capital related charges for a crime committed in a private prison on the mainland, a case which could be unprecedented in the nation.

The second was a case in which a prisoner strangled his cellmate while the prison was on lockdown in June of 2010. The two killings prompted strong reactions from Hawaii's state leaders. State Sen. Will Espero, chairman of the Senate Public Safety Committee, said the two inmate deaths raise serious questions about the state's policy of shipping out inmates.

*"Maybe this could give us a reason to pause," he said, adding that the Hawaii team in Arizona to investigate Medina's death needs to answer this question: "Is this prison unsafe, and are there some major security breaches?"<sup>71</sup>*

Press reports of violence at Red Rock have been limited. CCA admitted that in 2007 multiple cell doors accidentally opened on four occasions at the new Red Rock facility, in one case resulting in an incident in which alleged prison gang members used the opportunity to stab another prisoner with a homemade knife.<sup>72</sup>

**Assaults Among California Prisoners In Arizona**

California prisoners are housed in several CCA prisons in Arizona: Florence Correctional Center, Red Rock Correctional Center, and LaPalma Correctional Center. Together, these facilities have seen fairly high numbers of assaults:

<b>California Prisoners in Arizona</b>				
	<b>Florence CC</b>	<b>Red Rock</b>	<b>La Palma</b>	<b>Total*</b>
<b>2007 Inmate/Inmate</b>	25			30
<i>Rate per 1,000</i>	65			
<b>2007 Inmate/staff</b>	6			10
<i>Rate</i>	15.7			
<b>2008 Inmate/Inmate</b>	39	6	37	85
<i>Rate</i>	40	17	31	
<b>2008 Inmate/Staff</b>	15	1	26	47
<i>Rate</i>	15	2.8	22	
<b>2009 Inmate/Inmate</b>	13	6	208	227

<sup>70</sup> "HI inmates complain about CCA," *Hawaii News Now*, June 17, 2010

<sup>71</sup> "State to investigate killing of island inmate in Arizona," *Honolulu Star Advertiser*, June 15, 2010

<sup>72</sup> "Arizona prison mistakes trouble Hawaii officials," *Honolulu Advertiser*, 7/22/07

<i>Rate</i>	13	15.58	79	
<b>2009 Inmate/Staff</b>	2	56	4	62
<i>Rate</i>	2.05	145.45	.75	
<b>2010 Inmate/Inmate</b>	6	101	112	219
<i>Rate</i>	9	101.5	39	
<b>2010 Inmates/Staff</b>	2	26	27	55
<i>Rate</i>	3	26	9	
<b>Total Inmate/Inmate Assaults: 561</b>				
<b>Total Inmate/Staff Assaults: 147</b>				
*Not all units were specified in some California documents. Specific prison is noted where known.				

Note that California prisoners in Red Rock had an extremely high rate of assaults against both prisoners and staff in 2009 and 2010. In 2010, California's prisoners in Red Rock and La Palma had higher rates of assaults than any other private facility population for which AFSC has data.

### **Assaults Among ICE Detainees in CCA Prisons in Arizona**

Data from an Immigration and Customs Enforcement inspection of the Eloy Detention Center in 2008 revealed a number of assaults on both detainees and staff. The facility is unusual in that it houses both women (100) and men (1,400). This unfortunately provides ample opportunity for sexual abuse.

In 2008, the inspection noted five instances of sexual assault. The report indicates that one of these incidents was reported to local law enforcement, which declined to prosecute due to lack of evidence. Three others were dismissed by inspectors as "consensual."

In that same year, there were a total of 87 detainee-on-detainee assaults, 6 involving weapons. The weapons were listed as "pencils, tuna can lids, and a shoe." The report notes that "most of the assaults were due to gang activity." No supporting documentation to substantiate this claim was provided.

The report also notes that there were 9 detainee-on-staff assaults that year. "All nine incidents were of detainees throwing ice, water, an unknown substance and one incident of feces onto the officers while they were feeding detainees or passing something through the food slot in the special management units."<sup>73</sup> Special Management Units are presumed to be solitary confinement detention cells. This "throwing" behavior is not uncommon in these units, where conditions can exacerbate and even breed mental illness.

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<sup>73</sup> Immigration and Custom Enforcement, "Detention Facility Inspection Form." Eloy Detention Center February 19-21, 2008; <http://www.ice.gov/doclib/foia/dfra-ice-dro/eloydetentioncentereloyazfebruary19212008.pdf>



## Assaults: Staff on Inmate

### Abuses in Arizona Public Prisons/State-Contracted Private Prisons

The Arizona Department of Corrections did not provide any data on staff assaults against prisoners, staff misconduct investigations, or lawsuits for either state or privately operated prisons under contract.

### Abuses in CCA Prisons in Arizona

*"No inmate feels safe especially when some staff are abusive toward inmates. Some staff do not have common sense when it comes to the safety of inmates. Doors accidentally opening exposing certain class of inmates to their enemies. There were several incidents at FCC and RRC where the inmates got seriously assaulted or stabbed."* –Hawaiian Prisoner at Red Rock Correctional Facility (Operated by CCA)

Hawaiian prisoners sued CCA in 2010, alleging that guards "stripped, beat and kicked inmates and threatened to kill them, banged their heads on tables while they were handcuffed, and "the warden himself" joined in threatening their families." The prisoners say they were targeted after a guard was seriously injured when he tried to break up a fight at the Saguaro Correctional Center.<sup>74</sup>

CCA staff and administrators allegedly destroyed evidence (including video tape) of the beatings and falsified documents to cover it up.

The suit alleges that the guards and the warden threatened to harm them and their families, citing statements such as:

- 1) 'We have your emergency contact information;'
- 2) 'We know who your family is and where they live and we are going to harm them;'
- 3) 'We are going to kill you;'
- 4) 'We will continue to beat you and the only way to stop that is to commit suicide;'
- 5) 'We will send you to hell;'
- 6) 'We will stick something up your ass.'<sup>75</sup>

In response, the Governor of Hawaii pledged to remove all Hawaiian prisoners from CCA facilities in Arizona. The Governor said of for-profit incarceration:

*"It costs money. It costs lives. It costs communities...It destroys families. It is dysfunctional all the way around – socially, economically, politically and morally."*<sup>76</sup>

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<sup>74</sup> "18 Hawaii Inmates at Mainland Prison Sue State," *KITV News 4*, December 14, 2010

<sup>75</sup> "Brutality at a private prison," *Courthouse News*, December 15, 2010

However, the beatings appear to have continued. In July of 2011, the prisoners filed a new complaint in federal court that the guards at the CCA prison have retaliated against the inmates who filed the original suit. The new complaint states:

“Inmates were told that if they did not provide written statements, their beatings would continue.” And, “beatings in fact continued for those who refused to provide statements.”<sup>77</sup>

### **Abuses in ICE Detention Facilities**

An October, 2011 report from the ACLU found widespread evidence of sexual abuse in ICE detention facilities across the country. Through documents obtained through Freedom of Information Act requests, the organization uncovered nearly 200 official complaints of sexual abuse since 2007. Most of the complaints involve allegations of abusive sexual advances made by male detention officers against female detainees. Instead of complaints being focused on a few rogue facilities or isolated cases, the investigation showed a pattern of problems that extended throughout the US.<sup>78</sup>

The ACLU webpage features an interactive map compiled by the organization. The map entry for Arizona shows a **total of 16 allegations reported in facilities in Arizona. Over half of them (9) were generated in facilities operated by Corrections Corporation of America.**<sup>79</sup>

Florence Correctional Center (CCA):	1 allegation
Pinal County Jail:	6 allegations
Eloy Detention Center (CCA):	8 allegations
Florence SPC:	1 allegation
TOTAL	16 allegations

In December 2011, a transgender woman filed suit against ICE, the City of Eloy, and CCA for sexual abuse she was subjected to in CCA’s Eloy Detention Center. The suit alleges that federal and local officials and CCA failed to protect Guzman-Martinez from sexual

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<sup>76</sup> “Abercrombie pledges isle inmates’ return,” *Honolulu Star Advertiser*, December 16, 2010

<sup>77</sup> “Private Prison Beatings Continue, Men Say,” *Courthouse News*, July 27, 2011

<sup>78</sup> American Civil Liberties Union, “Documents Obtained by ACLU Show Sexual Abuse of Immigration Detainees Is Widespread National Problem.” press release, October 19, 2011; <http://www.aclu.org/immigrants-rights-prisoners-rights-prisoners-rights/documents-obtained-aclu-show-sexual-abuse>.

<sup>79</sup> American Civil Liberties Union, “Sexual Abuse in Immigration Detention,” interactive map; <http://www.aclu.org/maps/sexual-abuse-immigration-detention-facilities>.

abuse and harassment by staff members and by detainees at the facility. In June 2010, a CCA guard named Justin Manford was convicted of attempted unlawful sexual contact with her.<sup>80</sup>

## Riots

- *The Kingman MTC prison had “13 instances of large groups of inmates refusing directives or chasing MTC staff off the yard.” In at least one of these, MTC guards refused to intervene or protect African-American prisoners who were being attacked during a race riot.*
- *Arizona’s contract to house Arizona inmates CCA’s in New Castle, Indiana was cancelled in 2008 due in part to a series of riots.*
- *Documents provided by the state of Washington demonstrate a number of incidents not labeled as riots, but which may indicate serious disturbances, including 26 “group demonstrations,” and 5 incidents of prisoners setting fires.*

### Riots in State Contracted Private Prisons

Although the 2010 escapes captured headlines, the Kingman prison also had a history of riots and disturbances dating back to 2005. Corrections Director Ryan noted in his “Cure Notice” to MTC that there had been “13 instances of large groups of inmates refusing directives or chasing MTC staff off the yard.”<sup>81</sup>

One of these riots, on May 31, 2010, was a race riot between white and African-American inmates in which at least 8 prisoners were injured. Some were struck with padlocks wrapped in socks.<sup>82</sup> While prison officials downplayed the situation as a “fight” rather than a riot, prisoners involved in the melee later described in vivid detail a full-scale race riot that was completely out of staff control.

Former Kingman prisoners Sharif McPhatter and Dante Gordon testified at a legislative hearing on corrections that during the riot the white inmates were shouting, “kill the n\_\_s!” and pushed the African American prisoners (a small percentage of the Kingman prison population) against a fence. McPhatter said that the MTC guards were standing nearby in full riot gear, but did not move to intervene. When the African-American prisoners shouted to them for help, they were told “you’re on your own.”<sup>83</sup> This account has

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<sup>80</sup> “Woman alleges abuse in Eloy prison, suing ICE,” Arizona Republic, December 8, 2011.

<sup>81</sup> Charles Ryan, *Cure Notice* to MTC, memo, December 29, 2010

<sup>82</sup> “Fight at Kingman State Prison Injures 8,” KVOA, June 2, 2010

<sup>83</sup> Testimony of Sharif McPhatter before the Senate Public Safety and Human Services and House Judiciary Committee of Reference, Tuesday, November 22, 2011

been confirmed by at least three other Kingman prisoners, and was reported in the *Tucson Weekly*.<sup>84</sup>

MTC's other Arizona facility has recently seen a serious disturbance. As many as 150 inmates were involved in a brawl at the Marana Community Correctional Treatment Facility in February of 2010. The fight lasted about an hour before a 20 member tactical unit helped to break it up. Twelve inmates and an MTC employee were injured.<sup>85</sup>

While ADC did not provide any data on prisoner riots in response to AFSC's information request, statistics included in the Department's Biennial Review of public and private prison performance are illuminating. The report breaks up the data on disturbances into several different categories, not unlike the statistics from Washington and California.

- Inmate (I/M) Fights: Number of reported incidents of fights between two or more inmates.
- Inmate (I/M) Groupings: Number of reported incidents of an unauthorized grouping by a substantial number of inmates acting in concert for a common purpose.
- Inmate (I/M) Management Incidents: Number of reported incidents of one or two inmates engaging in unauthorized activity or displaying uncooperative or disruptive behavior resulting in official action beyond summary sanctions, such as return to cell or order to disperse.
- Inmate (I/M) Work Stoppage: Number of reported incidents of an unauthorized temporary stoppage of work caused by one or more inmates.
- Inmate (I/M) Disturbances: Number of reported incidents of collective action by three or more inmates resulting in official action beyond summary sanctions, such as return to cell or order to disperse.

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<sup>84</sup> "For-Profit Punishment," *Tucson Weekly*, December 23, 2010

<sup>85</sup> "Arizona prison brawl involved up to 150 inmates, leaves 13 people hurt," *AP*, 2/11/10.

## Riots in ADC Out-of-State Contract Prisons

### New Castle, Indiana (operated by GEO Group)

During a 2007 riot at the New Castle Correctional Facility, inmates burned mattresses and threw beds and other furnishings out of the windows. Police stormed the perimeter and used tear gas to secure the facility. Two prison employees were injured. The riot cost more than \$1.1 million in police protection, repairs and improvements. <sup>A</sup>

Emails from Arizona DOC staff before the riot revealed serious concerns about GEO's management of the facility. One from the director of Arizona's Department of Correction to Indiana's DOC Commissioner stated, "Basic security practices are lacking, like counts and inmate discipline. Simple modifications that were proposed last week haven't been implemented." <sup>B</sup>

The following January in that same facility, four to six prisoners, including some from Arizona, fought with guards during an outdoor exercise period. After this series of disturbances, Arizona ended the contract. <sup>C</sup>

### Diamondback, Oklahoma (CCA)

In July 2004 Arizona retrieved over 300 of its prisoners held in CCA's Diamondback Correctional Facility in Oklahoma after an investigation into a riot in 2003 in the facility revealed that CCA personnel failed to read warning signs that trouble was brewing and even ignored reports from its own line staff that tensions were high. The report also found that staffing in the prison was inadequate in number and experience and the facility's "Incident Management Team was never fully functional." In fact, during the disturbance, Arizona monitors had to step in and give directions to CCA staff "who were unable or unwilling to make corrective decisions." <sup>D</sup>

<sup>A</sup> Riot costs add up for New Castle prison," *Indianapolis Star*, April 24, 2008

<sup>B</sup> "Arizona Officials Concerned Before & After Prison Riot," *WISH TV, Indianapolis*, May 5, 2007

<sup>C</sup> "Indiana prison sends inmates to Arizona," *News Sentinel*, April 12, 2008

<sup>D</sup> "Officials counter prison's claims," *The Oklahoman*, 7/8/04 and Arizona Department of Corrections, Corrective Action Plan: Diamondback Correctional Facility, June 22, 2004

- Use of Force: Number of reported incidents in which prison staff was required to use force with one or more inmates.<sup>86</sup>

Taken together, these variations of inmate disturbance reveal patterns of instability, prisoner discontent, and indicate a general lack of control of the facility on the part of the operator.

**Riots in CCA Prisons In Arizona**

Data on riots provided in response to AFSC’s public records requests was variable, as different agencies used different definitions and measurements.

**Riots Among Hawaiian Prisoners**

The State of Hawaii provided no data on “riots,” but reported a total of 5 “disturbances” between 2008 and 2010 in Red Rock and Saguaro Correctional Centers. However, the data for “major misconduct” is compelling. Hawaii provided no explanation or definition of this term, so it may refer to anything from disobeying orders to contraband to fighting. Hawaii provided separate statistics for a category entitled, “Drugs/Alcohol,” which indicates that these infractions are not included in “Major Misconduct.”

There are some indications that facility operators “fudge the numbers” by under reporting or classifying a serious disturbance as fighting rather than a riot. This tendency is demonstrated in the numbers from California (see below). The number of major misconducts in the Saguaro prison is particularly noteworthy.

<b>Disturbances Among Hawaiian Prisoners in Arizona, 2008-2010</b>		
	<b>Red Rock</b>	<b>Saguaro</b>
<b>Average Daily Population</b>	61	1,851
<b>Disturbances/ Rate per 1,000</b>	3/49	2/1.08
<b>Major Misconduct/ Rate per 1,000</b>	139/2,279	4,393/2,373
<b>Drug/Alcohol/ Rate per 1,000</b>	4/65.5	0

Source: Hawaii Dept. of Public Safety, Corrections Division, response to Public Records Request

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<sup>86</sup> Arizona Department of Corrections, *Biennial Comparison on Private Versus Public Provision of Services Required Per ARS 41-1609.01 (K)(M)*, December 21, 2011

### **Riots Among California Prisoners**

Data provided by the state of California indicate a total of 14 riots between 2007 and 2011 in the Florence Correctional Center and La Palma Correctional Center. No data was provided for 2009 or 2010.

<b>Riots Among California Prisoners in Arizona, 2007, 2008, and 2011</b>		
	<b>Florence CC</b>	<b>La Palma</b>
<b>2007</b>	3	0
<b>2008</b>	4	1
<b>2011</b>	0	6
<b>Total</b>	<b>7</b>	<b>7</b>

Published news accounts fill in some of the details on these disturbances. A prison employee suffered a broken nose and cheekbones as well as eye socket damage during a **30 inmate brawl over an Xbox** owned by an inmate at Saguaro.<sup>87</sup>

News accounts report several riots at Red Rock Correctional Center:

On December 23, 2010, approximately 110 California inmates were involved in a “lunchtime riot.” Seven prisoners were transported to local hospitals, three with life-threatening injuries. No staff were injured. Guards used pepper spray to quell the disturbance and also called in the Eloy Fire Department. “It took all the resources of Eloy Fire and then some,” said Chief Danny Lorenz.<sup>88</sup>

A fight between two Alaskan prisoners “initiated a free-for-all involving another half-dozen inmates in January of 2009. Two prisoners were air-vacked to the Casa Grande Regional Center with serious injuries.<sup>89</sup>

However, as was the case with the Hawaii data, there are numerous other categories of disturbances that the Department may not classify as a “riot” but which appear to indicate groups of prisoners fighting, assaulting staff, or disobeying orders in incidents serious enough to require a use of force.

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<sup>87</sup> “Prison Employee seriously injured,” *KITV4*, July 30, 2010

<sup>88</sup> “Red Rock Correctional Center Riot,” *Eloy Enterprise*, December 23, 2010

<sup>89</sup> “2 inmates airvac’d to hospital after fight,” *Eloy Enterprise*, January 14, 2009



Use of Force data for 2010 alone indicates 71 such incidents:

3 in Florence Correctional Center

26 in Red Rock

42 in La Palma

### ***Riots Among Washington Prisoners***

As mentioned above, data from the state of Washington outlined statistics for a variety of prisoner behavior. The data provided was not correlated by year or facility. Several of these categories are related to what the layperson would logically consider a prison riot, such as setting a fire. Likewise, there is some evidence of facility staff downplaying the seriousness of an incident by classifying it as a fight rather than a disturbance. Short of a full-scale riot (which implies violence and/or property destruction), there are other types of disturbances that provide some measure of the safety or stability of a prison environment, such as fights, or incidents that indicate that the prisoners are unhappy with conditions, such as inmates refusing to work or holding a “group demonstration.” For this reason, all the related data is grouped together here:



Disturbances Among Washington Prisoners in Arizona, 2006-2010					
Violation	Florence CC	Eloy DC	Red Rock	Saguaro	Total
Fighting	41	2	15	0	58
Refuse to proceed/disperse area	56	0	14	3	73
Resist order with staff injury	1	0	0	0	1
Setting Fire	1	4	0	0	5
Destroy property	11	4	0	0	15
Refuse to work	3	6	6	1	16
Inciting riot	6	0	0	0	6
Group Demonstration	9	8	6	3	26
Organized Work Stop	0	3	0	0	3
Unauthorized Group Meeting	0	0	1	0	1
<b>TOTAL</b>	204				

As was the case with assaults, the Florence Correctional Center clearly had the most numerous and most serious disturbances. The Eloy Detention Center was also noteworthy for 4 incidences of prisoners setting fires, 8 group demonstrations, and 3 organized work stoppages.

News reports describe an incident in which ICE detainees rioted at the Eloy Detention Center on January 7, 2009, throwing furniture at staff and destroying property. One guard was treated at the scene for a bump on the head.<sup>90</sup>

#### **Riots Among ICE Detainees in CCA Facilities in Arizona**

Data from an inspection of the Eloy Detention Center in 2008 reveals not only the number of disturbances, but the facility's range of responses to inmate misbehavior. A "disturbance" is defined as "any incident that involves four or more detainees/offenders, includes gang fights, organized multiple hunger strikes, work stoppages, hostage situations, major fires, or other large scale incidents."<sup>91</sup> The inspection notes 8 disturbances that year. However, it also reports several incidents of "forced moves, including forced cell moves," use of chemical agents, and deployments of the Special Reaction Team. The inspection

<sup>90</sup> "Riot quashed at Eloy Detention," *Eloy Enterprise*, January 7, 2009

<sup>91</sup> Immigration and Custom Enforcement, *Detention Facility Inspection Form*. Eloy Detention Center February 19-21, 2008; <http://www.ice.gov/doclib/foia/dfra-ice-dro/eloydetentioncentereloyazfebruary19212008.pdf>

notes that there were no instances in which four or five point restraints were used in this time period, but it is worth noting that this intervention is used by the prison operator on immigrant detainees.<sup>92</sup>

<b>Disturbances Among ICE Detainees in Arizona, 2008</b>					
Incidents	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	TOTAL
Disturbances	0	1	3	4	8
Number of forced moves, incl. forced cell moves	2	3	4	10	19
Number of times chemical agents used	1	5	8	14	28
Number of times Special Reaction Team Deployed/Used	0	0	0	1	1
# times four/five point restraints applied/used	0	0	0	0	0
Offender/Detainee medical referrals as a result of injuries sustained	10	9	11	19	49

It is clear that in some cases, these institutional interventions are used even when no disturbance was reported. For example, between January and March, there were no disturbances, but two forced moves and one incidence of pepper spray. The months of October to December saw the most disturbances—four—but a much higher incidence of forced moves (10) and use of pepper spray (14).<sup>93</sup>

Of particular concern is the data on “Offender/Detainee medical referrals as a result of injuries sustained.” No explanation of this category is offered in the inspection report, but the fact that it is included next to the other categories of disturbances and facility interventions like chemical agents and special response team indicates that these are injuries sustained as a result of these actions on the part of the prison operator.

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<sup>92</sup> *ibid*

<sup>93</sup> Immigration and Custom Enforcement, *Detention Facility Inspection Form*. Eloy Detention Center February 19-21, 2008. Accessed at: <http://www.ice.gov/doclib/foia/dfra-icedro/eloydetentioncentereloyazfebruary19212008.pdf>

In addition, there is a separate reporting of a general category of “Psychiatric/Medical Referrals” (this data is discussed in the section on “Programs and Services,” below), which further indicates that these are injuries that were inflicted on the detainees as a result of facility staff’s actions. It is therefore significant to note that the numbers of such injuries are consistently higher than the number of interventions. For example, between January and March, there were only two forced cell moves and one use of chemical agents, but 10 detainees were referred for treatment as a result of these actions.<sup>94</sup>

## Escapes

Escapes from any prison facilities are relatively rare. An investigation by the *Arizona Republic* found that, including the Kingman breakout, in the past 10 years there have been 25 incidents involving 28 inmates from public and private prisons. Of those, 17 escapees were minimum-security inmates who walked away from work crews, and all but two were recaptured quickly. Of the escapes from inside prisons in the past decade, including Kingman, four came from private prisons and six from inside state prisons (plus one from a state hospital).<sup>95</sup>

On the national level, at least 27 escapes have been reported from GEO facilities over the past seven years, including one in Texas last October that led to a murder. Recently, there has been a rash of escapes from GEO prisons in Texas and Illinois—seven inmates have escaped from GEO facilities in those two states in four incidents over the past 11 months.<sup>96</sup>

In 2006, a prisoner escaped from GEO Group’s Florence West prison. He was discovered missing after prison-issued orange pants and blood were found on the perimeter fence. Blankets and clothing was used in his bunk to make it look like he was sleeping while he climbed a recreational gate and squeezed through a barbed wire fence as other inmates watched through a window to see if he made it. Authorities found him after he slammed the car he was driving into three other vehicles during a pursuit in Phoenix, injuring himself and four others.<sup>97</sup> **Nationally, CCA has had at least 21 escapes at various facilities over the past decade, including several that have led to assaults and other crimes.**<sup>98</sup> An inmate from a Tennessee CCA prison escaped in June 2009 with the help of his cousin. While attempting to flee to Louisville, he shot police officer, Sgt. Mark Chesnut six times.

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<sup>94</sup> *ibid*

<sup>95</sup> “Arizona prison oversight lacking for private facilities,” *Arizona Republic*, August 7, 2011

<sup>96</sup> “Record an issue for company bidding on Ariz. prisons contract,” *Arizona Republic*, August 9, 2011

<sup>97</sup> “Inmate sentenced for escape,” *TriValley Central*, 12/10/08

<sup>98</sup> “Arizona to expand private prisons,” *Arizona Republic*, July 3, 2011

The police officer now suffers from life-altering injuries.<sup>99</sup> A woman accused of assaulting a police officer escaped from a CCA facility in Youngstown, Ohio the same day she arrived there.<sup>100</sup>

### **Washington**

The state of Washington reported two escapes from CCA’s Florence Correctional Center on September 17, 2007. One prisoner was recaptured the same day, while the other remained at large for a month. He was ultimately recaptured in his home state of Washington on October 16, 2007. News reports stated that the prisoners, both convicted murderers, escaped by overpowering and tying up a guard as they worked on an evening cleaning crew.<sup>101</sup> They then used ladders to climb over the fences and razor wire.<sup>102</sup>

The relatively detailed data provided by the state of Washington for 2006-2010 again provides some insights into the various other infractions related to escapes.

<b>Escapes of Washington Prisoners from Arizona Facilities, 2006-2010</b>					
<b>Violation</b>	<b>Florence CC</b>	<b>Eloy DC</b>	<b>Red Rock</b>	<b>Saguaro</b>	<b>Total</b>
<b>Poss. Escape Tools</b>	2	0	6	0	8
<b>Tamper with lock/security device</b>	24	13	5	0	42

Consistent with the other data from Washington, Florence Correctional Center again had the highest number of infractions.

The State of Hawaii reported that none of its prisoners escaped from CCA’s Red Rock or Saguaro Correctional Centers between 2008 and 2010. Likewise, the 2008 inspection of the

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<sup>99</sup> ‘KY man found guilty in officer shooting’ *Associated Press*, September 22, 2010

<sup>100</sup> “CCA inmate escapes,” *Associated Press*, May 11, 2010

<sup>101</sup> “Convicted murderer sought after escaping Florence prison,” *Arizona Republic*, September 18, 2007

<sup>102</sup> “Killer who escaped Florence prison caught,” *Arizona Republic*, October 17, 2007

Eloy Detention Center for Immigration and Customs Enforcement detainees found no escapes or attempted escapes that year.<sup>103</sup>

## Conclusions

As noted previously, the inconsistent measurements, variable time periods, and other discrepancies in the data provided in response to AFSC's public records requests make it impossible to make general comparisons of public vs. private security issues. However, studies in other states reveal a pattern of high rates of assaults and disturbances in private facilities. For example, an analysis of incidents involving assaults and disturbances at publicly-operated and privately-managed prisons in Tennessee from January 2009 to June 2011, found that incident rates were consistently higher at the state's three private prisons, all operated by CCA. This was in spite of the fact that the state prisons housed higher security prisoners.<sup>104</sup>

Also in 2011, an Associated Press report found that a CCA facility in Idaho had more assaults than all other Idaho state prisons *combined*, based on 2010 data.<sup>105</sup>

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<sup>103</sup> Immigration and Custom Enforcement, *Detention Facility Inspection Form*. Eloy Detention Center February 19-21, 2008; <http://www.ice.gov/doclib/foia/dfra-icedro/eloydetentioncentereloyazfebruary19212008.pdf>

<sup>104</sup> Private Corrections Institute, *Incident Rates at CCA-run Prisons Higher than at Public Prisons in Tennessee*. Press release, October 18, 2011; [http://www.privateci.org/private\\_pics/CCA%20TDOC%20violence%20rates%202011.pdf](http://www.privateci.org/private_pics/CCA%20TDOC%20violence%20rates%202011.pdf)

<sup>105</sup> "CCA-run prison still most violent in Idaho," *Idaho Press-Tribune*, October 10, 2011

## Performance Measure II: Staffing

### Key Findings:

- 80% of staff at the Kingman prison (where the escapes occurred in 2010) were new or newly promoted.
- 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 Arizona Department of Corrections has fined both MTC and GEO Group for failing to fill staff vacancies.
- 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.
- Security assessments conducted by the Department of Corrections showed multiple incidents in all state-contracted private prisons of staff not being properly searched when entering or leaving the facilities, making it easier for them to bring in contraband.
- State of California inspectors reported that at Red Rock, CCA's "hiring process does not include a comprehensive criminal-background and arrest-history review." They revealed that state arrest records weren't being checked and that at Red Rock and La Palma, the company didn't do enough to check whether people applying for jobs might know or have relationships with inmates.

Private prisons make their profits by winning contracts. They win contracts by being the lowest bidder. In order to bid for so little money, they generally make significant cuts in staff pay and training. Private prison companies often pay staff less than states or the federal government. 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.

*"Highly unsafe. There is nothing the staff is capable of controlling. The staff are unprepared to stop physical altercations. They have no means to stop us." –Prisoner at Florence West (Operated by GEO Group)*

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 produce a difficult work environment, it can also make these facilities genuinely unsafe for staff, inmates, and the community.

In Florida, which, unlike Arizona, tracks staff turnover rates at private prisons, GEO and CCA had a 34 percent turnover last year, compared with 12 percent in Florida state prisons.<sup>106</sup> The Texas Senate Criminal Justice Committee's interim report on private prisons in 2009 found that the seven private prisons contracting with the Texas Department of Criminal Justice (TDCJ) had a 90% turnover rate, compared with the 24% rate at state-operated prisons. The report stated:

*"The wages and benefits paid to employees of private contractors are generally lower than that paid to employees of state-operated facilities... Correctional officer salaries in the private prisons vary among facilities, with the highest peaking at slightly more than \$24,000 annually."*<sup>107</sup>

The issue of new, undertrained, and inexperienced staff has been cited in a number of incidents in private prisons around the country. It was most certainly a glaring issue in the investigation into the escapes from the Kingman prison.

Essentially, the combination of low pay, understaffing, and having a "green" workforce (guards with minimal training and experience) is a recipe for unstable and dangerous prisons. Guards who are new and under trained may not have enough experience to notice when conflicts are brewing or know how to defuse them before they lead to assaults or worse. When conflicts do escalate into fights or riots, these guards may be unsure what to do in a crisis, leading them to wait too long to intervene—as was alleged in the race riot at Kingman on May 31, 2010. ADC security assessments of that prison also acknowledged that the prisoners were literally able to chase the officers off the yard several times.

The impact of this general level of inexperience was reflected in many of the security audits performed by the Arizona Department of Corrections at contracted prisons. Inspections consistently found that certain security protocols were not being followed properly, and in some cases, staff were surprised when they were asked by inspectors to scan their personal items when entering the facility.

Lack of training combined with poor background screening of job applicants has also been linked to several cases of prisoner abuse in private prisons nationally. In addition, there have been reports of private prison staff getting in trouble with the law themselves,

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<sup>106</sup> "Record an issue for company bidding on Ariz. prisons contract," *Arizona Republic*, August 9, 2011

<sup>107</sup> The Senate of Texas, Senate Committee on Criminal Justice, *Interim Report to the 81st Legislature*, December 2008; <http://www.senate.state.tx.us/75r/Senate/commit/c590/c590.InterimReport80.pdf>

both on the job and outside of their jobs in the prisons. Cases range from sexual abuse and smuggling drugs to inmates to armed home invasions.

## **Staffing: State Contracts**

While the Department of Corrections' Biennial Comparison Review of public and private prison performance was generally a whitewash designed to present the state's contracted private prisons in a positive light, one area where even the ADC consistently gave the for-profits low marks was staffing. Every one of the five private prisons under contract was judged to be performing below the Department of Corrections on staffing:

- Central AZ Correctional Facility (GEO Group): Higher vacancy rates in 2010 and 2011, higher turnover rate in 2011, lower CO test scores in 2010 and 2011, and lower CO supervisor test scores in 2010.
- Phoenix West (GEO Group): Significantly higher turnover and vacancy rates in 2010 and 2011. In 2011, the turnover rate was 61% (compared to 11% in Catalina Unit).
- Florence West (GEO Group): Higher vacancy rates in 2010 and 2011, higher turnover rate in 2011, and lower correctional officers supervisor test scores in 2010 and 2011.
- Kingman Hualapai (MTC): Higher vacancy rate in 2010 and higher turnover in 2010 and 2011
- Kingman Cerbat (MTC): Higher turnover rate in 2011 and lower core competency test scores in 2011
- Marana (MTC): Turnover rate in 2011 was 56.8% (compared to Graham unit at 12.5%)<sup>108</sup>

In particular, GEO's Phoenix West facility consistently displayed extremely high vacancy and turnover rates. In 2011, for example, the turnover rate was 61%—the highest rate by far of any facility in any year, and well above the 11% turnover rate for the comparison state unit (Catalina in the Tucson Complex). This facility also had an unusually high CO vacancy rate—16% in 2010 and 18% in 2011.<sup>109</sup> Given that this prison is located in the largest population center in the state, it is clearly not due to a lack of available work force.

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<sup>108</sup> Arizona Department of Corrections, *Biennial Comparison of Private versus Public Provision of Services ARS 41-1609.01 (K)(M)*, December 21, 2011

<sup>109</sup> *ibid*



MTC facilities did not fare much better. The Marana prison had a turnover rate of 36.4% in 2010 and 56.8% in 2011. In 2011, MTC's two Kingman Units both had very high turnover rates of 25.6% each.<sup>110</sup>

Anyone with a business background will acknowledge that a high employee turnover rate indicates a serious management problem. In the case of a prison, the impact of these management problems can extend far beyond a few disgruntled employees. Corrections is a field in which good training and solid experience can literally mean the difference between life and death—for the employee, inmates or even members of the surrounding community.

In 2010, the American Friends Service Committee sent questionnaires to prisoners in private facilities, soliciting their testimony for a public hearing on prison privatization. The completed surveys offer an assortment of perspectives from prisoners in GEO Group's Florence and Phoenix West prisons, Management and Training Corporation's Kingman Facility, and Corrections Corporation of America's Red Rock Correctional Facility which houses prisoners from out of state. The inexperience and lack of training of staff was a concern raised consistently across the board:

*"Highly unsafe. There is nothing the staff is capable of controlling. The staff are unprepared to stop physical altercations. They have no means to stop us." – Prisoner at Florence West (Operated by GEO Group)*

*"Completely unsafe. If something were to happen, the staff is neither qualified or able to contain any serious situations. The staff, I believe would rush out and assure own safety. Complete lack of fire safety, regarding welfare of the inmates." – Prisoner at Florence West (Operated by GEO Group)*

*"The CPO's regularly lose inmates release paperwork and inmates don't go home on time. It is just a very poorly run facility" –Prisoner at Florence West (Operated by GEO Group)*

*"One of the guards was arrested in the parking lot after his evening shift" – Prisoner at Florence West (Operated by GEO Group)*

*"There is a very high turnover rate at A.S.P.C. Phoenix West and I believe that is what leads to the uneducated training of the staff and because of [the warden]'s attitude on how to operate the facility" –Former Phoenix West Prisoner (Operated by GEO Group)*

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<sup>110</sup> *ibid*

*“Yes [there is a high turnover of staff], probably due to low pay” –Prisoner at Florence West (Operated by GEO Group)*

*“The majority of the staff appear unkempt, out of shape and lazy. With my own eyes I’ve seen them enforce rules on one person and let the next slide. They talk in an abusive manner towards inmates quite frequently cussing or trying to make us look stupid in front of each other. I believe they get most of their training on the job from other guards who don’t do their job in a professional manner.” –Prisoner at Florence West (Operated by GEO Group)*

*“They’re highly unprofessional. They have to be placed on opposite shifts because some of them have children with one another and currently not getting along because of other current relationships” –Prisoner at Florence West (Operated by GEO Group)*

*“They are very preoccupied and overworked” –Prisoner at Florence West (Operated by GEO Group)*

*“I would much rather be on a normal DOC state run facility because it seems that officers are trained better and respect us men when respect is given.” –Prisoner at Florence West (Operated by GEO Group)*

### **Kingman (MTC)**

Staffing issues were repeatedly highlighted as a primary contributing factor to the escapes from the Kingman facility in 2010. Security assessments conducted after the escapes describe the extent of the problem:

- “The unit is staffed with a very high percentage of new staff and many of them demonstrated a lack of experience and “command presence”. Warden Leider reports that approximately 80% of her staff is new or newly promoted.”<sup>111</sup>
- “Staff are fairly “green” across all shifts. Many staff have under one year of service. Finding staff with 2 or more years of service is rare.”<sup>112</sup>
- “There is a question of experience. I conservatively estimate that one third of security employees have less than three months on the job or in their promoted positions. Further, there is no FTO program to teach staff new to their job or position”<sup>113</sup>

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<sup>111</sup> ADOC Report on Kingman Escapes, August 19, 2010;  
<http://azdatapages.com/datacenter/ADOC-report-on-Kingman-escapes.html>

<sup>112</sup> *ibid*

<sup>113</sup> *ibid*

In August of 2011, the Arizona Republic reported that for FY2011 (though June) the state has withheld about \$844,000 from Kingman and \$54,000 from Marana for failing to fill vacant positions quickly enough.<sup>114</sup> This is the one action that the state appears to have taken consistently to hold the corporations to their contract obligations. Of course, these fines are a drop in the bucket compared to the profit margins of the for-profit prison corporations. There is no evidence that the fines have spurred them to correct the problem and fill their staff vacancies more quickly. As a result, the problem of understaffed facilities will likely remain and possibly worsen.

Security inspections before and after the escapes revealed many examples of undertrained staff being unsure of or outright ignoring various security protocols:

*“Staff arriving at the unit seemed to be surprised when they were asked by the scanner officer to carry their food items to the scanner to be clear. This indicates that the practice is not a norm but an exception. Some staff was clearing their own property instead of relinquishing them for inspection with the scanner officer. A Canteen Personnel was allowed access into the facility without clearing the scanner because there was no officer. Main Control allowed the Canteen Staff access into the unit.”<sup>115</sup>*

It is no secret that a significant portion of the contraband available in prisons is brought in by the staff. Drugs and, increasingly, cell phones are all too available in our prisons, and detract from the overall safety of a facility. The escapes from the Kingman prison in 2010 were planned “via a cell phone borrowed from an imprisoned drug dealer.”<sup>116</sup>

Lax security screenings of guards can only contribute to this problem. For correctional staff in private prisons who are poorly paid, the temptation to make extra cash by bringing in items for prisoners may be hard to resist.

### **Marana (MTC)**

As was the case in Kingman, security inspections found lax protocols in staff searches at the Marana facility:

*“Metal detectors at unit ingress and work crew return are set to high. All staff and inmates unable to clear resulting in wand scan being administered. This provides a false sense of security as staff are not patted down if the wand goes off over the zipper area or other areas but were only being observed stating what it was that set off*

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<sup>114</sup> “Arizona prison oversight lacking for private facilities,” *Arizona Republic*, August 7, 2011.

<sup>115</sup> ADOC Report on Kingman Escapes, August 19, 2010;  
<http://azdatapages.com/datacenter/ADOC-report-on-Kingman-escapes.html>.

<sup>116</sup> “Arizona inmate escape report details life on the run,” *Arizona Republic*, September 16, 2010

*the scanner. Staff may introduce contraband in at those locations at claim it is their zipper."*

*"Inconsistent check of personal items, boots not always checked even if scanner when off. Metal detector set on silent-perception is that enforcement not taken seriously by staff. Inmate work crew accustomed to leaving boxers on during strip search. Team members allowed to exit without showing ID."*

Again, these lapses in security screenings of staff provide an opportunity to smuggle in contraband.

### **GEO Group**

GEO has also had problems keeping staff positions filled in their Arizona facilities. The Arizona Department of Corrections has withheld about \$6,000 in equivalent salary payments this year over GEO's failure to fill vacant positions quickly enough at its Phoenix West and Florence West facilities.<sup>117</sup>

One can see why most women would not be interested in working for GEO. 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 engaged in verbal and physical harassment of female employees. A male manager grabbed and pinched a female employee, and a female employee was forced on a desk and kissed and touched by a male employee, the lawsuit says. The Arizona Attorney General's Office previously filed suit and investigated complaints against the prison operator.<sup>118</sup>

Issues with security protocols and staff searches were not unique to MTC. All three of GEO Group's facilities had similar problems:

***Florence West:** "Staff processing Ingress/Egress lacked command presence and control of area: staff boots not checked, not all cell phones checked to see if they were state issued. Staff were not questioned about money, cell phones, pagers etc. Graveyard staff allowed to punch into time clock before clearing scanner (time clock located beyond scanner)."*

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<sup>117</sup> "Arizona prison oversight lacking for private facilities," *Arizona Republic*, August 7, 2011.

<sup>118</sup> "Lawsuit alleges Florence prison operator allowed sexual harassment," *Arizona Republic*, October 4, 2010

*Phoenix West: "Inconsistent application, staff allowed to bring in unauthorized items to staff locker, team members allowed to exit without showing id. Security challenge failed double stacked Styrofoam cup with pill box between them not put through scanner and allowed in. Gate 4 breached with a comb used to jimmy lock, Female staff member did not clear hand wand allowed to come in without search, said it was the bra wire."*

*Central Arizona Correctional Facility: "During busy shift staff lost control of who was cleared or not cleared. Food not put through scanner, boots not always removed and if boots removed not always checked."*

Once again, these lapses in security practices provide ample opportunity for some guards to take advantage of the situation to bring contraband into these facilities.

## **Staffing in CCA Prisons in Arizona**

State of California inspectors reported in 2010 that at Red Rock, CCA's "hiring process does not include a comprehensive criminal-background and arrest-history review." They revealed that state arrest records weren't being checked and that at Red Rock and La Palma, the company didn't do enough to check whether people applying for jobs might know or have relationships with inmates.<sup>119</sup> In California and elsewhere, corrections officers with gang affiliations have been a recurring problem.<sup>120</sup>

*"Since I've been in the mainland I have suffered racism, retaliation for expressing my rights (filing informal resolution, etc), I've been sexually harassed, threatened, verbally abused, false disciplinary reports filed against me, poor medical treatment and follow up care. There were several medical staff who claim to be a doctor when they were not." – Hawaiian Prisoner at Red Rock Correctional Facility (Operated by CCA)*

*"Recently the Chief of Unit Management and two deputy wardens were replaced. And many corrections officers and other staff quit or are terminated" – Hawaiian Prisoner at Red Rock Correctional (Operated by CCA)*

A 2009 article points out that while correctional officers in Arizona state-run prisons were receiving \$18-\$20 an hour, CCA employees were paid less to do the same job, earning on-

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<sup>119</sup> David R. Shaw, California Inspector General, *Out of State Facility Inspection Results*, memo to Matthew Cate, Secretary, California Department of Corrections and Rehabilitation, dated December 2, 2010.

<sup>120</sup> "Prison firm optimistic about Arizona bid despite incidents," *Arizona Republic*, August 8, 2011

ly \$10-\$12 an hour. CCA employees also received 240 less hours of training than those employed by ADC.<sup>121</sup>

This combination of low pay and lax background screening procedures may help to explain the various scandals involving CCA staff in Arizona in the past three years:

- A CCA employee pled guilty to drug charges in April 2010 for attempting to give prison inmates cocaine at the Central Arizona Detention Center in Florence.<sup>122</sup>
- Two prison guards were injured when a CCA prison bus transporting inmates to Mississippi rear-ended another vehicle along Interstate 10.<sup>123</sup>
- A prison guard at Saguaro Correctional Center broke into a Pima County home in 2009 wielding guns and was fatally shot by a neighbor as he attempted to flee.<sup>124</sup>
- A CCA employee pled guilty to drug charges in April for attempting to give prison inmates cocaine at the Central Arizona Detention Center in Florence.<sup>125</sup>
- A Hawaiian inmate sued CCA in 2010, saying that an officer at Saguaro forced him to perform oral sex in October 2009. Guard Richard Ketland, charged with unlawful sexual contact, pleaded guilty to a lesser charge and was sentenced to probation.<sup>126</sup>

#### **Grievances of ICE Detainees in CCA Facilities in Arizona**

A report by the ACLU highlighted the issue of immigrant grievances against CCA in Arizona detention centers:

*“Men and women detained in all five Arizona facilities noted that grievance procedures are unclear, ineffective and inadequate to address the problems they face in detention. Several people indicated that they do not even attempt to file grievances because they are afraid of retribution by officers and other staff who may consider their requests or grievances an annoyance. Detainees in some facilities explained that they have to request grievance forms from detention officers, that officers often ask details about the nature of the grievance before supplying the form, and sometimes have to wait several days before receiving a form.”<sup>127</sup>*

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<sup>121</sup> “CCA criticized by union, praised by Florence officials,” *The Daily Courier*, 12/18/09.

<sup>122</sup> “Arizona corrections officer caught buying cocaine for inmate,” *ABC15*, 4/21/10.

<sup>123</sup> “Van carrying inmates crashes on I-10 at Avra Valley,” *KOLD*, 9/29/10.

<sup>124</sup> “Suspect in deadly invasion was a prison guard,” *AP*, 7/22/09.

<sup>125</sup> “Arizona corrections officer caught buying cocaine for inmate,” *ABC15*, 4/21/10.

<sup>126</sup> “Prison firm optimistic about Arizona bid despite incidents,” *Arizona Republic*, August 8, 2011

<sup>127</sup> American Civil Liberties Union, “In Their Own Words: Enduring abuse in Arizona immigration detention centers.” June 2011;

<http://acluaz.org/sites/default/files/documents/detention%20report%202011.pdf>.

## Conclusion

Private prison corporations' concern with the bottom line frequently leads them to reduce operational costs in order to produce savings. The main area in which the corporations tend to make costs is personnel expenditures, including providing a lower level of staff benefits, salaries, and professional training. On average, private prison employees receive 58 hours less training than their publicly employed counterparts.<sup>128</sup> As a result, there are higher employee turnover rates in private prisons than in publicly operated facilities.

Cutting back on personnel and programming among private prison facilities can compromise correctional operations including basic safety and security. Federal researchers have documented higher rates of escapes from private prisons as well as contraband violations evidenced by higher rates of positive drug tests. Additionally, a national survey of private prisons for the U.S. Department of Justice found that private prison guards are assaulted by prisoners at a rate 49% higher than the rate of assaults experienced in their public prison counterparts.<sup>129</sup>

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<sup>128</sup> Blakely, C.R. & Bumphus, V.W., *Private and public sector prisons—a comparison of select characteristics*. Federal Probation, 68(1), 27-31, 2004;

[http://findarticles.com/p/articles/mi\\_qa4144/is\\_200406/ai\\_n9446513](http://findarticles.com/p/articles/mi_qa4144/is_200406/ai_n9446513)

<sup>129</sup> Austin, James Ph.D. & Coventry, Garry Ph.D. *Emerging Issues on Privatized Prisons*. Washington, DC: Bureau of Justice Assistance, 2001; <https://www.ncjrs.gov/pdffiles1/bja/181249.pdf>

## Performance Measure III: Programs and Services

*Deaths in custody, suicides, medical neglect, and lack of mental health treatment*

### *Key Findings*

- *Private prisons will not house prisoners with medical problems or mental health needs because these services are expensive to provide. These prisoners are concentrated in state facilities, placing the financial burden on the state.*
- *The Arizona Department of Corrections saw a dramatic increase in suicides between 2009-2011.*
- *The ACLU and California Prison Law Office have accused the state of chronically and systemically denying medical and mental-health care to inmates.*
- *Eloy Detention Center had the highest number of deaths of any immigrant detention facility in the US—9 since 2003*

Whatever the public may think about treatment of prisoners, incarcerated people do have basic constitutional rights, and correctional facilities have a responsibility to provide a certain standard of care to attend to their medical and mental health needs. This is at its most basic a public health issue. Over 90% of the people in prison today will one day be released. If basic medical care is not provided, they will come back to their families and communities much sicker, putting others at risk of infection and increasing the burden on state medical systems and emergency rooms to treat illnesses that might have been prevented.

### **Deaths in State-Operated Facilities:**

The Arizona Department of Corrections has seen a disturbing upward trend in the number of suicides over the last few years. Out of a total of 48 since 2006, the single most deadly year was 2011, and the year is not yet over. There have been 11 suicides so far in 2011. The last recorded in the data provided by ADC in response to a public records request was in April. However, a review of the ADC webpage's Death Notifications reveals four additional "apparent suicides" since then, the most recent on October 7, 2011.

All of these suicides, save one, occurred in state-operated prisons. As has been stated previously, private prisons will not accept inmates who need ongoing psychiatric treatment. Therefore, the prisoners most at risk for suicide are unlikely to be found in private prisons, skewing the statistics.

In response to this and other evidence of systemic medical neglect, the ACLU and California Prison Law Office sent a "demand letter" to the Department of Corrections in October of 2011 accusing the state of chronically and systemically denying medical and mental-health care to inmates in violation of state and federal laws and the U.S. Constitution.





The contents of that letter, as well as information provided through additional interviews and correspondence with prisoners, was outlined in an expose in the *Arizona Republic* in December of 2011. “Allegations made by inmates, prisoner advocates and attorneys include:

- A diabetic prisoner, while waiting months for insulin, lost sight completely in one eye and partially in the other.
- An epileptic who wasn't given his medications suffered repeated seizures for weeks.
- A man with a growth on his penis was denied medical treatment for two years. Doctors ultimately diagnosed a cancerous tumor on his penis; the organ had to be amputated, and doctors told him the cancer had spread to his stomach.
- An inmate with a cancerous growth on his lip waited seven months for treatment. Most of his lip and mouth were removed, leaving him permanently disfigured.
- Prison medical staff members have repeatedly denied treatment to Tucson inmate Horace Sublett for Kaposi's sarcoma, a cancer, despite documentation, including from the VA hospital in Phoenix and other outside doctors confirming that the Navy veteran, 82, has the disease.
- Prisoners with emphysema, end-state renal disease and other illnesses reported being denied treatment or medication, leading to complications and permanent side effects.”<sup>130</sup>

The article indicates that a different sort of privatization effort may be partly to blame—the privatization of prison medical care:

*“Corrections officials say they have found no evidence of systemic problems, although they say that pending plans to privatize prison health care have made it harder to fill medical-staff vacancies and that rule changes two years ago that cut payment levels to outside contractors also crimped access to care.”<sup>131</sup>*

In other words, the pressure to reduce costs results in substandard care, and ultimately cost the state much more in settlement costs or damages for this and other lawsuits. There are some state responsibilities that are costly, and cutting corners to save money is not an option. If the state of Arizona wants to be “tough” and have the 6<sup>th</sup> highest incarceration rate in the US, there are some serious fiscal repercussions that cannot be avoided.

## **Deaths in Privately Operated State Prisons**

As has been previously stated, private prisons under contract with the state of Arizona do not accept prisoners with serious or chronic health or mental health care needs. When a

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<sup>130</sup> “Prison inmates in Arizona crying foul over medical care,” *Arizona Republic*, December 5, 2011

<sup>131</sup> “Prison inmates in Arizona crying foul over medical care,” *Arizona Republic*, December 5, 2011

prisoner in a private prison becomes sick enough that he cannot be treated onsite, he is transferred to a state-run facility and the Department of Corrections absorbs the cost of treatment.

This also can mean that, when an otherwise healthy prisoner suddenly becomes ill, private prisons may not be equipped to handle the emergency, putting those prisoners at risk for serious complications or even death. Anecdotal evidence from one prisoner indicates the basis for these concerns:

*“Since I’ve been here we have had 2 inmates die at this facility. One put in sick-call slip after sick-call slip only to be turned away without proper medical help only to die a week or two later. The other put in sick-calls too and was not properly handled and ended up dying a short time later. Inmates watched in horror as undertrained nurses did nothing to try to revive the 30 year old inmate in question. Stating and I quote: ‘I don’t know how to do CPR.’” –Prisoner at Florence West (Operated by GEO Group)*

Clearly, private prison corporations are both unwilling and unable to adequately provide for prisoners’ medical needs. At the same time, budget constraints and the push for privatization of medical care in state-run facilities have bred a medical crisis that threatens not only the lives of the state’s inmates but also the health of the public. Once again, a simple state-versus-private construct will not adequately solve the problem. There is no question that greater oversight and accountability must be imposed on all prisons in Arizona to ensure that these serious problems are corrected.

**Deaths in CCA Prisons in Arizona**

Again, the amount of data provided by various governmental entities was fragmented and limited. The data that was made available is summarized in the tables below:

Suicide data for Hawaiian Prisoners in CCA’s Red Rock and Saguaro Correctional Centers, 2008-2010

<b>Suicides of Hawaiian Prisoners in Arizona, 2008-2010</b>		
	<b>Red Rock</b>	<b>Saguaro</b>
<b>Attempted Suicides</b>	20	2
<b>Suicides</b>	0	0

The State of Washington reported one incident of “Attempted self mutilation/harm” between 2006-2010, in the Florence Correctional Center.

The state of California reported four suicides or attempted suicides at La Palma in 2010.

### **Medical Treatment and Deaths of ICE Detainees in CCA Facilities in Arizona**

Recently there has been a flood of data emerging about denial of medical treatment in CCA's ICE detention facilities. The Eloy Detention Center has had the highest number of deaths of any immigrant detention facility in the U.S.<sup>132</sup>

Records from the US Department of Immigration and Customs Enforcement show that nine immigrants have died while in custody at Eloy since 2003, more than reported at any other facility. The deaths were only discovered because of an ACLU lawsuit under the Freedom of Information Act asking for a comprehensive list of deaths in 2007.<sup>133</sup>

A 2008 *Washington Post* investigation into medical care in immigrant detention centers found "a hidden world of flawed medical judgments, faulty administrative practices, neglectful guards, ill-trained technicians, sloppy record-keeping, lost medical files and dangerous staff shortages. It is also a world increasingly run by high-priced private contractors. There is evidence that infectious diseases, including tuberculosis and chicken pox, are spreading inside the centers."<sup>134</sup>

These concerns are echoed in an in-depth ACLU report specifically on conditions in immigrant detention centers here in Arizona:

*"Among the most commonly reported problems by detainees in Arizona is that their requests for medical care were not taken seriously by detention staff, nor conveyed to appropriate medical staff. It was also reported that detainees experienced delays before being seen by or receiving treatment from a provider, and were not given care consistent with prior treatment. In some cases, detainees told us that they provided detention center medical staff with previous medical records and prescriptions, yet still did not receive consistent or timely care."*<sup>135</sup>

The ICE inspection of the Eloy Detention Center in 2008 did not report the number of Psychiatric/Medical Cases referred for outside care by quarter, however, they did report 1,060 referrals for medical care and 31 psychiatric referrals. There was one death reported due

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<sup>132</sup> "Officials obscured truth of migrant deaths in jail," *New York Times*, January 9, 2010

<sup>133</sup> "Officials obscured truth of migrant deaths in jail," *New York Times*, January 9, 2010

<sup>134</sup> System of neglect," *Washington Post*, May 18, 2008

<sup>135</sup> American Civil Liberties Union, "In Their Own Words: Enduring abuse in Arizona immigration detention centers." June 2011;

<http://acluaz.org/sites/default/files/documents/detention%20report%202011.pdf>

to illness. The report states that the detainee was transported to a local hospital and died about a month later of “multiple system failures because of cancer.”<sup>136</sup>

The bottom line is that medical and mental health treatment are extremely expensive. For private prisons concerned with profit margins, providing quality medical care, medications, and psychiatric treatment is a financial drag. This is why private prisons “cherry pick” prisoners to house that are low cost, specifically excluding in many cases those prisoners with chronic medical conditions. The scant data provided by the corporations on numbers of deaths in custody, combined with anecdotal reports from prisoners and the findings of investigations by the ACLU, give ample cause for concern. These initial findings point to a need for greater oversight and reporting requirements to assess the full scope of the problem and indicate potential avenues for reform.

In the meantime, it is clear that privatization is not a solution to the problem of substandard prison medical and mental health care.

## Recidivism

- *None of the private prison corporations operating in Arizona measure recidivism rates.*
- *The Arizona Department of Corrections has a 42% recidivism rate.*
- *ADC estimates that 75% of prisoners have significant substance abuse histories, yet only 6% of AZ prisoners completed drug treatment in 2011.*
- *50% of Kingman prisoners were unemployed and most slots in education and drug treatment programs were unfilled.*
- *“Northern Hispanic inmates” in CCA’s La Palma prison were denied the full range of programming that was supposed to be provided to California prisoners. These prisoners had no religious services, Alcoholics Anonymous/Narcotics Anonymous, and few paid jobs.*

In 2005, the Department of Corrections conducted a recidivism study, the first of its kind on record in Arizona. The focus of the document is on the impact of prisoner programming on the numbers of people returning to custody. The study found that, among 54,660 inmates released over the period 1990-1999:

- 1) 42.4% returned to ADC custody for any reason
- 2) 24.5% returned to ADC custody with a new criminal commitment
- 3) 23.2% acquired a new felony conviction resulting in recommitment
- 4) 5.9% acquired a new felony conviction for a violent crime resulting in recommitment

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<sup>136</sup> Immigration and Custom Enforcement, *Detention Facility Inspection Form*. Eloy Detention Center February 19-21, 2008; <http://www.ice.gov/doclib/foia/dfra-ice-dro/eloydetentioncentereloyazfebruary19212008.pdf>

- 5) 30.9% committed a new felony offense resulting in recommitment
- 6) 7.9% committed a new violent felony offense resulting in recommitment<sup>137</sup>

The only more recent data available on recidivism is the Department's "Corrections at a Glance," which provides monthly statistics on the prisoner population. According to the November 2011 edition, 18,654 state prisoners had served a prior prison term.<sup>138</sup> This is 46.6% of the population. This would indicate that Arizona's recidivism rate has risen since 2005.

The 2005 recidivism study showed that recidivism rates increase with time—the longer the period of follow-up study, the more likely a person was to have returned to custody. It also demonstrated that males are more likely to recidivate than women, and that the older people get, the less likely they are to go back to prison.

The report also shows, perhaps unsurprisingly, that rehabilitative programming offered to prisoners reduces recidivism rates by 25%. This includes work, academic education, vocational education, and substance abuse treatment. The best results were for those involved in prison industry programs, who saw a 34% reduction in recidivism. Substance abuse treatment also produced significant reductions in recidivism.<sup>139</sup>

Unfortunately, when budgets are tight, these types of programs are the first to be cut. As it stands, prisoners in high security units in ADC are prohibited from participating in these programs. And it is unclear how many slots are available relative to the need inside state prisons. Out of 40,027 prisoners in ADC in November 2011 participation levels in these programs are minimal:

1,693 enrolled in functional literacy programs  
2,809 in GED  
2,136 in Career and Technical Education

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<sup>137</sup> Arizona Department of Corrections, *Arizona Inmate Recidivism Study: Executive Summary*. May 2005; [http://www.azcorrections.gov/adcreports/recidivism\\_2005.pdf](http://www.azcorrections.gov/adcreports/recidivism_2005.pdf).

<sup>138</sup> Arizona Department of Corrections, *Corrections At A Glance*, November 2011; <http://www.azcorrections.gov/adcreports/CAG/CAGnov11.pdf>.

<sup>139</sup> Arizona Department of Corrections, *Arizona Inmate Recidivism Study: Executive Summary*. May 2005; [http://www.azcorrections.gov/adcreports/recidivism\\_2005.pdf](http://www.azcorrections.gov/adcreports/recidivism_2005.pdf).

Despite ADC's own assessment that "seventy five percent of inmates assessed at intake have significant substance abuse histories,"<sup>140</sup> the numbers in treatment programs are laughable:

488 in "moderate" drug treatment  
261 in "intensive" drug treatment  
201 in DUI treatment<sup>141</sup>

In FY 2011, ADC reports a total of 2,302 prisoners completed substance abuse treatment—only 6% of the prison population. This falls far short of the 75% of prisoners in need of such services.<sup>142</sup>

If our Department of Corrections—the only state agency that saw a budget increase in 2011—is not bothering to provide sufficient rehabilitative programming, it is unlikely that private prisons concerned with the bottom line will dedicate the resources to these programs. Once again, privatization is no solution to the problem.

#### **Private Prisons Under Contract With the State**

*"And I also believe that's why there's such a lack of rehabilitation and job trade education, because they don't want to help us become better individuals. They want us to come back so they can make more money. Cause let's face it if we leave and not come back they're out of business" –Prisoner at Florence West (Operated by GEO Group)*

Concerns that private prisons cut corners to meet the bottom line are paramount when considering the quality of services available to inmates in for-profit facilities. As discussed earlier, these corporations expressly prohibit prisoners with medical or mental health needs, as these require costly services. However, some private operators have gone after the "niche market" of drug and alcohol abuse treatment facilities, like the GEO prisons housing DUI offenders and MTC's Marana "Community Correctional Treatment Facility."

Representatives from all of the corporations bidding for contracts in Arizona, including Management and Training Corporation, GEO Group, and Corrections Corporation of America were asked during public hearings in August of 2011 about their recidivism data. Every corporation had the same response: They do not measure it. Terry Stewart, lobby-

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<sup>140</sup> Arizona Department of Corrections, *Corrections At A Glance*, November 2011; <http://www.azcorrections.gov/adcr/reports/CAG/CAGnov11.pdf>.

<sup>141</sup> *ibid*

<sup>142</sup> *ibid*

ist for MTC, went as far as to say that it was *impossible* to measure recidivism, as prisoners spend time in many different types of facilities during their terms of incarceration.

Yet all of these corporations make expansive claims about their effectiveness at maintaining public safety. Private prison supporters claim that these facilities are better because they apply a business model to the practice of corrections. However, most businesses in a free market are required to have some concrete measure of their effectiveness.

There is some evidence that state-contracted private prisons are not delivering on their promises to provide rehabilitative services to the state's inmates. Director Ryan's "Cure Notice" to MTC on persistent issues at the Kingman prison included the following entry under "Inmate Programs":

Inmate Idleness—50% of facility's inmate population is unemployed; 176 seats are available in Academic and Career Technical Education classes at Cerbat Unit with over 700 inmates eligible but unassigned; 20 seats are available in the DUI/Substance Abuse Treatment Program at Cerbat Unit with over 700 inmates eligible but unassigned; 12 seats are available in Academic Programs at Hualapai Unit with other 600 inmates eligible but unassigned; 39 seats are available in the DUI/Substance Abuse Treatment Program at Hualapai Unit with over 450 inmates eligible but unassigned; No Career Technical Education classes are available at Hualapai Unit.<sup>143</sup>

AFSC received several prisoner testimonies in 2010 that complained of a lack of programming in Florence West (GEO Group):

*"I have entirely too much idle time. I have a C clearance, but I can't even utilize it on this yard. They don't have jobs off the yard in comparison to other minimum yards. I've been trying to work in the kitchen and they won't even allow me to do that. I've been trying for over 3 months." –Prisoner at Florence West (Operated by GEO Group)*

*"I could be using this time more positively and I try to. But there needs to be more emphasis on programs and possibly trade education so people actually leave here better persons knowing a trade or having an education so they can be productive members of society" –Prisoner at Florence West (Operated by GEO Group)*

*"Yes I do participate [in programs] trying to suck up as much help and knowledge I can get. But a lot of the material is quite old and the people running these programs are just going through the motions not really interested in helping and often*

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<sup>143</sup> Charles Ryan, *Cure Notice to MTC*, memo, December 29, 2010.

*look down on us like we are lesser” –Prisoner at Florence West (Operated by GEO Group)*

*“I do have a lot of idle time because I completed all of my programming before I got to this yard” –Prisoner at Florence West (Operated by GEO Group)*

*“If us inmates walk out of the gates the same as we walked in them then we’ll be back in the same situation. We made mistakes but we still deserve to be able to work hard, take a trade, program more, and just accomplish something with our time here.” –Prisoner at Florence West (Operated by GEO Group)*

### **Rehabilitation in CCA Prisons in Arizona:**

Inspectors from the California Department of Corrections and Rehabilitation (CDCR) had similar concerns about CCA’s La Palma facility. After a racial altercation in 2008 at another prison, a group of “Northern Hispanic inmates” (the exact meaning of this racial grouping is unclear) were moved to La Palma.<sup>144</sup> These prisoners were apparently denied the full range of programming opportunities afforded to California prisoners. The investigator stated, “these inmates were offered exercise and GED education but have no access to a full law library, religious services, narcotics anonymous, alcoholics anonymous, and most paid jobs. In addition, CDCR management told us that 43 of 145 Northern Hispanic inmates housed at La Palma have a reading level at 6.0 or lower, yet none of these inmates are enrolled in adult basic education classes as required by CDCR’s Operations Manual, Section 101010.1.”<sup>145</sup>

There were also a number of disturbing findings having to do with denial of prisoner’s rights. These include “retaining inmates in administrative segregation, overriding inmate classification scores, delaying transfer of inmate property, family visiting videoconferencing not provided, limiting programming opportunities for Northern and Southern Hispanic inmates, inmates lacking required classification committee documents, incorrectly recording inmate disagreement with committee decisions, and inadequately analyzing and documenting rule violation reports.”<sup>146</sup>

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<sup>144</sup> The term “Northern Hispanic” is used by corrections and police in California to distinguish between southern California Hispanics, with closer ties to Mexico, and northern California Hispanics. There is a history of criminal associations in that state dividing along geographic lines, with the prison system separating them.

<sup>145</sup> David R. Shaw, California Inspector General, *Out of State Facility Inspection Results*, memo to Matthew L. Cate, Secretary, California Department of Corrections and Rehabilitation., December 2, 2010.

<sup>146</sup> *ibid*



Upon closer inspection, what the inspectors vaguely refer to as “incorrectly recording” appears to actually be deliberate efforts on the part of CCA staff to alter records to cover up prisoner dissent over their security classifications, a potential violation of their right to due process. Inspectors found ‘boiler plate’ identical language in the documents saying that the prisoners agreed with their classification, but in at least one case, staff informed the inspectors that the prisoner was not in agreement. Furthermore, inspectors found that CCA staff were not providing copies of these and other forms to the prisoners, so they would not be aware of the discrepancy.

## Conclusion

Perhaps the most important aspect of this section of this report is the lack of information AFSC was able to obtain on medical and mental health care in these facilities. There is no question that this issue deserves a level of scrutiny that was beyond the scope of this report. It is likely that the involvement of the ACLU and California Prison Law Office will be critical in exposing the deficiencies in the Arizona state prison system. However, those private prisons operating in Arizona that are not under contract with the state will be excluded from any legal action brought in this case. It is up to the government entities supplying the prisoners to monitor the quality of the care being provided and to hold the private operators accountable in cases of neglect or malpractice.

Once again, it appears that the quality of service in these facilities is subject to the corporations’ cost benefit analysis, rather than sound correctional practice or a concern for human welfare. This is also the case with in-prison rehabilitative programming.

None of the state agencies to which AFSC sent public information requests provided data on recidivism. None of the websites of the major private prison corporations (CCA, MTC, and GEO Group) list recidivism data. GEO Group goes so far as to claim, “we are committed to not only improving upon those programs already in place but instilling new evidence-based rehabilitation solutions that are proven to reduce recidivism.”<sup>147</sup> Yet nowhere do they provide any ‘evidence’ or ‘proof’ that their programs do what they claim. It is disingenuous and irresponsible for any company to charge for a service without providing solid proof that it is delivering the promised results.

Ironically, the greatest cost savings for states as well as the most significant reductions in recidivism appear to come from keeping people *out* of prison. Community based treatment programs, diversion and probation services all show impressive reductions in recidivism, for a fraction of what it costs to keep drug offenders in prison.

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<sup>147</sup> GEO Group, “Evidence-Based Rehabilitative Programs.” Web page;  
<http://www.geogroup.com/Programs.asp>

## Performance Measure IV: Transparency and Accountability

### *Key Findings*

- *Private prisons that are located in Arizona but do not contract with the state have virtually no state oversight.*
- *Private prison corporations are not required to make their records public under the Freedom of Information Act.*
- *Some state governments appear to be unable or unwilling to cancel contracts, even when the private operators are grossly negligent or violate state or federal laws.*
- *A Hawaii state auditor found that CCA deliberately skewed its cost savings data and circumvented open competition for contracts.*
- *The state of Arizona paid MTC \$3 million for empty prison beds after the corporation threatened to sue the state for \$10 million.*
- *All three major prison corporations buy influence with federal and state governments through aggressive lobbying and campaign contributions.*
- *There is evidence to suggest that some of these corporations are influencing the writing and passage of legislation that keep their prisons full, such as Arizona's infamous SB1070.*

### **Transparency**

Private corporations are not subject to the same oversight or made to provide the same level of transparency as a state agency, and none of the normal governmental checks and balances apply.

This is particularly true in the case of the six prisons operated by CCA that do not contract with the state of Arizona. Because they do not house Arizona prisoners, they are not subject to any monitoring by the Department of Corrections or the Auditor General.

Below is the extent of the oversight of these prisons required by Arizona law:

*41-1683. Private prison; prisoner identification; notice*

*A. Private prisons shall maintain photographs and fingerprints on site of all prisoners incarcerated in the facility.*

*B. Before another state transfers prisoners to a private prison in this state, the private prison housing prisoners under incarceration orders from a court of another state shall provide the governor, the director of the department of public safety and the director of the state department of corrections with the following information:*

- 1. The number of prisoners to be transferred.*
- 2. The names of the prisoners to be transferred.*

3. *The date of the transfer.*

4. *The security level of each prisoner to be transferred, as determined by the sentencing state.*

*C. If one to ten prisoners are transferred into this state, the private prison shall comply with the notification requirements in subsection B at least forty-eight hours before the prisoners arrive in this state. If eleven or more prisoners are transferred into this state, the private prison shall comply with the notification requirements pursuant to subsection B at least seven days before the prisoners arrive in this state.*

*D. The information provided pursuant to subsection B, paragraphs 2, 3 and 4 shall not be public record until the transfer of the prisoners is completed.<sup>148</sup>*

The private prison corporations are required to report the security level of their prisoners, but not the crimes for which prisoners were sentenced. Prisons are not required to notify state or local government of disturbances, riots, or escapes. Legislation to place basic reporting requirements on these facilities has been introduced several times, but never received a hearing. These are modest bills, requiring basic information like the types of offenders being housed, staffing levels, or requirements that prisons notify local and state authorities of a major incident that threatens the health and safety of the prisoners, staff, or the public.

Last session, Sen. Ron Gould, Chair of the Senate Judiciary Committee, announced publicly that he refused to allow these bills to be heard in his Committee because he “didn’t think they’re necessary.”<sup>149</sup>

One of the popular misconceptions about privatization is that it makes agencies more efficient. However, in the case of prison privatization, it actually does the opposite. Privatizing individual prison facilities simply adds another layer of bureaucracy to the system. Now, instead of one agency—the Department of Corrections—being responsible for the management of the state’s prisons, we have several different corporate bodies with their own staff and their own sets of policies and procedures.

The Department of Corrections must hire additional staff to write and monitor the contracts, and more staff to physically monitor and inspect the facilities themselves. The Department continues to have responsibility for certain functions, such as time computation,

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<sup>148</sup> Arizona Revised Statutes, Title 41 Ch,11 Art.8 Sec.1683;  
<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/41/01683.htm&Title=41&DocType=ARS>.

<sup>149</sup> “Arizona private prison oversight bills die,” *Arizona Republic*, February 15, 2011

medical care for serious or chronic conditions, and transportation—all of which must now be coordinated with the various corporations' staff. These parallel management functions are essentially redundant. In the end, the taxpayer is being charged for more bureaucracy, not less.

## **Accountability**

Often when concerns are raised about a prison corporation's safety record or other problems, the defense is that if the corporation has retained the contract for the facility, the government body sending the prisoners must have confidence in them. The conventional wisdom is that, in a free market, companies providing quality services will prosper and those that fail to deliver will go out of business. However, the evidence indicates that the reality is not so simple.

Decisions about private prison contracts and the people who make them (legislators, Corrections administrators) are responding to a variety of pressures when awarding contracts. There are a myriad of factors at play in these decisions, such as prison population pressures, politics, and, of course, money. In some instances, these other issues may make it difficult for a state to cancel a contract with a private prison, even when the facilities are grossly mismanaged or there is rampant abuse of prisoners.

The State Auditor of Hawaii, which houses its inmates in a CCA-run prison in Eloy, Arizona, recently released a review of its contracts with the private operator. It concludes that CCA had deliberately misled the state legislature about the cost of privatization by providing "artificial cost figures derived from a calculation based on a flawed methodology."<sup>150</sup> It also reveals that CCA was essentially gaming the system. The Auditor found that, "department directors, past and present, have misused their procurement authority to circumvent the process that agencies are required by law to follow. By treating CCA as a government agent, instead of a private for-profit corporation, the department was able to secure the company as the vendor of choice, relieving it from the open competition that the Hawai'i Public Procurement Code was designed to ensure."<sup>151</sup>

When the allegations of rampant abuses against Hawaiian inmates in CCA facilities in Arizona came to light, the state's Governor announced that he would cancel contracts and

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<sup>150</sup> The Auditor, State of Hawai'i, *Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services*, Report No. 10-10, December 2010; <http://www.state.hi.us/auditor/Reports/2010/10-10.pdf>

<sup>151</sup> The Auditor, State of Hawai'i, *Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services*, Report No. 10-10, December 2010; <http://www.state.hi.us/auditor/Reports/2010/10-10.pdf>

bring prisoners back to the islands. In December of 2010, Governor Neil Abercrombie pledged to bring Hawaii's prisoners home."<sup>152</sup>

A month later, he appeared to be making good on his pledge, as 243 prisoners were returned to Hawaii, while just 96 were transferred out.<sup>153</sup> Then, five months later, the state signed a new, three-year contract with CCA to house up to 1,900 prison inmates at private prisons in Arizona. CCA was believed to have submitted the sole bid for the contract.<sup>154</sup> When asked about the discrepancy, the Governor explained that the plan to build new prisons on the islands to accommodate the returning prisoners was still in development. With nowhere else to turn, the state handed over an estimated \$44.3 million to a corporation that might not only be cooking the books, but also routinely abusing Hawaiian prisoners.<sup>155</sup>

Not only have private prison corporations in some cases purposely misled the contracting agency, there is also evidence of prison corporations bullying states and avoiding accountability for missteps by threatening costly lawsuits.

When Arizona officials have attempted to hold for-profit prison operators accountable for serious problems, they have been undermined by the corporations' strong-arm tactics. After the escapes from MTC's Kingman prison, many of the fixes requested by ADC were not being implemented, even as late as December of 2010. A "Cure Notice" was sent to MTC on December 29, 2010.

The document provides a timeline of correspondence between ADC and MTC, in ADC's attempt to get the company to fix problems at Kingman. It refers to a November 1, 2010 document from ADC "which included 9 outstanding deficiencies that remained uncorrected, as well as 24 additional deficiencies identified at both Kingman units." It also refers to a December 27, 2010 document from ADC which "cited corrective actions that have not, in fact, taken place." On pages 2-3 of the Cure Notice, Ryan states, "...MTC Kingman has not effected sustained systemic operational improvements."<sup>156</sup> The document then provides a list of 12 bullet points describing specific problems that persist in the facility and had not been corrected.

In response to this foot-dragging on the part of the corporation, the state pulled 238 high-risk prisoners out of Kingman and said it would stop sending new prisoners until MTC

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<sup>152</sup> "Abercrombie pledges isle inmates' return," *Honolulu Star Advertiser*, December 16, 2010

<sup>153</sup> "Isle inmates brought home," *Honolulu Star Advertiser*, January 28, 2011

<sup>154</sup> "State Signs New Three-Year Arizona Prison Deal," *Hawaii Reporter*, June 22, 2011

<sup>155</sup> "State Signs New Three-Year Arizona Prison Deal," *Hawaii Reporter*, June 22, 2011

<sup>156</sup> Charles Ryan, *Cure Notice to MTC*, memo, December 29, 2010.

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.

While state officials accused MTC of dragging its feet in fixing flaws at Kingman, the company threatened to sue, saying the state had no right to refuse to pay the guaranteed 97 percent and demanding millions of dollars to make up for what it had lost since the state stopped sending prisoners.

By March 21, when the two sides settled, MTC's demand amounted to nearly \$10 million. The state realized it was out-gunned. In exchange for MTC dropping its claim, Corrections agreed to begin paying MTC at the 97 percent rate on May 1, even though it would take until the end of August to send enough new inmates to refill the prison to that level. Between May 2010 and August of 2011, Arizona had paid MTC—a company whose negligence let three prisoners escape and murder two people—over \$3 million for empty beds.<sup>157</sup>

## **Are Prison Corporations Are Writing Arizona's Laws?**

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 ef-*

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<sup>157</sup> “Arizona prison oversight lacking for private facilities,” *Arizona Republic*, August 7, 2011

*fective than unions in lobbying for policies that would increase prison populations.”<sup>158</sup>*

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 then 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.<sup>159</sup>

All of this led to widespread speculation as to whether these relationships were a factor in Brewer’s support for SB1070, Arizona’s controversial anti-immigration 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.

Of further interest is the role of ALEC, the American Legislative Exchange Council. ALEC is an organization that counts legislators and corporations as its members. ALEC holds conferences in elite and swanky resorts where legislators are wined and dined by lobbyists and attend “educational sessions” on issues of interest to the group’s corporate members. They also draft model legislation which the legislators then carry home to their states and introduce in their respective legislatures.

ALEC Private Sector Chairs (corporate lobbyists, generally) in each state raise huge amounts of money from various businesses for a “Scholarship Fund.” The Public Sector Chair (a state legislator) then reimburses the legislators for their expenses associated with attending these soirees. Interestingly, these reimbursements are not considered to be political gifts and do not have to be reported as lobbying. ALEC is considered to be a non-profit organization and is not required to register as a lobbying organization in any state.

For-profit prison corporations have long been involved in ALEC. The current roster includes Corrections Corporation of America, the nation’s largest private jailer; GEO Group, the nation’s second largest private jailer; Sodexo Marriott, the nation’s leading food services provider to private correctional institutions; the American Bail Coalition; and Taser International, to name a few.

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<sup>158</sup> “The Perverse Incentives of Private Prisons,” *The Economist*, 8/4/2010.

<sup>159</sup> Beau Hodai, “The Ties That Bind: Arizona Politicians and the Private Prison Industry,” *In These Times*, June 21, 2010.

All the so-called ‘tough on crime’ laws of the 1990’s were ALEC model legislation, including “Three Strikes,” “Truth in Sentencing,” and mandatory sentencing laws. 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.”<sup>160</sup> 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.”<sup>161</sup>

Corrections Corporation of America was the Chair of ALEC’s Public Safety Task Force for the past decade, only recently stepping down due to criticism for its role in promoting legislation that filled its prisons. Given the close ties between the Governor’s office and CCA, there was much speculation that ALEC was behind SB1070. A two-part expose on National Public Radio went as far as to say that the bill was conceived and drafted in meetings with CCA and ALEC. However, it is clear that the concept of the bill originated with Russell Pearce. Various pieces of the bill had been introduced as individual bills in previous sessions, but did not pass. In a sense, SB1070 was Russell Pearce’s ‘letter to Santa Claus’ — on one piece of paper, he got everything he always wanted.

National Public Radio reported that the bill was discussed at an ALEC meeting in December of 2009.<sup>162</sup> It is possible that the corporate members like CCA helped in making the bill language more “passable” for its reintroduction. And it is almost certain that they made SB1070 into model legislation, to be introduced in states like Georgia and Tennessee. Legislators in 25 states said they intended to introduce SB1070 clones in their legislatures, according to the Washington Independent.<sup>163</sup>

## **Private Prison Influence-Peddling in Arizona**

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 repre-

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<sup>160</sup> Institute for Money in State Politics, *Policy Lockdown: Prison Interest Court Political Players*. April 2006.

<sup>161</sup> Institute for Money in State Politics, “Policy Lockdown: Prison Interest Court Political Players.” April 2006.

<sup>162</sup> “Prison economics help drive Ariz. immigration law,” *National Public Radio*, October 28, 2010.

<sup>163</sup> “Many states look to Arizona’s SB1070 as a model for new immigration legislation,” *Washington Independent*, December 28, 2010.



sented 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. There is little doubt that the four corporations bidding on contracts for new beds are working aggressively to influence state lawmakers in order to increase their odds of winning a contract.

A recent report examining the political influence of private prison corporations by Justice Policy Institute, charges that the corporations have taken aggressive measures over the past decade to create markets for their products.

*“For-profit private prison companies primarily use three strategies to influence policy: lobbying, direct campaign contributions, and building relationships, networks, and associations. Over the years, these political strategies have allowed private prison companies to promote policies that lead to higher rates of incarceration and thus greater profit margins for their company. In particular, private prison companies have had either influence over or helped to draft model legislation such as, three-strikes` and ,truth-in-sentencing` laws, both of which have driven up incarceration rates and ultimately created more opportunities for private prison companies to bid on contracts to increase revenues.”<sup>164</sup>*

The following analysis examines the efforts of the three most prominent for-profit prison corporations to exert influence in Arizona in each of the areas highlighted by Justice Policy Institute: Lobbying, Contributions, and Relationships.

Arizona’s campaign contribution limits are among the lowest in the country. In 2011, the maximum an individual could contribute to a legislative candidate was \$424. It is also important to note that State races generally do not require the huge campaign coffers needed to run for Congress.

### **CCA’s Influence in Arizona**

CCA is clearly the biggest spender among prison corporations in Arizona. The *Arizona Republic* reported that CCA associates and its political-action committee have reported giving about \$35,000 in political donations over the past decade to Brewer, Pearce, former House Speaker Kirk Adams, House Speaker Andy Tobin and many others. A big chunk of that, \$11,520, was given for last year’s election campaigns. In addition, Arizona lobbying firms that represent CCA made about \$35,000 in political contributions in the 2010 election cycle.<sup>165</sup>

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<sup>164</sup> Justice Policy Institute, *Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies*, June 2011

<sup>165</sup> “Arizona prison businesses are big political contributors,” *Arizona Republic*, September 4, 2011

The corporation has also cultivated relationships with prominent Arizona business people and politicians. Governor Brewer drew fire this year for surrounding herself with CCA lobbyists. Chuck Coughlin, president of HighGround Public Affairs Consultants (which lobbies for CCA in Arizona), is a senior political adviser to the Governor. Paul Senseman, a lobbyist with Policy Development Group (which represents CCA), served until last fall as Brewer's spokesman. His wife, Kathryn Senseman, also lobbies for Policy Development Group.<sup>166</sup>

But CCA is also working hard to gain access to the state legislature. Bradley Regens joined CCA in 2007 after nine years as an Arizona legislative staffer, including two years as director of fiscal policy for the state House of Representatives.

These contributions to lawmakers makes perfect sense when you consider where CCA's revenues come from. State contracts make up exactly half of CCA's profits. And a considerable chunk of the rest is from federal agencies.

<b>CCA Influence In Arizona</b>			
<b>Strategy</b>	<b>Level</b>	<b>Recipient</b>	<b>Amount</b>
Lobbying	Federal	Congress, the Department of Homeland Security, Immigration and Customs Enforcement	<b>\$17.6 million (2000- 2010)</b> <sup>167</sup>
Contributions	State	Governor Jan Brewer's campaign	<b>\$1,080 (2010)</b>
	State	"Yes on 100", Brewer's sales tax initiative	<b>\$10,000 (2010)</b>
	State	Arizona Candidates in 2010 election cycle	<b>\$35,000</b> <sup>168</sup>
Relationships	State	Brewer's former Chief of Staff, Paul Senseman was a CCA lobbyist; His wife currently lobbies for CCA <sup>169</sup>	
	State	Brewer's Campaign Manager, Chuck Coughlin, runs a consulting firm that lobbies for CCA <sup>170</sup>	

<sup>166</sup> "The Ties That Bind: Arizona Politicians and the Private Prison Industry," *In These Times*, June 21, 2010;  
[http://www.inthesetimes.com/article/6085/ties\\_that\\_bind\\_arizona\\_politicians\\_and\\_the\\_private\\_prison\\_industry/](http://www.inthesetimes.com/article/6085/ties_that_bind_arizona_politicians_and_the_private_prison_industry/)

<sup>167</sup> "Arizona prison businesses are big political contributors," *Arizona Republic*, September 4, 2011

<sup>168</sup> *ibid*

<sup>169</sup> "The Ties That Bind: Arizona Politicians and the Private Prison Industry," *In These Times*, June 21, 2010

<sup>170</sup> *ibid*

	State	Bradley Regens joined CCA in 2007 after nine years as an Arizona legislative staffer, including two years as director of fiscal policy for the state House of Representatives <sup>171</sup>	
	State	Brewer appointed Mark Brnovich to Chair the Commission on Privatization and Efficiency (COPE). Brnovich was Senior Director of State and Customer Relations for CCA from 2005-2006 and a lobbyist for them in 2007 <sup>172</sup>	
	State	Former Arizona US Senator Dennis D-Concini is on CCA's Board of Directors <sup>173</sup>	
	City	The Mayor of Eloy, Arizona, worked as a guard for CCA and now has a lucrative landscaping contract with the company <sup>174</sup>	

The corporation's largess in other states can spill over onto Arizona as well. CCA is the largest beneficiary of Hawaii's use of private prisons. The corporation contributed \$6,000 to then-Governor Lingle. Interestingly, CCA's contribution, the maximum contribution limit for a gubernatorial candidate, was given on an off-election year – Lingle wasn't up for reelection until 2006. CCA's contribution to Governor Lingle's successful reelection bid came in the middle of the rapid increase of Hawaii's efforts to ship people to private prisons on the mainland.<sup>175</sup>

In 2010, CCA saw record revenue of \$1.67billion, up \$46 million from 2009. The majority of that revenue (50 percent or \$838.5million) came from state contracts, with 13 percent

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<sup>171</sup> *ibid*

<sup>172</sup> "Gambling Department Director named by Governor Jan Brewer: Mark Brnovich, legal scholar," *Phoenix New Times*, March 31, 2009;

[http://blogs.phoenixnewtimes.com/valleyfever/2009/03/legal\\_scholar\\_activist\\_prosecu.php](http://blogs.phoenixnewtimes.com/valleyfever/2009/03/legal_scholar_activist_prosecu.php)

<sup>173</sup> Corrections Corporation of America, Board of Directors;

<http://www.cca.com/about/management-team/board-directors/>

<sup>174</sup> "Prison firm optimistic about Arizona bid despite incidents," *Arizona Republic*, August 8, 2011

<sup>175</sup> Justice Policy Institute, *Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies*, June 2011

(\$214 million) from the state of California; approximately 10,250 people from the state of California are held in prisons run by CCA.<sup>176</sup>

**GEO Group’s Influence in Arizona**

As CCA’s closest competitor, GEO Group has done its fair share of palm-greasing in Arizona. The Arizona Republic reports,

“In Arizona, Geo has seven registered lobbyists, including three at KRB Consulting Inc., a firm it hired in early July in advance of Department of Corrections hearings on the pending private-prison contract. KRB’s Kristen Boilini worked for the Mofford and Symington administrations from 1989 to 1994; the firm’s Nick Simonetta is a former state Senate staffer. Geo also recently hired the Arizona publicity firm of Leibowitz Solo. The firm’s principal, David Leibowitz, is a former Republic columnist. Another Geo lobbyist is former legislator John Kaites, at Public Policy Partners.

In the 2010 election cycle, GEO Group’s lobbyists made about \$39,000 in campaign contributions to Brewer, Pearce, Adams, Kavanagh and others.

GEO Group and its political-action committee have given more than \$28,000 in campaign contributions over the last decade, including at least \$7,960 before last year’s election. Geo employees focused their 2010 contributions on then-House Speaker Adams and Majority Whip Tobin.”<sup>177</sup>

Like CCA, about half of GEO’s revenues come from state contracts. But although much has been made about CCA’s involvement in SB1070 and other legislation criminalizing immigrants, GEO is gobbling up a greater percentage of federal ICE contracts than CCA.

<b>GEO Group Influence in Arizona</b>			
Strategy	Level	Recipient	Amount
Lobbying	Federal	Department of Justice, Homeland Security, Congressional Representatives, ICE	<b>\$2.4 million since 2004</b> <sup>178</sup>
Contributions (from GEO lobbyists)	State	Brewer, Pearce, Adams, Kavanagh, and others	<b>\$39,000 in 2010 election cycle</b> <sup>179</sup>
Contributions (from PAC’s and	State	Arizona candidates	<b>more than \$28,000 over last</b>

<sup>176</sup> *ibid*

<sup>177</sup> “Arizona prison businesses are big political contributors,” *Arizona Republic*, September 4, 2011

<sup>178</sup> *ibid*

<sup>179</sup> *ibid*

associates)			decade <sup>180</sup>
Relationships	State	GEO Lobbyist Kristen Boilini worked for the Mofford and Symington administrations from 1989 to 1994 <sup>181</sup>	
	State	GEO Lobbyist John Kaites was a former Arizona Legislator <sup>182</sup>	

### Management and Training Corporation Influence in Arizona

In third place is MTC, which spends in rough proportion to its share of Arizona state contracts. MTC's prison operations are a little more than a third the size of GEO's or CCA's. MTC has 20 facilities in seven states, including its two Arizona prisons, Kingman and Marana. The company started out managing Job Corps job-training centers for the U.S. Department of Labor, and still has a number of these centers. MTC has \$3.26 billion in federal contracts, \$466 million of which are corrections-related.<sup>183</sup>

Given the public relations nightmare the corporation experienced with the tragic escapes from Kingman, it is unsurprising that MTC recently ramped up its lobbying efforts in Arizona. On Aug. 10, 2011, MTC hired the Dunn Stewart Group as lobbyists. Terry Stewart served as ADC director from 1995 until 2002. His second-in-command at the time was none other than current ADC director Charles Ryan, who is now responsible for awarding the contracts for the new private prison beds.

After his stint at the Department of Corrections, Stewart went to work as a prison privatization consultant, starting his own firm, Advanced Correctional Management (ACM). Now-Director Charles Ryan briefly worked for Stewart's firm after he retired from ADC the first time. ACM pushed prison privatization as early as 2003, only a year after Stewart's departure from ADC. Stewart was also supported a proposal to build a for-profit prison in Mexico for Arizona inmates of Mexican nationality that was eventually defeated, in part because of Mexican government opposition.<sup>184</sup>

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<sup>180</sup> *ibid*

<sup>181</sup> *ibid*

<sup>182</sup> "The Ties That Bind: Arizona Politicians and the Private Prison Industry," *In These Times*, June 21, 2010

<sup>183</sup> "Arizona prison businesses are big political contributors," *Arizona Republic*, September 4, 2011

<sup>184</sup> Grassroots Leadership, "Humpday Hall of Shame: Former Arizona DOC Director & MTC Consultant Terry Stewart," blog entry, August 24, 2011; <http://www.grassrootsleadership.org/blog/?p=150>

In 2003, Stewart and Ryan were contracted by the US State Department to set up the Iraqi prison system, including the Abu Ghraib facility that would later become synonymous with prisoner abuse. After Senator Chuck Schumer called for an in 2005, the charges were investigated by the Department of Justice. Officials failed to fault Stewart for directly abusing detainees in Iraqi prisons.

Shelly Sonberg became Warden of the Marana MTC facility in 2011 after leaving the Department of Corrections, where she served as the Southern Region Operations Director. Sonberg was sanctioned by ADC in September 2010 for failing to enforce Department policy in a case in which a prisoner in the Tucson complex was held in an outdoor cage overnight. The Phoenix New Times reported:

“During the investigation, ADC Regional Director Shelly Sonberg, who has to sign off on supervisor complaints, admitted that she doesn't read them all because there are too many. Instead, she selects one at random to read "cover to cover," and relies on her staff to make sure the complaints are complete. Sonberg was recently suspended 40 hours without pay.”<sup>185</sup>

<b>MTC Influence in Arizona</b>			
Strategy	Level	Recipient	Amount
Lobbying	Federal	PAC spending on Federal lobbying	<b>\$67,753 in 2010</b> <sup>186</sup>
Contributions	State	Bob Burns, Trish Groe, Russell Pearce, Steve Pierce, Andy Tobin	<b>\$2,618 (2004-2010)</b> <sup>187</sup>
Relationships	State	Former Arizona Corrections Director Terry Stewart served as a lobbyist for MTC in 2011. <sup>188</sup>	

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<sup>185</sup> “Prisoner kept in Tucson cage overnight, Warden sanctioned,” *Phoenix New Times*, September 7, 2010

<sup>186</sup>Center for Responsive Politics, *Management and Training Corp Contributions to Federal Candidates*; <http://www.opensecrets.org/pacs/pacgot.php?cmte=C00208322&cycle=2010>.

<sup>187</sup> Institute for Money in State Politics, *Management and Training Corporation, Contributions to Candidates*; <http://www.followthemoney.org/database/topcontributor.phtml?u=13897&y=0&incs=0&ince=0&incf=0&incy=0&so2=T#sorttable2>.

		Current Director Charles Ryan (who will award the new contracts) was Deputy Director under Stewart and worked with him in the private sector after leaving ADC. <sup>189</sup>	
		Shelly Sonberg, formerly the Southern Region Operations Director for the Department of Corrections left the ADC last year to become Warden of the Marana MTC facility <sup>190</sup>	
	County	Buster Johnson, Member of the Board of Supervisors of Mohave County, where the Kingman prison is located, is rumored to have been named MTC 'Employee of the Year' in 2006 <sup>191</sup>	

## Conclusion

A nuanced understanding of the depth of the influence of this industry in Arizona helps to put some of the actions of Arizona legislators and the Governor into perspective. Decades of evidence overwhelmingly shows that for-profit prisons are more expensive, less safe, and are not accountable to the taxpayers of Arizona. The Department of Corrections has shown for the last 6 years that the state is losing money on private prisons. And the Department of Corrections' own population projections show that the rate of growth has slowed dramatically. Yet the legislature mandated the construction of more private prison beds.

If the Governor and legislature cannot prove—using independent, objective data—that their claims of cost savings and public safety are real, then we are left with two possible conclusions:

1. That our state leaders are so ideologically wedded to the idea of privatization that they are unable or unwilling to face reality, or;

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<sup>188</sup> Grassroots Leadership, "Humpday Hall of Shame: Former Arizona DOC Director & MTC Consultant Terry Stewart.", blog entry, August 24, 2011.  
<http://www.grassrootsleadership.org/blog/?p=150>.

<sup>189</sup> *ibid*

<sup>190</sup> Arizona Department of Corrections, Marana Community Correctional Treatment Facility web site; [http://www.azcorrections.gov/prisons/Jill\\_marana.aspx](http://www.azcorrections.gov/prisons/Jill_marana.aspx)

<sup>191</sup> Frank Smith, personal communication, dated August 30, 2011



2. That they are beholden to the for-profit prison industry and that this industry has such unmitigated power in Arizona that it has simply hijacked the democratic process.



## Conclusions

In difficult economic times, lawmakers and other government officials are faced with tough decisions. At first glance, prison privatization may 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 overall, the state is losing money on privatization—\$10 million in the last three years.

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 and the community. 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 justify the millions of dollars spent on private prisons when they do not even measure recidivism? 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 additional beds. 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.

At the same time, it must be acknowledged that there are serious deficiencies in the management of the Arizona Department of Corrections. The purpose of this report is not to simply say that “state prisons are better than private prisons.” The ADC is far from blameless in the troubles plaguing those private prisons contracting with the state, and AFSC has substantial criticisms of the Department’s management of its own facilities.

But it is also abundantly clear that simply handing over control of our prisons to a private, for-profit corporation is not a viable solution. In fact, it appears to exacerbate certain problems and sometimes create new ones. And, it serves to further remove our prisons from public scrutiny and control. There is ample evidence of systemic, chronic and—arguably—endemic failures in the privatization of incarceration.



*The solution is more public control of our prison system, not less.*

More and more states are rejecting prison privatization and choosing not to expand their correctional facilities. In fact, over half of US states have acted to reduce their prison populations through evidence-based sentencing reforms. There are decades of research that point to sensible interventions such as diversion, community-based treatment, and earned release incentives as win-win solutions that not only save millions of taxpayer dollars but also are much more effective than long prison terms at reducing recidivism.

When politics and corporate profits are removed from the equation, most rational people can agree on what the criminal justice system should do: It should hold people accountable for transgressions; it should keep our community safe; and it should reduce future crime. Blindly adhering to a 'tough on crime' mantra that seeks to punish rather than correct has proven to be a complete policy failure, bankrupting states, tearing families apart, and ensuring recidivism. The private prison industry has capitalized on this failure, siphoning millions of dollars into corporations that have no accountability to the taxpayers footing the bill.

Arizona's elected officials must re-evaluate their priorities and make decisions based on fact, rather than a political party line or corporate campaign cash. And the voters must determine whose interests are being served at the state capitol.

# Recommendations

## Immediate Measures

1. The Governor or Legislature should institute an immediate moratorium on new prison construction. Existing RFP's should be cancelled, no new RFP's should be issued and no new state beds, private or state, should be funded.
2. Existing contracts with private prison operators should be closely reviewed in light of the findings in this report and the report issued by the Arizona Department of Corrections. In particular, the state should consider cancelling contracts for those private prisons that are found to be more expensive or of poorer quality than equivalent state beds.
3. The Secretary of State and/or the Attorney General of Arizona should investigate:
  - a. Expense reimbursement policies of the American Legislative Exchange Council (ALEC) and for-profit prison corporations to Arizona legislators, pursuant to ARS 41-1232.03; 'Expenditure reporting; public bodies and public lobbyists; gifts'
  - b. ALEC's status as a non-profit organization
  - c. The role of lobbyists or other for-profit prison industry representatives in the creation of specific legislation in Arizona, including ALEC's model legislation

## Additional Measures

1. All prison and detention facilities in Arizona should be subject to permanent review and monitoring by an independent body empowered to hold the prison operator and the state accountable and enact necessary reforms.
2. The legislature should pass legislation that enacts strict oversight and reporting requirements for those private prisons located in, but not contracted with, the state of Arizona. These rule must:
  - a. Require immediate notification to local and state authorities in the event 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 acceptance of 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 to be reported to the Department of Public Safety and the Department of Corrections, 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 prisoner count, the capacity of the facility, and information on their staffing levels.

- f. Require all privately operated prisons in Arizona to make their records public to the same extent that is required of the Department of Corrections or county jails.
    - g. Report all assaults, disturbances, deaths, and hospitalizations.
  3. The Legislature should require all prisons in Arizona—public and private—to publicly report their recidivism rate annually
  4. All state contracts with for-profit prison operators should include the following requirements (current contracts should be amended at the earliest opportunity):
    - a. The state may cancel a contract without cause with 90 days notice.
    - b. The state may assess damages using the formula in Attachment A for non-compliance with contract requirements, including: Security and control, use of force, escapes, employee qualifications and training, operating standards, maintenance and repairs, food service, and medical care.
    - c. The private operator must demonstrate compliance with all Department of Corrections policies.
    - d. The state has unimpeded access to all areas of a facility at all times, including unannounced visits.
    - e. The state may assess damages for staff vacancies and high turnover rates.
    - f. The state may view facility cameras from a remote site.
    - g. The Director of the Department of Corrections may take over control and operation of the facility if there are substantial or repeated breaches of contract or if the Director determines that the safety of the inmates, staff, or public is at risk.
  5. Arizona should follow the recommendations of the state Auditor General and the example of states like Michigan, Texas, and Mississippi and enact sensible reforms to their criminal sentencing laws to safely reduce prison populations. Through expansion of diversion and early release, use of non-prison alternatives and reduction of parole violation revocations, these states have saved millions of taxpayer dollars and significantly reduced their crime rates.