NPG Negative Population Growth, Inc.

THE HIGH COST OF CHEAP IMMIGRATION DETENTIONS

The first in a three-part series.

An NPG Forum Paper

by Edwin S. Rubenstein

Illegal immigration has increased dramatically since February 2021, bringing the current estimate of illegal immigrants in the US to an estimated 14-15 million. NPG has invested significant resources to expose the problem for what it truly is – a horribly irresponsible system that simply ignores immigration laws and allows nearly everyone who desires to enter the United States to do so. What's worse, immigration officials are now creating new programs to make it even easier for more hopeful migrants to enter and remain in the US. Negative Population Growth calls for an end to illegal immigration, accomplished by first securing the border to prevent illegal entry and then by enforcing all laws to strongly discourage illegal presence.

As part of NPG's educational programs, we are now developing a series of Forum papers to explain how specific industries such as private prisons, agriculture, and hospitality *profit* from continued illegal immigration. Many readers will be shocked by the revelations within this series as so many reap millions upon millions in financial rewards because our border is so porous.

Our first entry to the new series is dedicated to the private prison system, first built in the 1980s when government-run prisons were at capacity and law enforcement was really cracking down hard on criminal activity. For a fee, these new prisons could help alleviate some of the government's burden by housing prisoners. Built by private firms, taxpayers were spared any financial burden, and in many rural areas they provided much-needed jobs and served as a boon to the economy. Seems like a win-win situation, until you get into the details…

Early in his term President Biden signed an executive order barring the Department of Justice from renewing existing contracts with private for-profit prisons. Activists and prison reform advocates hoped this action would signal the end of private prisons in America.

Boy, were they wrong. The private prison industry is too lucrative, too hungry for new markets, and too savvy at gaming the enormous US criminal justice system, to allow itself to perish.

With future access denied to their current cash cows (for-profit-prisons) owners shifted their focus to a different niche: immigrant detention centers.

The shift toward immigrant detentions, which is now estimated to be a $3 billion industry, comes at a time when private prison companies have funneled big bucks to politicians who support border security and immigration enforcement that will increase the number of detained immigrants in Immigration and Customs Enforcement (ICE) facilities.[1]

Meanwhile, policies that could potentially reduce the number of detained or incarcerated aliens – **expedited deportations and a secure border wall, for example -** are ignored, if not actually discouraged, by private prison companies and their lobbyists.

IN THE BEGINNING…

Complaints about private prisons are not new. They go back to the advent of the prisons themselves in the 1980s. It was the Reagan era – a time when crime rates were exploding, prison systems were overwhelmed, and trust in government was plummeting.

It was the Golden Age of privatization.

Ronald Reagan saw government as an impediment to private sector prosperity. His administration promoted privatization – the use of for-profit companies to replace (allegedly) wasteful government activities – as a means of reducing the burden.

At the federal level Amtrak, the Postal Service, and Air Traffic Control were considered to be inefficient and therefore ripe for privatization.

At the state and local level, publicly run prisons and jails were prominent privatization candidates.

The appetite for locking people up was not matched by a willingness to spend taxpayer money on new government run facilities. This gap gave rise to a for-profit prison industry. Private operators were ready to bear some of the burden facing publicly run facilities – for a fee, of course.

At federal and state levels they now operate in more than two dozen states, often in remote regions where jobs can be scarce. **"It is not unusual in some states for big city crime to become a rural area's economic development."**[2]

As of June 2022, more than 24,000 immigrants were being detained by ICE and Border Patrol. Unfortunately, these agencies lack sufficient space to house these detainees. Instead, the Department of Homeland Security (DHS) – which Biden's ban does not extend to – contracts this responsibility to private companies.

As a result, 79% of detained immigrants are held in facilities that are privately owned or operated.[3]

The key take-away here? Private prisons are more profitable when illegal immigration numbers are high!

Inadequate medical services and other alleged human rights violations are well documented in for-profit immigrant detention centers. Some of the most egregious claims of abuse occurred at the Irwin County Detention Center in Ocilla, GA, which is owned by the private prison company LaSalle Corporations. There, **"…multiple detained immigrant women reportedly underwent forced hysterectomies and other invasive and unnecessary gynecological surgeries."**[4]

Nevertheless, Biden's immigrant detention policy continues to pour money into the hands of private prison companies by way of these inadequately run immigration detention facilities. While the government argues that private ownership allows for **"better flexibility in meeting fluctuating demand,"** the contracts are full of perverse incentives that make it hard to reduce immigrant detainees and often waste taxpayer dollars.

A 2021 Government Accountability Office report, for example, found that an inordinate share of ICE contracts guaranteed minimum payments, whereby facility operators are paid for a fixed number of beds regardless of use. This leads the agency to consistently overbuy beds, often paying for empty ones.

"In fact, ICE reportedly spent $20.6 million in May 2020 for over 12,000 unused beds per day, on average."[5]

WHO PROFITS FROM MIGRANT DETENTION IN THE US?

The Department of Homeland Security (DHS) operates the largest immigration detention system in the world, according to the National Immigrant Justice Center.[6] Two corporations – **CoreCivic and GEO Group** – dominate the private detentions industry in the US

CoreCivic, founded in 1983 and formerly known as the Corrections Corporation of America, is the largest private prison corporation in the world.[7] The company owns and operates more than 100 prisons and detention centers across the country. In addition, it was the first company to design, build, and operate an immigrant detention facility in the US.

GEO, the second largest private prison organization in the world, is a Florida-based company specializing in prisons, detentions, and mental health treatment.

In a November 2021 SEC filing, GEO reported its profits on ICE contracts fell by $125 million due to Biden's executive order. However, **"record increases in migrant flows at the US border have acted as a tailwind" - more than making up for the profits lost**.[8]

In FY2021 GEO Group and CoreCivic grossed $551 million and $552 million, respectively, from ICE contracts alone. Contracts with ICE now make up a sizable portion of both company's annual revenue, constituting 36% for GEO group and 30% for CoreCivic.[9]

Private companies are frequently granted contracts to operate prison food and health services (often so poorly they result in major lawsuits).[10]

In addition, there are numerous small, "under the radar" privatizations – prison phone calls, for example – that enable private detention facilities to offload their costs directly onto incarcerated people and their families.[11]

Creativity in pursuit of profits knows no limits. ICE recently started piloting **"Alternative to Detention"** programs that use electronic devices like GPS ankle bracelets to monitor and surveil immigrants without incarcerating them. Currently about 266,000 immigrant detainees are in such programs. More than

75% of these immigrants were monitored by a GEO Group subsidiary after the company signed a $2.2 billion contract with DHS in 2020.[12]

US POLITICIANS INFLUENCE LEGISLATION ON BEHALF OF PRIVATE PRISON COMPANIES

Pablo Paez says it ain't so.

GEO's executive vice president of corporate relations insists his company does not **"play a role in passing criminal justice or immigration laws,"** adding that GEO has **"never advocated for or against criminal justice or immigration enforcement policies."**[13]

Case closed? Not so fast.

A 2016 study by European-based researchers uncovered considerable links between for-profit prisons and state immigration policies. The research, published in the Central European Journal of International and Security Studies (CEJISS), focused on the state of Arizona.[14]

Arizona's Senate Bill 1070 was aimed at halting illegal immigration across AZ's border with Mexico. Passed in 2010, SB1070 (officially the **Support Our Law Enforcement and Safe Neighborhoods Act**) required local police to check the immigration status of any person they deemed to have a **"reasonable suspicion"** of being undocumented.

This was the heyday of Sherriff Joe Arpaio, the Maricopa County official who the US Department of Justice said **"oversaw the worst pattern of racial profiling in US history."**[15]

Thirty of the 36 co-sponsors of Arizona SB 1070 received political contributions from the private prison industry – including funding from GEO and CoreCivic.[16]

When SB 1070 was drafted, both GEO and CoreCivic were involved with the American Legislative Exchange Council (ALEC), an organization that worked with private companies to draft legislation at the state level. Similar versions of the AZ bill were passed in 36 other states across the US, according to the European study.

A Supreme Court ruling in 2012 and a settlement in 2016 effectively gutted the AZ law, as well as the 36 state clones modeled after it.[17]

NAMING NAMES

More recently, private prisons have gained leverage by donating to candidates on **both sides of the aisle.**

In the 2022 election cycle **Republican Senator Marco Rubio (FL)** was by far the top recipient, garnering more than $62,000 of private prison money. In November 2021, Rubio was one of only five senators to sign a "Dear Colleague" letter saying they would not vote for a budget that did not adequately fund border security and the Border Patrol.

Among 2022 gubernatorial candidates, the largest recipient was **Georgia Governor Brian Kemp**. Kemp received $18,000 from CoreCivic and $7,000 from GEO Group.[18]

Cracking down on illegal immigration has long been a hallmark of Kemp's platform. In one of his 2018 campaign ads, Kemp stated he would **"round up criminal illegals,"** himself in his pickup truck. Kemp is one of 10 Republican governors who urged Biden to enact their 10-point immigration plan calling for more Border Patrol and ICE agents as well as the end of **"catch and release"** policies that permit immigrants to enter the country pending their immigration hearings.[19]

It's no coincidence that Georgia is also home to CoreCivic's Stewart Detention Center in Lumpkin County, the largest ICE detention center in the country. It houses more than 1,080 detainees per day, on average.

Reality check: Just 11% of private prison companies' campaign contributions went to Democrats last year. But there are some notable pro-detention Dems.

The most vocal Democratic defender was **Representative Henry Cuellar (D-TX)**, who won re-election after taking $36,400 from the for-profit prison industry.[20] Cuellar praised GEO for playing **"an important role in maintaining our public safety,"** adding that **"without them, rapists, murderers, and other offenders would not be incarcerated."**[21] [No-spin Translation: GEO is one of the largest employers in Cueller's district, which includes three privately run ICE detention centers along a strip of highway known as **"detention alley"**.] [22]

Representative Tim Ryan (D -Ohio) ranks second to Cuellar among House Democrats in raking in private prison cash, though he returned a $2,500 check from CoreCivic during his 2018 campaign. The company operates the Northeast Ohio Correctional Center in Ryan's district.[23]

Among Senate Democrats**, Montana's Jon Tester** has taken money from GEO Group and CoreCivic since 2016, while **New Mexico Senator Martin Heinrich** gave a CoreCivic contribution to charity.

Both Tester and Heinrich won their re-election campaigns in 2018 – an outcome deplored by progressive activists in their states.

CALIFORNIA TRIED – AND FAILED – TO BAN PRIVATE IMMIGRANT DETENTION

In this corner: The US Constitution - specifically the **Supremacy Clause** - that makes immigration policy a federal responsibility.

In that corner: California Attorney General Rob Bonta, the author of AB 32, a state law that **blocks California from holding people in for-profit prisons and immigration detention facilities**.[24]

When AB 32 was enacted in 2019, California had 10 privately run facilities – with 11,000 beds. **GEO Group managed seven of them.**[25]

Both GEO Group and the Trump Administration filed federal lawsuits challenging the law. In 2020 a district judge upheld the law, finding that it didn't interfere with the federal government since AB 32 regulated private prisons only.

But guess what: GEO Group and the federal government appealed the decision, and by a 2-to-1 margin, a three-judge Ninth Circuit panel reversed the lower court's ruling. Their reasoning: **"to comply with California law, ICE would have to cease its ongoing immigration detention operations in California and adopt an entirely new approach to the state."**[26]

The Supremacy Clause strikes again!

The political implications are significant. California was the only state that would ban for-profit prisons *and* detention facilities.[27] **A similar New York law** is narrower, only banning for-profits from operating state prisons and local jails. In New Jersey, Democrat Governor Phil Murphy signed a bill **blocking public and private prisons from signing or renewing contracts with ICE** – but his law only applied to immigrants with civil immigration violations.[28]

Private prison corporations will view the Ninth Circuit's decision as precedent to challenge other states that want to block for-profit detention centers – a list that now includes Illinois, Maryland, and Washington state.[29]

Nevertheless, the Biden Administration has lowered America's reliance on for-profit prisons to manage ICE detention beds. As of September 2022, there were about 25,000 detainees in ICE detention, down by more than 50% from 51,000 in September 2019.

And the use of **Alternative to Detention** programs, whereby illegal aliens are tracked by technology at home rather than behind bars in ICE detention centers, has skyrocketed. The program monitored 316,700 families and single individuals in September 2022, up from 83,186 in September 2019.[30]

But let's not change the subject: While California can appeal the Ninth Circuit's decision to the Supreme Court, it is unlikely to prevail given the Court's conservative majority.

Bottom line: Privately run immigrant detention facilities will likely be a fact of life in the Golden State for the foreseeable future.

SUMMARY

Expand or die. This truism applies to any industry where many private firms compete for market share. The for-profit prison business is not any industry, however. Demand for its services is not driven by growth in personal income or market prices. Public policies are the major determinant of a private prison company's revenues, profits, and employment.

The prison industry spends millions lobbying politicians and government agencies that are responsible for immigration policy. Senators and Representatives, Democrat and Republican, along with the Department of Homeland Security – the agency that oversees ICE – they're all approached. The larger corporations – GEO Group and CoreCivic – report lobbying ICE also.

Investors in these companies, which are traded on the New York Stock Exchange, have a financial interest in keeping their prison cells filled – even when the per detainee cost to taxpayers exceeds those of government-run facilities.

The opportunities for graft and corruption are endless.

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