

In 1984, the first private prison in the United States opened in Hamilton County, Tennessee.

The industry expanded in the following 10 years from \$14 million to \$120 million. (Gregmar) In the 1980s and early 1990s, “The War on Drugs and harsher sentencing policies, including mandatory minimum sentences, fueled a rapid expansion in the nation’s prison population.”

(Mason) This sudden need for prison beds, combined with Reagan’s philosophy of privatization to save the taxpayer money, led to the rise of private prisons in order to provide the necessary prison capacity at a lower price than public prisons could have managed. The private prison lobby claims that their prisons can operate more effectively and cheaper than government facilities without detriment to prisoners. These claims have been shown to be false, as they do not save a significant amount of money and they do a worse job of rehabilitating prisoners, to the extent that the treatment of prisoners at certain facilities borders on violating human rights, and the government does a horrible job of overseeing the standards they put into place.

First, the private prison lobby claims that their prisons can operate more cheaply than government-run facilities. CoreCivic, in a document entitled “What We Do” located on their website, states “We save taxpayer dollars. An industry-supported, peer-reviewed study published by the Independent Institute found that companies like ours generate from 12% to 58% in long-run taxpayer savings without sacrificing the quality of service” (CoreCivic). This study was nowhere to be found. An article on the website of a group called the Independent Institute entitled “Private Prisons have Public Benefits” can be found, but it doesn’t mention the 12% to 58% figures that were cited in the CoreCivic document. (Tabarrok)

According to AP News, an audit in Georgia concluded that it actually cost about \$4.50 more per inmate per day in a private facility than in a government-run facility (Private Prisons Cost). The audit does specify that this number does not consider other costs such as pensions, but that 5 dollar per day difference works out to about 10% more money per prisoner per day, which is significant. It is important to recognize that this is the result of one audit in one state, and that these numbers might be different depending on many factors, but the fact that in this case it was found that private prisons are more expensive brings into question the idea that the private prison lobby has perpetuated for years, that they save the taxpayers money.

In addition to the Georgia audit, The Brookings Institute, “a non-profit public policy organization based in Washington, DC” (Brookings About Us), conducted research and compiled a report entitled “The Economics of Private Prisons”. Within this report, they find that within the state of Mississippi, “Private prisons cost the state an average of \$46.50 per prisoner per day in 2012, while the state’s comparable public facilities ranged from \$35.11 to \$40.47” (Brookings Cost). In the neighboring states of Tennessee and Louisiana it was also found that “Louisiana’s private prisons were initially cheaper but the costs had risen to equal or more than public facilities and Tennessee’s private prisons cost savings came more in the form of forcing public facilities to lower costs.”(Brookings Cost). The fact that 3 separate states, all in the South where private prisons have become widely adopted, found that private prisons were not saving a significant amount of money proves that the claim of universal savings that private prison companies make is patently false.

They also found in the same report that even when it circumstances where private prisons are cheaper, “in practice the primary mechanism for cost saving in private prisons is lower salaries for correctional officers (about 65 to 70 percent of prison operating costs go to staff salaries)” (Brookings Cost). This fact, that correctional officers are paid less within private facilities compared to government facilities, will make sense when looking at rates of prisoner misconduct later in this report.

Within the same document on CoreCivic’s website, an additional claim can be found that states, “We are subject to strict government oversight and accountability measures, including many on-site government monitors and more than 1,000 outside audits and inspections performed over the past year alone.” Although this seems compelling at first, taking a look at a facility run by their competitor, GEO Group, who also claims on their website that “We believe that every human being should be treated with dignity” (GEO Group) makes this idea of strict government oversight harder to defend. Within a letter sent to the Governor of Mississippi by the Civil Rights Division of the US Department of Justice regarding an investigation into the privately run Walnut Grove Youth Correctional Facility, it is stated “We conclude that youth at WGYCF are not receiving constitutionally adequate care.” To back up this claim, it lists that “WGYCF is deliberately indifferent to staff sexual misconduct and inappropriate behavior with youth.” Later in the report, a specific example is described, where “a nurse was observed by a corrections officer having sexual intercourse with a youth in the medical department restroom” (Walnut Grove Investigation) That employee was fired immediately after the incident, but the report alleges that that incident was but one example of their “pervasive level of brazen staff

sexual misconduct” (Walnut Grove Investigation) In addition to the allegations of sexual misconduct, the investigation found that at some points in time “two officers are responsible for supervising between 128 and 256 youth” (Walnut Grove Investigation). The industry could claim that as soon as this was discovered by an audit, the problem was solved, but that just is not true. In that same report, it is specified that “Between July 2009 and May 2010, allegations of sexual misconduct and inappropriate behavior led to criminal charges against at least two and the termination of at least 13 staff members” (Walnut Grove Investigation), and that figure includes the nurse mentioned above, who was terminated and arrested in April 2010. The investigation of the facility was first sent to Mississippi officials on March 20, 2012, as part of the letter referenced previously, almost a full two years after 13 staff members at the facility were fired for sexual misconduct with minors. It is important to note that the Civil Rights Division of the Department of Justice does not conduct investigations into facilities when changes have been put in place to ensure that the rights of prisoners are being respected, and the fact that it took two years after 13 staff members were fired for sexual misconduct with minors for the state government to step in, and only then with the Department of Justice forcing them to, shows that their claim of solid government oversight is incorrect.

In addition to the case at Walnut Grove Correctional Facility, there is an overall trend of increased violence and disorder within private prisons. Within a report entitled “Review of the Federal Bureau of Prisons’ Monitoring of Contract Prisons” that was written by the Office of The Inspector General of the Department of Justice, it is concluded that “With the exception of fewer incidents of positive drug tests and sexual misconduct, the contract prisons had more

incidents per capita than the BOP [Bureau of Prisons] institutions in all of the other categories of data we examined” (Department of Justice). It is important to acknowledge that this report states “We note that we were unable to evaluate all of the factors that contributed to the underlying data, including the effect of inmate demographics and facility locations, as the BOP noted in response to a working draft of this report” (Department of Justice), meaning that this report may be flawed, but it also mentions that the data was collected from 14 private or contract prisons and 14 government run facilities, which is a significant sample size for a study like this. Therefore, even though the report mentions that it may be flawed, the fact that it acknowledges its possible flaws and its large sample size combine to increase the reliability of the source and its data. This report does state that there were more incidents of sexual misconduct and positive drug tests within government-run facilities, but all other metrics of incidents, including all forms of physical violence and contraband possession such as drugs or weapons, were found to be worse in private facilities. This fact doesn’t discount the issues of sexual misconduct in private facilities, and it is important to take into account the fact that private facilities are not directly controlled by the government and can be much harder to reform due to that lack of direct control.

In addition to sexual misconduct and increased violence, private facilities have lagged in their reporting of COVID-19 cases, reducing the public’s ability to understand the scale of COVID spread within their facilities. According to an article written by the Marshall Project, a non-profit dedicated to fighting for a fairer criminal justice system, “For the first time since coronavirus outbreaks began in federal prisons in March, the agency that oversees them is

reporting the number of sick prisoners in 11 facilities run by private contractors”(Neff). Those reports from private contractors were released in early May of 2020, a full 2 months after the outbreaks in their facilities began. The Marshall Project elaborates by adding, “The bureau released the new numbers days after The Marshall Project asked the agency why the official tally did not include its privately run prisons, and more than a month since officials began reporting federal prison numbers” (Neff). The fact that it took a non-profit requesting the numbers and one additional month for the BOP to release the data on COVID cases in private prisons shows the lack of oversight that private prisons enjoy, as this was all occurring during a pandemic where every day without data to create prevention measures around can exponentially increase case and death numbers.

Apart from increased violence, sexual misconduct, and lack of transparency regarding their handling of the COVID outbreaks within their facilities, the other key failure of private prisons to uphold the rights of its inmates is their use of Special Housing Units (SHUs), some of which are normally used for solitary confinement, to house new inmates. According to the previously cited report published by the Office of the Inspector General of the Department of Justice, “Our site visits also revealed that two of the three contract prisons we visited were improperly housing new inmates in Special Housing Units (SHU), which are normally used for disciplinary or administrative segregation, until beds became available in general population housing. These new inmates had not engaged in any of the behaviors cited in American Correctional Association standards and BOP policies that would justify being placed in such administrative or disciplinary segregation” (Department of Justice). They were using the SHUs for new prisoners

just because they did not have beds within general population. It is important to note that after this was discovered by the BOP representatives that conducted the site visits, the report states that the BOP director was notified and he modified the contracts to prohibit the use of SHUs for new prisoners, and the BOP has found that the practice has stopped. Although the practice was eliminated, it took the BOP director stepping in and forcing them to stop through a change of wording within the contract that keeps them in business to stop the practice. This was yet another horrible practice being utilized at private prisons that was only eliminated when the federal government got involved and threatened their profits by modifying their contracts.

The private prison lobby claims that their prisons can operate more effectively and cheaper than government facilities without detriment to prisoners. These claims have been shown to be false, as they do not save a significant amount of money and they do a worse job of rehabilitating prisoners, to the extent that the treatment of prisoners at certain facilities borders on violating human rights, and the government does a horrible job of overseeing the standards they put into place. To stop the mistreatment of our prisoners by companies that are motivated to put profit before the wellbeing of the human beings they care for, we must eliminate use of private prisons by state governments as well as the federal government. The elimination of these facilities and the resulting lack of prison beds may force the justice system as well as the lawmakers throughout the United States to reconsider what should be considered an offense that warrants the deprivation of someone's liberty.

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