

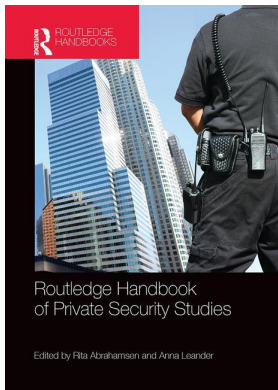
This article was downloaded by: 10.3.97.143

On: 08 Dec 2023

Access details: *subscription number*

Publisher: *Routledge*

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: 5 Howick Place, London SW1P 1WG, UK



## **Routledge Handbook of Private Security Studies**

Rita Abrahamson, Anna Leander

### **The Privatization of Punishment in the United States**

Publication details

<https://www.routledgehandbooks.com/doi/10.4324/9781315850986-21>

Shannon Wheatley Hartman, Roxanne Lynn Doty

**Published online on: 20 Oct 2015**

**How to cite :-** Shannon Wheatley Hartman, Roxanne Lynn Doty. 20 Oct 2015, *The Privatization of Punishment in the United States from*: Routledge Handbook of Private Security Studies Routledge  
Accessed on: 08 Dec 2023

<https://www.routledgehandbooks.com/doi/10.4324/9781315850986-21>

**PLEASE SCROLL DOWN FOR DOCUMENT**

Full terms and conditions of use: <https://www.routledgehandbooks.com/legal-notices/terms>

This Document PDF may be used for research, teaching and private study purposes. Any substantial or systematic reproductions, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The publisher shall not be liable for an loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

## 20

# THE PRIVATIZATION OF PUNISHMENT IN THE UNITED STATES

*Shannon Wheatley Hartman and Roxanne Lynn Doty*

The privatization of punishment exists in countries throughout the world. Although the scope is wide, for-profit prisons and detention facilities appear most entrenched in Australia, the United Kingdom, South Africa, and the United States. This chapter offers an overview of the privatization of punishment in the United States. The US imprisons more people – both per capita and in absolute terms – than any other country in the world. Over 2.2 million people are currently incarcerated in the US, and the privatization of punishment is both a response to and a contributing factor to this proliferation of jailed and detained individuals.

In this chapter we pay particular attention to the private prison and detention industries, which have become popularly known as the ‘prison industrial complex’. We argue that the privatization of punishment – in its many forms – reflects the increased blurring of the public/private sectors. Drawing upon the insights of Michel Foucault we argue that the privatization of punishment serves multiple functions such as the construction of criminality, the management of marginalized populations, and the extension of sovereign power through the private sector. Contrary to neoliberal claims, the increased role of privatization does not shrink the size of government, but serves to extend its reach through governance by distributing power through for-profit corporations. Throughout this chapter we describe one component of privatized punishment that shows no immediate signs of decline – the privatization of migrant detention centres. We conclude by anticipating the growth of the industry in yet another emerging market; the incarceration of migrant children.

### **Privatization of prisons and detention centres**

Imprisonment is one of the most severe sanctions that can be imposed. It deprives individuals of liberty and has the effect of creating vulnerable populations that exist on the margins of society. This practice in itself raises a series of moral, ethical, political, legal, psychological and social concerns, and these concerns become even more acute when for-profit corporations turn punishment into a business and inmates into a commodity. In this section we describe the role of corporations in the ‘prison industrial complex’ (PIC).

The term PIC is derived from the term ‘military industrial complex’ of the 1960s. Much like the military industry, albeit on a much smaller scale, the prison industry has been allowed to emerge to provide a service that has been traditionally considered the responsibility of the

state. The PIC describes the coordination of interests between public and private sectors, and includes, but are not limited to, private companies that provide, manage, and police prisons; corporations that contract prison labour; construction companies that build prison facilities; companies that supply food, phone, laundry, cleaning, visitation and medical services within the facility; the surveillance industry; private probation companies; as well as lawyers, lobbying groups, government agencies and legislators. The PIC thrives on the belief that punishment is the solution to economic, social and political problems. In other words, it is not only a set of corporations and government agencies, but it is also a state of mind. The PIC capitalizes on the popular but arguably flawed belief that imprisonment is the solution to homelessness, unemployment, drug addiction, mental illness, immigration, illiteracy and so on. To be clear, the PIC is not a conspiracy but a confluence of special interests that creates a seemingly self-sustaining system.

Success of the privatization of punishment has been contingent on the neoliberal belief in the market. The fiscal conservatism that began in the US during the 1970s, followed by the crisis that resulted from President Ronald Reagan's monetarism in the 1980s, played significant roles in the rise of private prisons. US states were confronted with increasing budget deficits, revenue constraints, and overcrowding in existing prison facilities. Tough anti-drug abuse legislation revived federal mandatory minimum sentencing and further taxed an already stretched penal system. Private prisons appeared to be an attractive alternative to states borrowing money or using tax revenues for the construction of new facilities. It was during this period that private prison corporations emerged and won their first contracts to run immigrant detention centres.

Although private prisons encountered financial problems in the late 1990s, the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and subsequent pieces of legislation offered relief in the form of increased demand for detention beds and new contracts. The industry continued to be stimulated by post-9/11 security budgets, which allowed for subcontracts with for-profit corporations in the pursuit of furthering homeland security. According to the US Department of Justice, these policies resulted in the private prison industry increasing by 1600 per cent between 1990 and 2009 (West *et al.* 2010). In 2010, the two largest private prison companies, Correction Corporation of America (CCA) and the GEO Group, reported earnings of US\$1.7 billion and US\$1.27 billion respectively to their shareholders (CCA 2010; Geo Group 2010).

CCA is the oldest and largest for-profit private prison corporation in the US. The company was founded in 1983 by Tom Beasley, T. Don Hutto, Doctor Crants and backed by venture capitalist Jack Massey. According to Beasley, the company was founded on the principle that you could sell prisons 'just like you were selling cars, or real estate, or hamburgers' (Selman and Leighton 2010: 58). He saw prison facilities as a product that could be packaged, marketed, and sold to impressionable consumers. This seemingly benign description of private prisons was reinforced by its achievement of real estate investment trust (REIT) status in 2013. Designed to reduce the payment of corporate federal income taxes, REITs are a special tax designation for companies that focus on real estate holdings. CCA was able to make the successful claim to the Internal Revenue Service (IRS) that the money they collect from government entities for holding prisoners is essentially the same as rent collection. In other words, the prison industry is treated as a housing service and in many ways confirms Beasley's strategy of treating it like any other industry.

Unlike other industries, however, prisons do not provide consumers with a tangible good or service. Private punishment is in the business of *depriving* individuals of liberty, which is a distinctly different type of business model. Moreover, the privatization of punishment has the

effect of creating commodities out of incarcerated or even potentially punishable individuals. For this business model to work and to expand, the prison industry must not only incarcerate all criminals, it must also actively work to construct new threats that can be addressed through incarceration. This is no secret. Private prison companies admit that their business model depends on high rates of incarceration and the incarceration of individuals that commit what has been traditionally consider a minor offense. As stated in the Corrections Corporation of America 2010 Annual Letter to Shareholders:

The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws. For instance, any changes with respect to drugs and controlled substances or illegal immigration could affect the number of persons arrested, convicted, and sentenced, thereby potentially reducing demand for correctional facilities to house them.

*(CCA 2010)*

It should come as no surprise then that CCA and the Geo Group actively lobby for and even help to shape legislation that contributes to the increasing criminalization of minor offenses. Take for example CCA's membership in the American Legislative Exchange Council (ALEC), a political organization known for incubating and proliferating conservative political agendas. Although ALEC touts itself as the largest 'membership association of state legislators', almost 98 per cent of its revenue comes from sources other than legislative membership dues, such as corporations, trade associations, and corporate foundations. The organization focuses on influencing lawmakers at the state level by drafting and disseminating model legislation (Elk and Sloan 2011). To put this in context, US state legislators are empowered to pass laws within their respective states. This is often achieved without much public scrutiny or debate. Federal legislation trumps state laws, however, in the silences of federal law, individual states have a great amount of power. ALEC has focused its energy on influencing state legislation.

CCA's influence in ALEC has been widespread and well documented. The company was a member of the Public Safety Task Force which developed model legislation such as mandatory minimum sentencing for nonviolent offenses, 'three strikes laws' that require repeat offenders to be sentenced to jail for a mandatory 25 years to life, and 'truth-in-sentencing' laws that require prisoners to serve most or all of their time without a chance for parole (Elk and Sloan 2011). These types of legislation, adopted by many states, have the overall effect of expanding punishment of offenses that would otherwise be considered minor while simultaneously requiring mandatory increases in the amount of time that individuals will serve for these offenses. Both kinds of legislation, expanding what constitutes punishable offenses and extending the length of incarceration for these offenses, have the overall effect of benefiting the financial bottom line of the private prison industry.

Arguably the most direct link between private prison interests and state legislation was the passage of SB1070 in Arizona. In 2010, State Senator Russell Pearce of Arizona championed and successfully passed SB1070; legislation that requires state and local law enforcement officials to determine the immigration status of people with whom they come into 'lawful contact'. The purpose is to allow state and local law enforcement to police immigration – a job that traditionally has been in the jurisdiction of federal law enforcement. The most immediate effect of this legislation is the increased flow of undocumented immigrants into detention.

As uncovered by Laura Sullivan (2010), the model legislation for SB1070 was developed in 2009 in a Public Safety and Elections Task Force meeting, attended by both Pearce and representatives of CCA. According to Sullivan's investigative report, CCA identified immigration as a profit-centre for the growth of the private prison industry. The private prison industry operates about half of all immigrant detention facilities, and as such, SB1070 and other anti-immigration legislation are financially important to CCA. Not only was CCA present at the secretive ALEC meeting where the legislation was drafted, but Governor Brewer of Arizona, who signed the legislation into law, had close ties to the private prison industry. Her spokesman Paul Senseman and campaign manager Chuck Coughlin were both former lobbyists for private prison companies. Moreover, 30 of the 36 state representatives who voted for the passage of SB1070 received donations from lobbyists representing the private prison industry.

These and other state laws have led to a social context in which immigrants are more likely to be arrested and detained for acts that have not been traditionally viewed as illegal. As such, undocumented immigrants are now more likely to come into the criminal justice system and end up in immigration detention centres, which are proliferating to meet the increase in demand. Immigrants are now the fastest growing population in federal custody. Since 1996 immigrant detention has increased exponentially with the most recent spike occurring after 9/11. In 1994, the average daily population in custody was 6,785 detainees. By 2007 this figure had increased to over 30,000 detainees. Between 2003 and 2011 the total number of non-citizens detained by US Immigration and Customs Enforcement (ICE) per year increased from 231,500 to an all-time record high of 429,247 detainees (Meissner *et al.* 2013).

CCA and GEO Group each receive over ten per cent of their revenue directly from ICE, and for both companies ICE revenues have increased significantly over the past seven years. At a conference call with investors in June of 2009 CCA's president, Damon Hininger said, 'We believe this suggests that ICE will continue providing meaningful opportunity for the industry for the foreseeable future' (Feltz and Baksh 2009). The CEO of Geo Group echoed a similar sentiment to investors, stating that 'My personal view is that Homeland Security and the detention beds necessary to detain illegal aliens will increasingly be seen as a national imperative to protect U.S. workers and their jobs' (*ibid.*).

As of today, CCA manages more than 60 facilities with a capacity of more than 85,000 beds. The company has entered into contracts not just with ICE but also the Federal Bureau of Prisons, the US Marshals Service, half of the US states, and several local municipalities. The GEO group is similarly situated, operating approximately 100 facilities in several countries with an 80,000 bed capacity. Both corporations promote an interesting twist on market-based solutions to socio-political problems by claiming to be more efficient and cost effective than the government. However, both tout their partnerships with the public sector in the form of government oversight. As described by Steven Owen, Director of Public Affairs for CCA, his corporation combines the efficiency of the business model with the accountability of the government (Doty and Wheatley 2013). This sounds like a relatively straightforward model, however, the blurring of the public/private sectors is far from simple.

There are various types of contracts, arrangements, and partnerships between the government and private prison corporations. The privatization of punishment might involve the ownership of the facility where prisoners are housed, the private use of prison labour and taking of profits from their labour, or private management of the facility that includes the day-to-day supervision and care of prisoners. There are more extraordinary examples of privatization, such as CCA's longstanding desire and failed attempts to buy the entire state of Tennessee's correctional system. More modest examples include CCA's outright purchase of a state prison, the Lake Erie Correctional Institution, for \$72.7 million. Instead of hiring a contractor to operate the facility

or pay a company to build and run a new facility, the state of Ohio sold an already existing facility to CCA (Smyth 2011). Following the purchase of Lake Erie, CCA sent letters to 48 other states, heralding its acquisition of the facility as a shining example of the benefits of selling state run prisons to private businesses. In the letter, CCA offers to help address states' challenging corrections budget in exchange for a 20-year management contract and assurance that state prisons would remain at least 90 per cent full (Kirkham 2012).

The most popular form of privatization today is when corporations operate (and often own) secure facilities for prisoners, detainees, migrants, or juveniles and then solicit contracts with local, state, or federal agencies. It should be noted, however, that the economic incentives to privatize punishment reach well beyond the substantial task of operating and managing facilities. Additional aspects of privatization include subsidiary contracts for the internal, day-to-day operations such as providing medical and health services, transportation, food, laundry, telephone, visitation, and maintenance. Perhaps most troubling is the all too common practice of transferring inmates to empty beds around the country. This practice, which could be described as importing and exporting prisoners via interstate commerce, is commonly known as 'rent-a-cell'. When states are pressed with overcrowding, they turn to companies like Dominion Management that serve as 'bed brokers' and help transfer inmates to empty cells around the country. The bed broker will search for a facility with empty beds at the right price. The cost per prisoner per day ('man-day') can range from \$25 to \$60, depending on the type of facility and its level of occupancy. Bed brokers earn a commission of \$2.50 to \$5.50 per man-day. The county that does not operate the prison but gives it legal status can also charge a fee of as much as \$1.50 per man-day (Schlosser 1998). This practice is just one of many that illustrates the growing reach, influence, and embedded nature of the privatization of punishment. Local economies also claim to benefit from the prison industry through tax revenue, employment, demand in the housing industry, and patronage to local businesses. In many states, prisoners are even counted as part of the population, which offers a set of tax and federal funding benefits for the community. The overall effect results in residents relying on the prison industry and even embracing their status as living in a 'prison town'.

A good example is the small town of Florence, Arizona. Located in desert terrain between Phoenix and Tucson, the highway leading to town is lined with private prisons, retirement villages, mobile-home parks, and fast food restaurants. The city of Florence was built around the prison industry in the early twentieth century and residents share pride in its history. These prisons are much more visible than in the neighbouring 'prison town' of Eloy, Arizona. Eloy is more of a 'pass through' town with only two major sources of revenue: the Speedco truck stop and CCA (Doty and Wheatley 2013). Although the prisons and detention facilities are deliberately located outside of Eloy, the residents of both Eloy and Florence are acutely aware of the jobs and revenue that the business of incarceration brings to their hometowns. The very existence of these towns calls into question the function of incarceration. Although the stated function of incarceration is to maintain public safety, the motivation has shifted to economic revitalization of local towns and communities. This invites a series of questions: What else does the privatization of punishment make possible? What possibilities are foreclosed because of the economic incentives to punish? How does the privatization of punishment impact our communities and shape our sense of self?

### **The privatization of sovereignty function and immigrant detention**

In *Discipline and Punish: The Birth of the Prison* (1979), Michel Foucault describes how the prison system never really succeeded. As he explains:

One would be forced to suppose that the prison, and no doubt punishment in general, is not intended to eliminate offenses, but rather to distinguish them, to distribute them, to use them: that is not so much that they render docile those who are liable to transgress the law but that they tend to assimilate the transgression of the laws in a general tactic of subjection.

(Foucault 1979: 272)

For Foucault, the ‘successful failure’ of the penal system relies on the ability of the state to create, manage, and problematize anomalies of the social body. Anomalies of the social body must be identified and transformed into problems to be managed thus diverting attention from and questioning of the social body itself. In the process of management, state power proliferates and what might be seen as evidence of the failure of the entire penal system becomes a management problem. The more technical ‘solutions’ become embedded in the complex, the more difficult it becomes to make fundamental changes to a system that depends on newly characterized entities being regarded as an anomaly. Management of this anomaly – as an anomaly – becomes an essential aspect of statecraft. ‘Solutions’ to the anomaly, however flawed and ineffective in terms of the overall situation, serve the interests of segments of society, some of whom yield a tremendous amount of power and influence, and some who have little or no influence.

We refer to the inclusion of private corporations into this process as the ‘privatizing sovereignty function’ (Doty and Wheatley 2013). The state itself is increasingly mobile and fluid, often blurring boundaries between public and private sectors and in the process increasing the power of both, especially vis-à-vis the population of persons in prison or potentially subject to incarceration. The privatizing sovereignty function does not necessarily result in a diminishing of sovereignty or of state power. It can, however, lead to a diminishing of oversight and democratic accountability and can function to conceal the workings of sovereign power. We argue that this is precisely the case with the privatization of punishment.

Take for example the dubious and joint efforts by the state and private prisons to control information. Existing federal Freedom of Information Act (FOIA) regulations do not extend to private prisons. Advocates have for years argued that privately contracted facilities should be subject to open records law. Since 2005, legislators have introduced the Private Prison Information Act (PPIA), a federal bill that would subject private prisons to the same open record laws, but it has repeatedly died in subcommittee. CCA and other private prison corporations have lobbied against various incarnations of PPIA, with CCA alone spending millions to keep information closed. Through partnering with private corporations to dispense punishment, the state is positioned to benefit from allowances given to for-profit enterprises. Private prisons are not subject to the same legal requirements as public prisons to provide incident reports on assaults, escapes, deaths, or rape. People seeking this information can submit an FOIA to the government agency, but if releasing this information exposes ‘business secrets’ then the request can be denied. The blurred relationship between public and private interests makes transparency almost impossible. The state is not diminished by this relationship but instead strengthened by its cooperation with private corporations.

Market solutions are frequently perceived as shrinking the size and reach of government. As we have suggested, this is not necessarily the case. Prison privatization and private detention has increased the reach of government, expanded social control, and has encouraged an entrepreneurial spirit around the sanctioning, punishment, and social control of fellow citizens and non-citizens – all done in partnership or under contract with the state. Such management serves the neoliberal agenda, but is by no means disconnected from increased state power. The

privatization of punishment reflects a deep blurring and even hybridization of the public/private sectors for the seeking of new markets and creating new commodities.

### **Future markets**

We have illustrated how the prison industrial complex benefits from the incarceration of a greater number of people. To achieve mass incarceration, the industry has actively lobbied for the criminalization of nonviolent practices like drug abuse and migration. For the industry to expand, new markets must emerge. We anticipate certain populations of children to increasingly become such anomalies of society designed to be in need of management.

Private prisons have not shied away from the business of incarcerating children. Private corporations helped to draft the Drug-Free Schools Act, which increased drug law enforcement presence on public school campuses and tougher sentencing for drug offences in 'drug-free school zones'. CCA even participated in law enforcement actions in schools. The 'school-to-prison pipeline' is a term used to describe a widespread pattern in the US of pushing disadvantaged students out of school and into the criminal justice system. Although there are many factors that have led to this phenomenon, the private prison industry is yet once again well positioned to benefit from the increase in incarceration.

Take for example the 'kids for cash' scandal: In Wilkes-Barre, Pennsylvania, two judges, Mark Ciavarella and Michael Conohan, were found guilty of accepting \$2.6 million in kickbacks from the developers of for-profit juvenile correctional facilities. The judges sent children to extended stays in private detention centres for minor offences like mocking a principal on social media, trespassing in vacant lots, and shoplifting. The judges used their discretion in sentencing to increase the overall head count in the juvenile detention facilities (Urbina 2009).

From an economic perspective, this should come as no surprise. Juveniles fit the ideal characteristics of a profitable inmate: young, healthy, and not a major security risk. According to Christopher Petrella (2014), young people of colour are overrepresented in privatized prisons. In the nine states that Petrella examined, private facilities housed higher percentages of people of colour than public facilities did. It has been well established that persons of colour are overrepresented in the US penal system in general, however, Petrella's astonishing finding is that private prisons deliberately exclude people with high medical costs. Younger, healthier inmates, he found – who've come into the system since the 'war on drugs' came into effect in the 1980s – are disproportionately people of colour. Older inmates, who generally come with a series of health problems, tend to be white. This is not to suggest that private prisons are motivated by race, but by profit. It further illustrates how inmates are seen as commodities and the desire to maximize profits can lead to incentives to incarcerate younger populations.

This insight is hardly a trade secret. Stock in both CCA and Geo Group spiked after yet another border crisis became reported in popular news outlets during the summer of 2014, resulting in an increased awareness of Central American children crossing into the US through the southern border. The number of migrant children detained by border patrol reached unprecedented levels in the summer of 2014. To manage this new anomaly, the Obama administration shifted US\$405 million in funds to address the crisis and urged Congress to pass a US\$3.7 billion emergency bill. Ultimately this bill failed, however, investors saw this as an opportunity. Stock in CCA climbed 8.5 per cent and Geo Group was above 7 per cent by the end of the summer. They were estimated to grow at 1.5 per cent prior to the crisis. Both companies reported better-than-expected earnings and raised their outlook for the rest of the year (Egan 2014).

In September of 2014, US officials announced plans to open a new facility, the South Texas



Family Residential Center, in Dilley, Texas to house Central American women and children. This new facility will be vastly larger than the three current family detention centres, which together have a capacity of approximately 1,300 people. These facilities are a response to the surge of migrant families crossing the southwestern border. In the last fiscal year alone, more than 66,000 family units have been detained along the southwestern border, according to US Customs and Border Protection (Department of Homeland Security 2015).

The contract for the new facility has been awarded to CCA, which has been repeatedly criticized for its treatment of migrant families. For example, The American Civil Liberties Union (ACLU) won a settlement with CCA in 2007 over prison-like conditions for migrant children at its T. Don Hutto Residential Center in Texas. The ACLU also documented sexual abuse of women in the same facility in 2011. Nonetheless, CCA will run this new centre in the city of Dilley, Texas and it is expected to open in the spring of 2015 and equipped to hold 2,4000 people. However, it is worth noting that the management contract of this facility has some unusual terms. In their rush to open the facility (originally scheduled to open in November of 2014), the Obama administration bypassed normal bidding procedures and granted management to CCA, but through its already exiting contract with the city of Eloy. That is, all federal funding for the detention centre in Dilley, Texas will pass through the small town of Eloy, Arizona – located over 1000 miles away (Hylton 2015). Serving as the intermediary, the city of Eloy will be compensated 50 cents per day per bed, regardless of whether someone is occupying the bed in Texas. That translates to \$438,000 dollars annually (Harris 2015). Eloy will be paid to manage this contract, however, officials from the city of Eloy say that they do not expect to monitor, or even visit, the Dilley facility (Hylton 2015). Although this contract is unusual, it is also a clear example of the further blurring of public/private responsibilities that have the effect of creating a complicated web of interests with limited accountability.

The stated purpose of these family detention facilities is to expedite return to home countries and to deter others from migrating into the US. Prior to current trends, children would have been sent to shelters and allowed to attend school while parents were held at nearby facilities. However, due to growing concern about separating parents from children, even nursing infants, the House Appropriations Committee declared in 2005 that children should not be held in government custody unless their welfare was in question and added that the Department of Homeland Security should ‘release families or use alternatives to detention’ whenever possible (Talbot 2008). The report by the committee recommended a new alternative to detention known as the Intensive Supervision Appearance Program, which allows people awaiting disposition of their immigration cases to be released into the community, provided that they are closely tracked by means such as electronic monitoring bracelets, curfews, and regular contact with a caseworker. Despite congress directing ICE to stop separating families and make allowances for families to stay together in non-penal settings, ICE has increased its number of contracts with facilities that house families.

## Conclusion

Criticisms of the privatization of prisons are many, ranging from the ethical to the economic. Adding profit motive to the prison system provides perverse incentives to keep incarceration rates high and operating costs low. In an effort to maximize its profit margins and bill itself as a cheaper alternative to government-run and/or owned prisons, CCA’s cost-cutting measures have frequently been through practices like reducing employee benefits and salaries, operating on routinely low and dangerous staff-to-prisoner ratios, and not offering sufficient staff training. Critics also note that some inmates are denied proper services, including medical care, in

attempts to keep costs low. The general criticism is that profit motives drastically change the mission of corrections from public safety to making the greatest profit.

The shrewd tactics of the prison corporations have not gone unnoticed by critics. Extensive lobbying, lavish campaign contributions, dubious effort to control information, and even working directly with legislators to craft legislation that serves the interest of the prison industry are just some of the tactics of the private prison industry. Ironically, the values that drive privatization – a general sort of conservative, anti-government, law and order orientation – are undermined by the extension of governance through corporate means. As described in this chapter, the privatization of the sovereignty function allows the state to extend its reach through private corporations but with less regulation and oversight. The overall affect is not the withering away of the state, but a new blurring of state and private sectors that make democratic accountability extremely difficult. Another function of the privatization of punishment is the increased need to create and manage anomalies in society. The industry, in partnership with the state, is able to seek out vulnerable populations, such as migrants and even migrant children that become criminalized through legislation and popular discourse.

Alternatives to privatization include decriminalizing nonviolent acts, increasing the number of community-based programmes, reducing the length of sentences, increasing the number of early release programmes, and investing in prevention programmes such as early childhood parenting and education. Advanced by the civil rights non-profit organization Color of Change, divestment campaigns have also been somewhat successful in recent years. For example, three major corporations divested from CCA and the GEO Group, collectively pulling nearly \$60 million in investments in 2013. Although there is growing awareness and activism to eliminate the privatization of punishment, we do not underestimate the structural embeddedness of the prison industrial complex and predict that this industry will continue to grow.

## Bibliography

- CCA (2010) 'Letter to Shareholders 1', <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-reportsannual>.
- Department of Homeland Security (2015) 'Southwest Border Unaccompanied Alien Children', [www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children](http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children).
- Doty, R. L. and Wheatley, E. S. (2013) 'Private Detention and the Immigration Industrial Complex', *International Political Sociology* 7(4): 426–43.
- Dow, M. (2004) *American Gulag: Inside US Immigration Prisons*, Oakland, CA: University of California Press.
- Egan, M. (2014) 'Wall Street Bets on Prison Growth From Border Crisis', *CNN Money* 29 August, <http://money.cnn.com/2014/08/29/investing/border-crisis-prison-stocks>.
- Elk, M. and Sloan, B. (2011) 'The Hidden History of ALEC and Prison Labor', *The Nation* 1 August, [www.thenation.com/article/162478/hidden-history-alec-and-prison-labor](http://www.thenation.com/article/162478/hidden-history-alec-and-prison-labor).
- Feltz, R. and Baksh, S. (2009) 'Detention Retention', *The American Prospect* 2 June, <http://prospect.org/article/detention-retention>.
- Fernandes, D. (2007) *Targeted: Homeland Security and the Business of Immigration*, New York: Seven Stories Press.
- Foucault, M. (1979) *Discipline and Punish: The Birth of the Prison* (trans. A. Sheridan), New York: Vintage/Random House.
- GEO Group (2010) *Annual Report*, Boca Raton, FL: GEO Group, [www.geogroup.com/documents/2011-report.pdf](http://www.geogroup.com/documents/2011-report.pdf).
- Gilmore, R. W. (2007) *Golden Gulag-Prisons, Surplus, Crisis, and Opposition in Globalizing California*, Oakland, CA: University of California Press.
- Golash-Boza, T. M. (2012) *Immigration Nation: Raid, Detention, and Deportation in Post 9/11 America*, Boulder, CO: Paradigm Publishers.
- Herivel, T. and Wright, P. (2003) *Prison Nation: The Warehousing of America's Poor*, New York: Routledge.
- Harris, C. (2015) 'Unique Deal to Obtain Migrants Nets Eloy \$438,000', *The Republic* 18 January.
- Hylton, W. S. (2015) 'The Shame of America's Family Detention Camps', *New York Times Magazine* 4

- February, [www.nytimes.com/2015/02/08/magazine/the-shame-of-americas-family-detention-camps.html?\\_r=0](http://www.nytimes.com/2015/02/08/magazine/the-shame-of-americas-family-detention-camps.html?_r=0).
- Kirkham, C. (2012) 'Private Prison Corporation Offers Cash in Exchange for State Prisons', *The Huffington Post* 14 February, [www.huffingtonpost.com/2012/02/14/private-prisons-buying-state-prisons\\_n\\_1272143.html](http://www.huffingtonpost.com/2012/02/14/private-prisons-buying-state-prisons_n_1272143.html).
- Meissner, D., Kerwin, D. M., Chishti, M. and Bergeron, C. (2013) *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*, Washington, DC: Migration Policy Institute.
- Petrella, C. (2014) 'The Color of Corporate Corrections Part II: Contractual Exemptions and the Overrepresentation of People of Color in Private Prisons', *Radical Criminology* 3: 81–100.
- Schlosser, E. (1998) 'The Prison-Industrial Complex', *The Atlantic* 1 December, [www.theatlantic.com/magazine/archive/1998/12/the-prison-industrial-complex/304669](http://www.theatlantic.com/magazine/archive/1998/12/the-prison-industrial-complex/304669).
- Selman D. and Leighton, P. (2010) *Punishment for Sale*, Plymouth, MA: Rowman & Littlefield Publishers.
- Smyth, J. C. (2011) 'Ohio Becomes First American State to Sell Prison to Private Company', *Huffington Post* 1 September, [www.huffingtonpost.com/2011/09/02/ohio-prison-sold\\_n\\_946862.html](http://www.huffingtonpost.com/2011/09/02/ohio-prison-sold_n_946862.html).
- Sullivan, L. (2010a) 'Prison Economics Helps Drive Arizona Immigration Law', National Public Radio transcripts 28 October, [www.npr.org/2010/10/28/130833741/prison-economics-help-drive-ariz-immigration-law](http://www.npr.org/2010/10/28/130833741/prison-economics-help-drive-ariz-immigration-law).
- Sullivan, L. (2010b) 'Shaping State Laws with Little Scrutiny', National Public Radio transcripts 29 October, [www.npr.org/2010/10/29/130891396/shaping-state-laws-with-little-scrutiny](http://www.npr.org/2010/10/29/130891396/shaping-state-laws-with-little-scrutiny).
- Talbot, M. (2008) 'The Lost Children: What do Tougher Detention Policies Mean for Illegal Immigrant Families?' *The New Yorker* 3 March, [www.newyorker.com/magazine/2008/03/03/the-lost-children](http://www.newyorker.com/magazine/2008/03/03/the-lost-children)
- Urbina, I. (2009) 'Despite Red Flags about Judges, A Kickback Scheme Flourished', *New York Times* 27 March, [www.nytimes.com/2009/03/28/us/28judges.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2009/03/28/us/28judges.html?pagewanted=all&_r=0).
- West, H. *et al.* (2010) 'United States Department of Justice, Bureau of Justice Statistics, Prisoners in 2009', 33 App. Table 19.