

How Private Prisons Are Profiting Under the Trump Administration

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There are more people behind bars in the United States than there are living in major American cities[1] such as Phoenix or Philadelphia. According to a 2018 report from the U.S. Bureau of Justice Statistics, nearly 2 million adults[2] were being held in America's prisons and jails. Of these 2 million prisoners, about 128,063[3] were detained in federal or state facilities operated by private prison facilities, a 47 percent increase from the 87,369[4] prisoners in 2000.

In 2016, the U.S. Department of Justice's (DOJ) inspector general initiated a review[5] to examine conditions at a number of for-profit prisons that the federal government contracted with from fiscal year 2011 through fiscal year 2014. A report on the findings indicated that private prisons had a 28 percent[6] higher rate of inmate-on-inmate assaults and more than twice as many inmate-on-staff assaults compared with federally run or operated prisons. Furthermore, the report found that for-profit prisons in the United States were more likely to endanger inmates' security and rights. These problems were so significant that in August 2016, the Obama administration announced that it would begin to phase out private prisons.[7]

As the number of incarcerated individuals in for-profit prisons grew, so did the number of immigrants detained in such facilities. According to a report by the Sentencing Project[8], about 4,841 immigrants were detained in for-profit facilities in 2000. By 2016, that number had soared to 26,249 immigrants—a 442 percent increase.[9] In the wake of the DOJ's decision to phase out the use of for-profit prisons, the Homeland Security Advisory Council reviewed[10] the U.S. Department of Homeland Security's (DHS) use of private immigration detention facilities. Immediately after this review was announced, the stock prices of private prison company giants CoreCivic—formerly the Corrections Corporation of America—and the GEO Group Inc. dropped by 9.4 percent and 6 percent, respectively.[11] A majority of the council agreed with the view that DHS should begin to move away from using private prison facilities but recommended that while they were still in use, they “should come with improved and expanded [U.S. Immigration and Customs Enforcement] oversight.”[12]

Following the inauguration of President Donald Trump in January 2017, however, the administration immediately shifted course to robustly support private prisons. In February of that year, then-Attorney General Jeff Sessions revoked the Obama administration's initiative,[13] and by April 2017, the DOJ began requesting bids for contracts to house federal inmates in private prison facilities[14] once again. That same month, the GEO Group won a \$110 million[15] contract to build the first detention center under the new administration.

The fact that private prisons have serious, documented flaws raises questions as to why the Trump administration is so eager to support them. It is noteworthy that a pro-Trump PAC[16] and the president's inaugural committee[17] have benefited from the private prison industry's financial contributions. The Trump family business has benefited from the industry's patronage as well.[18]

This issue brief details how Trump administration policies have increased the migrant detainee population—and the profits of private prisons—as well as endangered the lives of migrants being held in detention. The brief then illustrates just how much money private prisons have spent in U.S. political campaigns.

Trump administration policies have increased the number of migrants in detention

The Trump administration has implemented policies that have increased the number of migrants in detention. In early 2017, President Trump signed an executive order titled “Enhancing Public Safety in the Interior of the United States,”[19] which instituted a massive expansion of immigration enforcement within the United States.[20] It defined enforcement priorities so broadly[21] that all undocumented individuals became subject to deportation orders, regardless of how long they had been in the country. The order represented a radical departure from the Obama administration's approach, which prioritized the removal of migrants who had been found guilty of crimes. The executive order also directed state and local police to enforce federal immigration laws.

Similarly, in April 2019, current Attorney General William Barr rescinded a decision[22] that enabled eligible asylum-seekers to request bond from immigration judges. This decision effectively instituted indefinite detention[23] due to the fact that some migrants will now be held in detention for months or years before their cases are adjudicated. Moreover, in July 2019, DHS increased its application of expedited removal, a fast-track summary process[24] for deporting noncitizens without a hearing from an immigration judge.

Last week, the Trump administration issued a final rule in a legally questionable attempt to make changes[25] to the 1997 Flores agreement,[26] a long-standing legal agreement specifying basic standards of care for minors in detention. As interpreted, this agreement requires that minors not be held in unlicensed secure detention facilities for more than 20 days. If implemented, the administration's changes would effectively cause undocumented children and their families to be detained in inadequate, unlicensed facilities indefinitely.[27] According to the president[28] of the American Academy of Pediatrics, “no child should be placed in detention ... even short periods of detention can cause psychological trauma and long-term mental health risks.”

As expected, the Trump administration's hard-line immigration[29] policies have led to a record-high number of immigrant detainees.[30] Currently, there are about 54,344 immigrants[31] detained in about 200 detention centers across the country. In 2017, the last time ICE produced such data, more than three-fourths[32] of the average daily detainee population was being held in a for-profit detention facility. CoreCivic and the GEO Group are recipients of more than one-half of private prison industry contracts.[33] These companies manage the detention[34] of immigrants seeking asylum, those awaiting hearings in immigration courts, and those who have been identified for removal. For every 100 immigrant detainees, 32 are in GEO Group facilities, and 21 are in CoreCivic facilities.[35]

A record number of immigrants have died in detention.[36] Since 2017, 27 immigrants have

died in ICE custody, including a transgender woman named Roxsana Hernandez. Johana Medina Leon, also a transgender woman, died shortly after being released from custody.[37] Of these 27 immigrants, 21 have died in facilities[38] that are owned or operated by for-profit prison companies. In June 2019, the government’s own investigators determined that conditions in major private prison facilities were “unsafe and unhealthy”[39] and violated ICE’s own standards.[40] Despite these failures, the industry is benefiting enormously. Trump administration policies around enforcement priorities and detention practices have led to an increase in the demand for detention space, which has resulted in record-high profits for private detention facilities.

Under the Trump administration, ICE has significantly increased its enforcement operations, which has directly contributed to the rise in the migrant detainee population. In order to achieve this, ICE has consistently exceeded its budget. According to reporting from BuzzFeed News, there were 52,398[41] people in ICE custody in May 2019. Congress provided funds for ICE to maintain an average of 45,000 people in detention per day in the latest budget, but with about 54,344 migrants in detention currently, the agency is overspending these funds by more than 15 percent.[42] DHS has also increasingly begun diverting funds that had been earmarked for other agency operations to ICE in order to fund enforcement and detention operations. According to a Roll Call report, DHS intends to divert more than \$200 million from other programs—including disaster relief programs—to fund immigration detention. This is the fourth consecutive fiscal year in which DHS has repurposed funds meant for other agency operations toward immigration enforcement.[43]

Significantly increasing the number of immigrants in detention means record-high profits for private prisons

During his 2016 campaign, then-candidate Trump expressed support for expanding the role of private prisons and espoused hard-line immigration policies.[44] The morning after his election, stocks in CoreCivic increased by 34 percent,[45] and those in the GEO Group rose by 18 percent.[46] The two companies have informed their shareholders that federal government contracts are integral to their[47] profitability.[48] In memos to their shareholders, both companies acknowledge that policies with the potential to reduce the U.S. detainee population constitute potential risk[49] factors[50] to their business model.

Table 1 indicates the extent to which both CoreCivic and the GEO Group are dependent on three government agencies—ICE, the Federal Bureau of Prisons, and the U.S. Marshals Service—for their business.

In light of the fact that both CoreCivic and the GEO Group have depended on just three agencies charged with enforcement and detention operations for an average of about 48 percent of their revenues over the past two years, these two companies have a vested interest in the Trump administration’s punitive immigration policies to ensure that they remain profitable.

Conditions in private detention facilities endanger immigrants’ lives

In FY 2018, DHS received \$3 billion for custody operations.[51] At least 75 percent of the detention facilities for which DHS contracts are privately owned or operated. Despite this level of funding, conditions at these detention centers remain dangerous, and detainees’ rights are routinely violated. A 2019 Office of Inspector General (OIG) report[52] on an investigation of ICE oversight of its contracted detention facilities indicates that the agency

routinely waives its own standards, including those meant to ensure the health and safety of detainees. Additionally, ICE often fails to include its quality assurance surveillance plan (QASP)[53]—a key tool for ensuring that facilities meet ICE’s performance standards—in facility contracts and rarely imposes financial consequences for facilities that are noncompliant.

According to the OIG report, only 28 out of the 106[54] contracts reviewed contained a QASP. The report[55] also stated that between October 1, 2015, and June 30, 2018, ICE imposed financial penalties on only two occasions despite documenting thousands of instances in which facilities failed to comply with detention standards. The OIG also investigated three GEO Group facilities[56] and found “egregious violations of detention standards.” All three facilities were found to have expired food, putting detainees’ health at risk. The GEO Group-operated Aurora, Colorado, facility failed to provide recreation and outdoor activities to detainees. At another GEO Group-operated facility in Adelanto, California, the OIG identified detainee bathrooms that “were in poor condition, including mold and peeling paint on the walls, floors, and showers, and unusable toilets.” All of these infractions violate ICE’s standards.[57]

According to a 2018 letter[58] from the Office of Rep. Kathleen Rice (D-NY) to DHS, “Of the 298 transgender people ICE detained in FY 2017, 13% were placed in solitary confinement.” This not only has adverse effects on detainees’ mental health and well-being but is also against ICE’s rules.[59] While there is existing Obama-era guidance[60] on how to provide care for transgender migrants in ICE custody, the guidance is not mandatory. Due to ICE’s negligence, LGBTQ+ immigrants continue to face a higher risk of sexual violence[61] than the general population. And as for-profit prisons continue to play an outsize role in immigration detention while providing substandard care, the health and safety of vulnerable populations such as LGBTQ+ migrants remain especially at risk.

Private prison companies are major players in political spending

Although private prisons have been ineffective at providing high-quality detention services, they have been effective at supporting political allies. In the 2016 presidential election, for example, the GEO Group and CoreCivic donated \$250,000[62] each to President Trump’s inaugural committee. In 2017, the GEO Group moved its annual conference[63] to a Trump-owned resort in Boca Raton, Florida. Additionally, the GEO Group contributed heavily[64] to the campaigns of some members of the U.S. House Appropriations Subcommittee on Homeland Security, the congressional subcommittee charged with funding DHS.

These companies and their employees also contribute to congressional candidates, donating overwhelmingly to those running as Republicans. According to the Center for Responsive Politics, CoreCivic and its employees have spent about \$3 million[65] on campaign contributions to federal candidates and PACs since 1990. Eighty-five percent of CoreCivic’s contributions to federal candidates since 1990 have gone to Republicans, while 13 percent of its contributions have gone to Democrats. Additionally, CoreCivic has spent \$26.1 million on lobbying since 1998. The GEO Group and its employees have donated about \$4.4 million[66] to federal candidates and PACs since 2004. Since that year, 54 percent of the GEO Group’s campaign contributions went to Republican candidates, while 15 percent went to Democratic candidates.

Conclusion

The Trump administration's immigration policies as well as existing immigration legislation create structural incentives to increase detention, which has largely been achieved through the use of private prisons. This increased role drives these companies' profitability while endangering the lives of immigrants through inadequate care and a lack of accountability. Special interests should not profit from immigration enforcement. Congress and the administration should hold private detention facilities that violate ICE'S standards accountable.

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Notes

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*Featured image: A prison for male offenders located in Walpole, Massachusetts, June 2011.
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