

Private Prisons: The Public's Problem

A Quality Assessment of Arizona's Private Prisons

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Illustration by Jeffrey Collins



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Service Committee**

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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

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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 assessment, *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.¹

¹ Office of the Auditor General, *Department of Corrections-Prison Population Growth*, September, 2010, Report No. 10-08, at iii-iv, 34-55;
http://www.azauditor.gov/Reports/State_Agencies/Agencies/Corrections_Department_of/Performance/10-08/10-08.pdf