

PRIVATE PRISONS

On March 15, Ohio Governor John Kasich unveiled his two-year budget plan, which includes a proposal to privatize five of Ohio's prisons. The proposal to convert to privately operated prisons raises several ethical issues, including:

- What are the implications of basing the operation of a prison on a purely profit motivation?
- Will a private company cut corners and provide a reduced level of custody and treatment in order to maximize profit?
- Does the existence of private prisons actually create a demand for imprisonment that can only be satisfied by greater levels of imprisonment?

These are questions that must be looked at if the state is going to move forward with this proposal. Most of the discussion about the privatization plan so far has focused on the financial aspects, but the state must also look at how this proposal would impact the prison system, prisoners and public safety.

It is also important to note that the strong relationship that exists between the state's executive branch and the private prison industry.

The new director of the Ohio Department of Rehabilitation and Correction is Gary Mohr, who served as the managing director for Corrections Corporation of America (CCA) from 2007 to 2009. Since 2009, he has been the CEO of Mohr Correctional Insight, a consulting company which has mostly worked with CCA. In addition, CCA recently hired Gov. Kasich's former congressional chief of staff, Donald Thibaut, as a lobbyist.

Currently, Ohio has more than 50,500 inmates in the prison system. The average annual cost of each inmate is \$23,725. The state legislature is currently considering sentencing reform that would divert low-level, non-violent offenders away from prison in order to reduce the state's prison population. If five prisons become private, though, the for-profit prison companies will likely be encouraging the state to send more people to prison because they will need large numbers of inmates in order to turn a profit.

Following are comments from experts from around the country on the privatization of state prisons:

Marc Mauer of the Sentencing Project states that private prisons create potential conflicts with regard to how much time offenders should remain incarcerated. The longer prisoners remain in custody, the greater the financial gain for the companies.

Jamie Fellner of Human Rights Watch states that the administration of justice should not be in private hands. "Even if there were no evidence that private operators were keeping people in prison longer or treating them differently from those in public prison, we would still

have a concern about privatization because we believe the administration of justice should stay in public hands—as it does with the police and the courts,” she said. Fellner went on to state, “We are very uncomfortable with private employees making decisions as to whether, say, a prisoner should be put into solitary confinement, or go to a disciplinary hearing that could affect his release date in terms of losing whatever good time he might have built up.” These issues include how rules in private facilities are enforced. In for-profit prisons, private employees are making decisions on whether an inmate should be written up, which could easily affect the inmate’s release date.

If states turn over their responsibility to house prisoners safely and humanely to private for-profit prisons, they lose some control over the conditions in which those prisoners live. The operators of the prisons may be tempted to increase profits by cutting corners on medical care, food and living conditions. Security also can be compromised in the effort to reduce costs. Many states which have tried private prisons have decided they are not the solution. Thirteen states have ended contracts with private prison companies.

Martin Schwartz, Professor Emeritus of Sociology at Ohio University, wrote, “Prisoners are being turned into commodities, producers of income to be fought over and welcomed....Private prisons lobby hard and long to increase the number of prisoners and increase the amount of time they serve...The private prisons also lobby to increase the percentage of prisoners sent to private facilities... Inmates have become commodities themselves valued ‘for their bodily ability to generate per diem payments to their prison keepers.’”

When **former Ohio Governor Ted Strickland** was in Congress, he stated, “It sickens me to think that individuals sit in corporate boardrooms talking about increasing their bottom line when the commodity they are dealing with is captive human lives.”

Michelle Alexander, author of “The New Jim Crow: Mass Incarceration in the Age of Colorblindness” wrote, “Prisons are big business and have become deeply entrenched in America’s economic and political system. The investors are deeply interested in expanding the market—increasing the supply of prisoners—not eliminating the pool of people who can be held captive for a profit. The 2005 annual report for the Corrections Corporation of America explained the vested interests of private prisons matter-of-factly in a filing with the Securities and Exchange Commission:

“Our growth is generally dependent upon our ability to obtain new contracts to develop and manage new correctional and detention facilities. This possible growth depends on a number of factors we cannot control, including crime rates and sentencing patterns in various jurisdictions and acceptance of privatization. The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction 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.”

Similar language is contained in the company’s February 9, 2011, news release announcing CCA’s 2010 Fourth Quarter and Full-year financial results:

“Total management revenue for the fourth quarter of 2010 increased 3.6% to \$430.8 million during the prior year period, primarily driven by a 4.3% increase in average daily inmate population....Management revenue from our state partners increased 2.4% to \$220.7 million during the fourth quarter of 2010 compared with \$215.4 million during the same period in 2009. State revenue increased primarily as a result of higher inmate populations predominantly from the states of California, Georgia and Florida. The increases in populations were partially offset by reductions in inmate populations from the states of Arizona, Alaska, Colorado and Minnesota.”

It should be noted that in two of those four states where inmate populations declined, (Arizona and Minnesota), CCA was instrumental in legislation being introduced to increase immigration arrests. In both states, the bills were named Support our Law Enforcement and Safe Neighborhoods Act.

A report written by **The Sentencing Project** states, “As an industry, private prison companies are beholden to the bottom line and maximization of profits. Higher profits require more inmates. And because most private prisons operate on a per diem rate for each bed filled, there is a financial incentive not only to detain more inmates but also to detain them for a longer period of time. The profit motive of private prison companies inherently creates a problematic entanglement between interest in profit and public policy. CCA is a major contributor to the American Legislative Exchange Council (ALEC), a Washington, D.C. based public policy organization that supports conservative legislators. One of ALEC’s primary functions is the development of model legislation that advances conservative principles, such as privatization. At least two of CCA’s former executives have served as co-chairs of ALEC’s Criminal Justice Task Force. By funding and participating in ALEC’s Criminal Justice Task Forces, private prison companies can directly influence legislation related to sentencing.

In 1999, **the General Assembly of the Presbyterian Church** formally adopted a position opposing privatization of prisons “as an abdication of responsibility on the part of governments and an abhorrent way of making profit by punishing prisoners.”

The Public Safety and Justice Campaign formed in 2000 included in its mission statement, “For profit private prisons, jails and detention centers have no place in a democratic society and profiteering from the imprisonment of human beings compromises public safety and corrupts justice.”

Recommendation:

The Athens County Reentry Task Force supports meaningful sentencing reform to reduce the number of inmates in Ohio prisons. In particular, the 60% of Ohio's prison population who have been placed there for low-level, nonviolent offenses can better be served by community rehabilitative programming. However, privatization will undermine sentencing reform. Because private prison companies have the goal of maximization of profits, they have an interest in ensuring prisons stay filled. We therefore oppose any efforts to privatize Ohio prisons and urge the Ohio legislature to proceed with meaningful sentencing reform.