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CONSIDERING A PRIVATE JAIL, PRISON, OR DETENTION CENTER?

A Resource Packet for Community Members and Public Officials

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GRASSROOTS LEADERSHIP - 2604 CESAR CHAVEZ, AUSTIN, TEXAS 78702

WWW.GRASSROOTSLEADERSHIP.ORG - 512.499.8111

CONSIDERING A PRIVATE JAIL, PRISON, OR DETENTION CENTER?

A RESOURCE PACKET FOR COMMUNITY MEMBERS AND PUBLIC OFFICIALS

For-profit private prisons, jails and detention centers have a long and inglorious history in Texas. Prison profiteering compromises public safety and undermines the health, safety, and quality of life of prisoners and correctional officers alike.

Grassroots Leadership first published *Considering a Private Jail, Prison or Detention Center* in 2005. This Second Edition was compiled by Grassroots Leadership research analyst Nick Hudson, Grassroots Leadership Texas Campaigns Coordinator Bob Libal, and Andrew Strong. All three write for the Texas Prison Bid'ness blog (www.texasprisonbidness.org) where more detailed information on the private prison industry can be found. This collection of articles is intended to serve as a resource for public officials, community members, journalists, and policy-makers in Texas who are faced with building, financing, or operating a private prison, jail, or detention center.

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EXECUTIVE SUMMARY

For-profit private prisons, jails and detention centers have a long and inglorious history in Texas. Prison profiteering compromises public safety and undermines the health, safety, and quality of life of prisoner and correctional officer alike. Research on the for-profit private prison industry and their impact on communities shows:

Prisons do not stimulate economic growth. Michelle Deitch's article, reprinted from the *Correctional Law Reporter*, demonstrates that private prisons do not have a positive impact on metropolitan or rural areas, and they have actually been shown to negatively impact economic growth in slow-growing areas. There is no data supporting the claim that prison expansion will lower unemployment rates, raise median family incomes, or increase earnings.

Alternatives to prison expansion can reduce need for increased bed space. Programs such as pretrial detention screening programs and the increased use of personal bonds can reduce incarcerated populations and alleviate jail overcrowding. Because increased rates of pretrial detention are responsible for a majority of the growth in county prison populations, these programs can eliminate the need to expand county jails and build new detention facilities.

Privatized prisons are neither safer nor more secure than government-run facilities. Private prisons correspond with decreased security levels, high staff turnover, inadequate staff training and equipment, inadequate protection of prisoners' human rights, degrading prison conditions, and poor employment standards. The list of Texas private prison scandals offers a starting point for examining the systemic problems within private facilities.

Privatized prisons are risky investments. Dr. Sean Chadwell's article, *Public Financing of Private Jails*, shows how most private prison companies make money from running prisons rather than owning them. In fact, detention and correctional facilities are financial liabilities — they grow old, become obsolete, are expensive to build and maintain, and are costly to insure. Oftentimes Texas counties are left to foot the bill for these expenses — essentially offering maintenance-free money making venture to prison companies, while draining the county of its resources.

We encourage you to review and ask questions about the information provided within this guide. For more information, please contact Bob Libal, Grassroots Leadership's Texas Campaigns Coordinator at blibal@grassrootsleadership.org or (512) 499-8111. This guide is available online at www.grassrootsleadership.org.

For information on the *Correctional Law Reporter* article, contact its author Michele Deitch at mydeitch@aol.com or (512) 328-8330. The *Correctional Law Reporter* article is re-printed with permission. For more information on prison financing, contact Sean Chadwell at schadwell@tamiu.edu.

PRISONS AS ECONOMIC DEVELOPMENT

**Correctional Law Reporterⁱ
August/September 2004**

Column: From the Literature

By Michele Y. Deitch*

THE PRISON INDUSTRY: CARCERAL EXPANSION AND EMPLOYMENT IN U.S. COUNTIES, 1969-1994

Gregory Hooks, Clayton Mosher, Thomas Rotolo, & Linda Lobao
85 (1) *Social Science Quarterly* 37-57 (March 2004)

One of the most widely-shared assumptions about prisons in the United States is that they provide an economic boost to the communities in which they are located. In recent years, local public officials have adopted a “yes, in my backyard” approach to prison siting in hopes of providing additional jobs in their communities. The lengths to which these promoters of prison expansion will go in the name of economic development is quite extraordinary: I will never forget the bizarre spectacle in which representatives of the Beeville, Texas Chamber of Commerce dressed in bee costumes to pitch their case for a new prison to corrections board making siting decisions! But reliance on the economic development argument is not limited to those in favor of new prisons: opponents decry the fact that economic growth hinges on the ever-increasing and unnecessary levels of incarceration. The potential that new prisons and jails represent for local economic development helps sustain the “prison-industrial complex.”

There is just one problem with this economic development argument: it turns out to be wrong. The assumption that new prisons improve a community’s economic growth has not been rigorously tested until now. This study, conducted by four sociology professors with no apparent stake in the prison debate, is the first comprehensive and longitudinal assessment of the impact of prison construction on the economic growth of local communities. And the researchers conclude, quite stunningly, that there is “no evidence that prison expansion has stimulated economic growth.” What’s more, they provide evidence that in slow-growing counties, new prisons do more harm to the economy than good.

The researchers examined data on all new and existing prisons in the United States since 1960 and evaluated the impact of these institutions on the pace of economic growth in these

The researchers conclude, quite stunningly, that there is “no evidence that prison expansion has stimulated economic growth.” What’s more, they provide evidence that in slow-growing counties, new prisons do more harm to the economy than good.

counties from 1969 to 1994. As measures of economic growth, they looked at both public and private job growth (both short-term during the construction phase and long-term once the facility is operational), the unemployment rate, per capita income, and median family income, as well as

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other factors. Using multivariate analyses and other rigorous methodology, the authors were able to control for other variables that may have influenced a county's economic situation.

Their findings are significant and unequivocal. The research reveals that prisons have *not* played a prominent role in economic growth in either metropolitan or rural counties. Moreover, new prisons actually *impeded* private and total economic growth in depressed rural counties. Contrary to the widely held beliefs about this subject, there was no evidence at all that prisons helped to lower unemployment rates, raise median family incomes, or increase earnings.

The study attributes the counter-intuitive finding about prisons impeding growth in rural counties to the fact that prison construction often limits alternative economic activity. As the authors explain:

With communities competing to attract prisons, corrections bureaucracies are shifting infrastructure costs to local governments. Communities are being forced to supply prisons with "electrical services, roads, and the other things to construct and operate a facility"....Under these pressures, rural counties desperate for jobs are diverting large portions of limited infrastructure budgets to support a correctional facility and adapting a limited infrastructure to the needs of a (new or existing) prison. As a result, the infrastructure may be ill suited for other potential employers, and local governments have few funds left for other investments in the local infrastructure. (p. 54)

The researchers note that their findings are consistent with some other studies that have evaluated the impact of the closure of military bases on local economic growth. These studies have found the closures not to be the disaster that was feared; in fact, in some instances, military base closure promoted faster economic growth for a community.

This short and fairly accessible study is extremely important and deserves attention and debate in all quarters, from state and local policy-makers to corrections officials to local business leaders. It is rare to find social science research that so disabuses us of our widely-held beliefs and that contains such clear policy implications. I would encourage all readers to disseminate this piece broadly.

Rent-to-Own Jails

Public Financing of Private Jails

By Dr. Sean Chadwellⁱⁱ

Many counties and cities throughout Texas—and, indeed, in states throughout the South—have paid for the construction of jails and detention centers in recent years by means of a procedure known as “leaseback” or “lease-purchase” financing. Proponents of this kind of financing are quick to note that it presents few risks to the county or city involved, that local officials can borrow as much as they want without a challenge from voters, and that the debt can only be repaid by project revenue. If jails stop generating revenue, they often insist, the local government can simply “walk away.”

Detention and correctional facilities are liabilities. They grow old, become obsolete, are expensive to build and maintain, and are expensive to insure.

- Dr. Sean Chadwell

Proponents also stress the ease of leaseback financing. However, such deals are often complex and involve a number of agents and transactions. Because the entire financing package—sometimes down to

the very ordinances and resolutions passed by local officials—is prepared by those who will profit from the financing, it is often presented to officials as a matter of signatures and routine approvals: sign this, initial that, and, *voilà!* At the very least, local officials should remember that such transactions are part of a complex business deal involving the local government, financiers, construction companies, engineers, and lawyers. The few paragraphs that follow will outline the basic, common elements of such transactions. The closing will identify some of the more serious risks involved in such financing.

At the heart of leaseback financing is a simple fact: detention and correctional facilities are liabilities. They grow old, become obsolete, are expensive to build and maintain, and are expensive to insure. They are, in short, not an attractive investment to private prison companies whose profit comes from *running* jails, not from *owning* them. So private operators naturally seek counties and cities willing to assume that liability.

And, let's face it, counties are looking for economic growth and jobs. Despite ample evidence to the contrary, many local officials, especially in rural areas, continue to believe that prisons contribute to growth. This makes local officials willing to assume the liability of ownership of a prison, especially when they are not aware of the risks.

Finally, there are those who profit not from the operation of such facilities, but from their financing and construction. Such projects tend to yield very high returns for the banks that issue the bonds, for the lawyers who “represent” the city or county

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throughout the transaction, for consultants who write resolutions and keep files in order, and for the construction companies that build the facilities.

How does it work? The county or city creates—if it does not already exist—a “Public Facility Corporation,” a kind of board of directors that can mirror the local government. This PFC, with the help of all the folks in the above paragraph, issues tens of millions of dollars in “Revenue Bonds” that will be used to build a prison (and pay all the people involved in issuing the bonds—sometimes as much or more than 10% of the total issue). The PFC then “leases” its new prison to the local government, who will use revenue from housing prisoners for the federal government or other states to pay its lease. After decades of lease payments, the County or City will own the facility.

The County, however, doesn't handle any of the money. Because there are investors involved, a trustee handles income and expense, receiving the revenue from prisoner housing, and in turn making the “lease” payments, which are actually the scheduled paybacks to investors. The trustee also handles other parts of the business arrangement, paying the prison operator out of the remaining revenue and filtering anything left over into a series of accounts. Sometimes these are “reserve” accounts meant to fund future repairs. Sometimes they're “county fee” accounts, wherein the parties involved in the deal have offered to pay the county a set fee (often around \$2) per prisoner, per day.

Local governments rarely see these fees, and reserve accounts rarely accumulate funds: the revenue stream often won't make it this far. After paying investors—usually at high interest (10-12% in my county, La Salle!)—and prison operators who charge a fixed rate, no matter how many beds are filled, little if any is left to pay the “county fee.” Less still to put in reserve.

Public Facility Corporations

A “PFC” or “Texas 303” (for the chapter of the local government code that enables governments to create them) is a non-profit corporation created by—and dependent upon—a sponsoring entity, such as a city or county government. The sponsoring agency approves the by-laws and appoints the board of directors, sometimes electing to “mirror” itself as the PFC board.

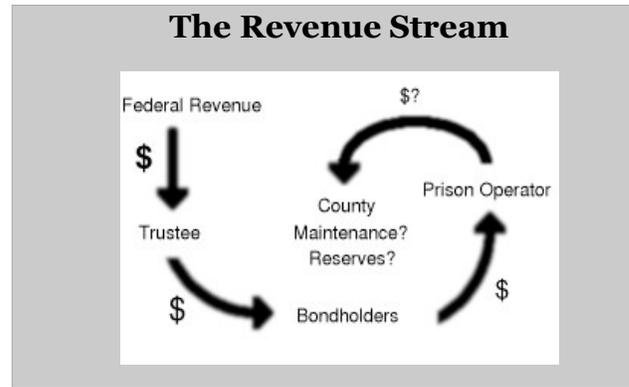
PFCs were nobly imagined: their role is to issue bonds or borrow money for projects that will generate revenue—technical schools, community colleges, industrial parks, sports facilities, etc. In theory, if the projects fail, the PFC—and not its sponsor—is the one to default, protecting the local government from the ignominy of unpaid debt. In practice, however, bond-rating agencies have not distinguished between PFCs and their sponsors.

In recent years, financiers, builders, and operators of prisons and detention centers have worked with lawyers to do all the work of creating PFCs on behalf of local governments—from writing the by-laws, to posting the agendas, even to scheduling the meetings. Once that PFC is in place, it can borrow the money to build a prison and pay for its own creation. The financiers, builders, operators, and lawyers all profit. The local government believes it financed a prison with no risk and no work.

Considering a Private Jail, Prison, or Detention Center?

Why is reserve important? Because the local government, remember, is “renting to own,” over twenty years or more. Costs for maintenance and repair are borne by the local government, not the prison company or bond bank. If the air conditioning fails, or the roof needs to be repaired, or the pipes freeze, money won't be there in reserve. That means more bonds and more time in debt.

And what if, fifteen years into payback, you're not renting the number of beds you once could. Project supporters will tell you that, because a “PFC” and not the local government itself borrowed the money, the local government can just walk away with no repercussions. “The worst that can happen” they say, “is that the investors will own the facility.” The truth is that bond-rating agencies do not distinguish between a local government and its “PFC.” In other words, a “PFC” will not shield your county or city from a poor bond rating.



Finally, what happens when crimes are committed inside facilities like these? It becomes the responsibility of the local government to investigate and prosecute those crimes, at its sometimes significant cost. In the case of riots or other emergencies requiring emergency personnel, a city or county can lose in a day what it earned in a year of “county fee” payments.

In sum, as with any kind of business proposal, there *are* risks, some quite significant, to financing jails and detention centers. At the very least, local government officials should always bear in mind that the financiers, engineers, lawyers and operators who back these kinds of projects are salespeople, there to profit from construction and operation of such facilities. This does not mean you can't trust them, of course; it just means that, no matter how many times they say it does, you don't forget that money doesn't grow on trees.

ALLEVIATING OVERCROWDING AND SAVING MONEY

Eliminating the need for jail expansion by reducing pretrial detention

By Nick Hudson

Among the reasons for consideration of jail expansion, overcrowding is often most pressing. In Texas, Commissioners Courts are charged with the constitutional responsibility to provide “safe and

suitable jails” for their countiesⁱⁱⁱ. Burgeoning inmate populations sometimes makes providing needed beds difficult. An analysis of county jail populations between 1995 and 2005 by criminal justice researcher Scott Henson shows that county jail populations increased 27%. The driving force behind that increase in county jail population was not an increase in the rate or number of crimes, but a dramatic rise in the rate of incarceration. The prison population increased 18% between 1995 and 2005 even though the number of violent crimes declined by 2.6% and the number of property crimes increased by just 5.1% statewide.^{iv}

Elected officials should identify causes of over-crowding and carefully examine alternatives to jail expansion.

As Scott Henson notes, the driving force behind increased incarceration is pretrial detention. More people are spending longer periods of time in jail awaiting trial than in the past. Henson writes:

Historical data from the Texas Commission on Jail Standards shows dramatic increases in pretrial detention since 1995. The number of felony defendants statewide being held pretrial increased by 60%, while the number of misdemeanants increased by a whopping 116%. In addition, a new class of defendants that didn't exist before-- those awaiting trial for state jail felonies, mostly low-level drug offenders -- went from zero in 1995 to occupying more than 5,400 county jail beds statewide on September 1, 2005.^v

Implementing pretrial detention screening programs for defendants, encouraging judges to curb their reliance on pretrial detention for nonviolent offenders, and increasing the rate of personal bond use can reduce local incarceration costs and reduce jail overcrowding, potentially eliminating the immediate need for new jail expansion or construction. Elected officials should identify causes of overcrowding and carefully examine alternatives to jail expansion.

Private Prison and Jail Performance

High Turnover and Unique Security Problems Created by Private Prisons

By Nick Hudson

Compared to public prisons, private prisons train and pay staff significantly less and hire guards who have less experience.^{vi} The decision to hire guards at wages often as low as fast food and grocery-store chains leads to chronic job vacancies, critically high rates of staff turnover, and operational and security problems at private prisons.

Texas has been severely impacted by the endemic and staggering rates of turnover inside of its private prisons. Data collected by Texas Senate Criminal Justice Committee revealed that the rate of correctional officer turnover at Texas's seven private prisons was 90% in 2008, compared to 24% at the state's public prisons.^{vii} The massive turnover in private prisons revealed by the Committee is consistent with previous analyses. The *Corrections Yearbook: 2000* reported staff turnover in private prisons was 52.2% versus 16.6% in public prisons.^{viii}

High rates of turnover reported by for-profit prisons in Texas are likely attributable to wages which are significantly lower than those offered by public prisons. Compared to public prisons, private companies offer s compared to public prisons. The lowest-paid guard employed by the Texas Department of Criminal Justice (TDCJ) in 2008 made almost \$2,000 more annually than the highest-paid guard at any TDCJ-contracted for-profit private prison. Salaries for correctional officers at private prisons peak at just above \$24,000, whereas guards employed by TDCJ can expect to start just above \$26,000.^{ix}

Additional contributing factors to high staff turnover are the security problems and operational deficiencies at private prisons. The Bureau of Justice Assistance reported that private facilities experienced 49% more assaults on staff and 65% more inmate-on-inmate assaults than public facilities. Private facilities also had significantly lower staffing levels than public facilities.^{xi} A report by the Bureau of Prisons found that private prisons had fewer correctional officers and much higher rates of correctional officer turnover, escapes, and drug use than public prisons.^{xii} Private prison companies respond to critics by arguing they offer competitive wages, that security problems are systemic, and that they fulfill the terms of their contracts.^{xiii} None of these claims seek to address the uniquely high rates of turnover and operational deficiencies at private prisons. The evidence herein disproves the common refrain that the private sector inevitably leads to better-quality prison operations, as it shows private prisons are operationally inferior to public prisons on multiple counts.

Testimony of Shirley Noble to Texas Senate Criminal Justice Committee

The following is an excerpt of Shirley Noble's prepared remarks to the Texas Senate Criminal Justice Committee, delivered on October 12, 2007. Ms. Noble's son committed suicide inside of the GEO Group's Dickens County Correctional Center, spurring an investigation that led an Idaho Department of Corrections official to say the GEO Group's Dickens facility in Texas facility was, "the worst prison they'd seen."

My name is Shirley Noble. I am the mother of Scot Noble Payne, the 43 year-old man who committed suicide on March 4, 2007 at the Dickens, GEO Facility in Spur, Texas. I must make a short statement about my son Scot Noble Payne, and how he came to be in a GEO Group private prison. Scot was a good son, a wonderful husband and had quite an entrepreneurial spirit. He was a sincere and caring man, and almost fell apart after the tragic death of his wife of ten years.

“[My son] slept on a cot with a deeply soiled blanket and pillow - with feces, dried blood and Heaven knows what else encrusted in the materials. He also mentioned the odor of the pillow... [They] were never changed or cleaned.”

– Shirley Noble

While in the State of Idaho prison system, in Idaho, Scot Noble Payne had been a model prisoner. Then, with little warning, Scot was scooped up with a group of other prisoners and sent out of state to the first

of several GEO Group prisons. This quickly meant all chances to appeal in Idaho were cut off. Phone call costs were prohibitive, and his former attorney was completely unavailable when funds ran out. The results were tragic.

Scot and his group from Idaho were first sent to a facility in Minnesota, and then to the Newton [Texas] prison. There were many problems at Newton, including an incident where prisoners were unreasonably maced. The group was quickly shipped out again and sent to the [GEO Group's] Dickens facility in Texas. The men found themselves herded into large dormitory units with beds so close together that it created incredible tension. Bathing was periodic, and most of the personal property that was supposed to be shipped with the prisoner was stolen, vandalized or simply smashed. There was a shortage of electrical outlets and a great deal of the prison was run totally on generators. At this time, Scot realized he was moving from bad to worse and it all seemed there was no end to the degradation he and other prisoners were to endure within the sub-standard facilities at the hands of a number of crooked, spiteful guards.

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I do not know to what extent a guard or guards were involved in the plan, but Scot found a way to escape from the prison. He mentioned that it was obvious to him no-one would be able to help him appeal his case, he was destined to be moved from one substandard facility to another, and he didn't know how long he would be able to survive in such conditions. Scot escaped in a foolish attempt to get back home, where he thought he might find a way of appealing his case and proving his innocence.

He was injured in capture and returned to Dickens several days later where he started his degrading, solitary confinement in sub-human conditions that have been detailed in letters home and in surprising detail from officials that were there following his death. He slept, when he could, on a cot with a deeply soiled blanket and pillow - with feces, dried blood and Heaven knows what else encrusted in the materials. He also mentioned that the odor of the pillow was sickening, all of which were never changed or cleaned. He had a small shower in the cell, so they wouldn't have to let him out once a week to bathe, and the shower leaked constantly so his cell was almost permanently awash with water. I called the warden twice about the wet floors. The walls and floors were damp and moldy, and Scot was kept in these conditions for three months; the sentence in solitary was 6 months.

Scot, in his last couple of days, was left alone long enough to realize he had only one way out- he wrote incredibly long and detailed letters to me, his uncle and brother... After he tried to unsuccessfully slash his wrists and ankles, he knelt in the shower and cut his own throat. Surely, only a person in utter desperation and horrifying conditions would bring himself to this end. This was reported by the coroner. It was a long time before the on duty guard happened to notice the shower had been running for a long time, and it was too late to resuscitate my son.

This is but one of many, many cruel and inhuman activities that have been attributed to this horrendous private prison company GEO Group. They continue to lobby and donate to state officials and governors in their plans to expand into other states, other countries and control more and more poor individuals who will be secondarily punished far beyond any original charges with degrading sub-human prison... As long as GEO has control of human beings I really feel the need for heavy monitoring and as my son told me, Mum all the time I have been out State in GEO's care, nobody from Idaho has visited, has talked to any of us, questioned us or checked on us and there are so many guys in here who need to talk to someone who cares. Some of the guys would not talk as they were scared of retribution.

I would humbly request that this committee conduct a complete and thorough investigation into the pattern and practice of GEO's abuse in my son's death, and further prohibit the GEO Group from doing business in Texas. Please hold them accountable for all the injuries and misery they have caused within Texas.

Thank you for this opportunity to address you.

Case Study: Bill Clayton Detention Center

Location: Littlefield, TX

Operator: CSC/ The GEO Group

Capacity: 372

The Bill Clayton Detention Center (BCDC) is a medium security, 370-bed prison for adult males located in Littlefield, Texas. BCDC was constructed in 2001. It was financed by \$10 million in revenue bonds issued by the city of Littlefield. Originally operated by Correctional Services Corporation, it was acquired by GEO Group in 2005.^{xiv} The certificates of obligation issued for construction of Bill Clayton comprise a large portion of Littlefield's debt obligations.

Littlefield has had problems with BCDC since its construction. When the facility's opening was delayed, Littlefield was forced to rely upon a reserve fund to meet its debt service requirements.^{xv} Littlefield had planned to meet its debt requirement for BCDC by contracting with the Texas Youth Commission (TYC) for juvenile offenders in its custody, but TYC ended its contract with BCDC and removed all of its juveniles from the facility in 2003.

Inmates from Wyoming replaced the TYC juveniles, but TYC's pullout negatively impacted Littlefield's financial position. In 2004, Littlefield relied on its water and sewer fund to meet operational and debt service requirements for BCDC. In 2005, the city recorded an unrestricted net asset deficit of \$350,000 in its detention center fund. In 2006, the credit ratings agency Fitch downgraded Littlefield's tax and revenue obligations to 'BB+' from 'BBB+' because of the city's weakened financial position caused by TYC's contract termination.^{xvi}

Littlefield's contract with the Wyoming Department of Corrections was terminated in 2005, ostensibly to consolidate Wyoming's out-of-state prison population and reduce costs^{xvii}. The city signed a new contract with the Idaho Department of Corrections (IDOC). After an Idaho inmate placed in solitary confinement by GEO Group for more than a year killed himself in 2008, the IDOC conducted an audit of the facility. The auditors found that guards routinely falsified reports, the facility was chronically understaffed, staff were overworked, programming was not offered, work programs were meaningless, and the facility's operational problems created safety and security risks.^{xviii}

In 2008, the IDOC terminated its contract with the GEO Group. Because of financial underperformance, GEO Group ended its contract with Littlefield in November 2008 and fired 74 employees. In June of 2009, Standard & Poor's rating service again lowered Littlefield's general obligation debt rating to 'B' from 'BB', reflecting the city's increased vulnerability to nonpayment of its debt obligation for BCDC.^{xix} In August 2009, the rating was again lowered to BBB- with a rating outlook of "negative."^{xx}

Case Study: Reeves County Detention Center

Location: Pecos, Texas

Operator: The GEO Group

Capacity: 2,407

Reeves County built a \$40 million, 960-bed expansion to its Reeves County Detention Center (RCDC) in 2004. The expansion was the third phase of the detention center's expansion.

However, after construction, the county could not attract federal prisoners to fill the new beds. In summer 2003, County Judge Jimmy Galindo wrote a letter to President Bush urging him to intervene with federal prisoners. By the end of August, the county was at risk of defaulting on its bond note and owed \$475,000 on its first payment.^{xxi} The county then hired Randy DeLay, brother of then-House Majority Leader Tom DeLay, to lobby the Federal Bureau of Prisons to place prisoners in RCDC. DeLay was paid \$120,000 for his unsuccessful lobbying efforts.^{xxii} By the end of 2003 the county's bond rating was downgraded twice to a 'CCC' rating. Anything below a BB rating is considered a junk bond. A Fitch rating analyst said that the county was at a serious risk of defaulting on its bond agreement.^{xxiii}

In November 2003, the county signed a 10-year management agreement with Wackenhut Corrections (which then became the GEO Group). Wackenhut immediately fired 91 of the county's 435 employees.^{xxiv}

In March 2004, GEO Group announced a contract to hold inmates from the overcrowded Arizona Department of Corrections to RCDC. The contract stipulated that up to 865 Arizona inmates could be held at the facility.^{xxv} In May 2004, the RCDC was back in the news. Up to 240 Mexican nationals under control of the Arizona Department of Corrections were moved to RCDC. The new inmates engaged in hunger strikes and staged fights to be transferred out of the facility.^{xxvi}

In December 2008, federal prisoners at RCDC rioted in response to poor medical care at the facility that allegedly resulted in the death of several of the facility's detainees. The rioters took two civilian staff members hostage and set fire to RCDC.^{xxvii} The December riots resulted in more than \$320,000 in damages.^{xxviii}

In late January and early February 2009, more than thirty prisoners rioted for five days, setting fire to RCDC and causing significant damage to the facility. Three prisoners were hospitalized due to injuries sustained during the riot, one with a severed finger.^{xxix} Detainees at RCDC were protesting poor treatment and denial of medical care. Several law enforcement agencies were called upon to secure the facility, including local Department of Public Safety, and Reeves County Sheriff's Department.^{xxx} RCDC was left significantly damaged.

The Reeves County Commissioner's Court approved more than \$1.1 million in repairs to RCDC between the riots in December and January, but insurance officials estimated that repairs might cost Reeves County more than \$20 million.^{xxxi}

Case Study: Willacy County

Location: Raymondville, Texas is home to several controversial private prisons.

Management and Training Corporation's federal prison: This 540-bed prison contracted with the U.S. Marshals Service was built in 2002 using \$23.9 million in revenue bonds issued by the Willacy County Public Finance Corporation. The Management and Training Corporation (MTC), a Utah-based private prison operator, was awarded a \$43 million contract to operate the jail after it was constructed.^{xxxii}

In January 2005, two Willacy County Commissioners resigned their posts and plead guilty to receiving kick-backs in conjunction with the private jail project. The Commissioners, Israel Tamez and Jose Jimenez, accepted \$10,000 in bribes from construction companies connected to the project in return for their votes in favor of the project.^{xxxiii} The ex-Commissioner, David Cortez of Webb County, resigned his position and pled guilty to conspiring to “obstruct, delay and affect commerce.” Prosecutors allege that Cortez helped funnel at least \$39,000 to “several” Willacy County commissioners from an unnamed company involved in the jail’s development. In late May of 2005, Willacy County sued two of the companies involved in the contract – CorPlace Corrections and Hale-Mills – in state district court claiming that the companies conspired to bribe the commissioners to win the contract to build the prison.^{xxxiv}

MTC's “Tent City” immigration detention center: In 2007, fifty detainees report finding maggots in their rotten food, inadequate toiletries and sanitation. The lack of air conditioning resulted in several detainees fainting.^{xxxv} MTC allowed little communication with the outside including legal counsel. According to the news report, “security guards say they can not believe what they see, they make reports and advise superiors but the situation is the same. Detainees are desperate and things may get out of hand.” Later the same year, Willacy County would announce a \$50.1 million expansion to “Tent City,” an extra one thousand beds, making it the largest immigrant detention camp in the country; it is also one of the poorest counties in Texas.^{xxxvi}

GEO Group's State jail (now operated by CCA):

In 2009, a \$42.5 million award is given to the family of a Gregario De La Rosa, a prisoner beaten to death in 2001 while guards and supervisors looked on. A trial judge ruled that GEO Group, and the prison’s warden, lied and destroyed evidence including a videotape of the murder.^{xxxvii}

In 2008, a Willacy County grand jury indicted the GEO Group, former Vice President Dick Cheney and Former Attorney General Alberto Gonzales on state charges related to the alleged abuse of prisoners in Willacy County's federal detention centers.^{xxxviii} Additionally, two local commissioners and Texas State Senator Eddie Lucio Jr. were indicted for bribery. However, these indictments were never authorized by Presiding Judge Manuel Banales of the Fifth Administrative Judicial Region, and have not been completed.

PRIVATE PRISON SCANDALS FROM TEXAS

Voluminous evidence suggests that private facilities have inadequate staff training and equipment, inadequate protection of prisoners' human rights, degrading prison conditions, and poor employment standards. Newspaper reports are replete with accounts of escapes, abuse of inmates, and financial mismanagement. Every private prison operator in Texas has experienced these problems. The following are summaries of some of the most-publicized private prison scandals.

Bartlett State Jail (Bartlett, TX): CCA

2009: An inmate is found dead in his cell, hanging by a bed sheet from a light fixture.
2000: Two prisoners escape from the facility, followed by a high-speed car chase.

Ben Reid Community Correctional Facility (Houston, TX): Cornell

2004: Director of training at this halfway house for paroled felons is indicted for intent to distribute drugs. That same year, seven employees resign after testing positive for drug use.

Bexar County Jail (San Antonio, TX): Aramark, Premier Management Enterprise

2007: After longtime campaign manager and friend of Sheriff Ralph Lopez pleads guilty to a felony count of theft for demanding that Premier's principals give campaign contributions in exchange for contracts to operate the Bexar County Jail commissary, Bexar County Sheriff Ralph Lopez resigns and pleads no contest to accepting an all-expenses-paid golfing/fishing trip to Costa Rica from Premier, a commissary company owned by the same individuals as LCS Corrections.

Big Spring Complex (Big Spring, TX): Cornell

2008: Cornell Companies refuses to respond to calls from local reporters after a prisoner riot and fire at the Big Spring Complex requires assistance from 15 local police officers.
2005: A "disturbance" inside of the facility leaves five workers hurt, and one staffer requires hospital treatment.
2001: An inmate escapes over a fence and loses Cornell Corrections officers on foot; the inmate is captured after unwittingly asking an off-duty police officer for assistance.

Bi-State Jail (Texarkana, TX): CiviGenics/CEC

2005: A former CiviGenics jailer is arrested and accused of sexual activity with a woman in custody.
2004: Three inmates, including a capital murder suspect, escape and are loose for 28 hours.

Bill Clayton Detention Center (Littlefield, TX): CSC/GEO Group

- 2008: After more than a year of solitary confinement in the facility, a second inmate transferred from Idaho dies after apparently killing himself. Reports show that the man was sent to solitary confinement on administrative penalty after attacking a guard, rather than the guard filing charges and sending him through the courts for a fair hearing. Since this was a repeat instance, Idaho cancels their contract with the facility.
- 2008: Idaho finds legal aid and access to the courts required by state contract is not provided to inmates, that “no programs are offered,” and that, “most jobs have to do with keeping the facility clean and appear to be less meaningful.”
- 2008: Randy McCullough, an Idaho inmate placed in solitary confinement for more than a year, commits suicide. His body is not found for more than six hours, despite the operational requirement that inmates in solitary confinement be checked on every six hours. The facility is understaffed at the time of his death.
- 2006: A brief riot involving 39 Wyoming prisoners is suppressed with pepper spray. Prisoners and staff are treated with first aid, but there is an unspecified amount of property damage and a lockdown.
- 2004: Two inmates escape the center; four people, including three CSC guards, are arrested for helping the inmates escape. They are charged with permitting and facilitating the escape of a convicted felon. (CSC)

Bowie County Correctional Center (Texarkana, TX) CiviGenics/CEC

- 2009: A CiviGenics guard is indicted by a grand jury on charges of attempting to take drugs into the facility.
- 2008: A CiviGenics guard is caught with three sandwich bags full of marijuana inside of the jail.
- 2007: A CiviGenics guard is arrested for allegedly trying to smuggle marijuana, tobacco and cigars into the jail.
- 2005: Damian Wheeler, an inmate at the Bowie County Correctional Center, is found unresponsive several hours after a fight after another inmate; he is later pronounced dead.
- 2005: Smith County inmates are moved from the Bowie County Detention Center to other facilities operated by the CiviGenics firm after the Bowie County facility fails inspection.

Bradshaw State Jail (Henderson, TX): MTC

- 2009: A prison guard is charged with violating the civil rights of an inmate by sexual contact and having a prohibited substance in a correctional facility. The guard told investigators she had sexual relations with an inmate and gave him \$200. The inmate confirmed these claims.
- 2008: An inmate is found dead in his cell after hanging himself.
- 2003: An inmate sues an MTC guard for maliciously slamming a door on his fingers, causing two fingertips to be severed and showing indifference to the resulting medical condition.

Brazoria County Detention Center (Angleton, TX): CCRI

1997: Guards make a training video of themselves beating, stun-gunning, and unleashing dogs on naked prisoners from Missouri. Injured inmates were dragged face down back to their cells. Reports indicate that convicted felons were hired as guards; typical menu was inadequate and inappropriate.

Brooks County Detention Center (Falfurrias, TX): LCS Corrections

2009: A 42 year-old inmate is found dead after being placed on suicide watch. Despite undergoing an autopsy, a cause of death is not released

2004: Immigrant detainee escapes; the resulting manhunt involves over 100 officers from the Brooks County Sheriff's Department, Department of Public Safety, Border Patrol, Texas Department of Criminal Justice, and the local fire department.

Central Texas Detention Facility (San Antonio, TX): The GEO Group

2009: An inmate escapes while wearing handcuffs and leg shackles. He is at large for three days before being caught through reports of his knocking on doors and asking residents if he could use their phone.

2002: A jail guard who crashed a van carrying six prisoners into a downtown lamppost is discovered to not have a driver's license.

1996: A double murderer escapes through a window at the facility, prompting structural improvements to the facility

Coke County Juvenile Justice Center (Bronte, TX): The GEO Group

2007: Three monitors are fired by the Texas Youth Commission for failing to report filthy, dangerous conditions at the Coke County Facility, where they had previously worked for the GEO Group.

2007: Facility is shuttered after an audit by the Texas Youth Commission finds unsanitary and unsafe conditions at the facility, which is described as being in an advanced state of disrepair; rehabilitation programs were not being conducted, and officials conclude that the health and safety of youth housed there is in jeopardy.

2007: Employee fired after TYC discovered he had a previous conviction for exposing himself to a child.

1999: Several girls are sexually, physically, and mentally abused by employees. Abusers include a man with prior conviction for sexual abuse of a child; a lawsuit was settled for \$1.5 million. A 15-year old female victim of this sexual assault by prison employee committed suicide in the wake of the lawsuit settlement that allowed The GEO Group to avoid accepting responsibility.

1995: TYC confirmed allegations that some staff members manipulated a "demotion/graduation" system to coerce girls into giving them sexual favors or dancing naked in front of them. Some girls were raped or fondled, while others were made to disrobe and shower in the presence of male employees.

Dickens County Correctional Facility (Spur, TX): GEO Group

2007: Scot Noble Payne is placed in solitary confinement, where he kills himself.

The Associated Press' article on the prison described the facility as "squalid" while Idaho's Department of Corrections Director of Health Care called the prison the worst he's ever seen and "beyond repair."

2007: A former guard is convicted of providing contraband to a prisoner and sentenced to five years of probation, \$1,000 fine and 120 hours of community service. He was using the prisoner as an intermediary to sell contraband to other prisoners and may have been involved in the 2006 escape of Scot Noble Payne.

East Hidalgo Detention Center (La Villa, TX): LSC

2006: Five undocumented immigrants and a former police officer escape from the privately run South Texas jail. The facility is repeatedly found in noncompliance with state standards. An inspection conducted eight days after the escape cites the prison for employing too few guards, adding an unauthorized number of bunks, and keeping unlicensed guards on the payroll.

2006: A prison guard and two other people are arrested for aiding in the escape of six prisoners from the facility. An 18-year-old guard who oversaw the six escapees had been on the job less than three months and had not yet undergone a training course mandated for Texas jailers reports being overpowered by inmates.

Ector County Correctional Center (Odessa, TX): CiviGenics

2008: A guard is charged with bribery for taking \$150 to smuggle in a cell phone, as well as several "baggies" of marijuana at \$100 each over the previous two months.

2008: A twenty-one year old inmate is found dead after hanging himself in his cell. His body is not discovered until more than 24 hours later.

Eden Detention Center (Eden, TX): CCA

2003: Two years after Conrado Mestas Ochoa is found dead in his cell, his family files a lawsuit against CCA claiming their son died after mental abuse that included withholding a special diet for his medical condition.

1996: A daylong riot in which shotgun-toting guards clashed with 400 boisterous prisoners at this low-security facility leaves at least 17 people were hurt.

Frio County Detention Center (Pearsall, TX): CSC

2004: Five federal inmates escape. This escape marked the fifth breakout at this facility since 1996; a total of 14 escapees. Later this year, the U.S. Marshals pull their remaining inmates from the prison citing security concerns.

Jefferson County Downtown Jail (Beaumont, TX): The GEO Group

2003: An officer is arrested by the Jefferson County Drug Task Force for entering the Jefferson County Jail in possession of approximately two ounces of crack cocaine and one hundred dollars of photo copied United States currency. The officer is terminated and charges are filed in the U.S. Federal Court.

2004: A female officer engages in illegal sexual acts with a detainee. Charges are filed against the officer; she is terminated, prosecuted and receives 3 years probation.

LaSalle County Regional Detention Center (Encinal, TX): Emerald

- 2008: Prison guard is charged with having sex with a prisoner.
- 2003: Backers of the controversial jail sue the top official in La Salle County, claiming he interfered with a \$25 million contract to build the facility.
- 2002: A speculative jail is built using nearly \$22 million in high-yield revenue bonds issued by county's public facilities corporation. After construction, the county starts losing money after it can't fill all 540 beds.

Liberty County Jail (Liberty, TX): CiviGenics/CEC (formerly run by CCA)

- 2008: A former CCA prison guard is charged with a felony sex with an inmate charge.
- 2008: Two prison guards are charged with delivering marijuana, ecstasy, and cash into the jail.
- 2004: Three prisoners escape after overpowering a guard and two guards were fired for violating jail policy that led to the escapes. There have been seven escapees from this facility since 1995. (CCA)

McLennan County Detention Center (Waco, TX): CiviGenics

- 2008: It is discovered that the McLennan County Sheriff has been paid \$12,000 a year for ten years by private prison operator CiviGenics. According to the Sheriff, the stipend is a feature of the contract authorized by the McLennan County Commissioners Court.
- 2008: An inmate at the downtown jail facility is reportedly caught on multiple occasions with a marijuana cigarette in her bra. While investigators attempt to find out how she got the drugs into the jail, the woman reports that guards are having sex with and selling drugs to inmates.
- 2004: Guard is indicted for having sex with a female inmate.
- 2001: Resignations of four top detention center officials.
- 2001: Escape of a prisoner who is subsequently charged with killing a woman and arrest of a guard charged with facilitating the escape.

Mineral Wells Pre-Parole Transfer Facility (Mineral Wells, TX): CCA

- 2009: An inmate is found with injuries consistent with an assault. According to statements by the dispatcher at the time, the caller stated that there was "blood everywhere." Local police also respond to the call.
- 2008: A major prison riot in the facility involves over 50 inmates. CCA is unable to handle the situation and the inmates were shipped back to the TDCJ. Racial tensions reported as the motive for the riot.
- 2007: Mineral Wells Police called to facility after hundreds of prisoners refuse to leave the recreational yard; disturbance takes 3 ½ hours to quell.
- 2007: Two prisoners escape and are missing for six hours before being spotted by helicopter less than five miles from the prison.
- 2005: Seven inmates are injured in a riot. The local sheriff's department is called in when prison staff could not quell the disturbance.
- 2000: Twenty-three inmates and six staff contract E. coli due to poor kitchen cleanliness.

Pearsall Immigration Detention Center (Pearsall, TX): The GEO Group

2008: A report uncovers widespread instances of sexual abuse by prison guards. One of the victims of the abuse was a Guatemalan immigrant who reportedly became pregnant afterwards.

2007: A mentally-ill patient is not given her prescribed medication and psychiatric treatment. The GEO Group is sued for failing to provide adequate medical care to a documented mentally-ill inmate. Reportedly, the guards accuse her of faking her illness and claiming she had no rights in the United States. Her crutches were taken from her, and she was stripped naked and put into isolation.

Raymondville Detention Center (Raymondville, TX): MTC

2008: Guard accused of stealing money and property from detainees; second time in 2008 that a guard is investigated at the facility.

2008: Facility is discovered serving prisoners rotten food, contaminated food, and food infested with maggots.

Reeves County Detention Center (Pecos, TX): The GEO Group

2009: Two riots in consecutive months cost the facility \$1.1 million in damages and leave the facility inoperable. The riots result in injured inmates, guards taken hostage, and arson. Reports indicate the riots are sparked by a lack of medical care in the facility and several inmate deaths.

2009: An inmate dies at the age of 32 while in custody. Some reports state it was suicide, but his family denies the claim.

2004: Arizona inmates stage fights and go on hunger strikes in order to be transferred back to Arizona.

Tarrant County Corrections Facility (Fort Worth, TX): CSC/GEO Group

2004: CSC ordered to pay \$38 million for the death of an 18 year-old inmate who died after contracting pneumonia.

2002: Prison nurse is convicted of negligent homicide in inmate death.

2001: Accusations of sexual misconduct by male guards against female inmates plague the camp since its opening in 1992. Lawsuits are filed about sexual abuse charges; Sen. Chris Harris testifies against company saying it was “cutting corners” because of the “corporate bottom line.” The facility also endures accusations of staff shortages and questions of improper medical care.

T. Don Hutto Family Detention Center (Taylor, TX): CCA

2007: A lawsuit documented restrictive settings for children, including inadequate school hours, poor nutrition, and threats to separate the children from their parents for misbehavior.

2007: A CCA staffer is fired for “inappropriate contact” with a female prisoner.

Travis County State Jail (Austin, TX): Wackenhut Corrections/The GEO Group

1999: 11 former guards and a case manager are indicted on felony charges of sexual assault and improper sexual activity and misdemeanor charges of sexual

Considering a Private Jail, Prison, or Detention Center?

harassment. Later this year, the Texas Department of Criminal Justice (TDCJ) would retake control of the facility.

Val Verde Correctional Facility (Del Rio, TX): The GEO Group

- 2008: A former GEO Group guard is indicted on federal civil rights charges for beating a prisoner.
- 2007: A mysterious illness killed two prisoners and hospitalized two more at the GEO Group's Val Verde Detention Center. All four prisoners were healthy upon entering the facility. Three of them were held on immigration charges, the other was a county inmate.
- 2005: An employee reports that his superior displayed a hangman's noose in his office and took pictures of himself donning KKK garb over his prison uniform.
- 2005: A second lawsuit is filed on behalf of an inmate who committed suicide after being sexually harassed and denied healthcare. The GEO Group settles.
- 2004: Detainee commits suicide after reporting that she had been sexually assaulted and denied medical care.

Willacy County State Jail (Raymondville, TX): CCA (formerly by GEO Group)

- 2009: (CCA) Inmate dies after being denied an inhaler.
- 2007: (CCA) Facility goes into lockdown after a fight between rival gangs leaves 19 prisoners injured.
- 2006: (GEO Group) The family of a local man killed at a prison run by Wackenhut is awarded \$47.5 million by a Willacy County jury. The inmate was beaten to death four days prior to completing his sentence.
- 2001: (GEO Group) Following an escape, TDCJ learns that electronic sensors on the perimeter fence had not worked since the facility was built, six to eight of the security television monitors were inoperable, and a perimeter patrol officer was sleeping in a car the night of the escape.

Willacy County Federal Detention Center (Raymondville, TX): MTC

- 2005: Three Willacy County Commissioners plead guilty after an indictment for receiving kickbacks during the construction of the Management and Training Corporation federal prison project.
- 2005: State Senator Eddie Lucio, Jr. suspends his consulting work with three companies, MTC, Corplan, and Aguirre Corp., associated with the prison project.

This information is based on a document entitled "Highlights of Private Prison Scandals in Texas." Independent criminal justice policy expert Michele Deitch originally prepared this list of scandals in 2003 using newspaper reports and the database of the Florida Police Benevolent Association. The information was updated by Bob Libal in 2005, Nicole Porter in 2007, and Andrew Strong and Nick Hudson in July, 2009. Many of these cases were compiled from the website of the Private Corrections Institute (<http://www.privateci.org>).

SAMPLE RESOLUTION

Encinal Economic Development Corporation August 22, 2005

RESOLUTION OPPOSING THE EXPANSION OF THE LASALLE COUNTY REGIONAL DETENTION FACILITY OR THE CREATION OF ANY OTHER PRISON OR DETENTION FACILITY IN OR NEAR ENCINAL.

WHEREAS the Encinal economic development corporation was created by the city of Encinal to promote and invest in the economic well-being of the city of Encinal;

WHEREAS the existing La Salle county regional detention facility, which houses detainees for the us marshals service and is located less than a mile outside of Encinal city limits, was undertaken by the county of La Salle and private interests without input from Encinal city officials and without response to Encinal community member concerns;

WHEREAS the study published in social science quarterly in march 2004, "the prison industry: carceral expansion and employment in U.S. counties, 1969-1994." (Greg Hooks, *et. al.*) shows that small, rural communities such as Encinal, contrary to popular belief, do not see long-term economic benefit from prison projects;

WHEREAS the existing La Salle county regional detention facility has failed to provide any demonstrative positive economic impact to the city of Encinal;

WHEREAS the recent addition of the La Salle county regional detention center to the water/sewer system of the Encinal water supply corporation, which provides water and sewer services to the community of Encinal, has left insufficient water/sewer infrastructure to support additional businesses and residences without considerable expense (estimated at over \$4 million);

WHEREAS the city of Encinal has a population of 629 (U.S. census, 2000) and the creation of a large-scale detention facility, with a detained population (2,800) far greater than the town population will cast the image of Encinal as a prison town.

WHEREAS the Encinal economic development corporation supports a diversified economy for the Encinal community and envisions a community that is not reliant on any one sector of the economy or any one industry;

NOW THEREFORE BE IT RESOLVED that the Encinal Economic Development Corporation opposes the expansion of the existing La Salle county regional detention facility or the creation of any other prison or detention facility in or near Encinal.

PASSED AND APPROVED this 22nd day of August, 2005.

Bibliography

- ⁱ © 2004 Civic Research Institute, Inc. This article originally appeared in the August/September 2004 issue of the Correctional Law Reporter and is reprinted with permission of the publisher. For subscription information, write Civic Research Institute, 4478 US. Route 27, P.O. Box 585, Kingston, NJ 08528 or call 609-683-4450.
- * Michele Deitch is an attorney and criminal justice policy consultant based in Austin, Texas. Her firm, the Center for Criminal Justice Initiatives, works with policy-makers and agencies around the country on systemic criminal justice problems, including prison and jail overcrowding, institutional conditions, alternatives to incarceration, and sentencing reform. She can be reached by telephone at (512) 328-8330 or by e-mail at MYDeitch@aol.com. Suggestions for items to review are appreciated.
- ⁱⁱ Dr. Sean Chadwell is a former city council member in Encinal, Texas and an associate professor of English at Texas A&M International University in Laredo.
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