

Advancing Justice: Addressing the Impacts of Private Prisons

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ABSTRACT

Prisons play a multifaceted role within American society and their portrayal in various forms of media, serving as potent symbols of justice, punishment, and rehabilitation. The prevailing narrative surrounding the US criminal justice system emphasizes that prisons have a dual purpose: to serve as places of retribution for offenders and simultaneously provide avenues for reform, reintegration, and eventually successful reentry into society. Nevertheless, as the complex nature of the criminal justice system unravels, concerns have emerged regarding the increasing influence of financial interests in private prisons. This economic trend raises apprehensions about the potential detrimental impact on rehabilitation efforts and its contribution to the persistently high incarceration rates. Critics argue that when financial gain becomes the primary focus of prisons' operations, inmates' well-being and prospects may be compromised. The profit-driven nature of private prisons may prioritize cost-cutting measures over providing necessary resources for rehabilitation programs, mental health support, educational opportunities, and vocational training.

Introduction

Private prisons directly responded to the increased incarceration rate caused by the Nixon administration's War on Drugs and other mass incarceration policies. Under the guise of combating drug abuse and the illegal drug trade, the policies implemented during this era had far-reaching consequences, particularly for communities of color. During the 1980s, the War on Drugs intensified with the passage of punitive sentencing policies such as mandatory minimum sentences and harsh penalties for drug-related offenses. These new policies disproportionately impact marginalized communities with crack cocaine, particularly those receiving harsher penalties than powdered cocaine, leading to a disproportionate number of individuals from minority communities incarcerated (Young). These policies contributed to a surge in the prison population, overwhelming state-run correctional facilities ("50 years"). As prisons become overcrowded, states sought alternatives to expand capacity and alleviate the strain on their systems. Private prisons presented an enticing solution, offering a seemingly cost-effective means of accommodating the growing number of inmates. By contracting with private prison companies, states could transfer the responsibility of constructing and managing facilities to third-party corporations. This approach was seen as a way to address the capacity crisis without the financial burden of building new state-run prisons (Beiser). The private prison industry seized this opportunity and experienced substantial growth, mirroring the expansion of other profit-driven sectors. One of the notable private prison companies that emerged during this time was CoreCivic, formerly the Corrections Corporation of America (CCA). However, the industry faced challenges, including financial difficulties, lawsuits, and concerns about the stability of these corporations. CoreCivic, for instance, restructured itself as a real estate investment trust to mitigate some of these challenges (Gainsborough). Critics argue that associating prison construction with real estate investment incentivized states to maintain larger incarcerated populations. By treating prisons as revenue-generating assets, private prison corporations and their shareholders became invested in perpetuating high incarceration rates. This financial

motivation has drawn criticism, as it can undermine efforts to prioritize rehabilitation and address the underlying social issues contributing to crime.

Moreover, the War on Drugs policies have been heavily criticized for disproportionately impacting communities of color. The punitive sentencing measures substantially increased nonviolent drug offenders sentenced to lengthy prison terms, leading to a significant racial disparity within the criminal justice system. Critics argue that focusing on punishment rather than rehabilitation has not effectively addressed drug addiction or reduced drug-related crimes. Instead, it has perpetuated a cycle of incarceration, disproportionately affecting marginalized communities and exacerbating social inequalities. In recent years, there has been growing awareness and calls for criminal justice reform to address the consequences of the War on Drugs policies and the role of private prisons. Advocates emphasize the need to shift towards a more rehabilitative and community-based approach, focusing on alternatives to incarceration and addressing the systemic issues that contribute to drug abuse and criminal behavior.

Incarceration Rates from 1925 to 2021

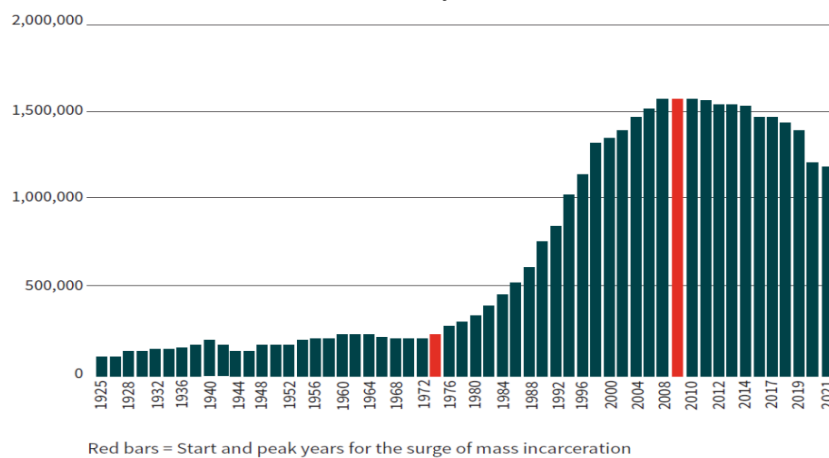


Figure 1: Incarceration has grown at an exponential rate since the establishment of mass incarceration policies such as the War on Drugs in the 1980s. Although incarceration rates have fallen in recent years, the US still has the largest prison population in the world. (Source: 50 Years and a Wake Up: Ending The Mass Incarceration Crisis In America.)

Prisoners in adult private prisons, 1987-2001

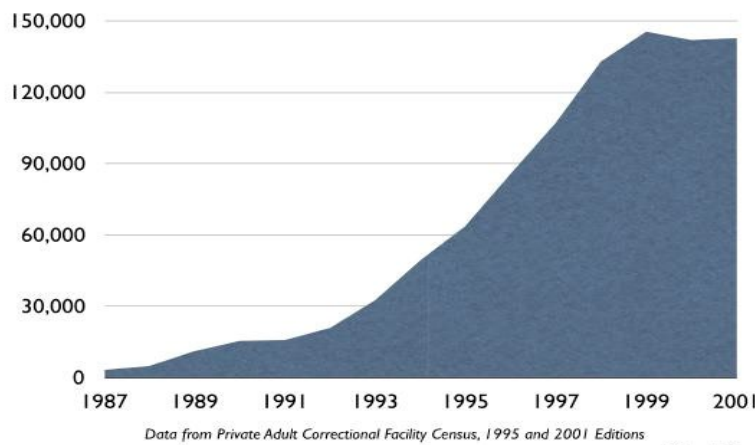


Figure 2: Private prisons have continued to grow as mass incarceration policies have led to overcrowding in state-run facilities. According to recent data gathered by the Sentencing Project, 99,754 American residents were held in private prisons in 2020 (“50 years”). (Source: Overview: Trends in the Crime Control Industry.)

Profitability of Private Prisons

Funding for Private Prisons:

The modern economics of private prisons prioritize the profitability of punishment over human rehabilitation and growth. Corporations globally depend on prisons as a significant source of profit and have undisclosed interests in the growth of the prison industrial complex (Davis and Shaylor). The investment in private prisons creates a conflict between justice and profits, as corporations are incentivized to maintain a large prison population. For example, a corruption scandal involving private prison operators was uncovered in 2011 when a juvenile court judge, Mark Ciavarella, in Pennsylvania, was convicted of accepting payments to sentence kids to harsher punishments to keep the private prison facility filled (Brickner and Diaz). By contracting more private prisons, state governments create a prisoner-for-sale model where instead of working to end crime and reduce incarceration rates, corporations are incentivized to lobby for tougher criminal sentences and policing. Harsher criminal sentences and policing increase the incarcerated population fueling the creation of more private prisons, creating a cycle of incarceration and prison growth known as the prison industrial complex. The prison industrial complex incentivizes a large prison population which causes “state budgets [to] increasingly [be] consumed by the cost of building and maintaining prisons, while money dedicated to sustaining and improving communities are slashed” (Davis and Shaylor). The impact of redirecting funds from social programs to private prisons has been seen in California, where “the percentage of [the] state budget devoted to education dropped 35 percent [while] appropriations towards prisons [rose] five-fold” (Beiser). By reducing funding for education and other social programs, state governments continue to perpetuate cycles of incarceration. Instead of tackling the more significant issues of institutionalized racism that have prevented minority groups from getting a proper education and moving beyond their current circumstances, state governments have built more prisons contributing to the school-to-prison pipeline seen in many minority communities. The school-to-prison pipeline pushes people from marginalized communities into the prison system. This trend is exacerbated by zero-tolerance policies, increased reliance on police, and the failing public school system due to funding and budget cuts (“School-to-Prison Pipeline”).

Hidden Costs:

The reduced operating costs are the most appealing factor of private prisons. However, private prisons have many hidden costs that skew the true economic advantage between private and state-run prisons. Private prisons have less yearly maintenance than state-run prisons (“Annual per Capita”). However, the difference between the annual cost of private and state-owned prisons is a max of \$3,000, a less significant difference than expected. Additionally, the lack of unification in deciding the management costs of prisons has allowed certain costs to go unaccounted for the private prison management. Private prisons “generate hidden costs,” preventing scientists from “[concluding] whether privatization saved money” (Beiser). These hidden costs can include the cost of legal battles fought by private prisons, the cost of transporting inmates to and from the private prison, and the cost of monitoring the activities of the private prison. While lower maintenance costs of private prisons may seem appealing, the hidden costs associated with privatization, over-incarceration, and the reliance on harsh sentencing practices should also be considered.

Annual Cost to House Inmates

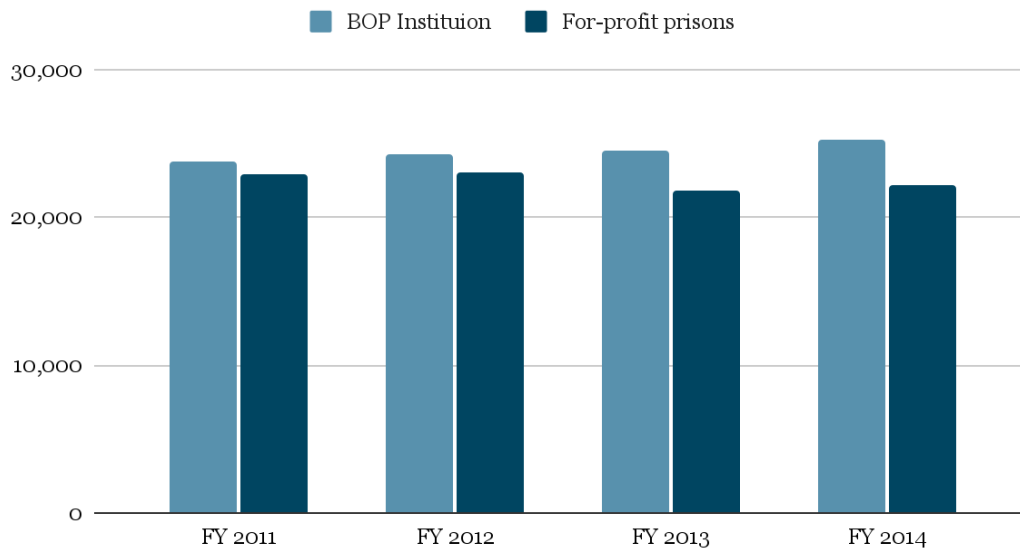


Figure 3: BOP institutions are state-run institutions that are not reliant on private contracts with third-party companies. According to provided management costs, BOP institutions cost more to run per year than for-profit prisons. (Source: Annual per Capita Costs for Bureau of Prison (BOP) Institutions and Contract Prisons, Fiscal Years)

Ethical Concerns

Many private prison supporters argue that the economic benefit of using private prisons outweighs the ethical concerns they present. However, the low maintenance cost of private prisons comes at the expense of the safety of inmates and employees. There are more assaults in private prisons than in state-run prisons (“Annual per Capita”). The lack of adequately trained staff and other neglectful policies cause private prisons to be more violent than state-run prisons, putting staff and other inmates at risk. To reduce costs, private prisons use non-unionized employees that work at a lower salary and are less trained than employees at state-run prisons. The lesser training of private prison employees prevents them from knowing how to de-escalate violent situations, making them more susceptible to getting injured on the job (Brickner and Diaz). Additionally, these employees also work on a “per-prisoner-per-day basis [which has] the potential for abuse built-in” (Beiser). Working on a per-person basis incentivizes employees to keep the prison population as high as possible, fueling the growth of the prison industrial complex and leading to increased rates of violence at prisons. Beyond issues in staffing, policies at certain private prisons put inmates at a greater risk than in many state-run facilities. Multiple lawsuits have been filed against the CCA that document the failures in private prison management, such as “failure to provide adequate medical care to prisoners, failure to control violence in its prisons, substandard conditions that have resulted in prisoner protest and uprisings, and criminal activity on the part of some CCA employees” (Gainsborough). Using lesser-trained workers and weak policies leads to neglect and a failure to control violence; by attempting to cut management costs, the prison facilities are poorly managed, leading to corruption and decay.

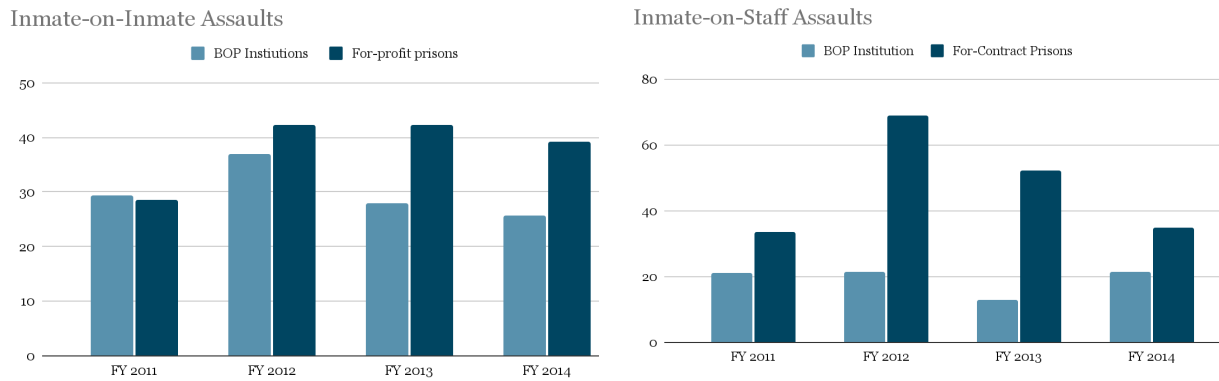


Figure 4 - Left: (Inmate-on-Inmate Assault): Inmate-on-Inmate assaults are significantly higher in for-profit prisons, partially due to the lack of well-trained staff trained to handle intense conflict among prisoners.

Figure 5 - Right: (Inmate-on-Staff Assault): Inmate-on-Staff assaults are significantly higher in for-profit prisons because rotating staff prevents prisoners from building connections and trust with the faculty, leading to increased aggression. (Source: Annual per Capita Costs for Bureau of Prison (BOP) Institutions and Contract Prisons, Fiscal Years)

Violence Against Minority Groups

Racism:

The for-profit model of private prisons exports racist violence toward minority groups and exacerbates cycles of incarceration and social disenfranchisement in lower-income areas. Funding for private prisons moves state funding from social programs to incarceration. The shift in funding “especially [impacts] women of color who are hardest hit by the [withdrawal] of social resources and their replacement with imprisonment” (Davis and Shaylor). Most of the incarcerated population in the United States are Black, Indigenous, or Hispanic; private prisons allow states to neglect the legacies of institutionalized racism and bandage the socio-economic issues minority groups face with incarceration. Instead of trying other tactics to reduce incarceration and crime rates, states divert money from social programs to build more prisons, promoting cycles of incarceration. Additionally, increased incarceration of minorities has led to the militarization of Immigration and Naturalization Services. Immigrants have been criminalized by the “racist and xenophobic campaigns against immigrant communities, which particularly target people from Mexico and Central America (and increasingly people from Asian countries)” (Davis and Shaylor). Private prisons are interested in perpetuating the criminalization of immigrants as it increases the incarcerated population and profits. Private prisons lobby to maintain harsh immigration policies and criminalization of immigrants, regardless of the psychological and physical harm caused to individuals and communities. Harsh immigration policies demonize and export racist violence toward immigrants, which continues their economic and social oppression in American society.

Racial Disparities in Prison Incarceration (2019)

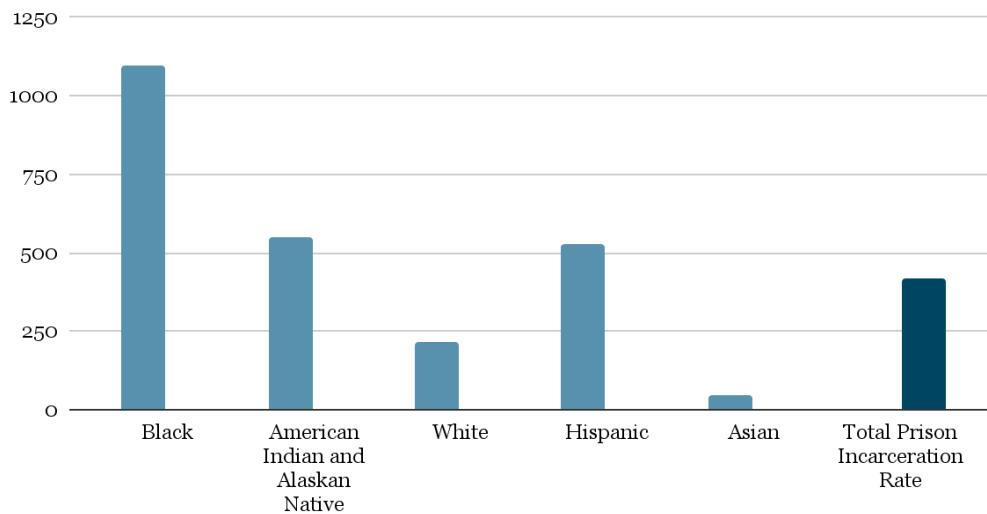


Figure 6: Per 100,000 prisoners, Black, American Indian, and Hispanic people are the most represented racial groups in federal prisons. (Source: Wessler)

Sexism:

The repressive models of the prison system and the sexist ideologies they perpetuate make sexual abuse and harassment prevalent in private prisons. Women prisoners, especially, are subjected to inappropriate pat searches, illegal strip searches, lewd comments, and privacy violations. In some cases, they are also sexually assaulted and raped by prison staff (Davis and Shaylor). The paid-per-prisoner model employees used at private prisons present prisoners as objects to profit from instead of people. In fact, during its financial restructuring in the early 2000s, the CCA was sued for “criminal activity, including the sale of illegal drugs to prisoners” (Gainsborough). The paid-per-prisoner model allows employees to rationalize abusive behavior and participation in illegal activities. Furthermore, the dehumanized treatment of prisoners leaves traumatic marks on their psyche, and “most women in prison experience some degree of depression or post-traumatic stress disorder” (Davis and Shaylor). However, these women are not treated or diagnosed with mental health disorders. When they seek counseling, women struggling with psychological trauma are given psychotropic medication that impairs their mental functioning. The overmedication of women prisoners could lead to addiction outside of the prison and worsens their chances for survival in dangerous prison facilities (Davis and Shaylor). The prison industrial complex’s drive to maximize profits makes corporations more inclined to offer psychotropic medication as a cheap fix for mental health struggles rather than providing adequate counseling and therapy. The portrayal of prisoners in private prisons through the pay-by-prisoner system depicts how prisoners have been turned into a product for use instead of people who need to be rehabilitated. The treatment of prisoners in private prisons makes it more likely for employees to abuse and harass prisoners who seem “subhuman” to them.

Counter Arguments

Critic Responses to Ethical Concerns:

Although private prisons present many ethical dilemmas, many critics argue the competitive aspect of private prisons allows for new managerial and technological innovations. The competition between public and private prisons allows for technological innovations and higher performance. Data shows that states with both private and public prisons, like California, have prisons with shared improved technologies, training, and management practices (Blackstone and Hakim). While it is true that the competition between private prisons and public prisons allows for high performance and technological innovation, competition results in prisoners being treated as goods. Competition commodifies prisoners and incentivizes corporations and the government to continue to grow the incarcerated population (Davis and Shaylor). Instead of using technological innovation to reduce the prison population, technological advancements and competition fosters the growth of the prison industrial complex and negatively impact the psyche of prisoners.

State-Run Prisons:

Many private prison advocates argue that since private prisons can be established easier than state-run prisons, they are the solution to overcrowding. Private prisons were first established as a response to the overcrowding of state prisons during the War on Drugs of the Nixon era. Hiring private contractors was more economical than repairing or maintaining the functioning of state-run prisons (Blackstone and Hakim). Although private prisons can be built and established quicker and cheaper than state-run prisons, private prisons do not respond to the root cause of overcrowding. The US “tough on crime” policy from the 70s and 80s has caused the prison population to “[grow] from 500,000 in 1980 to over two million [in 2015]” (Young). The growth of the incarcerated population has increased government spending on prisons, moving funding from other critical governmental programs. The loss of funding for education has only served to continue cycles of poverty and established the creation of the “school-to-prison” pipeline seen in lower-income areas (Beiser). Creating more prisons will not solve the overcrowding problem, as it incentivizes the government to uphold intense incarceration policies and maintain cycles of incarceration in lower-income neighborhoods. By reallocating prison funding to education and other social programs, state governments can decrease the number of incarcerated individuals. Education provides people with access to opportunities that can facilitate personal growth, ultimately deterring them from resorting to criminal activities as a means of survival.

Education

Combating the School-to-Prison Pipeline

Although abolishing private prisons is a step towards reducing overall incarceration rates through dismantling the prison-industrial complex, redirecting funding from private prisons to public school education is the most effective solution for addressing high incarceration rates. Education and incarceration have a distinct link, as “dropouts are 3.5 times more likely to be arrested than high school graduates” (Stipek). These statistics have continued to increase with the establishment of zero-tolerance policies after the passing of the Gun-Free Schools Act that pushes students in lower-income areas out of schools and into prisons. This repetitive cycle, known as the school-to-prison pipeline, has led to the referral of 290,600 students to law enforcement agencies in the 2015-2016 school year (“Who is Most”). These policies disproportionately affect students of color due to systematic racism and policies maintaining racial inequalities, including public funding cuts in lower-income areas populated with people of color (“School-to-Prison Pipeline”). This lack of funding contributes to disparities in educational opportunities, exacerbating the likelihood of students from these communities being funneled into the criminal justice system.

Shifting resources from the prison system to schools presents a transformative opportunity for federal and local governments to combat incarceration and foster education access for all communities. Increased educational funding allows those in lower-income areas access supportive education opportunities that could enable them to receive higher education degrees or higher-paying jobs. High-school dropouts with a criminal record or convicted of a felony offense often have trouble finding employment and tend to receive lower wages due to their lack of education (“Who is Most”). By investing in public school education, disadvantaged communities can receive adequate resources, including qualified teachers, up-to-date materials, and modern technology. These investments enable students to develop crucial skills, enhance their educational attainment, and increase their prospects for employment.

Cost

The cost to maintain inmates in private prisons is significantly higher than funding for education. For example, California spends \$62,000 on each prison inmate while only spending \$9,200 for each K-12 student (Stipek). Redirecting a portion of the excessive funds allocated to private prisons toward education could substantially impact lower-income communities. Prioritizing education over incarceration holds the potential to break cycles of incarceration seen in many lower-income communities while addressing the systematic disadvantages many people face in American society (“School-to-Prison Pipeline”). By investing in education and increasing economic opportunities for those in lower-income communities, the federal and local government has the power to reduce crime and incarceration rates.

Conclusion

Despite the potential benefits of private prisons, their inherent incentive to maintain a large prison population perpetuates violence against minority groups. It fosters corruption within the criminal justice system that outweighs any possible advantages. Private prisons have reformed the justice system for the worse by reducing the need for rehabilitation as punishment and instead encouraging society to treat prisons as a remedy to underlying social and economic issues. The government must strive for a justice system that prioritizes rehabilitation and the betterment of individuals rather than one that profits from their punishment. By redirecting resources toward social programs that address the root cause of crime, the federal government can create a safer and more equitable society for all. To truly achieve justice, it is time for society to move away from the profit-driven prison industrial complex and embrace a system that prioritizes humanity over financial gain.

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