IN THE ARENA

The Private Prison Racket

Companies that manage prisons on our behalf have abysmal records. So why do we keep giving them business?

By MATT STROUD | February 24, 2014

In October, when California Governor Jerry Brown signed a new contract with Corrections Corporation of America, a Nashville-based private prison behemoth, onlookers might've wondered if he'd been following the news.

The same could be asked of Wall Street in general. Over the last five years, CCA's stock price has increased by more than 200 percent and earlier this month Jim Cramer's investment website *The Street* praised the company's "strengths" on Wall Street, enthusiastically rating its stock a "buy."

As inmate populations have soared over the last 30 years, private prisons have emerged as an appealing solution to cash-starved states. Privately run prisons are cheaper and can be set up much faster than those run by the government. Nearly a tenth of all U.S. prisoners are housed in private prisons, as are almost two-thirds of immigrants in detention centers—and the companies that run them have cashed in. CCA, the oldest and largest modern private prison company, took over its first facility in 1983. Now it's a Wall Street darling with a market cap of nearly $3.8 billion. Similarly, GEO Group, the second largest private-prison operator, last week reported $1.52 billion in revenue for 2013.

But while privatizing prisons may appear at first glance like yet another example of how the free market beats the public sector, one need only look at CCA's record in Idaho to wonder whether outsourcing this particular government function is such a good idea.

In July 2000, Idaho's then-Governor Dirk Kempthorne made a decision similar to Jerry Brown's. He opened the Idaho Correctional Center, the state's first private prison. But it wasn't long before the facility—built and operated by CCA—began to draw concerns. Prisoners in the 2,000-bed facility dubbed it "Gladiator School" for the rampant fighting that took place inside. A 2008 study by the Idaho Department of Corrections obtained by the American Civil Liberties Union showed that there were four times as many prisoner-on-prisoner assaults there than in all the state's seven other prisons combined.

The ACLU sued CCA in 2010, alleging that violence had become an "epidemic" in the facility, and the Associated Press released a video showing a prisoner beaten unconscious while correctional officers stood around watching. A 2011 settlement required CCA to keep more officers on staff, but the company apparently didn't bother to do that. Last year, a review of CCA's staff records showed that prison employees had falsified as many as 4,800 hours over the course of seven months; they had understaffed the prison on purpose and fudged records. The end result: Idaho's private prison experiment with CCA will end in June.

CCA's failure in Idaho is just one example of the industry's spotty record. Another recent case study comes from the CCA-run Adams County Correctional Facility in Natchez, Mississippi. Last June, 20 prisoners were indicted in connection with a riot that left one man dead and dozens injured. According to a prisoner who called a Jackson, Miss. television news station, the riot was connected to prisoners' protests for better "medical [care], programs, clothes," and a modicum of "respect from the officers and lieutenants." And an FBI agent filed an affidavit supporting those claims.

Similar riots have broken out in private prisons run by CCA and other companies in Oklahoma, New Mexico, Florida and California. At least 10 deaths (one from natural causes) occurred at CCA prisons in 2013 alone. There have also been allegations that CCA employees at a Texas prison that has since closed repeatedly denied basic medical care to prisoners who, in some cases, died from their untreated ailments. (The *Texas Observer* described the story of a woman who bled for nine months during a one-year prison term because CCA employees declined to treat her for endometriosis and a retroverted uterus.)

Of course, government-run prisons aren't without their share of troubles. But those troubles and lawsuits are easier to accept when the system behind those problems isn't making billions on Wall Street. As *The Week* put it last summer: "Private prisons ultimately pose a greater threat to inmates because of their *raison d'être*; they exist solely to make a profit off of incarcerated individuals."

And then there are the political fiascoes.

Before Gov. Chris Christie was taking heat in New Jersey over supposed bridge traffic studies, he was under fire for his support and gushing praise for a private prison company—one he once worked for as a lobbyist—as "representing the very best of the human spirit." That company, Community Education Centers, oversaw about 3,500 beds in large halfway houses throughout the state and was shown in a 2012 series of scathing *New York Times* investigative reports to be woefully unregulated, mismanaged and violent. The series described the facilities as "hell on earth."

In just over five years, roughly 5,100 escapes occurred at those New Jersey halfway houses, including some by ex-cons who went on to commit murder and other acts of violence while they were supposed to be in rehabilitation programs. "No matter how many escaped, no matter how many were caught, no matter how many committed heinous acts while they were on the run," one corrections investigator told the *Times*, the State of New Jersey continued to release prisoners into the hands of a private company "and it kept happening over and over again."

State politicians have also been criticized after private prison "bed mandates" became public. Private prisons are sometimes paid based on how many inmates they house, so their contracts include a guaranteed minimum number of prisoners. If the population goes below that capacity, taxpayers have to pay the companies a fee. So while many states are working to reduce their prison populations, those with private facilities are often punished for doing so. In Colorado, the governor and state legislators agreed to pay millions of dollars to CCA for unneeded prison beds, according to the non-profit Colorado Public News. (A CCA spokesman says none of its agreements with Colorado include minimums.) This happened in Tennessee, too.

And legislators in Oklahoma received an earful, first, after *Tulsa World* revealed that more than half of the members of the state's legislature accepted a total of $200,000 in campaign contributions and gifts from private prison contractors, and later, when it was revealed that CCA had housed a rapist and murderer in an Oklahoma nursing home.

The Private Corrections Working Group—a nonprofit in Tallahassee that advocates against private prisons and has close associations with correctional officer unions—has a series of "Rap Sheets" online that aggregate news stories about the industry's failures. Each private prison company has its own rap sheet, and CCA's alone is longer than *War and Peace*. It includes details of a 2006 Colorado lawsuit in which CCA employees were accused of instigating a riot involving hundreds of prisoners. It includes a 2003 Tennessee case in which a jury awarded a half-million dollars to a woman who'd been taken hostage by an escaped CCA prisoner. And a 2011 ACLU lawsuit against CCA in which one of the company's Texas officers was accused of sexually assaulting female immigration detainees at least 56 times. It outlines statistics in Tennessee showing that violence is 34 percent more likely to occur in private prisons than public ones. There's a case in which a Colorado prisoner died after being denied a $35 medical treatment. And a case in which a quadriplegic man died five days into a 10-day CCA jail stay because the facility was unable to care for a paralyzed inmate. And on and on.

Yet companies such as CCA continue to get contracts—and Congress has been one of the industry's benefactors. A 2009 change to the Department of Homeland Security's federal spending bill requires officials to keep 34,000 people in federal immigration detention centers operated by private prison companies. The federal Bureau of Prisons, U.S. Immigration and Customs Enforcement and the

U.S. Marshalls Service all contract with private prison companies.

Again: Why?

Leonard Gilroy was happy to offer an explanation.

Gilroy is director of government reform at the libertarian Reason Foundation, which advocates for market-based solutions to government problems and has also received financial support from both CCA and the GEO Group. He explains the lure of private prisons as a simple matter of cost and convenience: “It costs a lot of money to open a prison,” he says. “And to have it fully ready, you need a full contingent of staff, you need to set that staff up with health care, arrange for maintenance workers, provide food and utilities. And that’s a big order, particularly if you’re in a rush.” Private prisons can fill that rush order, he says.

A rush is exactly what Jerry Brown has faced in California. A 2011 United States Supreme Court decision ordered the State of California to reduce the population of its overcrowded prisons by about half. Though California officials have worked to reduce the number of inmates (with mixed results), they haven’t reached their target. California legislators pleaded with the Supreme Court last year for leniency; the state’s prison facilities still housed 10,000 more prisoners than they could hold under the court’s orders. In October, the court rejected that plea with a one-line refusal. The state needed to find a place to put 10,000 prisoners—and fast. That same day—October 15 last year—Governor Brown inked a deal with CCA for a 2,300-bed facility.

When states need to set up a prison, there’s a lot of red tape, Gilroy says. “The private sector can staff prisons faster.”

That may be true. And it may’ve been important in California. But California is a unique case; it is the only state ordered by the Supreme Court to immediately find new beds for thousands of inmates. After about 40 years of consistently rising prison populations nationwide, most states have begun to work toward reversing that trend by releasing prisoners early for good behavior, diverting low-risk and nonviolent offenders and ushering prisoners who violate parole for technical reasons into community-based programs.

Gilroy thinks smaller prison populations are a good thing. Both he and the Reason Foundation support any efforts to reduce the nation’s dangerously overpopulated prisons. But don’t prison depopulation efforts pose a major problem for private prison companies? CCA's 2010 annual report admitted that "demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws."

Leonard says private prison companies have found a workaround. He points out that the three major private prison companies see treatment centers—like those featured in the *New York Times* investigation—as the future of private correctional facilities.

Private prison companies know they need to diversify, Gilroy says. He points out that CCA, for example, has acquired companies such as Correctional Alternatives, which operates reentry and home confinement programs. "These are not just prison operators anymore," Gilroy says. And it's good, he adds, that these services —from ankle bracelets to reentry facilities—are being provided by private companies. Since those companies can save money on staffing and operations, he says, they invest more in programming like job training and classroom work.

But in light of the problems and controversies with private prisons in recent years, Gilroy's last point is difficult to believe.

Alex Friedmann, who spent six years as a prisoner in a CCA facility in Clifton, Tennessee, now runs the prisoner rights magazine *Prison Legal News*. He advocates against private prison companies (and holds stock in CCA so he can speak up at its shareholder meetings). He calls Gilroy's programming theory "absurd."

Furthermore, he says, politicians are often behind private prison companies not because they "offer more programming," but because they offer money. "The private sector is only interested in making money," he says.

Public officials support private prisons because they often need the bed space, regardless if those beds are tied to companies that are "abusive, lead to higher recidivism rates and cost more," Friedmann says. Second, he continues, public officials are often "ideologically wedded to the concept of privatization in spite of the industry's abysmal track record."

The results haven't matched promises from the private prison industry, Friedmann says.

“These companies have had 30 years to innovate,” Friedmann says. They’ve had 30 years “to show that they’re increasing programming, to show that they’re operating with something other than the bottom line in mind. They’ve not done that. So why would they start now?”

Indeed, as the fallout from Idaho’s private prison experiment continues, CCA looks worse and worse. The company agreed to pay $1 million to the state, writing in a joint statement that the payout will “make taxpayers whole on the staffing issue.” But a recent KPMG audit showed that the staffing problems went much deeper than previously reported. Going against previous orders, Idaho’s governor has now called for a state investigation into CCA’s role in the prison understaffing fiasco. All the more reason to question both Governor Brown’s decision to contract with CCA and Wall Street’s continued confidence in the company.

“I advise that companies like CCA should be put into the category of ‘toxic stocks,’” Friedmann adds. “But sometimes it feels like no one’s listening.”

Emails and a call to CCA’s communications department were not returned, but CCA, in a 2010 blog post, characterized Friedmann as “a violent, convicted felon who served 10 years for attempted murder, assault and armed robbery, and who has worked in recent years as a professional critic waging a union-funded campaign against partnership corrections.” And, in response to the KPMG audit about private prison staffing levels in Idaho, CCA released a letter to the Associated Press contending that the audit “is characterized by a number of errors, faulty assumptions … and other flaws.” In all, CCA officials believe the information that’s been reported about understaffing in Idaho “does not provide an accurate assessment of the situation.”

Question is: Will Congress, state politicians and Wall Street believe them?

Corrections: An earlier version of this article stated that a riot at Adams County Correctional Facility in Natchez, Mississippi left one woman dead. The person who died was a man.

The article stated that “California Governor Jerry Brown signed a new contract with Corrections Corporation of America, a Nashville-based private prison behemoth, to open a prison in the desert 100 miles north of Los Angeles.” CCA is *not opening a new prison. Instead, the state will lease what is currently a CCA-owned facility housing prisoners and immigration detainees for the U.S. Marshalls Service. The article also stated that CCA will oversee the facility, but according to the company, the California Department of Corrections and Rehabilitation will manage and staff the facility.*

The article stated that Idaho cancelled its contract with CCA. In fact, amid lawsuits and an investigation by Idaho State Police, CCA announced that it would not bid on the contract to continue its work in the state.

The articled stated that GEO Group reported its most revenue ever in 2013, that that number represented a hundredfold increase since the company went public and that the company went public ten years ago. The company's revenue was highest in 2011; it has seen a 14-fold increase in revenue; and it went public in 1994.

The article stated that "private prisons are typically paid based on how many inmates they house, so their contracts include a guaranteed minimum number of prisoners." According to CCA, less than half of the company's contracts include occupancy guarantees.

Clarification: The article stated that CCA employees "falsified as many as 4,800 hours over the course of seven months; they had understaffed the prison on purpose and fudged records to boost their personal incomes." We do not know what their motives were, and according to the company, no employees profited personally. In addition, a sentence about CCA's agreement with Colorado was clarified to more accurately reflect a report that the state's governor and legislature agreed to house a certain number of prisoners in CCA facilities. It had said that in Colorado "taxpayers were forced to pay millions of dollars to CCA because of empty prison beds."

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