

Research Reporter

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Private Prisons

An Industry Raising Concerns for Socially Responsive Investors

Private prisons, formally known as correctional facilities, and private immigration detention centers frequently make the headlines due to controversial practices, events, and political ties. The private prison industry has been accused of lowering inmate safety, influencing imprisonment rates, and allowing inhumane treatment in the facilities. Residential reentry facilities, or halfway houses, are also often privatized, as are the transportation services for moving people between government and private locations. Some private facilities also offer educational, vocational, health, and behavioral services and training to prepare residents for return to their communities. A majority of private prison and detention services are controlled by two main corporate actors: CoreCivic (CXW) and GEO Group (GEO).

As of December 31, 2018, CoreCivic owned or controlled forty-four correctional and detention facilities, owned or controlled twenty-six residential reentry facilities, and managed seven correctional detention facilities owned by government partners, for a total capacity of 78,000 beds. These facilities are spread across twenty-three U.S. states and the District of Columbia. For the fiscal year-ended December 31, 2018, payments by federal correctional and detention authorities constituted 48% of CoreCivic's total revenues; state revenues accounted for 39% of CoreCivic's total revenues.¹

GEO Group also operates widely in the U.S. as well as in some international locations. During 2018, the company oversaw operation and management of approximately 75,000 beds in sixty-four correctional and detention facilities. The 2018 average daily population of individuals in domestic GEO Group facilities was more than 60,000 people. Internationally, GEO Group operates in Australia and South Africa. In addition to holding and transportation services, GEO Group also provides youth services, care services, and electronic location monitoring

through its proprietary operations as well as the operations of its subsidiaries. In 2018, 64% of GEO Group's total revenues came from U.S. corrections and detentions operations.²

Proponents of privatized prisons advocate for their use to local, state, and federal government agencies through a collaborative partnership. Theoretically, the private prison industry saves the government money by outsourcing detention and corrections, rather than the government building new structures or hiring additional employees itself.

Opponents of the privatization of prisons suggest several industry problems, including: understaffing, safety risks, human rights abuses, and influencing political agendas. In the private prison industry, one problem or complication seems to lead to another. To keep costs down—and profits up—private prisons often try to hire minimally. As with many industries, understaffing can lead to extra-long and tiring shifts for employees or can result in shortcuts or overlooking proper procedures. Understaffing issues often culminate in safety risks or infractions, for both employees and inmates.³

Some of the safety risks might also be considered human rights violations.⁴ Former detainees and inmates, as well as their families, have lamented the overuse of solitary confinement; in one extreme case, a woman was kept alone for more than three months.⁵ Other human rights violations involve sexual violence, abuse by inmates both towards one another and by correctional employees towards inmates. The Prison Rape Elimination Act of 2003 (PREA) implemented policies aimed at ending the patterns of sexual violence in prisons, and requires both private prison companies and state and federal correctional facilities to comply. However, sexual violence and abuse have not ended, neither in private prisons, nor in privatized immigration detention centers,

which are also responsible for eliminating sexual abuses from their facilities.⁶

Another controversial practice that private prison opponents denounce is the structure of low wages that inmates may earn. Although prisoners' wages have historically remained very low, and opportunities to earn income in prison are rare, many privatized correctional facilities pay drastically lower wages to their inmates, much to the dissatisfaction of private prison critics. The Washington Assistant Attorney General criticized the \$1 per day wage rate from GEO Group at the Northwest Detention Center in Tacoma, WA, noting that as a private company, they should pay the inmates the state minimum wage. This state official commented on the rationality of keeping state-run prison wages low, because those costs are passed on to the taxpayer; in contrast, private prisons do not need to worry about taxpayer burdens, and can thus afford to pay higher wages to inmate laborers. The most recent Congressional review of prison labor wages was the 1970s, when the rate was set at \$1 per day.⁷

Finally, opponents worry that private correctional and detention companies play a significant role in creating or amending public policies, even influencing certain social agendas. Critics point to the congressional daily mandates, to be upheld by U.S. Immigration and Customs Enforcement (ICE), as a point of contention in the operations of privately run detention facilities. Since ICE must maintain 34,000 immigration detention beds on a daily basis, some argue that the private prison companies might seek out immigrants to detain or find reasons to keep inmates and detainees on their property. There are also concerns that these companies benefit from policies that favor detaining even more people, boosting their profits. Despite holding government contracts, GEO Group and CoreCivic both try to keep their business dealings shrouded from the public eye. In October of 2017, the U.S. Supreme Court denied a petition by GEO Group and CoreCivic that sought to prevent the release of government documents about the immigration detention practices at their facilities. Those who applauded the Court's decision feel that GEO Group and CoreCivic use secrecy to hide the profit programs and deadly abuses that occur within their companies.⁸

These concerns over political agendas are not entirely unfounded. Lobbying, and other political spending are routine for companies across all industries. However, multiple ties—mainly supporting conservative policies or candidates—have been found between GEO Group and

CoreCivic and various political candidates' campaign finances or political officials' non-government businesses or causes. For instance, GEO Group contributed to multiple campaigns in 2018: \$483,900 spent on federal candidates, committees, and political action committees (PACs).⁹ In 2017, GEO Group spent \$1.9 million on state and local candidates for political office.¹⁰ Since the 2004 election cycle, GEO Group's giving has leaned slightly towards favoring Republican candidates, and totals \$4,100,266; already in the 2020 election cycle, GEO Group and its affiliates have contributed a total of \$230,300 to candidates from both parties.¹¹

During the 2018 campaign cycle, CoreCivic also contributed to multiple candidates, spending \$142,100 on all federal candidates, committees, and PACs.¹² In 2017, CoreCivic spent \$271,100 on state and local candidates, committees, and PACs.¹³ Since the 1990 election cycle, CoreCivic's giving has been dominantly received by Republican candidates for political office; already in the 2020 election cycle, CoreCivic and its affiliates have given \$20,000 to candidates from both parties.¹⁴

The private prison and detention companies also operate some transitional housing operations for parolees, often known as halfway houses. The electronic monitoring, educational, medical, and behavioral services provided by these same companies are further avenues by which these companies might earn revenue. The primary source of revenue, however, remains the imprisonment or detention of human beings, which for some individuals and investors, remains a key area of controversy, particularly when a government is the main contractor paying for these services.

When government contract revenues are insufficient, private prison companies must source funds elsewhere. As REITs (Real Estate Investment Trusts), CoreCivic and GEO Group must rely heavily on borrowing, due to REIT structure requirements to pay investors high income and to limit cash on hand. Thus, private prison companies have turned to large banks for funding, be it in the form of issuing corporate bonds, revolving credit, direct loans, loan underwriting, or other forms of service. Because banks earn interest—revenue—on the loans they make, some investors may see this process as the banks also profiting from the private prison industry. There are fourteen large and regional banks which provide funding to GEO Group and CoreCivic, sometimes individually or collaboratively. The largest six banks are: Bank of America (BAC), JPMorgan Chase (JPM), BNP Paribas

(BNPQY—U.S. division), SunTrust Banks (STI), U.S. Bancorp (USB), and Wells Fargo (WFC).¹⁵ The following is a breakdown of the banks' activities and income from the private prison industry.

Bank of America is the administrative agent for CoreCivic, providing the company with revolving credit, bonds, and loans. Bank of America helped negotiate with other banks to provide CoreCivic an \$800 million line of credit; the bank had also loaned CoreCivic \$28 million as of December 31, 2018. By that date, Bank of America had promised to contribute \$112 million in credit to CoreCivic. It is not clear how much of GEO Group's line of credit was given by Bank of America.¹⁶

JPMorgan Chase also loaned CoreCivic \$28 million by December 31, 2018, and had promised to contribute \$112 million of CoreCivic's line of credit. In March 2019, JPMorgan Chase announced it would no longer provide banking or financial services to the private prison industry.¹⁷

BNP Paribas was the administrative agent for a syndicate of banks that collectively lent \$450 million to GEO Group as of June 30, 2016. The bank is the administrative agent for GEO Group's term loans and revolving credit. GEO Group has used \$490.8 million of the \$900 million revolving credit line, to which BNP Paribas contributed, although the specific dollar amount is unknown.¹⁸

As of December 31, 2018, SunTrust Banks had contributed \$167 million in loans and credit to CoreCivic and GEO Group.¹⁹

U.S. Bancorp is the trustee for all CoreCivic bond offerings, and had underwritten some portion of CoreCivic's bonds valued at \$1.5 billion.²⁰ Reportedly, U.S. Bancorp has also been reducing its credit exposure to the private prison industry.²¹

Wells Fargo is the trustee for all GEO Group bond offerings, and as of December 31, 2018, had underwritten some portion of CoreCivic's \$1.5 billion in bonds, and some portion of GEO Group's \$1.15 billion in bonds. In 2019, Wells Fargo stated it has been decreasing its financial ties to the private prison industry for two years.²²

In addition to commissions from lending and underwriting services, banks that are trustees for the

companies earn additional revenue in fees for conducting the duties assigned to the trustee.

The privatization of prisons, and the companies that dominate the industry, raise many questions for investors' consideration, including moral dilemmas or ethical investing conflicts. The businesses of funding and operating private prisons has spurred some faith-based investors into action against profits earned at the expense of human rights violations. In October 2017, the Conference of Major Superiors of Men (CMSM) announced an interfaith boycott against both Wells Fargo and Bank of America, focusing on these two main funders of private prison companies like GEO Group and CoreCivic; the boycott suggests divesting any investments in these two financial institutions.²³ Groups participating in the boycott are seeking fairer U.S. immigration policies, and are encouraging Congress to continue DACA (Deferred Action for Childhood Arrivals—often known as Dreamers) programs, which affect many families in American communities. Due to controversial detentions of immigrants, GEO Group and CoreCivic are seen to be profiting from tougher immigration policies, and so in turn are their bankers. The interfaith boycott stated it would amplify its efforts with the Dream Act and the boycott if Congress does not pass the Dream Act by December 15, 2017. The boycott's statement was then updated with a new deadline date of January 19, 2018. However, these dates have all passed, and it is unclear what further action the boycott plans to take, despite the early 2019 House passage of a new American Dream and Promise Act. At last count, there were over fifty named participants in the boycott.²⁴ There have been no updates from the Interfaith Immigration Coalition regarding the boycott's progress or updated efforts.

Socially responsive investors concerned by the private prison industry can choose to avoid direct investments. A more difficult decision, however, is whether to exclude the financial backers of the private prison industry, namely, large U.S. banks.



Eye on the SDGs

SDG 16: Peace, Justice, and Strong Institutions

Private prisons, detention centers, and the human rights violations therein counteract the goal of building more peaceful, inclusive societies. Over-incarceration, as well as unjust incarceration also prevent achieving justice and accurate rule of law. However, legitimate holding services are also part of safeguarding peace in communities.

(Sustainable Development Goals Knowledge Platform, ISSoekom)

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- ¹ CoreCivic, Inc. (2019). *Form 10-K 2018*. Retrieved from <http://ir.corecivic.com/financial-information/annualreports> Pg. 5.
- ² The GEO Group, Inc. (2019). *2018 Annual Report*. Retrieved from <http://investors.geogroup.com/FinancialDocs>. Pg. 1-2.
- ³ *The Banks That Finance Private Prison Companies*. In the Public Interest, November 2016. Accessed 2017. Pg. 3.
- ⁴ Taduran, Christian. "NYC Pension Funds fully divests from private prison industry." *SNL Real Estate Securities Daily*, 12 June 2017, North America ed. *Dow Jones Global Factiva*. Accessed 19 Dec. 2017.
- ⁵ "There was a breakdown': Inmate's suicide leads to \$7M deal." *PostMedia News*, 11 Nov. 2017 [Philadelphia, PA]. *Dow Jones Global Factiva*. Accessed 18 Dec. 2017.
- ⁶ Beam, Adam. "Amid overcrowding, Kentucky to reopen private prison." *Associated Press*, 16 Nov. 2017 [Frankfurt, KY]. *Dow Jones Global Factiva*. Accessed 19 Dec. 2017.
- ⁷ Major, Jesse. "GEO Group seeks dismissal of lawsuit over detainee pay." *Peninsula Daily News*, 23 Nov. 2017 [Tacoma, WA]. *Dow Jones Global Factiva*. Accessed 18 Dec. 2017.
- ⁸ "Grijalva: Trump Wants to Expand Collusion with Private Prison Industry; Rep. Paul Grijalva (D-AZ) News Release." *U.S. Government Publishing Office*, 17 Oct. 2017. *Dow Jones Global Factiva*. Accessed 18 Dec. 2017.
- ⁹ "FEC Disclosure Form 3X for The GEO Group Inc. Political Action Committee." Federal Election Committee, 28 Jan. 2019. Accessed 6 June 2019.
- ¹⁰ *Political Activity And Lobbying Report (2017)*. The GEO Group, Inc., 2018, pg. 1-4. Accessed 6 June 2019.
- ¹¹ *GEO Group: Total Contributions*. OpenSecrets, 2019. Accessed 6 June 2019.
- ¹² "FEC Disclosure Form 3X for CoreCivic, Inc. Political Action Committee." Federal Election Committee, 7 Jan. 2019. Accessed 6 June 2019.
- ¹³ *Political Activity and Lobbying Report 2017*. CoreCivic, Inc., 2018, pg. 1-6. Accessed 6 June 2019.
- ¹⁴ *CoreCivic: Total Contributions*. OpenSecrets, 2019. Accessed 6 June 2019.
- ¹⁵ Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." In *The Public Interest, Public Accountability Initiative, The Center For Popular Democracy*, Apr. 2019. Accessed 6 June 2019. Pg. 1 -5.
- ¹⁶ Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." Pg. 1 -5.
- ¹⁷ Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." Pg. 1 -5.
- ¹⁸ Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." Pg. 1 -5.
- ¹⁹ Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." Pg. 1 -5.
- ²⁰ Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." Pg. 1 -5.
- ²¹ Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." Pg. 1 -5.
- ²² Habibi, Shahrzad, et al. "The Wall Street Banks Still Financing Private Prisons." Pg. 1 -5.
- ²³ "Interfaith Boycott Campaign." *Interfaith Immigration Coalition*, Nov. 2017, www.interfaithimmigration.org/wp-content/uploads/2017/10/Interfaith-Bank-Boycott-Campaign-2.pdf. Accessed 6 June 2019.
- ²⁴ *Interfaith Immigration Coalition Organizations*, Interfaith Immigration Coalition, www.interfaithimmigration.org/about/organizations/. Accessed 7 June 2019.