



# Solutions to Fight Private Prisons' Power over Immigration Detention

By Michael Sozan July 16, 2018

For-profit private prison companies have been showering members of Congress and organizations related to President Donald Trump with campaign cash, while simultaneously lobbying lawmakers on immigration detention matters.<sup>1</sup> These companies are set to earn hundreds of millions of dollars from Trump's inhumane and ineffective policy of locking up asylum-seeking families, including small children and others seeking better lives in the United States.<sup>2</sup>

The U.S. Department of Homeland Security (DHS) oversees approximately 200 immigration detention centers nationwide, including facilities run by the federal, state, and local governments, as well as facilities operated by for-profit private prisons. In November 2017, 71 percent of detained immigrants were confined in private detention facilities, at a reported cost of more than \$ 2 billion dollars per year.<sup>3</sup>

With huge amounts of cash and incentives for pay-to-play arrangements flowing between politicians and the industries they regulate, it is little wonder that voters believe their elected representatives are more attuned to the priorities of big-money corporate interests than to everyday Americans. It is time to adopt bold anti-corruption solutions to help rein in the power of wealthy special interests so that the views and priorities of the general public are more fairly represented when their government formulates important policies.

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## Detaining more immigrants benefits the private prison industry

On April 6 of this year, the Trump administration announced a radical change to federal immigration enforcement: a new zero tolerance policy, which subjects everyone crossing the U.S. border without prior authorization to criminal prosecution.<sup>4</sup> This policy even includes detaining those with a legal right to seek asylum—people who are seeking protection often from extreme violence in their home countries.<sup>5</sup> In the two months after the Trump administration announced its inhumane zero tolerance policy, the U.S. government forcibly separated more than 2,500 children from their

families while the parents await criminal immigration hearings. As the Center for American Progress has written, this policy reflects a cruelly disproportionate punishment for mostly misdemeanor charges and sweeps up people coming to the United States to exercise their legal right to seek asylum.<sup>6</sup>

Public outrage over the administration's callous policy was loud and swift. Under extreme pressure, President Trump issued an executive order on June 20, 2018, shifting gears away from ripping children from their parents—and instead toward incarcerating families together, perhaps for indefinite time periods.<sup>7</sup> Yet imprisoning entire families not only is an inhumane and unnecessary alternative to separating families; it also results in directing billions of federal taxpayer dollars to the nation's two largest private prison companies, both of whose bottom lines benefit from increased detention.

Florida-based GEO Group Inc. is the nation's biggest private prison company. It runs 11 immigrant detention centers around the country and one family center in Karnes City, Texas, under contract with DHS' Immigration and Customs Enforcement (ICE).<sup>8</sup> Tennessee-based CoreCivic, formerly the Corrections Corporation of America, is the nation's second-largest private prison company. It runs eight immigrant detention centers in the United States, including a family center in Dilley, Texas, which produces much of CoreCivic's revenue.<sup>9</sup> In fiscal year 2017, GEO Group received \$184 million from its ICE contracts, and CoreCivic received \$135 million.<sup>10</sup>

ICE contracts with private prison companies often include fixed prices, meaning private prison companies are paid whether or not detention space is used.<sup>11</sup> This creates an incentive for these companies to encourage surplus detention capacity regardless of actual need, another illogical policy consequence.

Prior to its zero tolerance policy, DHS had planned for 2,500 beds to detain families at three facilities.<sup>12</sup> But days after President Trump's June 20 order, DHS announced plans to add up to 15,000 family detention beds.<sup>13</sup> Private prison companies would likely entirely provide this sixfold expansion of current capacity, receiving a gigantic \$5.6 million per day in taxpayer money—or more than \$2 billion a year in additional revenue—most of which would be used to jail families seeking asylum.<sup>14</sup> Two top officials who helped run ICE under former President Barack Obama criticized this huge new budget and warned that contract costs will be inflated and awarded with insufficient competition or oversight.<sup>15</sup>

Despite the extreme costliness of family detention, private prison companies often provide substandard care. According to a recent CAP column, "Privately run immigration detention facilities have been linked to a failure to identify serious health needs; the provision of substandard medical care resulting in death; failure to prevent suicide attempts and suicides; failure to respond to sexual assault; ... and failure to provide adequate access to legal services."<sup>16</sup> Moreover, jailing families together is not an appropriate or humane alternative to traumatizing children by separating them from their parents.<sup>17</sup>

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## Private prison companies spend big money in politics to achieve their business goals

The private prison industry is lucrative, and its largest companies—GEO Group and CoreCivic—spend big money in politics to promote their business interests. They do this chiefly by contributing millions of dollars to help elect federal candidates who will support their lifeblood and by hiring well-connected lobbyists to advocate for their preferred policies.<sup>18</sup> It's the epitome of the so-called “swamp” that President Trump claimed he will drain.

GEO Group and CoreCivic now stand to profit handsomely from immigration policy decisions made by Trump and congressional Republicans. Both are advancing policy decisions that are steering immigrants into detention centers at higher rates, including into centers designed to detain children.

Just two years ago, after President Obama's Department of Justice (DOJ) decided to phase out the use of private prisons and DHS was considering the same, the private prison industry briefly was in a danger zone.<sup>19</sup> Subsequently, stock prices for GEO Group and CoreCivic plummeted by almost 40 percent.<sup>20</sup>

But the November 2016 election of Trump resulted in a bonanza for the two companies. The new president selected his U.S. attorney general, Jeff Sessions, who quickly rescinded the Obama DOJ's decision. Within months, GEO Group was awarded a \$100 million contract to build a new detention center in Texas.<sup>21</sup> For its part, CoreCivic witnessed a 935 percent jump in federal contracts from 2016 to 2017.<sup>22</sup> Stock values at GEO Group and CoreCivic have almost doubled in value since President Trump's election. According to CoreCivic's CEO, the current state of U.S. politics has created “the most robust kind of sales environment we've seen in probably 10 years.”<sup>23</sup>

### Contributions to candidates and related entities

Both GEO Group and CoreCivic donate heavily to the campaigns of certain politicians and organizations working to elect them. According to Bloomberg News, since 2015, the two companies have made more than \$2.5 million in combined political donations.<sup>24</sup>

At the presidential level, the two companies spent big money to support the candidacy of Donald Trump, including:

- GEO Group and one of its subsidiaries, GEO Corrections Holdings, gave three donations totaling \$275,000 to a pro-Trump super PAC called Rebuilding America Now. As discussed below, certain campaign finance experts allege that the subsidiary's donations were illegal.<sup>25</sup>

- GEO Group donated \$170,000 to Trump Victory, a joint fundraising venture involving the Republican National Committee and Trump’s presidential campaign organization.<sup>26</sup>
- GEO Group and CoreCivic each contributed a whopping \$250,000 to President Trump’s inauguration committee.<sup>27</sup>
- GEO Group moved its 2017 annual conference to a Trump-owned resort.<sup>28</sup>

The two companies also give generously to the campaigns of certain U.S. Senate and House candidates. During the 2016 election cycle—2015 to 2016—those donations skewed heavily toward Republicans, by a ratio of more than 6-to-1.<sup>29</sup>

Drilling down further, it’s clear that for members of Congress, committee membership—and even subcommittee membership—has its privileges. During the 2016 election cycle, GEO Group and CoreCivic donated most robustly to House members sitting on the U.S. House Committee on Appropriations, the committee most responsible for controlling the purse strings for DHS’ detention programs.<sup>30</sup> So far, during the 2018 election cycle, GEO Group’s campaign donations again are tilted heavily toward the House Appropriations Committee and its members, outpacing the second-closest House committee by a ratio of 6-to-1.<sup>31</sup>

The current top three individual House recipients of GEO Group’s campaign cash—Republican Reps. John Culberson and John Carter, as well as Democratic Rep. Henry Cuellar—each represent Texas, a key border state where GEO Group does much of its business.<sup>32</sup> These three congressmen sit on the all-important Appropriations Committee, and Reps. Culberson and Cuellar also are members of that committee’s Homeland Security subcommittee—perhaps the most important congressional subcommittee for the private prison industry’s success. Not coincidentally, two of CoreCivic’s top recipients of cash donations in the House also sit on the Homeland Security subcommittee: Reps. Culberson and Chuck Fleischmann (R-TN).<sup>33</sup>

### Donations by subsidiaries alleged to be government contractors

As noted above, at least two political donations tied to GEO Group allegedly violated laws that ban government contractors from donating to federal candidates or related organizations. During the 2016 presidential campaign, a GEO Group subsidiary—GEO Corrections Holdings—made two donations totaling \$225,000 to a Trump super PAC.<sup>34</sup> Experts at the Campaign Legal Center allege that these donations violated the government contractor ban, and they filed a complaint with the Federal Election Commission (FEC), which as yet has failed to take action.<sup>35</sup> GEO Group disputes the

charge, contending that GEO Corrections Holdings is a legal entity with no federal contracts even though the subsidiary is headquartered at the same address as GEO Group and employs all GEO Group's corporate staff, according to the Campaign Legal Center, a Washington-based nonpartisan, nonprofit political watchdog organization.<sup>36</sup>

### Potential dark money

Aside from the campaign donations discussed above, which were disclosed pursuant to statutory requirements, GEO Group and CoreCivic may be doing additional campaign-related spending in the shadows via dark money organizations, though it is quite difficult to know for sure. Current law unfortunately allows this increasingly common form of campaign-related spending to remain undisclosed, making the U.S. political system far too susceptible to secret influence by wealthy special interests, and even foreign interests.<sup>37</sup>

### Lobbying activities

Private prison companies favor a system that keeps as many immigrants under their control as possible and have warned their shareholders that certain changes in federal detention policies can hurt profitability.<sup>38</sup> To ensure that their policy goals are advocated for effectively, their relationships with politicians remain strong, and their business interests are favored, GEO Group and CoreCivic spend prolifically on lobbying.<sup>39</sup>

In 2017, GEO Group spent \$1.7 million on lobbying. Already in 2018, the company is in the top 8 percent of all U. S. companies when it comes to spending on lobbying.<sup>40</sup> Between 2006 and 2015, GEO Group and CoreCivic together spent more than \$10 million to lobby Congress solely on homeland security appropriations.<sup>41</sup> Not coincidentally, the growth of the population of detained immigrants over the past dozen years largely tracks with the growth in congressional lobbying expenditures from these two companies.<sup>42</sup>

Moreover, to secure access to important politicians, the private prison companies retain some of Washington's top lobbyists. GEO Group spends the largest proportion of its lobbying dollars on Ballard Partners, named for Brian Ballard, who was a finance chair for Donald Trump's presidential campaign.<sup>43</sup>

GEO Group also relies on the lobbying prowess of Navigators Global, a firm co-founded by Cesar Conda, who served for several years as chief of staff to Sen. Marco Rubio (R-FL).<sup>44</sup> Not only has Sen. Rubio been a top beneficiary of GEO Group's campaign donations, but Conda also later ran a PAC that supported Rubio. Not surprisingly, GEO Group was a top contributor to that PAC as well.<sup>45</sup>

Premier lobbyists don't just personally donate campaign cash to politicians—they often fundraise for politicians, too. This entails soliciting other donors to contribute campaign cash or hosting fundraising events attended by other donors and, sometimes, top congressional leaders who control policy agendas. Look no further than Cesar Conda, who hosted numerous fundraising events while he lobbied for GEO Group. On June 29, 2016, Conda hosted a headline-grabbing fundraiser for Sen. Rubio featuring Senate Majority Leader Mitch McConnell (R-KY) and Senate Majority Whip John Cornyn (R-TX).<sup>46</sup> In addition, one of CoreCivic's premier lobbyists, former House Majority Leader Richard Gephardt, has bundled money for the Democratic Congressional Campaign Committee.<sup>47</sup>

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## Bold anti-corruption solutions exist to curb special interest influence on policymaking

Private prison companies such as GEO Group and CoreCivic have huge influence over policymakers. This is not surprising given the current campaign finance and lobbying laws, which engender a pay-to-play system that skews policymaking toward corporate interests and fails to fairly represent the viewpoints of everyday Americans. The primary way to reduce the undue influence of powerful special interests and strengthen the voices of everyday citizens is to restructure U.S. laws so that the public is more fairly represented when policies are made. To achieve this popular and necessary goal, CAP supports several strong, clear anti-corruption solutions.

### Ban committee contributions

One bold anti-corruption solution is to bar members of Congress from accepting contributions from entities with interests in front of legislative committees on which members sit. Under this proposal, private prison companies such as GEO Group and CoreCivic would be prohibited from donating campaign cash to members of the House Appropriations Committee or its Homeland Security subcommittee, both of which make legislative decisions that directly affect the companies' bottom lines.

Currently committee members take in big fundraising hauls from industries they oversee. In some instances, committee members receive up to half of their campaign funds from interests that they regulate.<sup>48</sup> As the research above shows, the private prison industry carefully targets its donations toward committees that affect their business performance. A new law barring committee contributions would block a major avenue for corrupting influences to improperly sway lawmakers. It's little wonder that voters overwhelmingly support breaking the link between committee membership and receiving campaign contributions. Eighty-eight percent of voters, including 86 percent of Trump voters, favor this proposal.<sup>49</sup>

## Ban lobbyist fundraising

Another strong, clear anti-corruption solution is to ban lobbyists from fundraising for politicians.<sup>50</sup> Under this policy, lobbyists hired by private prison companies, for example, would be prohibited from fundraising for candidates or political parties. This solution is necessary to ending one of the most direct ways that special interests attempt to buy favorable treatment from lawmakers who are supposed to develop policies to benefit all Americans.

Although lobbyists are subject to the same contribution limits as other donors—\$2,700 per candidate per election—many lobbyists provide far more financial support to politicians by holding fundraising events and bundling contributions from other donors.<sup>51</sup> This, in turn, increases lobbyists' ability to gain access to politicians as they advocate on important issues—in this case, detention-related issues. Mick Mulvaney, currently the director of President Trump's Office of Management and Budget, admitted that lobbyists bought access to his office. He publicly stated that when he was a congressman, lobbyists could secure a meeting with his office if they donated to his re-election campaign.<sup>52</sup> When a lobbyist solicits additional campaign funds for politicians, that lobbyist's access grows.

Just as importantly, every time the president's team or a member of Congress meets with a powerful lobbyist who has fundraised for them, it decreases the opportunity to meet with the general public, which often approaches policies differently than wealthy special interests. This misalignment can skew policy outcomes, as evidenced by the government's current cruel and illogical detention policy.

## End secret spending in U.S. elections

To further curb corrupting influences, Congress should require more transparency and accountability over political spending so voters know who is attempting to affect election outcomes. Since 2008, anonymous donors, including corporations, have spent significantly more than \$900 million on federal elections.<sup>53</sup> Passage of the DISCLOSE Act of 2018<sup>54</sup> would be a big step forward, mitigating one of the harmful effects of the U.S. Supreme Court's 2010 decision in *Citizens United*. This legislation would allow the public to know where campaign cash is coming from, whether it be from corporations, wealthy special interests, or American citizens. By contrast, under the current system, there is no way to know whether GEO Group and CoreCivic are anonymously funneling large sums of money to outside groups to influence elections and policies.

The DISCLOSE Act of 2018 would close loopholes that shield powerful corporations from disclosure, including by prohibiting donors from hiding their identities behind shell organizations. It also would require organizations that engage in significant

election-related spending, including shadowy tax-exempt nonprofits, to promptly report that activity. Public disclosure of the sources of political spending is essential to uncovering corruption, educating voters, conducting elections that are open and informed, and yielding responsive policymaking.

### Vigorously enforce laws barring government contractor donations

The FEC should robustly enforce laws to ensure that companies with federal contracts, such as private prisons, do not make improper political donations. The federal government spends hundreds of billions of dollars every year on contracts with private companies, and the public deserves to know that the government is awarding these contracts on merit, not because of a company's political donations or connections. As discussed above, companies such as GEO Group are testing the outer limits of prohibitions on contractor spending in elections, often funneling money through subsidiaries—yet the FEC is failing to act. Unless existing restrictions are meaningfully scrutinized and enforced, contractors' election spending will continue to produce a pay-to-play culture that favors big corporate donors instead of companies that can best and most cost-effectively meet the public's needs.

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### Conclusion

Our current political system breeds a culture of corruption that often benefits wealthy special interests over everyday Americans. Using powerful levers such as campaign contributions and lobbying, private prison companies are benefiting handsomely from the inhumane and illogical immigration detention policies of President Trump and congressional Republicans. With the public's outcry as their motivation, lawmakers should enact clear, strong anti-corruption solutions that curb the power that special interests have over government policymaking. Only when our government fairly represents the views of all Americans will our nation be one that is of the people, by the people, and for the people.

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## Endnotes

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