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**FACT SHEET: CRIMINAL
JUSTICE & IMMIGRATION**

Capitol, Inc. Project

ABOUT THE AUTHORS

INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE

The International Corporate Accountability Roundtable (ICAR) is a civil society organization that believes in the need for an economy that respects the rights of all people, not just powerful corporations. We harness the collective power of progressive organizations to push governments to create and enforce rules over corporations that promote human rights and reduce inequality.



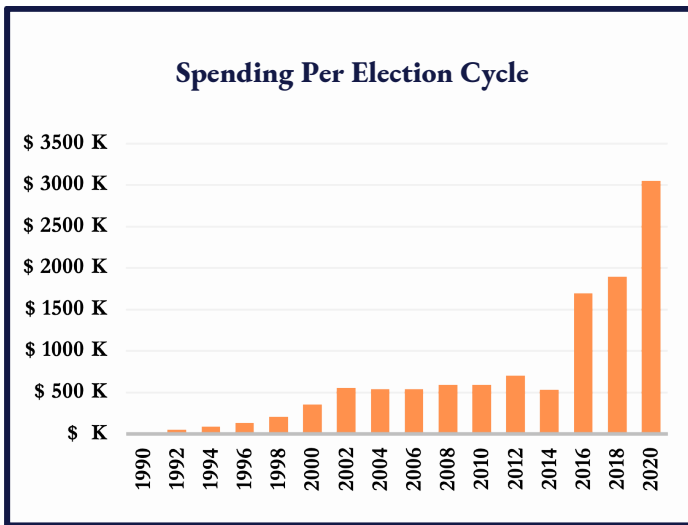
ACKNOWLEDGEMENTS

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HOW FOR-PROFIT PRISONS GETS THEIR WAY

For-profit corporations are involved in nearly every aspect of the criminal justice and immigration systems in the United States. From the [bail bond industry](#) and companies that operate prison commissaries to [surveillance tech](#) and [healthcare companies](#), over [4,100 corporations](#) directly profit from mass incarceration. Perhaps the most infamous players in this space are the for-profit prison companies that operate prisons and immigrant detention centers. Contrary to what private prison companies claim, there is [strong evidence](#) that the industry has used its influence to push laws and policies that put more people behind bars and to expand the industry's role in our criminal justice and immigration systems overall.

Election Spending

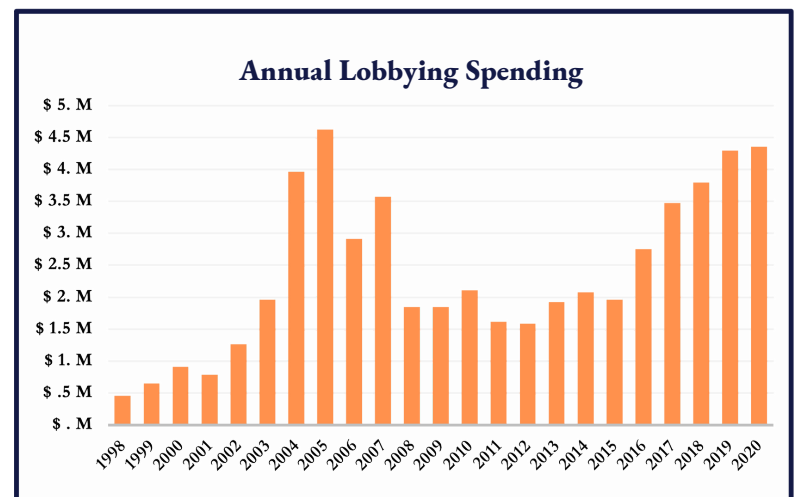


Data from OpenSecrets profile on the [Private Prison Industry](#)

- Over the last three decades, the private prison industry has put over [\\$11.5 million](#) towards influencing the outcome of federal elections.
- In 2020 alone the for-profit prison industry spent over [\\$3 million](#) influencing federal elections.
- In 2014, [14 of the 17](#) senators and congressmen that received contributions of \$5,000 or greater from the two largest private prison companies won their races

Lobbying

- Since 1998, the industry has spent over [\\$2.4 billion dollars](#) lobbying the federal government.
- The annual amount the private prison industry spends on lobbying has risen quickly over the past six years, going from just under [\\$2 million](#) in 2015 up to [\\$4.4 million](#) in 2020.



Data from OpenSecrets lobbying profile on the [Private Prison Industry](#)

The Revolving Door

- [Three](#) of the [six](#) people who have served as Federal Bureau of Prisons (BOP) Director since 1970 went on to join the boards of large private prison corporations after leaving office.
- When [Harry Lappin](#) was director of the Bureau of Prisons the agency awarded five “criminal alien requirement” prison contracts to GEO and three to CCA (now CoreCivic). Two months after resigning from his role at BOP Lappin took a [high-level position](#) at CCA that came with a substantial salary increase.
- Several Senators recently [called out](#) the “pattern of high-level ICE and BOP officials leaving their posts to work for the same companies that they were in charge of regulating.”
- [70 percent](#) of the lobbyists hired by GEO and CCA in 2015 had previously worked in congressional offices.

EXAMPLES OF HARM

- *Congress lined the pockets of for-profit prisons through an arbitrary immigrant detention quota, driving unnecessary mass detention, wasting taxpayer dollars, and preventing the use of equally effective and more humane alternatives.*

In 2009, [Congress established](#) a mandatory immigrant detention bed quota, inserting language into the DHS Appropriations Act of 2010 that required ICE to ‘maintain’ a minimum of [33,400 detention beds](#) at any given time, or risk losing its funding. While the wording suggests that ICE was only supposed to have the beds available in case they were needed, it was [interpreted](#) by members of [Congress](#), [DHS](#), and [ICE](#) as a requirement to keep the beds filled at all times. This quota was [not grounded](#) in any public need. In fact, when it was created the country was in the middle of a [multi-year decline](#) in unauthorized immigration.

Predictably, the quota triggered an [immigrant detention boom](#), resulting in [record numbers](#) of immigrants behind bars. At the same time, the percentage of detainees held in for-profit prisons [spiked dramatically](#), jumping from [49% in 2009](#) when the quota was created [up to 62%](#) in early 2015. When combined with the overall expansion in the immigrant detainee population, this [13% increase](#) in the industry’s share of detention beds led to [soaring profits](#).

CCA’s profits went from about \$133 million in 2007 to over [\\$195 million in 2014](#), and GEO group raked in even more cash, with a [244% increase in profits](#) between 2007 and 2014.

Although the industry [claims](#) it does [not lobby](#) on [issues related](#) to immigration policy, lobbying disclosure documents filed by CCA (now CoreCivic) and Geo Group [tell a different story](#). In the year the quota was first enacted, as many as [25 lobbyists](#) were working to advance CCA’s interests in Congress specifically related to [“budget and appropriations issues.”](#) These efforts continued throughout the [fight over the quota](#), which lasted until its [removal in 2017](#). For example, between 2008 and 2014 CCA alone spent [\\$9.76 million](#) in quarters where they directly lobbied the DHS Appropriations Subcommittee, “the birthplace and point of control for the quota.” The industry also provided over [\\$132,000](#) in campaign contributions to Subcommittee members over this time.

As for-profit prisons lined their pockets and [strengthened](#) their [grip](#) on our immigration system, [undocumented immigrants](#) and [taxpayers](#) paid the price. The quota promoted unnecessary and [arbitrary detentions](#) and kept officials from using [alternative methods](#) that were less costly, equally effective, and more humane. As noted by former New York District

Attorney [Robert Morgenthau](#), “Many of these detainees are incarcerated not because they are dangerous or likely to skip their court dates, but because ICE must meet an arbitrary quota set by Congress.”

Additionally, the [quota has been linked](#) to the fact that detention costs more than doubled between 2006 and 2013, despite a significant drop in unauthorized immigration. For example, in 2013, the Administration highlighted that the quota was about [2,000 beds](#) above what was needed, representing [\\$132 million dollars](#) wasted each year.

Although the federal detention quota was [revoked in 2017](#), private prison companies have successfully pushed for the inclusion of “[lockup quotas](#)” in their contracts with ICE. These clauses specify that ICE will pay for a [set number of beds](#) in a facility even if they are empty, allowing for-profit prison companies to [influence ICE’s decision-making](#) about enforcement and detention.

- ***Through Operation Streamline the government swept tens of thousands of immigrants into the criminal justice system, resulting in lucrative contracts for private prison companies.***

At the end of 2005, the federal government instituted a [zero-tolerance](#) program called “Operation Streamline.” A [joint initiative](#) of DOJ and DHS, Operation Streamline required the [criminal prosecution](#) and imprisonment of nearly all undocumented immigrants caught crossing certain sections of the southern border. This marked a [significant shift](#) in U.S. immigration enforcement policy, which until then had processed the vast majority of unlawful entry or re-entry cases through the civil immigration system. It also meant huge [financial gains](#) for private prisons.

This crackdown significantly contributed to mass incarceration, [sweeping tens of thousands](#) of people into the already overcrowded criminal justice system each year. While Operation Streamline was initiated during the Bush administration, after Obama became president these cases “[took off like a rocket](#).” By 2016, over [730,000 people](#) had been prosecuted in federal courts for the

crime of improper migration since the start of Operation Streamline.

The program [swamped](#) federal [courts](#) along the border; [prevented](#) DOJ from going after serious crimes, and wasted taxpayer dollars to the tune of [at least \\$7 billion](#) in incarceration costs alone between 2005 and 2016. In 2015, improper entry and re-entry prosecutions accounted for almost [half of all federal prosecutions](#). Operation Streamline also created [expedited, mass hearings](#) that raise serious [due process concerns](#).

The [clear winners](#) of the program were for-profit prison companies. To deal with the spike in inmates caused by Operation Streamline, BoP [expanded](#) its “[Criminal Alien Requirement](#)” (or CAR) prisons, which were (and still are) [entirely run](#) by for-profit prison companies.

These segregated immigrant-only prisons “[single out noncitizens](#) as a separate — and less deserving — class of federal prisoners.” They [lack basic programming](#) available in other prisons (like [addiction counseling](#)) and are [rife with abuse](#), including excessive use of [solitary confinement](#).

When they were first created in 1999, BoP’s CAR prison contracts had provided a [lifeline](#) for the private prison industry at a time when its [future was uncertain](#). The expansion of CAR prisons under Operation Streamline meant even more [lucrative contracts](#) for the industry. In 2011 alone private prison companies “made a profit of over [\\$246,561 per day](#)— \$90 million per year—for incarcerating immigrants on criminal charges.”

In the years leading up to this crackdown, the private prison industry’s investment in lobbying [increased significantly](#), going from [\\$1.27 million in 2002](#) all the way up to almost [\\$4 million in 2004](#). The year Operation Streamline was launched, private prison companies [spent more lobbying](#) the federal government (over [\\$4.6 million](#) total) than ever before. And [many officials](#) at DoJ and DHS who were in charge when Operation Streamline was implemented went on to work in the private prison industry after leaving office.

- ***For-profit prison companies are incredibly opaque, and the industry has successfully fought to keep it that way.***

Private prison companies are incredibly opaque, and the industry has [fought](#) to keep it that way. Even though for-profit prison companies that operate federal prisons and immigrant detention centers are [funded](#) by taxpayer dollars and perform “[a task that has historically](#) been handled by the government,” they are not covered by the same [federal public records](#) laws as government-run facilities. This includes the [Freedom of Information Act](#) (FOIA), which was passed by Congress in 1966.

[FOIA](#) gives the public an enforceable right to access records and information from federal agencies, with some exceptions. It is a [critical tool](#) for promoting government transparency and accountability. For [government-run](#) prisons and detention centers, journalists, activists, and the broader public can use [FOIA](#) to [access information](#) about prisoner demographics, violent incidents, care conditions, and facility budgets and spending, among other topics. This is not the case when it comes to their for-profit counterparts.

Because FOIA does not apply to private prisons, they [do not have to tell the public](#) about what goes on in their facilities or how they spend federal funds. As a result, “[large swaths](#) of the industry remain a mystery.” [Government](#) and independent [investigations](#) have helped shed light on the corruption, fraud, and abuses that take place in for-profit prisons and detention centers, but without access to key data, the [public has no real way](#) of assessing the full extent of the problem or holding the industry to account. This lack of system-wide information is also a [barrier](#) to [evaluating the industry’s claims](#) about efficiency and cost-savings (which existing [evidence](#) suggests are [not true](#)).

While some [states](#) have applied their public records laws to these companies, federally funded private prisons and detention centers “[remain a black box](#).” To address this, representatives in Congress have repeatedly tried to pass the [Private Prison Information Act](#) (PPIA), which would expand FOIA to private correctional facilities. Versions of the bill have been introduced at least [10 times](#) since

2005, but none have passed. This is at least in part because of [aggressive lobbying](#) by the industry – which vehemently opposes PPIA. For example, between 2005 and 2014, CoreCivic (then Corrections Corporation of America) spent at least [\\$7 million dollars lobbying](#) against the bill.

These private prison companies have also demonstrated how far they will go to avoid public scrutiny outside of the context of PPIA. In 2016, a federal district court ruled that the government had to “[release details](#) of its contracts with private prison corporations” pursuant to a [FOIA request](#) from CCR and DWN. Although the government decided to follow the court order, Geo Group and CoreCivic [intervened](#) and appealed the decision. Ultimately, Geo Group petitioned the Supreme Court, “[asking for the right](#) to prevent the government from releasing the information. Thankfully, this “[unusual attempt](#) to fight for government secrecy when the government itself had acceded to the court’s ruling” was not successful.

- ***As a result of legal changes championed by industry, private companies can profit from the exploitation of cheap prison labor.***

While most people think of prison labor like cooking, cleaning, and stamping license plates, a [significant number](#) of incarcerated individuals work to produce goods or provide services for [private companies](#).

Because prisoners are [not protected](#) by core labor laws or the 13th Amendment’s ban on slavery and involuntary servitude, the [1.8 million](#) individuals in U.S. prisons today provide a cheap and convenient workforce that can be exploited for a profit with little to no consequences. Inmates are often [forced](#) or [coerced](#) to work long hours for [little to no pay](#) (the average is [86 cents](#) an hour). Some of the jobs they work are [dangerous or hazardous](#), including backbreaking work on [industrial farms](#), cleaning up [oil spills](#), and even [digging mass graves](#).

Companies that use prison labor, either directly or indirectly, reap the rewards, in some cases even getting federal [tax credits](#). By doing so, they participate in an

exploitative system that is inextricably linked to this country's history of [racism](#).

“The supply of prison labor today offers companies in the United States access to the slave labor of yesterday.” – NorthStar Asset Management, [Prison Labor in the United States: An Investor Perspective](#).

The [roots of prison labor](#) in the U.S. can be [traced back](#) to slavery and the [convict leasing](#) system that arose to take its place. While the [13th Amendment](#) formally abolished slavery in 1865, it included a massive [carve out](#) - “except as a punishment for crime whereof the party shall have been duly convicted.” As a result, [“slavery did not end in 1865, it just evolved.”](#)

Instead of owning slaves outright, private businesses could simply pay prisons a small fee to [“lease” convicts](#) - who thanks to [“Black Codes”](#) were almost exclusively Black men - and force them to work in [mines](#), [picking cotton](#) on plantations, and in other industries. While some inmates were farmed out for private profit in this way, others were forced into government-run [chain gangs](#) to construct roads, build bridges, and contribute to other public works projects. Prisoners in both systems experienced [horrific abuse](#).

“Black prisoners were again living and working on plantations for no pay while states and corporations profited off of their subjugation.” – Samar Ahmad, [The Shadow Workforce: Prison Labor and International Trade](#)

By 1940, the federal government had enacted a [series of laws](#) banning the interstate sale of goods made with prison labor which, combined with state-level laws, [effectively ended](#) the practice of convict leasing and significantly [closed off](#) private enterprise's access to prison labor.

However, this ban - which was primarily [driven](#) by concerns of unfair competition - did not last long. By the 1960s, corporate interests started [mobilizing](#) for access to prison labor once again. A [key player](#) in this effort was the American Legislative Exchange Council, or ALEC, a [powerful and opaque organization](#) comprised of

conservative lawmakers and representatives from private corporations that were created in 1973. Known for its [strategy](#) of writing and pushing model bills that advance corporate interests at the state level, ALEC [“has been instrumental](#) in the expansion of prison labor in the United States.”

After [stepping up pressure](#) on legislators, corporations were handed a major victory in 1979 when Congress passed the [Justice System Improvement Act](#), which [relaxed the rules](#) on the use of prison labor for private business. At a time when the prison population was soaring, corporations were “once again able to [tap into a seemingly limitless supply](#) of prison labor and the profits it promised.”

Since then, prison labor has ballooned into a [\\$2.4 billion-dollar industry](#), with multiple paths that corporations can use to cash in on this captive workforce. For example, private prisons [cut operating costs](#) (and thus increase profits) by using unpaid inmates for [institutional maintenance](#) work like cleaning, food preparation, and administrative jobs. For-profit prisons also [sell inmate labor](#) to other corporations for as little as 17 cents an hour.

Corporations [can buy](#) prison labor-made goods and services, including from state and federal government businesses, called [“prison industries,”](#) which have existed for over 150 years. For example, [Federal Prison Industries](#) (FPI), also known as [UNICOR](#), is a government corporation that employs close to [17,000 federal inmates](#) in over 50 factories, call centers, and farms. While its primary customers are federal agencies, UNICOR also sells [millions of dollars worth](#) of goods and services to companies in the private sector. Prisoners who work for UNICOR receive between [23 cents and \\$1.15 per hour](#).

Companies can also directly employ prisoners. One of the ways companies can do this is through the [Prison Industry Enhancement Certification Program](#) (PIECP), which is a federal program that allows [“private industry to establish joint ventures](#) with federal, state, local, and tribal corrections agencies to produce goods using prison labor.”

PIECP comes with some [limited](#) labor protections, including a requirement for prisoners to be paid a “[prevailing wage](#).” However, because [up to 80%](#) of those wages can be deducted to pay for things like the prisoner’s room and board, in the end, prisoners see very little of their paychecks. Further, in 1995 [lobbyists successfully pushed](#) for oversight of the program to be handed over to the National Correctional Industries Association (NCIA), effectively allowing those profiting through PIECP to [police themselves](#) when it comes to compliance with the program’s requirements.

Another way companies tap into prison labor is through work release programs, which “[provide inmate labor](#) to private companies at offsite locations.” For example, after

BP spilled [4.2 million barrels of oil](#) into the gulf coast, the company “hired” inmates - who were almost exclusively African American men - from [state and privately run facilities](#) for the dangerous job of cleaning up the toxic spill. Although ostensibly voluntary, inmates in work release programs “[can’t pick and choose](#) their work assignments and they face considerable repercussions for rejecting any job, including loss of earned ‘good time.’”

Regardless of whether private corporations directly employ prisoners, buy prison-made goods and services, or source from companies that do, access to “[cheap prison labor](#) is a powerful labor market incentive against criminal justice reform.”

THE SOLUTION

This fact sheet provides information about the outsized influence of one industry over our government decision-makers. But the private prison industry’s influence is just an illustrative example of a broader, cross-cutting problem. Outsized corporate influence exists across many industries, enabled by the same structural gaps and weaknesses. Countering corporate capture of the federal government will require significant reform covering a variety of issues ranging from campaign finance, government ethics rules, and lobbying disclosure, among others. As a starting place, the following legislation and policy solutions would help to ensure our government serves the public interest.

- [***Pass The Freedom to Vote Act:***](#) To ensure that our government works for us by ending the use of dark money and reducing the influence of big money in politics.
- [***Pass the Democracy for All Amendment:***](#) To overturn *Citizens United v. FEC* and give the power in elections back to people, not big business.
- [***Ban Corporate PACs:***](#) To protect elections from excessive corporate influence.
- [***Ban Contributions to Lawmakers from Entities Under Their Committees’ Jurisdiction:***](#) To minimize perverse incentives in legislation by preventing conflicts of interest.
- [***Strengthen Federal Lobbying Disclosure Requirements:***](#) To unveil the corporate interests influencing legislators behind closed doors.
- [***Ban Lobbyists from Fundraising for Federal Candidates:***](#) To reduce the leverage that lobbyists have over our elected officials.
- [***Expand and Strengthen Revolving Door Provisions:***](#) To prevent conflicts of interest and restrain former government officials from exploiting their influence for corporate gain.

ADDITIONAL RESOURCES

- *Banking on Detention: Local Lockup Quotas & The Immigrant Dragnet*, Detention Watch Network (2016), [available here](#).
- *Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons*, The Sentencing Project (August 2018), [available here](#).
- *21st Century Policing: The RISE and REACH of Surveillance Technology*, Action Center on Race & the Economy (April 2021), [available here](#).
- *Who's Behind ICE? The Tech and Data Companies Fueling Deportations*, Immigrant Defense Project & Mijente (August 2018), [available here](#).
- *Prison Labor in the United States: An Investor Perspective*, NorthStar Asset Management (2018), [available here](#).
- *Shadow Prisons: A Private and Profitable Corner of the Federal Prison System Thrives After a Long-Ignored Offense is Prosecuted*, Fusion (February 2015), [available here](#).
- *Buying Influence: How Private Prison Companies Expand Their Control of America's Criminal Justice System*, In the Public Interest (October 2016), [available here](#).
- *Detained for Profit: Spending Surges Under U.S. Immigration Crackdown*, Public Citizen (September 2019), [available here](#).
- *Banking on Bondage: Private Prisons and Mass Incarceration*, American Civil Liberties Union (November 2011), [available here](#).
- *The Role of For-Profit Prison Corporations In Shaping U.S. Immigrant Detention & Deportation Policies*, American Friends Service Committee (December 2015), [available here](#).
- *Correction: Immigration Detention, Inc.*, Denise Gilman & Luis A. Romero, *Journal on Migration and Human Security* (2018), [available here](#).
- *The Cost of the Immigration Detention Bed Quota*, Sarah Kramer, *the Regulatory Review* (April 2017), [available here](#).

- *Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies*, Justice Policy Institute (October 2011), [available here](#).
- *Arbitrary Detention? The Immigration Detention Bed Quota*, Anita Sinha, *Duke Journal of Constitutional Law & Public Policy* (2016), [available here](#).
- *Payoff: How Congress Ensures Private Prison Profit with an Immigrant Detention Quota*, Bethany Carson & Eleana Diaz, *Grassroots Leadership* (April 2015), [available here](#).
- *A Disturbing Trend in Agriculture: Prisoner-Picked Vegetables*, Rebecca McCray, *TakePart* (April 2014), [available here](#).
- *Warehoused and Forgotten: Immigrants Trapped in Our Shadow Private Prison System*, American Civil Liberties Union (June 2014), [available here](#).
- *Indefensible: A Decade of Mass Incarceration of Migrants Prosecuted for Crossing the Border*, *Grassroots Leadership* (July 2016), [available here](#).