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The Private Prison Industry's Role in the Immigration Industrial Complex

A Thesis in Political Science

by

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Abstract

The private prison industry is lucratively situated within a vast and complex network of private-public relations which together form an influential confluence of interests of agency officials, policy makers and private corporations benefiting from the current immigration systems criminalizing policies and militarized border control. This policy network is known by some as the immigration industrial complex. It is the purpose of this research to present an understanding of the mutually beneficial relationship between the private prison industry and the rising incarceration rates of undocumented immigrants. I demonstrate the relationship this industry has with the government, encompassing lobbying practices, campaign contributions, revolving door employees and associational alliances. The findings draw correlations between the development of immigration policy and increases in the number of undocumented immigrants detained and the increase in private prison contracts with government. Additionally, the evidence demonstrates that there exists a highly integrated and mutually beneficial relationship between government and the private prison industry in regards to the increasing incarcerated population of undocumented immigrants.

Introduction

Private prisons are run in a manner similar to hotels, albeit with several distinctions in their approach to customer service. As businesses, both employ deliberately crafted strategies to convince customers of their value and keep occupancy rates high. When there are more residents who stay longer, coupled with less funds spent on food, facility upkeep and employee wages, it results in increased revenues. In the United States, private prison corporations are contracted by multiple federal agencies, 31 states and dozens of local municipalities to house prisoners, detainees, and juveniles. In 10 of the 31 states that contract private prisons, more than 29% of the state inmate population is kept in private facilities (Konczal 2011). According to the Bureau of Justice (BOJ) in 2000, private facilities held 11% of federal inmates and by 2012 their custody had expanded to 20% (Bureau of Justice 2013). Over the past twelve years, the inmate population -and most notably the undocumented immigrant inmate population- has increased considerably in private facilities. Unfortunately, the BOJ report failed to include data on this swelling inmate population of undocumented immigrants, however, within the U.S. immigration system, rife with patchwork policies, opaque processes, blurred enforcement jurisdictions, poor oversight and overwhelmingly influenced by corporate interests, the lack of comprehensive reporting is only the tip of the iceberg.

In my research I explore the private prison industry and its role within a vast, powerful and interconnected network referred to as the immigration industrial complex. This complex is composed of policy makers, agency officials and corporations capitalizing on the current era of heightened homeland security, the criminalization of

immigration and the militarization of the U.S. border. A multitude of actors benefiting from policies that criminalize the immigrant population in some cases also work to maintain these policies. This research 1) explains the development of immigration policies since 1996 which have criminalized the immigrant, 2) discusses the incentives governments have to contract private prisons, 3) demonstrates the private prison industry's dependence on criminalizing immigration policies and the undocumented immigrant inmate population in their facilities and 4) reveals the ways in which the private prison industry, working within the immigration industrial complex, attempts to influence government and immigration policy through PAC and campaign contributions, lobbying, revolving door actors and associational alliances.

In the past two decades, scholars and human rights activists alike have noted an emergence of criminalizing immigration policies which targets an estimated 11.6 million undocumented immigrants living within the United States (Doty and Wheatley 2013). Until recently, the long standing position of the Department of Justice held that state and local police did not have the authority to arrest or detain undocumented immigrants for the sole purpose of bringing them to civil immigration proceedings (Kalhan 2013, 9). Rather, this was the responsibility of trained federal immigration officials and their efforts were limited to pursuing and deporting only violent and dangerous criminal immigrants. However, since the early to mid-1990s and especially following the terrorist attacks of 2001, our nation heightened its focus on security which contributed to drastic changes in immigration policies and enforcement methods. Following 9/11, scholars argue that the War on Terror being fought abroad was brought to the home front with an

undeniable focus on the undocumented immigrant population (Golash-Boza 2009; Díaz 2011; Manges Dougles and Sáenz 2013). As Davis asserts, "The 'problem' [of unauthorized immigration] is now even more perilous because it is tied to post 9/11 national security anxiety" (2004, 1696). Fears extend past the economic risks of illegal immigrants taking "Americans jobs" and capitalizing on public benefits, to fears of terrorism and border invasion.

Our nation's prioritization to secure the borders, fight terrorism and enforce penalizing immigration policies has benefitted a host of actors. These benefactors have formed a powerful coalition and policy network, and have become known among many human rights activists and academic circles as the "immigration industrial complex" (Díaz 2011; Doty and Wheatley 2013; Douglas and Sáenz 2013; Golash-Boza 2009; Trujillo-Pagán 2013). The immigration industrial complex consists of "the public and private sector interests in the criminalization of undocumented migration, immigration law enforcement and the promotion of 'anti-illegal' rhetoric" (Golash-Boza 2009, 296) and is "an industry based on immigrant detainees and supported by Congressional powers" (Díaz 2011, 1). Numerous scholars have demonstrated that through a convergence of interests, federal and state governments have passed immigration policies that benefit a collection of powerful industries while failing to offer effective immigration reform (Diaz 2011; Doty and Wheatley 2013; Douglas and Sáenz 2013; Golash-Boza 2009; Trujillo-Pagán 2013).

Authors have linked the immigration industrial complex to the prison industrial complex, both terms rooted in President Eisenhower's 1961 speech warning the

American people of the growing influence of the military industrial complex (NPR 2011). Golash-Boza (2009) compares these three related complexes—the military, prison and immigration industrial complexes—as sharing a rhetoric of fear, the confluence of powerful interests, and a xenophobic discourse that promotes the marginalization of people deemed to be unwanted outsiders.

Government immigration agencies have failed to fulfill their stated prerogatives in deterring unauthorized immigration and instead maintain a cycle of arrest, detention and deportation through poorly conceived policies and enforcement practices. Throughout this cycle, enormous amounts of government funds are appropriated by their agencies to pay contracted services- corporations who in turn seek to maintain their lucrative niche in the broken immigration system. Trujillo-Pagán argues that the corporate interest in detention and deportation is only one level of the immigration industrial complex. She argues that this complex "ultimately involves state enforcement in the struggle between labor and capital" a form of regulating labor supply and demand and increasing U.S. economic hegemony over Mexico (2013, 33). Many laws deliberately and actively construct illegality for the interests of global and United States' profit (Trujillo-Pagán 2013).

The private prison industry holds an especially lucrative niche in this industrial complex and benefits greatly from the current immigration policies in place. The private prison industry is the conglomeration of private prison companies which offer their services to local, state and federal government to provide services and facilities for the incarceration of a multitude of prisoner populations. Over the past decade the private

prison industry has become dependent on contracts for the detention of undocumented immigrants.

Academics have demonstrated that immigrant incarceration rates have increased due to policies which expand the grounds for deportation, extend the time served, and increasingly enmesh local and state officials with the duties of the federal immigration system (Kalhan 2010; 2013). In 2005, Operation Streamline was enacted in several jurisdictions along the U.S.-Mexico border and began the practice of arresting immigrants for entering the country without authorization, or for reentering the country without permission after a prior unauthorized entry. Then agents charge these individuals with federal crimes and have them serve time in the criminal justice system, whereas before this zero-tolerance initiative, the acts of unauthorized entry and reentry were considered civil offenses and subsequently handled by the civil immigration system (Atkinson et al. 2012). Kalhan (2013) posits that while the number of privately-held inmates has decreased between 2008 and 2010, the number of undocumented immigrants in private detention has increased. The total private detainee population increased by 259 percent between 2002 and 2010 (Kalhan 2013). The private prison corporations are aware of the impact this population has had on the demand for prison space and the amount of government contractual agreements offered, ultimately affecting annual revenues. CCA, the largest private prison in the U.S. reports in its 2012 Annual Report that "any lenient policy changes in respect to illegal immigration could adversely affect their revenue" (CCA 2012 Annual Report, 28). As corporations with vested interests to protect, the private prisons make use of certain political strategies in order to influence government

decisions, budget appropriations and policy development.

Political actors assert influence through a variety of methods including political giving such as PAC or campaign contributions to form alliances and show support to policy makers, lobbying and through group alliances as members of associations and policy networks. According to Hart, the business sector is the most active in campaign contributions, lobbying and PAC donations arguing that since the 1920s "business has an advantage in the pressure system" (2004, 48). Such political strategies as PAC and campaign contributions and lobbying have been found to correlate with greater potential payoffs from favorable decisions on policy and regulations and influence the political climate affecting business (Hills et al. 2013). Lobbying efforts are often presented as one singular corporation attempting to win a favor or contract with no other implications involved, but as Baumgartner et al. found "such 'lone ranger' lobbying is far from the norm" (2009, 22). Research demonstrates that more frequently lobbyists advocate for a change or to protect an existing public policy which has diverse effects on multiple corporations and their variety of vested interests. These multiple corporations then form policy networks to advocate and advance their shared interests being affected in a policy decision.

Rhodes defines policy networks as "sets of formal institutional and informal linkages between interdependent governmental actors and a variety of other actors, structured around interests in public policymaking and implementation" (1990, 2). Such is the case with the private prison industry working within the immigration industrial complex. The immigration industrial complex uses its vast policy network to assert

greater shared influence over policy decisions and development. Policy emerges from this multitude of public-private interactions and relationships in policy networks.

This thesis documents the mutually beneficial relationship between the private prison industry and criminalizing immigration policy since 1996 in the United States. The research explains the process through which changes in immigration policy have criminalized immigration, increased incarceration rates of undocumented immigrants and led to the government's growing dependence on the use of private prisons. Additionally, this thesis outlines the complex policy network within which the private prison industry functions, explaining how through lobbying, campaign contributions and associational relations, this industry assert a political influence to support increased corrections spending and immigration policies that in turn increase the incarceration rate of undocumented immigrants.

My thesis offers a comprehensive understanding of a phenomenon by connecting multiple fields of study and revealing the confluence of public-private relationship interests that maintain a criminalizing and broken immigration system, focusing especially on private prisons. Human rights activists have written extensively on the poor quality of food, shoddy security, lack of employee professionalism and experience and the excessive costs for phone usage (ACLU 2011). In many cases there are concerning human rights violations including poor health care services and dozens of cases of guard against inmate mistreatment including harassment and rape (American Friends Service Committee, ACLU 2011, Fischer 2013). Research groups have documented how private prisons corporations use political giving and lobbying to influence politicians (Justice

Project Center 2013; Fernandes Deepa 2007; Center for Juvenile and Criminal Justice 2008) and the effects which certain criminalizing policies have on the demand for more facility space and private prison contracts (Atkinson et al. 2012; Buentello et al. 2010). Approaching the subject from a more analytical stance, academics have written about the poorly conceived immigration policies perpetuated by the relations and political access that many corporations in the immigration industrial complex maintain with politicians (Manges Douglas and Sáenz 2013; Golash-Boza 2009; Díaz 2011) and the development and consequences of criminalizing immigration policies (Davis 2004; De Genova 2004; Garcia Hernandez, Cesar Cuauhtémoc 2013). Others have focused on the plethora of government contracts for homeland security solutions, and the increasing militarization of the border (Kalhan 2010; 2013; Koulish 2007; Mason 2012). All of these topics shine light on different portions of a complex and opaque network of industries, members of congress, lobbyists and policy which together are maintaining a criminalizing immigration system at the cost of the rights and often the lives of immigrants. This research connects the multiple studies and demonstrates the full circle of this phenomenon. This work explains the private prison industry's role within the immigration industrial complex, a network of actors benefitting from the development of our complex and criminalizing immigration policies.

The first section of the research describes the major changes in immigration policy since 1996 and how these policies have affected the incarceration rate of undocumented immigrants. These policies expand the grounds for deportation, limit the availability of waivers for deportation, restrict judicial review, increase technological

intergovernmental capabilities in detection and arrest and enmesh local and state officials with the jurisdiction and authority of the federal government in the civil and criminal immigration detention system. Additionally, due to a congressional appropriation committee mandate, the federal immigration agency, Immigration and Customs Enforcement (ICE), is obligated to maintain and fill 34,000 detention beds, regardless of fluctuating detainee populations. I argue that these immigration policies and the resulting increases in the undocumented immigrant population in the civil and criminal immigration systems contribute to the increase in governmental contracts with the private prison industry.

Section two introduces the private prison industry, exploring the roots and current success of the two main corporations, Corrections Corporation of America (CCA) and the GEO Group Inc. (GEO). This section explains certain incentives for governments to enter contractual agreements with private prisons, such as the change in financing practices to leave-revenue bonds, as well as lock-up quotas. I demonstrate the private prison corporations' dependence on the undocumented immigrant population as well as the growth in government contracts. The majority of CCA and GEOs' facility types suggest that their contracts are mainly for holding undocumented immigrants. I analyze statements from the chief executive officers (CEOs) of CCA, GEO and Cornell where they testify that the undocumented immigrant inmate is one of their most profitable markets and will continue to be so in the years to come. I explore the connection and arguably, the dependence of the private prison industry on the undocumented immigrant population, listing the major contractors and explaining their revenue. I argue that private

prisons have an interest in perpetuating the government's need for their services and they make a significant political effort to protect that interest.

Section three documents these efforts of the private prison industry to maintain and increase their profits. The main strategies are those commonly used in politics: lobbying, campaign contributions, and associational powers. Interesting associational positions, such as membership in the American Legislative Exchange Council and the American Corrections Association, frame this industry within a larger and more complex policy network. These immigration policies benefit a collection of powerful industries whose convergence of interests allows them to support and propagate such policies, while failing their initial purposes: effective immigration reform. This section claims that the private prison industry attempts to influence political outcomes which affect immigration policy and in some cases help to shape state immigration policy. More frequently there is evidence which demonstrates their lobbying efforts for federal government appropriations for federal enforcement agencies such as ICE, the Federal Bureau of Prisons (BOP) and the United States Marshals Service (USMS), campaign contributions for politicians favorable to prison privatization and the frequent revolving door between government agencies and the private prison industry.

Reflecting on economic comparisons, human right activists' accounts and the data collected on the efficiency and reliability of the private prison industry, I conclude that the use of private prisons for the imprisonment of any inmate, and especially with vulnerable populations such as undocumented immigrants, is bad for for taxpayers, the government and certainly those individuals detained. The private prison industry's

failings have included a lack of oversight, poor health care services, facility safety, food quality and, perhaps the most concerning, poor employee professionalism, experience and oversight. Existing alternatives to detention that are more cost effective and humane could replace the use of private prisons as well as bring correctional costs down. However the transition to detention alternatives is only one step towards improving our immigration system's rampant criminalization, detention and deportation practices. The fundamental cause of these problems is rooted in a poorly conceived immigration system and criminalizing immigration policies which must be addressed with comprehensive reforms. I conclude the thesis with recommendations for immigration system reforms and suggestions for further research.

Methods

This thesis is a qualitative research that draws on primary and academic sources to create a narrative of the expanding private prison industry in relation to immigrant incarceration. Information was drawn from law reviews, journals, human rights reports and media sources. Much of the calculations on immigrant populations in private prisons came from primary sources including corporate websites, annual reports, CEO statements and congressional testimonies. Evidence about private prison contracts, facility type and revenue was accessed from the corporations' annual shareholder and company reports. Private prison PAC and campaign contributions, lobbying firm activity, and lobbying disclosure forms were retrieved from opensecrets.org. Human right activist groups such as Grassroots Leadership and research groups such as the National Immigration Forum and Corporate Research Project of Good Jobs First contributed to the argument,

providing evidence on the effects of policies like Operation Streamline. I additionally use several case studies in order to frame the relationship between the private prison industry and the incarcerated immigration population.

Immigration Policy Changes and Developments: 1996-Present

Immigration policy developments over the past few decades have contributed to the drastic population increase of incarcerated and detained undocumented immigrants. This growth is disproportionate in comparison to the actual population of undocumented immigrants present in the country. In response to the influx of immigrants, changing public sentiment, administration agenda goals, perceived national threats and the growing call for security and control, these stricter immigration policies have found support in the government. Since 1996, several immigration policies have contributed to the increasing number of immigrants in detention and prison and lengthened their time incarcerated and in detention.

One factor involved in the increase of unauthorized immigrants in detention and prison is the rise of unauthorized immigration in the United States. Pew Hispanic Research Center reports that in 1990 there was approximately 3.5 million unauthorized immigrants in the United States, which rose rapidly to 12.2 million by the end of 2006 (2013). During the economic recession between 2007 and 2009 there was significant drop in unauthorized immigration, the first decrease in immigration population in decades (Pew Hispanic Research Center 2013). Yet despite the decrease in unauthorized immigrants, incarceration rates have continued to rise unabated. Whereas in 2001, 81,000

undocumented immigrants were detained throughout the year, by 2008 that number had risen to 380,000 (Kerwin and Yi-Ying Lin 2009). The immigration enforcement debate is not an issue divided ideologically. Both the Republican and Democratic parties have supported policies and practices which have contributed to this trend. One example, the 2 million deportations the democratic Obama administration has overseen is the largest amount of immigrants deported in the history of any U.S. president (ACLU 2011). There is no exaggeration in saying that "immigration authorities run the nation's largest prison system" (Sklansky 2012, 157).

This thesis analyzes the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility (IIRIR) immigration Laws of 1996, the United and Strengthening America by Providing Appropriate Tools (USA PATRIOT Act), the Homeland Security Act of 2002, the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA)**,** Operation Streamline and Secure Communities. Together these policies have expanded the grounds for deportation, mandated detention for immigrants awaiting deportation proceedings, limited the availability of waivers for deportation, restricted judicial review, provided for retroactive deportation and expanded national technological surveillance and identification capabilities. Additionally they have enmeshed local and state enforcement agencies' jurisdiction with the federal government's immigration detention system and funneled undocumented immigrants into the criminal justice system for civil offenses once handled by the civil immigration system. Operation Streamline is responsible for charging individuals who enter or re-enter the country unauthorized with federal crimes

and locking up tens of thousands of immigrants into the criminal justice system for offenses which prior to this policy were considered civil offenses. As a whole, these policy changes represent the overall criminalization of immigration in the country. This criminalization has led to a drastic increase in the number of undocumented immigrants in the civil and criminal justice systems.

Law/Year	Description/Effects
AEDPA-1996 Antiterrorism and Effective Death Penalty Act	-Removes judicial review as all criminal offenses became grounds for automatic deportation -Makes deportation mandatory for all legal permanent residents sentenced to a year or more for "aggravated felonies," "moral turpitude", controlled substances past crimes *(retroactive deportation)* -Immigrants waiting for deportation proceedings must be held in detention *(mandatory detention)*
IIRIRA- 1996 Illegal Immigration Reform and Immigrant Responsibility	-287(g) agreements which train state and local law enforcement officers to perform the functions of federal immigration officers after training by federal authorities -Eliminates the 'suspension of deportation' practice, which previously allowed immigrants without a criminal history waivers for deportation
USA PATRIOT Act- 2001	-Section 412 of Title IV authorizes the attorney general to detain non-citizens if she/he has "reasonable grounds to believe" they are involved in terrorist activity -Increases budget for immigration & the number of Border Patrol agents -Expands criminal terrorism laws and interagency information gathering and surveillance abilities -Expands definition of "deportable terrorist activity" to include a wide range of activities
Homeland Security Act of 2002	-Department of Homeland Security is created to prevent terrorist attacks on the 'homeland' -Combines civil immigration system in a department whose mission is to prevent terrorism -Budget increases for multi-faceted developments in monitoring, detecting, detaining and deporting non-citizens
IRTPA- 2004 The Intelligence Reform and Terrorism Prevention Act	-Increase border surveillance in all ports and especially along the borders -Number of ICE Enforcement Officers required to increase from 2006-2010 by at least 800 annually -Number of detention beds available for immigrants to increase by 8,000 annually from 2006-2010 *(34,000 detention bed mandate)*

Operation Streamline-2005	-Charges undocumented border crossers with the criminal offense of unlawful entry (8 U.S.C. § 1325) or unlawful reentry (8 U.S.C. § 1326) -Circumvents civil immigration system and funnels undocumented immigrants into criminal justice system -Led to increase of similar zero-tolerance programs -Double jeopardy
Secure Communities-2008	-Technology-based program using nationwide IDENT -Local, state and federal enforcement agent all able to access and identify individuals

Sources: Hines 2006; Kalhan 2010; 2013; Golash-Boza 2009; Selway and Newkirk 2013; Doty and Wheatley 2013; Pew Hispanic Research Center 2013; Atkinson et al. 2012; U.S. Courts 2011.

The 1996 Laws

In 1996, Congress passed two restrictive immigration laws, the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility (IIRIRA). These laws limited waivers for deportation, restricted judicial review, mandated detention for immigrants waiting for deportation proceedings and allowed retroactive deportation for minor crimes committed previous to the passage of the law. Previously, immigration judges had the option to consider the circumstances of each individual's case; however following the passage of the AEDPA, all criminal offenses were made grounds for permanent deportation, essentially eliminating judicial review. Additionally, the laws required that any individual who had committed an aggravated felony be deported automatically without a chance of judicial review. The laws provided for retroactive deportation for minor offenses committed prior to the law's passage and mandated that immigrants waiting for deportation proceedings be held in detention (Hines 2006, 10). As a result, there were more immigrants being deported for a wider variety of crimes. Additionally, the demand for detention space

increased drastically as all immigrants awaiting deportation proceedings needed to be detained.

Part of IIRIRA includes Section 287(g) which is an ICE supervised intergovernmental agreement in which federal authorities train state and local law enforcement officers to perform the functions of federal immigration officers (Kalhan 2010). The number of Section 287(g) agreements rose from 7 in 2006 to 75 in 2009. This program effectively increased the number of agents on the ground and facilitated cooperation and overall enforcement capability. The number of 287(g) agreements continued to rise despite criticism over the program length and training local and state officials obtained during the relatively short training program until it was replaced by Secure Communities in 2008. Following the harsh 1996 laws, Congress began considering serious immigration law reform in the late 1990s. However, the terrorist attacks on September 11th, 2001 changed the public's attitude, U.S. security agencies' power and certainly our government's priorities.

Post 9/11

Following 9/11, immigration courts, which traditionally were open to the public and press, were closed in what the Justice Department called "special interest" cases, and the Justice Department announced that it could invoke "automatic stay" for certain detainees even if a judge ordered them to be released. This further limited judicial review in immigration courts. California federal judge Stephen Reinhardt explains that the enforcement wing of the government pressures immigration judges and dictate the policies binding them effectively negating the necessary independent rulings of the

immigration judiciary. The National Commission on Terrorist Attacks upon the United States was formed to investigate why the September 11th attacks had been possible and investigated institutions, practices, and provisions that could be improved upon in order to prevent a future attack from occurring. From these investigations the 9/11 report was written. Among other conclusions, the 9/11 report found that a failure of information sharing amongst the intelligence departments as well as failed immigration controls were the main underlying reasons why the pending plans for the attacks had not been discovered and prevented. One of the 9/11 report recommendations concluded that the U.S. government should tighten border control in order to ensure that foreign nationals entering the country were not terrorists, and once inside the country, foreign nationals were to be kept under close tabs. The 9/11 attacks significantly contributed to a renewed focus on homeland security and immigration enforcement and detention practices. In response to the 9/11 attacks and commission recommendations, Congress passed the USA PATRIOT Act of 2001 and the Homeland Security Act in 2002.

The USA PATRIOT Act & The Homeland Security Act

The USA PATRIOT Act expanded criminal terrorism laws and interagency information gathering and surveillance abilities, increased the budget for immigration enforcement, increased the number Customs and Border Patrol agents, and expanded the definition of deportable terrorist activity to include a wide range of activity. The USA PATRIOT Act gave plenary powers and authority to the Attorney General in order to detain individuals who threatened or endangered national security. Section 412 of Title IV authorizes the attorney general to detain non-citizens if she or he has “reasonable

grounds to believe" that they are engaging, have engaged or helping another engage--whether knowingly or not--in terrorist activity. As a whole, these changes increased the ability of enforcement agents to detain and hold individuals and decreased the power of immigration judges. As national security was heightened, due process was put on the back burner.

In 2002, Congress passed the Homeland Security Act which created the new federal Department of Homeland Security (DHS). The DHS mission statement is to prevent terrorist attacks on the homeland, reduce the vulnerability of the country, minimize the damage and assist in the recovery from terrorist attacks that do occur. The agency in charge of immigration matters at the time, the Immigration and Naturalization Service (INS) was absorbed into the DHS and its responsibilities were divided and allotted to Immigration and Customs Enforcement (ICE) and Citizen and Immigration Services (CIS). In addition, the INS border enforcement functions, which included the U.S. Border Patrol, the U.S. Customs Service, and the Animal and Plant Health Inspection Service were consolidated into a new agency under DHS: the U.S. Customs and Border Protection (CBP).

The DHS has been called one of the largest governmental reorganizations since the National Security Act of 1947, has the third largest department budget, $46 billion in 2012, and incorporates 22 different agencies. Whereas in 1985, the immigration agency of the time, INS, had a $575 million budget, today ICE has an annual budget of almost $6 billion dollars (Golash-Boza 2009, 304). This restructuring and budget growth demonstrates the federal government's prioritization to ensure border security, detain and

deport more unauthorized immigrants and increase enforcement and surveillance measures. The DHS's dual responsibilities and mission to defend the homeland and prevent terrorist attacks while also encompassing the civil immigration system agencies is a result of the interagency restructuring. The duality of the DHS's mission is many ways threatens to sacrifice the fairness and neutrality with which unauthorized immigrants in our country are treated for the sake of security.

The Intelligence Reform and Terrorism Prevention Act

The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) was passed as a result of the 9/11 commission and is a 235 page act of Congress which President George W. Bush signed into effect. Title V deals specifically with border protection, immigration and visa matters, it made it more difficult to receive a visa or asylum in the United States and increased the penalty for harboring undocumented immigrants. Additionally the IRTPA incorporates several strategies to fight illegal entry into the country, including technological innovations to increase border surveillance in all ports and especially along the southwest border, which was deemed by the National Commission on Terrorist Attacks upon the United States to be a porous stretch where potential terrorists could enter. Title V mandated that between 2006 and 2010 the DHS increase the number of Border Patrol agents by no less than 2,000 annually, ICE Enforcement Officers by at least 800 annually, and the number of immigrant detention beds by 8,000 annually. The detention bed increase has become known as the bed mandate. In 2010, when ICE's detainee population fell to 30,773 after 2,200 were released to save money, ICE officials received a warning letter from Michael McCaul (R-

TX), the Homeland Security Committee chairman in the House of Representatives, that declared that ICE's low detention number was "in clear violation of statute" (Selway and Newkirk 2013). Due to the lucrative bed mandate, private prison lobbyists are active in lobbying Congressional appropriation committees in the Senate and House in order for the IRTPA program to receives its budget annually.

Operation Streamline

Perhaps the most influential and criminalizing policy of the decade is Operation Streamline, which was first signed into effect in December 2005 by the secretary of the DHS Michael Chertoff. In 2004, faced with overcrowded detention facilities and an overwhelming number of undocumented immigrants, Custom and Border Patrol agents began charging undocumented border crossers with the criminal offense of unlawful entry or unlawful reentry (Doty and Wheatley 2013). This practice circumvented the bogged down civil immigration system and instead funneled undocumented immigrants into the criminal justice system. Previously, undocumented immigrants were placed in criminal prosecution proceedings only in the case of violent criminal history or numerous reentry offenses, however, today in jurisdictions where Operation Streamline and other similar zero-tolerance programs are in effect, undocumented immigrants charged with unlawful entry face a sentence of anywhere between 180 days and 6 months in prison, and those charged with unlawful reentry can face felony charges and up to 2 years in prison (Doty and Wheatley 2013; Pew Hispanic Research Center 2013).

The DHS expanded this zero tolerance, criminal referral program, known as Operation Streamline, to other sectors of the border. According to Atkinson et al. (2012,

1) “by 2010 every U.S.- Mexico border sector except California had implemented a ‘zero-tolerance’ program”. In 2003 there were 1,761 convictions for unlawful entry in the zero-tolerance border districts, which in 2004 swelled to 15,517. In 2011 that number had risen to 37,429 convictions for unlawful entry in zero tolerance border districts. In 2011, immigration cases made up 36% of all federal prosecutions nationwide surpassing both drug and fraud prosecutions combined (Atkinson et al. 2012, 1). A Pew Hispanic Research Center report found that the number of offenders sentenced in federal courts doubled between 1992 and 2012, rising from 36,564 to 74,867 and the number for reentry convictions increased from 690 in 1992 to 19,463 in 2012, accounting for 48% of that growth. Operation Streamline has contributed to the majority of criminal case filing nationally with the five judicial districts along the southwest border participating in zero-tolerance programs aiding that growth most substantially (U.S. Courts 2011). According to the testimony of Julia Gibbons --chair committee on the Budget of the Judicial Conference-- to the Subcommittee on Financial Services of the Committee on Appropriations of the U.S. House of Representatives:

> The most startling statistic is that of the 78,213 total criminal case filings in 2010, 31,863 cases (41 percent) were prosecuted in the Southwest Border districts. In other words, five out of 94 federal judicial districts nationwide are handling 41 percent of all federal criminal cases. It is very clear that the additional annual and supplemental appropriations provided to the Department of Homeland Security and Department of Justice for zero tolerance border security initiatives, **such as Operation Streamline** (emphasis not in original), are resulting in additional criminal filings on the Southwest Border (U.S. Courts).

Generally immigrants entering the criminal justice system through Operation Streamline are placed in custody of either the USMS or the BOP. Since 2005, the USMS has tripled the amount of its privately contracted facilities which hold 18,464 (29%) of its total 63,112 detained population (U.S. Courts 2011). The USMS is in charge of detaining pre-

trial immigrant whereas those undocumented immigrants charged with unauthorized re-entry and facing longer sentences, are usually sent to BOP operated Criminal Alien Requirement (CAR) facilities.

Secure Communities

In 2008, Secure Communities was introduced effectively replacing the 287(g) agreements. Secure Communities is a technology-based program which has expanded to 44 states and 1,595 jurisdictions during the Obama administration (Doty and Wheatley 2013). The nationwide Secure Communities program integrated the immigration and criminal history database systems allowing every state, local and federal officials to automatically ascertain the immigration status of each individual they arrest. Upon receiving the information, the FBI forwards fingerprints to the DHS which checks the prints in the IDENT database. IDENT contains information on 91 million individuals who have violated immigration laws previously, and if a match is found, ICE may order a deportation, investigation, or ask the official to detain the individual. By 2012, over one fifth of all individuals removed from the United States were initially identified and apprehended through the IDENT database with the Secure Communities program. This practice has contributed to the unprecedented numbers of undocumented immigrants who have been removed from the country during the Obama administration.

What can be gleaned from this evidence is that over the past two decades and especially following 2001, immigration policy developments have resulted in the increasing detention and incarceration of unauthorized immigrants in the civil and criminal justice system. Although numbers of border crossing has dropped significantly

and there are less unauthorized immigrants in the country than in 2007, the numbers of unauthorized immigrants incarcerated and detained continue to rise. Through agreements such as 287(g) and Secure Communities local, state and federal enforcement agents are now qualified and legally allowed to perform the duties of federal immigration enforcement agents, expanding the number of individuals determining citizenship status and detaining unauthorized immigrants using nationwide databases of inmates' information, fingerprints and immigrant records accessible nationally. Operation Streamline alone has funneled tens of thousands of undocumented immigrants into the criminal judicial system, superseding the civil immigration system.

This effective combination of harsher sentencing, the removal of judicial review, the extension of the federal immigration control to local and state enforcement agencies, expansion of offenses deemed as deportable activity, the bed mandate and increased law enforcement budgets across the board have resulted in the skyrocketing number of detained immigrants in both our civil and criminal judicial systems. Simultaneously states and the federal government are increasingly pressured by budget cuts and overwhelmed with the demands for more facilities to house the increasing detainee population. These criminalizing immigration policies and extended enforcement measurements have contributed to the growth in the undocumented immigrant population in private prisons nationwide in order to manage the burgeoning immigration system.

The Private Prison Industry and Government Contractors

The United States is the largest jailer in the world with 1,483,900 state and federal

inmates and 744,500 in local jails resulting in an average daily population of more than 2.2 million inmates (Bureau of Justice Statistics 2013). Prison populations began to grow significantly during the 1970s with many scholars pointing to Nixon and Reagan's War on Drugs laws as the beginning of the inmate population explosion, later enhanced by strict sentencing laws such as Truth in Sentencing, Three Strikes and mandatory minimum sentencing laws (Tonry 1999). Through the 80s, state and federal officials were overwhelmed with burgeoning correction costs and lawsuits over the poor state of severely overcrowded prisons. As inmate numbers surpassed the prison beds and budgets were cut, some savvy visionaries saw the lucrative opportunity in private prisons which could rent out facilities to house the government's prisoners and run the jails themselves (Herivel and Wright 2007).

The reintroduction of private prisons in the 1980s was spurred in part by President Ronald Reagan and his administration's pro-business and neoliberal focus on privatization and conservative small government ideology (Kurusko 2013). In an effort to eliminate national debt, reduce red-tape and cut out inefficient bureaucracies, Reagan transferred many government activities to businesses, privatizing diverse sectors such as the postal service and transportation. In prior decades the government had only privatized some services in prisons such as healthcare, food service and transportation.

There are multiple factors to which the successful reintroduction of the private prison industry are attributed. These factors range from changing sentiment around incarceration and privatization, administrative ideology and the huge increase of inmate numbers due to more effective police and enforcement agencies, less judicial review and

harsher sentencing policies. Federal and state budget cuts have also placed a financial strain on the ability of correctional departments to build, maintain and run enough prisons to incarcerate the inmate population. The private prison industry touts their success and growth to their higher levels of efficiency, cost savings and top standards of care that they offer in comparison to public prisons. In the beginning of private prison contracting in the 80s officials theorized that privately run prisons would be more accountable because they can be fined or fired if their services are inadequate, unlike traditionally run government prisons. Unfortunately, the unfounded claim that private prisons offer superior or even equal service at lower costs has not been the motivating factor for their increased use. The particular relationship between government and private prisons-how new facilities are financed- has allowed the government a certain flexibility to build more prisons despite the apparent lack of funds to do so.

Lease Bonds & Lock-Up Quotas

Lease bonds and lock-up quotas are interesting aspects of how officials today finance the construction of new prisons and the contractual provisions they must abide by once having entered the agreement. Previous to the 1980s, the norm for a government to finance prison construction was either a pay as you go approach where officials delegated funds from general revenues, or if those funds were unavailable, officials borrowed money through the sale of general obligation bonds. In the most basic form, a bond is nothing more than a security, an ‘I owe you’, that guarantees its owner payment of interest and the principal, or the face amount of the bond, on a fixed schedule. Pranis and

Mattera (2004) describe general obligation bonds as “an unlimited repayment pledge that is backed by the ‘full faith and credit’- including the taxing power of the issuer”. This type of bond usually requires the approval of taxpayers through a general obligation bond referendum. However as inmate populations soared through the 1980s and 1990s, paired with rising correctional costs, governments had more difficulty in winning public support to expand their operating budget to finance new prison construction. Since 2000, no state has built a new prison with general obligation bonds, and few officials have even presented such an unpopular notion to voters (Pranis and Mattera 2004). When increased appropriations for the expense of new prisons through general obligation bonds were proposed by individual members of congress aware of the issues of prison overcrowding, both the public and fellow congress members rejected these proposals adamantly. Examples include a proposal in 2002 to build a $25 million new prison in Maine which was defeated by a two-to-one margin, or when California governor Arnold Schwarzenegger was forced to remove a $2.6 billion prison proposal from a bond package by his own party (Publicbonds.org April 1, 2014).

In response to the anti-tax demands of constituencies and the pressures of growing inmate numbers, a new form of financing has in many ways removed the public from public financing. For local, state and federal governments seeking to fulfill prison expansion demands, unable to pass general obligation bonds in referendums, officials began to issue a different type of debt called revenue bonds for the construction of new jails. Revenue bonds are designed to finance projects that pay themselves off over time such as a toll bridge which generates enough income over time from tolls to cover the

construction, maintenance and operation costs. Generally, any government agency that is run like a business, generating revenue, could issue revenue bonds. Because the pledge of security is not as great as that of general obligation bonds, usually revenue bonds come with higher interest rates. Lease revenue bonds are made between an entity which is created to build the project, and leases the right to use it to the government. The bonds are repaid by rent.

There are several benefits to lease bond revenues for government officials. First off, the public can not vote on revenue bonds even though in the long run, their taxes will pay back the increased debt which is caused by the high interest rates in this riskier bond. Such types of backdoor financing keeps prison debt off the government books circumventing constitutional and statutory limits on debt, and concealing the long term obligations from the public. PublicBonds.org demonstrates this subtle yet important change in financing. According to this website, by 1996 more than half of new prison debt was issued in the form of certificates of participation which is a special type of lease-revenue bond. “Though the private prison industry has raised significant amounts of capital through private capital markets since its inception in the 1980s, its rapid growth in the 1990s was largely facilitated by the use of lease revenue bonds and certificates of participation, as well as the use of government subsidies” (Publicbonds.org April 1, 2014). In 2000 there was a total of 1,668 correctional facilities: 84 were federal facilities, 1,320 state, and 264 privately operated facilities. Between 1995 and 2000, of the 204 new facilities built, 154 (75%) were private facilities (Publicbonds.org).

Contractual agreements between government and private prisons are generally

made for a long period of time, 10-20 years, regardless of the potential change in inmate population. Additionally, contracts often have occupancy quotas. Occupancy quotas, otherwise known as lock-up quotas, are contractual provisions which mandate that the government pays for a certain percentage of occupancy in the facility. Such occupancy guarantees protect private prison companies from losing revenue when inmate populations fluctuate, but additionally, they lock correctional departments into paying thousands and in some cases millions for unused beds. According to a report by the resource center In The Public Interest, 65% of private prisons contracts include occupancy guarantees in the form of lock-up quotas which ranges from 80%-100%, or require payments for empty prison cells (ITPI 2013, 2). Three private contracts in Arizona have 100% lock-up quota guarantees, and the three major private prison companies, CCA, GEO and MTC have all successfully negotiated such contractual terms across the nation (ITPI 2013). These clauses are directly opposed to the understood goal of correctional facilities to rehabilitate and decrease inmate populations. Additionally, human rights advocates such as the ACLU, Prison Policy Initiative and Grassroots Leadership argue that these occupancy provisions incentivize government officials to keep fill the beds the have essentially have already paid for. This undermines criminal policy prerogatives to reduce inmate populations.

There have been several attempts to transition state and federal public prisons operations entirely over to the privately run prisons. In 2012 CCA sent a letter to 48 governors offering to buy and operate all public state prisons. The 20 year contract would have obliged state governments to pay CCA for a 90% occupancy rate (In The Public

Interest 2013, 3). In ICE's budget proposal for 2010, ICE officials requested to fully privatize the immigrant detention system. The U.S. Senate approved this proposal; however the U.S. House of Representatives denied it because they were of the opinion that ICE already did not have sufficient oversight of the private prison inmate health care services and detention standards of their current privately contracted detention facilities (Doty and Wheatley 2013). With lease revenue bonds and lock-up quotas as part of the increasing private prison contractual agreements with governments at both the state and federal level, there exists a financial incentive to fill prison beds in order to pay off construction debts and avoid paying for empty beds. Governments could transfer public prison inmates to private facilities in order to avoid paying for an occupied bed twice, or there could be incentives to step up enforcement efforts in order to maintain inmate rates.

Due to the lack of accountability and poor track record amongst private prisons, the federal government generally entrusts low to medium security inmates with private prisons (Hallinan 2001). Many federal officials state that privatization offers them more flexibility to deal with inmate population surges. One particular inmate population is the undocumented immigrants. Michael Janus, the BOP's outsourcing chief states, "the [private prison] industry lacks sufficient competence to handle medium and high security inmates. That is why the BOP limited its private contracts to only the least risky inmates, those classified as low or minimum security" (Hallinan 2001). In particular the immigrant population in detention or incarcerated for crimes is generally considered low security inmates. Privatization offers a convenient option for the government when handling fluctuating populations.

Corrections Corporation of America and GEO Group Inc.

Today, the private prison industry is a multibillion dollar industry (Greene 2006) which holds 20% of all federal inmates and over 90,000 state inmates (Bureau of Justice Statistics 2013). Privately operated facilities contracting with the federal government have seen an average annual percent increase of 10.5% between 2000 and 2011. According to Herivel and Wright "expenditures for corrections increased by 573% between 1982 and 2003, the bulk of the increase going for expansion and operation of prisons" (2006, 4). The two largest private prisons corporations, CCA and GEO, currently hold the majority of federal and states contracts, with Management and Training Corporation (MTC) as the third largest private prison competitor.

The CCA was founded in 1983 in Nashville, Tennessee, by Tom Beasley, Dr. Robert Crants and Don Hutto, winning its first contract with the U.S. Department of Justice's Bureau of Immigration and Naturalization Service to build the Houston Processing Center in 1984 (Sarabi and Bender 2000). It was the first private prison company since the 19th century. "When Beasley was asked how he would sell his product CCA's cofounder replied, "You just sell it like you were selling cars, or real estate, or hamburgers"" (Koulish 2007, 18). Today, CCA is the largest private prison corporation operating 67 facilities and owning 51. The corporation has contracts with 20 states, the District of Columbia and three federal detention agencies: the BOP, ICE and the USMS. CCA has the capacity to hold approximately 92,500 inmates and directly employs over 17,000 workers. In 2012 CCA reported total revenue of $1.76 billion. Approximately 50% of CCA's revenue comes from state contracts (883.1 million dollars)

with the California Department of Corrections providing the largest state revenue, 12% of their total profits. Approximately 43% of CCA's revenue comes from the federal government with contracts totaling $759.46 million annually. From federal contracts CCA receive 15% of their total revenue from the BOP, 12% from ICE, and 16% from the USMS.

The second largest private prison industry is GEO, an international corrections corporation which was established in 1984. It began its partnership with the U.S. federal government in 1987 through a contract with Aurora ICE Detention Processing Center. The corporation states that it specializes in the design, development, financing, and operation of correctional, detention and community reentry facilities worldwide. Internationally, GEO has 18,000 employees, 96 facilities, 72,000 beds and 70,000 offenders on electron monitors. In the U.S. alone, GEO manages a total of 56 facilities, owning 32 of those and has a total bed capacity of approximately 61,000. GEO has facilities in the U.S., Australia, South Africa and the UK. In 2012, GEO reported total revenue of $1.48 billion. GEO derives 44% of its profits from the federal government. GEO contracts with the U.S. federal, state and local governments and has 23 contracts, a total of 30,762 beds alone for corrections and detention with the federal government. The BOP and ICE make up 16% and 14% respectively and USMS provides 10% of GEO's total revenue (GEO Group Annual Report 2012).

The revenue of private prison corporations is derived from local, state and federal government contracts through which the corporation is paid per-diem, per-bed filled for the warehousing of prisoners and detainees. Private prison corporations are accountable

to their stockholders and as businesses with fierce competition their main goal is to make a profit and continue increasing their profits. This is made possible by winning more contracts and maintaining occupancy in the current facilities. The private prison industry's entire business model is based on a demand for more prison beds and facilities. They are highly aware of how policies and government functions contribute to making private prisons a market demand, and this industry has an interest in maintaining those policies, agency budgets and enforcement measures in order to continue increasing their profits. As risk assessment, management and risk prevention are all integral to good business models, private prison companies know and report to their shareholders how governmental policy makers and policy changes affect the number of prisoners brought into the justice system. Consider the following statements:

> We depend on a limited number of governmental customers for a significant portion of our revenues. We currently derive, and expect to continue to derive, a significant portion of our revenues from a limited number of governmental agencies. The loss of, or a significant decrease in, business from the BOP, ICE, USMS, or various state agencies could seriously harm our financial condition and results of operations (CCA's Securities and Exchange Commission's 2007 Annual Report).

> Factors that could cause actual results to vary current expectations…include but are not limited to (1) GEO's ability to successfully pursue further growth and continue to enhance shareholder value;[…](5) GEO's ability to win management contracts for which it has submitted proposals and to retain existing management contracts; […] (7) GEO's ability to sustain company-wide occupancy rates at its facilities […] (The GEO Group Risk Assessment Report).

> The 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. For instance, any changes with respect to drugs and controlled substances or illegal immigration could affect the number of persons arrested, convicted, and sentenced, thereby potentially reducing demand for correctional facilities to house them. Legislation has been proposed in numerous jurisdictions that could lower minimum sentences for some non-violent crimes and make more inmates eligible for early release based on good behavior. Also, sentencing alternatives under consideration could put some offenders on probation with electronic monitoring who would otherwise

> be incarcerated. Similarly, reductions in crime rates or resources dedicated to prevent and enforce crime could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities (CCA's 2012 Annual Report).

These statements bring several aspects of the private prison industry to light. CCA and GEO both acknowledge their need to continue winning contracts, and maintain high occupancy rates at their current facilities. CCA specifically mentions its dependence on continued contracts with the three federal agencies: ICE, USMS and the BOP. Additionally, CCA CEOs have indirectly identified the main offenses of their inmates and admitted that criminal policies in respect to such offenses --if changed-- would affect the demand for their facilities: "Any changes with respect to drugs and controlled substances or illegal immigration could affect the number of persons arrested, convicted and sentenced, thereby potentially reducing demand for correctional facilities to house them" (CCA 2012 Annual Report, 28).

Dependence on Immigrant Population

Immigration policy is of considerable importance to the private prison industry as immigrants are currently the fastest growing sector of the prison population in the United States (Koulish 2007, 18). In 2011, immigration cases made up 36% of all criminal prosecutions nationwide, surpassing drug and fraud prosecutions combined (U.S. Courts 2011), and "between 2008 and 2010, the number of privately-held inmates decreased by 1,281, while the number of privately-held detainees increased by 3,327. This growth was part of a larger trend that saw the total private detainee population increase by 259 percent between 2002 and 2010" (Kalhan 2012). These statistics demonstrate that the detainee population is growing which means an expanding market for private prisons.

Detention facilities and prisons for criminal immigrants is the current "cash cow" for the private prison industry, winning them contracts at both the federal and state level. Additionally, both CCA and the GEO have estimated that immigrant detention will be a large source of their revenue in the coming years. CEOs of both CCA and the GEO admit that the immigrant detainee is one of their most profitable markets and lucrative cash cows. These corporations are aware of the effects which more immigrants detained and incarcerated means for their revenues. Consider the following statements of private prison CEOs

> It's clear that since September 11th there's a heightened focus on detention, both on the borders and in the U.S. [...] What we are seeing is an increased scrutiny of tightening up the borders. Some of that means that people don't get through, but the other side of that is more people are going to get caught. So I would say that's positive. (Statement by Steve Logan of Cornell Companies/GEO, Mint Press News, July 24, 2013).

> At the federal level, initiatives related to border enforcement and immigration detention with an emphasis on criminal alien populations as well as the consolidation of existing detainee populations has continued to create demand for larger-scale, cost efficient facilities. (GEO CEO: George Zoley in 2011 letter to shareholders)

> The main driver for the growth of new beds at the federal level continues to be the detention and incarceration of criminal aliens. (GEO CEO: George Zoley)

These statements demonstrate the awareness of the private prison corporations of the importance of the undocumented immigrant population in their facilities. Estimates from both the private and public sides agree that immigrant detention will continue to increase in the coming years. One example of this estimate is the BOP overview report: "The agency is preparing for this growth through construction of new institutions, expansions at some existing facilities, and increased contracting for the housing of low security criminal aliens" (BOP Overview Report 2011). The BOP expects continued population growth of convicted undocumented immigrants.

Examinations of the private prison facility types suggest that the majority of federal contractual agreements with private prison corporations are entered to hold the rising number of undocumented immigrants in the civil and criminal justice system. For the BOP, ICE and the USMS, immigrant detention has been one of their growing demands, and in order to manage this growing population they have depended increasingly on private prisons to house them. The BOP has contracts with CCA, GEO Group and MTC in a total of 14 facilities across the country, entrusting a total of 28,000 inmates in these three private prisons. According to the BOP webpage, "The majority of BOP inmates in private prisons are sentenced criminal aliens who may be deported upon the completion of their sentence." According to an A.P. investigation in 2012 the BOP has over 23,000 criminal immigrants housed in private facilities known as Criminal Alien Requirements (CAR) facilities (Wides-Munoz and Burke 2012). Therefore, 23,000 of the total 28,000 BOP inmates held in private prisons are undocumented immigrants, an astounding 82% of the agency's total contracted inmate population. The BOP provided 15% ($264 million) of CCA's total profit and 16% ($236.8 million) of GEO's total profit in 2012. If 82% of BOP's privately held inmates are undocumented immigrants that means that CCA earns roughly $216.48 million and GEO earns about $194.18 million annually due to BOP contracts for their undocumented immigrant population. Therefore, the two main private prison corporations earn 12%-13% of their total revenues from the undocumented immigrant inmate population with the BOP alone.

Equipped with 500 detention facilities nationwide, ICE is the federal enforcement agency which deals with handling undocumented immigrants brought into the civil

immigration system. ICE contracts with private prisons to detain 54%, about 19,000, of all their undocumented immigrants until their court hearings. The system which is backlogged with cases, ensures that those immigrants detained often will wait for months awaiting their trials. From 2005 to 2012 the budget for detention operations for ICE more than doubled from $864 million to $2 billion and increased the capacity of its detention center from 18,000 to 34,000. According to Huffington Post Business, in 2012, CCA received 12% of their revenue from housing 6,978 detainees on a daily basis from ICE and received $208 million from ICE contracts, a substantial growth from the $194.5 million in 2007 and $95 million in 2005. The GEO took in $216 million revenue from ICE contracts in 2012 compared to $33.6 million in 2005. The Intelligence Reform and Terrorism Prevention Act, passed in 2004, directed Homeland Security to expand the detention system by 8,000 beds annually, providing that Congress supply the money. Most recently restated in the Continuing Appropriations Act of 2014, congressional appropriations language covering ICE's detention budget stated that "funding made available under this heading shall maintain a level of not less than 34,000 detention beds" (2014 Homeland Security Appropriations Bill). These appropriations are known as the detention "bed mandate" as ICE and certain members of Congress have interpreted the language to require ICE to maintain and fill 34,000 detention beds on a daily basis.

The USMS is the oldest federal law enforcement agency, with a budget of $1.186 billion and over 774 facilities nationwide. From 1994 to 2011 prisoner numbers increased from 98,978 to 209,526, with more than 75% of the growth occurring in the Southwest and 68% of the total increase from national bookings for immigration offenses. This was

an increase from 8,604 immigrant offense bookings in 1994 to 84,313 in 2011. Approximately 29% of its inmates are housed in privately owned and operated facilities. The USMS holds undocumented immigrants in pre-trial detention; privately contracted facilities account for 18,464 (29.3%) of its total 63,112 population. Since 2005, the number of private facilities USMS contracted has nearly tripled, in large part due to Operation Streamline (Mason 2012; Dotly and Wheatley 2013).

Obscured Numbers & System-Wide Complexity

The total number of undocumented immigrants incarcerated in private prisons is a number obscured by several levels of complex bureaucracy. First and foremost it is crucial to understand that there are a plethora of agents from various agencies that now may arrest and detain undocumented immigrants. As part of the Secure Communities federal agents from Border Patrol, ICE and USMS as well as local and state police using the IDENT identification system can all arrest undocumented immigrants. Additionally, undocumented immigrants can be held in a variety of facilities under different authorities and this inmate population has the highest transfer rate, complicating the ability for the public, the detainee's family and lawyer to locate them. Locations include, local, state and federal prisons and detention centers, as well as detention facilities owned and operated by private prison companies on contract with local, state and/or federal government agencies.

In many cases, one privately owned facility can hold inmates on contract with a local police force, a state Department of Corrections, one or more federal agencies, the United States Air Force (USAF), and even inmates from another state. For example, CCA

owns and operates the Central Arizona Detention Center in Pinal County, Arizona, with an inmate capacity of 2,304. In that single facility, CCA has inmates from the Department of Justice's agency the USMS, TransCor (the nation's largest detainee/prisoner transportation company), ICE, the Pascua Native American Tribe's local police force, and the USAF. This is an excellent example of a mixed inmate population, with inmates imprisoned for violent crimes residing in the same facilities as detainees in for civil immigration offenses. Although the DHS expressly forbids prisoners and detainees to be held in the same facilities, this practice still occurs at high rates.

Undocumented immigrants in the BOP and USMS are referred to as criminal aliens. For the purposes of this research I have used the title undocumented immigrant to refer to all the varying titles which agencies refer to their inmates such as illegal or criminal immigrants, or illegal or criminal aliens. These titles are dehumanizing in that they deprive the individual their unique human characteristics, and instead places a negative title to encompass a huge variety of people entering the country. Additionally, the term criminal alien encourages fear rather than understanding. An undocumented immigrant is often referred to as an illegal immigrant if they have entered or reentered the country without authorizing documents and after being arrested, entered into the civil immigration system. Undocumented immigrants may also be referred to as criminal immigrants or criminal aliens, if they have been convicted of a crime and entered into the criminal justice system. Undocumented immigrants being referred to as criminal aliens are those individuals who have entered the criminal judicial system for a variety of offenses, the majority of which are arrests made possible under Operation Streamline's

practice of arresting and giving jail time to undocumented immigrants for unauthorized entry and reentry. The other major offenses include traffic violations and drug arrests. Often times after serving their criminal sentences in the criminal justice system, those prisoners are transferred to immigration detention centers to await their deportation proceedings (Doty and Wheatley 2013). This practice is referred to by some scholars as an "inverted double jeopardy" where the individual is "tried once but punished twice" (Bosworth and Kaufman 2011). Generally, inmates in the BOJ are sentenced criminal aliens and are kept in Criminal Alien Requirements (CAR) facilities until they are to be deported. Pre-trial detainees are generally held by the USMS.

Another complication which arises in calculating the total number of undocumented immigrants in the three federal agencies is the classification of prisoners and detainees which vary according to the arrest charge. There are individuals who are arrested for immigration offenses, but additionally there are undocumented immigrants who are arrested for a plethora of other charges; upon the discovery that they are undocumented, they are detained and deported. How each agency or state classifies an inmate vary. When the additional layer of bureaucracy and complexity is added by the private prisons and their various public contracts, the total number of undocumented immigrants in the civil and criminal justice systems becomes an elusive and complicated number.

An interesting aspect of the phenomenon is the fact that although the number of undocumented immigrants entering the country is decreasing, there is an increasing immigrant incarceration rate (Kalhan 2010). Interestingly enough, the inmate population

rise has begun to shift. Over the past four years the overall corrections population has declined, however one population, the undocumented immigrant, has continued to rise in both public and private prisons (Kalhan 2013). Kalhan's research demonstrates that the detainee population is a large and increasing inmate population housed in private prisons. Detention is neither a necessary judicial solution nor a cost efficient measure for assuring that undocumented immigrants arrive at their court hearings. Generally detention is a measure to ensure that inmates will be present at their court hearing and for undocumented immigrants who are found to be in the country without authorization, present for the final orders of removal. ICE could shift its resources to detention alternatives for many undocumented immigrants awaiting immigration court hearings. Studies have found that such alternatives like electronic monitoring would save considerable money. According to Schriro, a DHS official who reported on the immigration and detention system, whereas daily costs of detention can exceed $100 per diem/per detainee, alternatives programs cost between thirty cents and $14 (Schriro 2009). Additionally, this alternative would allow the individual to remain as a functioning part of society, and not unduly infringe on their freedom of movement and liberty while awaiting their civil court hearings.

From this evidence, it is clear that the private prison industry's revenue depends on winning contracts with state and federal government, maintaining the demand for new growth, and keeping high occupancy rates at the current facilities. The private prison industry fully recognizes the impact that crime and immigration policy has on their market demand. CEO statements and corporate Annual Reports take into consideration

how changes in respect to drug use and illegal immigration, or appropriations to enforcement agencies could impact incarceration rates and the profit of their corporations. From such analysis, I conclude that the undocumented immigrant detainee has been an especially lucrative and expanding market for the private prison industry. Additionally, the number of undocumented immigrants in private and public detention and prison centers is a number obscured and highly underestimated. I reason that the main causes of this obscurity surrounding immigrants is the fact that multiple officials are able to arrest undocumented immigrants; once arrested, individuals may enter either the civil immigration system or criminal justice system and often times can enter the former system after serving time in the latter. Additionally there are multiple agencies that handle undocumented immigrants at the federal level as well as at the state and local levels, thanks to policies which have authorized state and local enforcement officials to make arrests of undocumented immigrants based on system wide identification systems.

These findings raise ethical questions. With governmental budget cuts and the transition to lease-revenue bonds as well as lock-up quotas in private prison contracts and the Congressional Appropriation Committee's bed mandate, there are strong incentives and obligations for policy makers and officials to fill private facility beds and keep occupancy rates high. The fact that immigrants are increasingly housed in private prisons despite the well documented issues of poor health care, food quality, facility structure, high staff turnover rates, cases of sexual harassment, rape and abuse indicates there is less concern for the wellbeing of noncitizens in our country. Profit is a corporation's prerogative; however in the case of the private prison industry this profit is often times

dependent on laws which criminalize immigrants and helps to maintain an immigration system rife with human rights abuses.

Political Influence of Private Prisons & the Immigration Industrial Complex

As corporations, private prison corporate actions are based on a bottom line: profit. The two main private prison corporations CCA and GEO hold over 50% of all state and federal contracts and are accountable to their shareholders, issue quarterly and annual reports and adhere to a hierarchical corporate structure. As Real Estate Investment Funds (REITs) CCA and GEO are publicly traded entities that manage and own real estate but do not pay corporate income taxes. One of the more attractive attributes of REITs for investors is that they must redistribute 95% of their profits as dividends to shareholders, and due to this are generally able to raise more capital for additional construction and expansion (PublicBonds.org April 1, 2014).

One argument posited in this section is that there exists a high level of integration between government corrections agencies and the private prison industry. According to Drope and Hansen (2009) the size of a firm (encompassing any business entity) and the amount of involvement with government, either as a customer or a regulator, may predict a firm's level of political activity. As mentioned earlier, ICE, USMS, BOP and many state governments encompass the major customers and sources of revenue for the private prisons. These agencies receive their appropriations and mandates from Congress through the DOJ and DHS for the specific issue of incarceration and detention, and the money available in these agencies directly affects their ability to enter into more contractual agreements with private prisons. Due to the fact that the contracts between the private

prisons and the federal and state government are agreed upon and written by state and federal policymakers, building political connections and joining influential policy groups benefits the private prisons immensely. Expending funds to pursue and enrich relationships and connections with the governmental sources of revenue, both their customers and regulators, is therefore a logical profit driven decision for the private prison industry.

To what extent can and do corporations influence public policy? Do campaign contributions, PACs and lobbying efforts result in more access to legislators? How do the complex policy networks within which corporations share information, pool resources, mobilize larger constituencies and create ideological factions, factor into politicians' debate over policy development? The following section explores how the private prison industry accesses and attempts to influence the government and immigration policy and enforcement through PACs, campaign contributions, lobbying, and revolving door actors while working within powerful policy networks such as the American Legislative Exchange Council (ALEC) and the American Correctional Association (ACA). This section hopes to bring to light the complex and influential relationship private prisons have within a larger industrial complex of benefactors and demonstrate how policy networks have influenced government in the highly lucrative business of immigrant detention.

PAC and Campaign Contributions

Political action committees (PACs) and SuperPACs are formed by business, labor and interest groups to raise and donate funds to the campaigns of political candidates who

they wish to offer support or create a relationship. Scholars have posited that campaign contributions in the form of PACs have helped interest groups to achieve access to politicians (Dunn 1972; Ornstein and Elder 1978; Berry 1984; Drew 1985; Conway 1986). However the influence of PAC money has been criticized and blamed for breaking down district lines and distorting traditional representational democracy by separating representatives from their geographic constituencies (Adamany 1980). Frank Sorauf observed that with such an extraordinary growth in the PACs, there is a new and developing representational system based on occupational or issue loyalty. "Years ago the votes and the resources that elected a candidate came from the same place and the same people. They no longer do" (Sorauf 1985, 613). According to Adamany, PACs, as nationally centralized institutions, compete with local voters for the attention of legislators. Wright argues that because campaign money is transferable across districts, contributions are "ideal instruments" through which groups can gain wider access and broaden "their geographic bases of contact and influence, or strengthen existing contacts" (1989). Wright found that "Organizations-corporations, unions, or trade and professional associations-with both active lobbying operations and political action committees, may broaden their geographic bases of access by pursuing an expanding strategy of allocating contributions and lobbying effort." (Wright 1989, 715). Adamany argues that PAC money centralized in Washington is often donated in order to "afford favored access on matters involving direct economic benefits to the givers" (1980, 596-7). However, political scientists Hojnacki and Kimball qualify the exact means in which access and influence is obtained by PACs. Their research found that lobbying advantage does not

come from PACs affiliates' contributions but rather from the base support the groups had already established in the congressional districts (2001). Most scholars agree however that PACs in varying degrees have been found to serve several purposes: to expand channels of contact, communication and cooperation, as well as to maintain and strengthen existing ties (Malbin 1980; Dunn 1972; Ornstein and Elder 1978; Berry 1984; Drew 1985; Conway 1986).

CCA, GEO and the third largest private prison Management and Training Corporation (MTC) contribute money in the form of PACs, 527 committees, state and federal campaign contributions, and candidate donations. Over the past 5 election cycles since 2000, these three corporations together have contributed $835,514 to federal candidates' campaigns including senators and members of the House of Representatives (opensecrets.org March 21, 2014). The campaign contributions to state representatives have been significantly higher--$6,092,331 since 2000-- and is focused heavily in certain states (National Institute on Money in State Politics). In Table 1 note that the numbers only include state campaign contributions by CCA and GEO/Cornell and does not include PAC donations or lobbying expenditures.

Table 1

State Campaign Contributions

Corrections Corporation of America (2003 to 2010)	
State	**Contributions**
California	$459,150
Florida	$300,000
Georgia	$241,750
Three-state TOTAL	**$1,000,900**
Total in 27 states	$1,552,350
GEO Group (2003 to 2010)	
Florida	$1,455,609
California	$227,000
New Mexico	$220,150
Three-state TOTAL	**$1,902,759**
Total in 23 states	$2,400,679
Cornell Companies (2006 to 2009)	
Georgia	$25,000
Texas	$24,000
Pennsylvania	$16,050
Three-state TOTAL	**$65,050**
Total in 6 states	$72,650

Source: Justice Policy Institute 2013 accessed April 1, 2014

As can be seen in the above table, CCA and GEO concentrate their campaign contributions efforts in California, Florida and to a lesser degree Georgia. CCA's continued attention to California is understandable as it provides the company with 13% of its total revenue and is rife with problems of prison overcrowding. In response to the lawsuits against California for overcrowded jails, the U.S. Supreme Court has ordered the state to reduce its inmate population by 46,000 people over the next two years (Savage 2011). This mandate provides huge opportunities for private prisons who are actively winning contracts to help relieve the state of the 46,000 inmates.

Since 1990, CCA has made a total of $4,996,065 in contributions including money from their PACs, employees, family members donations, party committees, other PACs, outside spending groups and 527s in the current cycle. In 2012, contributions from

CCA in the single year reached $1,497,318 ranking it the 273rd most generous contributing organization of 20,948 other organizations (opensecrets.org April 1, 2014). In the 2012 election cycle, CCA contributed $216,697 to state candidates and the five highest contributions were all to republicans in states with private prison contracts. These five Republican candidates included Bob Corker (TN-$33,900), Hal Rogers (KY-$16,500), Mitt Romney ($13,350), Kevin McCarthy (CA-$13,000) and Steve Fincher (TN-$10,874). Contributions to Leadership PACs totaled $73,000. Contributions to parties totaled $79,521 and the two highest donations were to the National Republican Congressional Committee that received $31,510 and the National Republican Senatorial Committee that received $30,640. The highest contributions from CCA were to 527 committees, totaling $662,850 in the 2012 election cycle. These contributions were to the Republican Governors Association ($460,000), the Democratic Governors Association ($190,350) and the Republican State Leadership Committee ($12,500).

Although GEO spends considerably less than CCA on contributions, in the same 2012 election cycle, the company contributed $445,350, ranking them 1,041 most generous contributor of 20,948 other organizations. Over half of GEO contributions were to 527 committees including $142,250 to the Republican Governors Association, $75,250 to the Democratic Governors Association, $25,000 Americans for Liberty and Prosperity, $25,000 to the Florida Chamber of Commerce Alliance and $25,000 to the Republican State Leadership Committee. Three of the top candidate donations went to representatives in Florida, GEO's home state. Mike Haridopolos (R-FL) received $25,000; Connie Mack (R-FL); $10,000 and Joe Garcia (D-FL) received $7,000.

According to Justice Policy and the Institute on Money in State Politics reports that rather than overtly supporting one party over another, private prisons in state campaigns tend to contribute towards winning parties. An analysis of GEO, CCA and Cornell from 2003-2010 found that they contributed 75% of their total campaign contributions towards the winners, 16% to losers and 10% for those not up for election (Justice Policy Institute 2013). However it seems to be the trend at the state level that state candidates and Republican officials receive more support from the private prisons. The potential reason for why Republican campaigns receive more support from private prisons is a similar ideological stance on privatization. Economically Reagan Republicans support free market notions and privatization of government services, favoring the growth of private prisons. Additionally, socially conservative Republicans often are in support of harsher drug enforcement and immigration laws which are profitable when such policies cause increased inmate populations in private prisons. State candidates receive more campaign support for potentially two reasons. First, state contracts provide these corporations with a slight majority of their total revenues. Second, it is generally easier to access politicians at the state level and through them influence policy decisions and win new contracts.

Private prison corporations have actively supported candidates and donated to officials involved with passing stricter immigration bills. In 2010 the primary sponsor of Arizona's controversial immigration bill SB1070, Russell Pearce, received campaign contributions from GEO and MTC. Soon after SB1070s passage in Arizona, several states introduced copycat laws that were passed in states such as Georgia and Utah. In

Georgia, CCA gave money to 5 out of the 8 sponsors of HB 87 and $5,000 to Georgia Governor Nathan Deal. In Utah, private prison company MTC contributed $10,000 to Governor Gary Herbert who signed HB 497 into law. Both of these copycat laws, like Arizona's SB1070, gave police officers the power to check the citizenship of any individual they stopped, and subsequently increase the numbers of immigrants officers could arrest, detain and deport. Additionally, CCA contributed funds to 2 of the 3 sponsors of a Georgian bill that would require all jails to comply with the Department of Homeland Security's Secure Communities Initiative, which has previously been demonstrated to increase enforcement efforts and increase immigrant inmate numbers.

The Safe Neighborhood Act and The Runner Initiative also known as Proposition 6 was on the California ballot in November of 2008. Among many provisions, Proposition 6 would have placed additional penalties on gang related and drug crimes, increased spending on criminal justice programs, expanded jail construction and would have eliminated bail for "illegal immigrants" charged with violent or gang related felonies. Although Proposition 6 did not pass, it serves as an example of the industrial interest in supporting such campaigns. Several companies that would benefit from the expansion on the prison industrial complex and harsher policies towards immigrants donated to the Yes on Proposition 6 campaign. Several construction companies together donated hundreds of thousands of dollars towards the campaign, including the DLR Group, a large national prison construction company, Vanir Construction Management Inc.; a private prison construction company and Larry Rasmussen, President of Spirit Holdings, the largest real estate developer in the San Fernando Valley and construction

company. CCA also donated to the campaign (Center for Juvenile and Criminal Justice). Despite CCA's claim that it does not attempt to influence immigration policy in any way, Proposition 6 would limit the ability of certain immigrants to leave jail on bail while awaiting their trial proceedings, ensuring that those individuals would fill prison beds. Due to the issues of overcrowding in California's public prisons, this change would in all probability increase the number of certain undocumented immigrants in private prisons considerably.

The previous records of campaign contributions and PAC donations suggest that the private prison companies have a significant interest in supporting candidates at the state and federal level, though more so in the state campaigns rather than in federal campaigns. The reasons for this could be because federal candidates receive much more support from a variety of contributors and money donated to federal campaigns from the private prison would have less impact. Additionally, at the federal level, generally it is the directors and heads of ICE, the BOP and USMS who will award contracts to private prisons, whereas at the state level, governors and state representatives are more influential in awarding contracts to this industry. Another potential reason for this contribution difference could be that at the state level, the private prison industry may exert more influence with larger donations because there are less competing industry and interest groups then at the federal level. State level policymakers are often more accessible, states provide a majority proportion of private prison income and companies have more influence and connections in certain states versus the federal government as a whole. In general, Republican candidates and committees receive more financial support

than Democratic candidates from private prison corporations. Based on the Justice Policy Institute's reporting, however, private prison companies have more interest in making connections with policy makers who will be in power, regardless of ideology or philosophy.

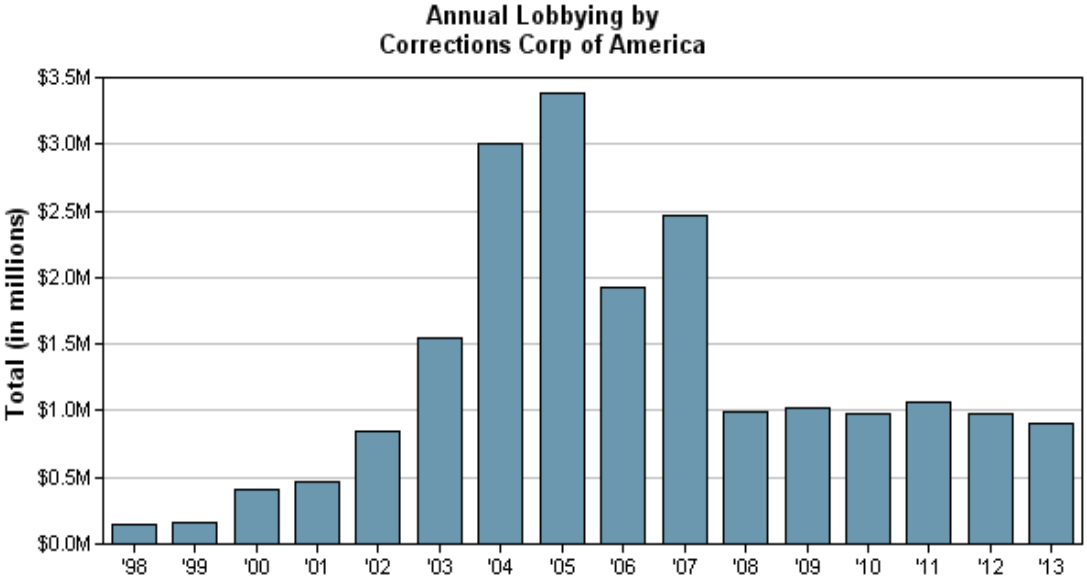
Lobbying

To study lobbying is to study efforts to change existing public policies (Baumgartner et al. 2009, 19). Policies are often complex and affect varying constituencies and many mobilized lobbyists come to share information and represent their own side of the issue. Policy development is a highly competitive field in which thousands of corporations, geographic and issue based constituencies, associations and interest groups compete to influence legislation. Gabel and Scott state that competition between interest groups in the form of lobbying is a "key aspect of policy development" (2011). With so many actors affected by state and federal legislation, it is no wonder that there is high involvement from numerous interest groups. The private prison industry participates extensively in this political strategy hiring multiple lobbying firms which are active at both the state and federal level.

Over the past 10 years CCA and GEO have lobbied on issues of homeland security, law enforcement and crime, immigration, appropriations and health. At the federal and state level, CCA, GEO and other private prisons lobby the DOJ, USMS, BOP, DHS, ICE, the Office of Management and Budget, the U.S. House and Senate, the Office of the Federal Detention Trustee, the Department of Labor, the Department of

State and the Bureau of Indian Affairs (BIA) to name only a few.

Figure 1



Source: opensecrets.org April 1, 2014

In 2013 alone the CCA spent a total of $910,000 lobbying on 6 lobbying and law firms including its in-house lobbying group. Akin, Gump et al. was paid $180,000; FIRST Group, $10,000; Greenberg Traurig LLP, $70,000; McBee Strategic Consulting, $240,000; Mehlman Vogel Castagnetti Inc., $210,000; and Corrections Corporation of America, $840,000. Akin, Gump et al. was the second biggest contributor of all lobbying/law firms during 2013-2014, giving a total of $738,218 (opensecrets.org April 1, 2014). It was second only to the American Association of Justice lobbying firm and far above the majority of top lobbying firms who had spent $200-300,000 during the same time period. Akin, Gump et al. is one of the most highly utilized lobbying firms in Washington. One can conjecture that this lobbying group has built an influential presence in Washington because it is so often used to lobby for large corporations. Having strong

and significant connections with legislators and policy makers makes this lobbying law firm a highly desirable and effective company representing industries' interests. Studies have shown that firms are willing to pay more for the lobbying services of those with clear connections to politicians, because the connection can potentially offer greater value and influence to the company (Vidal, Draca and Fons-Rosen 2012). The private prison industry has a definite interest in hiring the most influential lobbyists to represent their company in Washington.

In 2013, of the 37 federal registered lobbyists on CCA's payroll, 30 of them (81%) were termed by opensecrets.org "revolving door",lobbyists who have held previous jobs with the government (April 1, 2014). In some cases lobbyists were previous congressmen. One example of CCA's revolving door lobbyists is Vic Fazio, who prior to his senior advisor position with Akin, Gump et al, was a member of the U.S. House of Representatives from 1979-1998 and a member of the House Appropriations Committee from 1989-1998 (opensecrets.org April 1, 2014). The fact that Fazio had spent over 20 years working in Congress and 10 of those years serving as part of the Appropriations Committee undoubtedly affects his access and persuasiveness when lobbying for his employer, CCA. Arguably, his stance will have significant and perhaps greater resonance and impact on those policymakers who currently are in charge of decisions in the House and Appropriations Committee rather than other lesser known lobbyists.

Other prior government positions held by the 30 revolving door lobbyists include counsel for the Senate Finance Committee, the Department of Justice, and senior staff for the Senate Foreign Relations Committee and chiefs of staff for multiple high profile

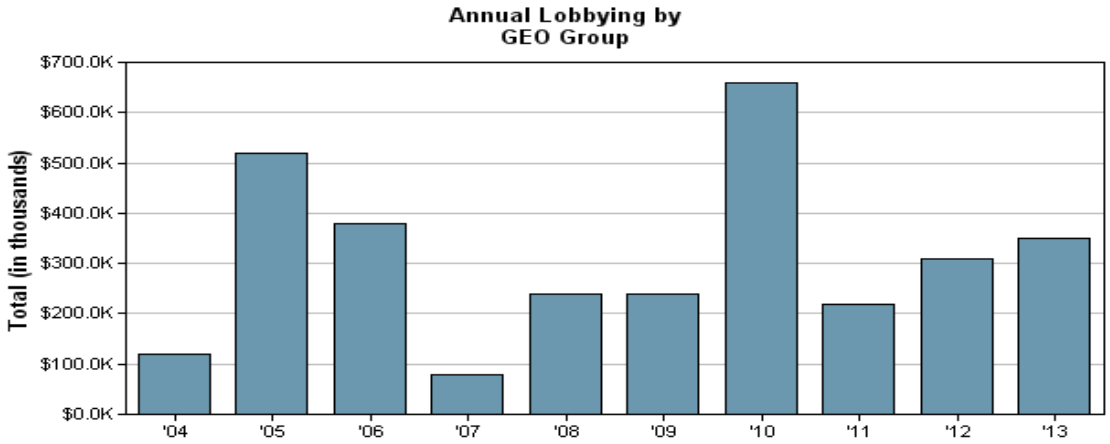
politicians. Vidal found that revolving door lobbyists who had previously worked for U.S. Senators suffered a 24% drop in revenue, around $177,000, when their past employer left office, and smaller drops were also found for the similar situation but with U.S. Representatives (2010). These findings suggest that corporations who are eager to hire lobbyists with strong connections and potential influence in Congress pay a lobbyist less after their connections have left office. The fact that CCA has such a high percentage of revolving door lobbyists and pays such a high salary to several of those groups with ex members of Congress, demonstrates their significant interest in influencing Congress and policy decisions.

Since 1998, CCA has spent a total of $20,260,000 on lobbying. CCA lobbyists mainly focus on issues of law enforcement, crime, homeland security and federal budget appropriations which include outcomes affecting the appropriations, private prison policies and contracts, immigration reform and incarceration policy. Between 2003 and 2010 CCA issued 159 reports concerning law enforcement and crime, 86 reports on homeland security and 58 on federal budget and appropriations.

GEO Group, the other leading private prison company spent a total of $350,000 on lobbying in 2013. GEO has only nine registered federal lobbyists, seven whom held previous jobs with the government. However, it is apparent that GEO spends significantly less on lobbying than their main competitor CCA. Of the six reports GEO filed in 2013, three were on Department of Homeland Security Appropriations Act 2014 (HR2217) and 3 reports were on Border Security, Economic Opportunity and Immigration Modernization Act (SB744). According to opensecrets.org, GEO issued thirteen reports

to the DHS, eight reported on matters of immigration, six reported about Law Enforcement and Crime and five on Health Issues (April 1, 2014).

Figure 2



Source: opensecrets.org April 1, 2014

There are a few ways in which lobbying can positively benefit private prisons regarding immigration policy. The first and most obvious strategy is by lobbying on immigration reform measures, policies and changes in privatization policies which could expand the use of detention facilities. The second is lobbying on the government appropriation bills for the DHS and the DOJ and their individual federal agencies involved in the detention of undocumented immigrants: the BOP, ICE and USMS.

The majority of the lobbying disclosure forms show that lobbying efforts are focused on appropriation acts for DHS, BOP, ICE and the USMS. The more money awarded to these organizations means that there will be more money funneled into border security, immigration policy enforcement and subsequently private prisons. If those agencies which award the private prison industry with contracts have more money, private prison contracts are likely to increase. Additionally, immigration policy

regulations are often part of bills involving the DHS, ICE, BOP, and the USMS. The private prison industry has shown interest in lobbying over matters of immigration. Although the private prison companies are careful to obscure their lobbying activities today in regards to immigration law, prior to the scandals and public outrage over their potential involvement with Arizona's SB1070, the private prison industry was not always so careful.

From 2007-2009, the CCA gave Immigration its own issue category for its lobbying disclosure forms, whereas in the years prior and following, immigration lobbying activities were lumped under titles such as matters of homeland security and law enforcement and crime. It is likely CCA had their lobbyists removed that issue from their claimed lobbying activities as a public relations maneuver. In fact, for all of 2013, CCA lobbyist records include a disclaimer, often in capitalize letters stating: "Consistent with CCA policy, [lobbyist firm name i.e. McBee Strategic Consulting] does not lobby for or against any policies or legislation that would determine the basis for an individual's incarceration or detention" (opensecrets.org April 1, 2014). CCA claims on a regular basis that it does not lobby in any way whatsoever for immigration reform. "Similarly, reductions in crime rates or resources dedicated to prevent and enforce crime could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities. Our policy prohibits us from engaging in lobbying or advocacy efforts that would influence enforcement efforts, parole standards, criminal laws, and sentencing policies." (2012 Annual Report, 28). However, due to the obscurity of lobbying disclosure reports, lobbying agencies need not disclose in what way they voted or lobbied

for a provision. Unfortunately in light of the numerous reports on immigration and lobbying records about the issue of immigrant, this seems to be a contradiction.

Take for example the Department of Homeland Security Appropriations Act of 2008 on which CCA's lobbying group McBee Strategic Consulting issued a report. On the lobbying disclosure report it shows that the McBee lobbying group was paid $100,000 for this single lobbying job, and the provisions lobbied on were listed as DHS appropriations. When one consults this bill in detail, other provisions which affect immigration policy are included. Section 530 of SB1644 amends the Intelligence Reform and Terrorism Prevention Act of 2004 to extend the date for implementation of the Western Hemisphere Travel Initiative which requires all citizens of the United States, Canada, Mexico, and Bermuda to have a passport or other accepted documentation that establishes the bearer's identity and nationality to enter or depart the United States from within the Western Hemisphere (dhs.gov/western-hemisphere-travel-initiative April 1, 2014). This initiative is a result of the 9/11 Commission and the effects of such an initiative makes determining citizenship a priority for officers.

Often what happens in changes to the Immigration and Nationality Act (INA) the vast umbrella concerning and encompassing all immigration policy, is that provisional changes will be made within huge appropriation bills, hidden within thousands of sections and hundreds of pages. Many immigration provision changes or extensions of programs are made within appropriations for the DHS, ICE or legislation concerning border control. The lobbying records of CCA and GEO are rife with examples in which these companies spent thousands of dollars on obscure, seemingly unrelated bills, on

which only a few dozen other highly aware and specialized organizations cared to submit lobbying reports and lobby Congress.

In the 112th Congress the Department of Homeland Security Act of 2013 passed through both the Senate as S.3216 and the House as H.R.5855. S.3216 contained an important provision in Section 562 concerning immigration policy changes:

> Section 562 - Amends the Immigration and Nationality Act regarding the visa waiver program to: (1) authorize the Secretary of Homeland Security (DHS) to designate any country as a program country; (2) adjust visa refusal rate criteria, including addition of a 3% maximum overstay rate; and (3) revise probationary and termination provisions.

CCA paid $80,000 to McBee Strategic Consulting, specifically Robert Hobart, Samuel Whitehorn and Steve McBee, to lobby the Senate, the House of Representatives and the Department of Justice.

What can be ascertained from these records and lobbying practices is that the private prison industry, and most actively CCA, lobbies the federal government on bills which will affect their revenue. Very often those bills include immigration provisions.

The Revolving Door

Vidal et al. explains the revolving door phenomenon as the cycle "whereby individuals move from serving in public office to being employed as lobbyists [which allow] those officials with experience in government who have developed a network of friends and colleagues [the connections] that they can later exploit on behalf of their clients" (2012). According to Vidal et al. there are a variety of negative consequences of a revolving door relationship between government and certain industry sectors including that such unbalanced access and disproportionate influence of elected officials with

connections to lobbyists or industry "creates ethical issues" and increases popular distrust of democratic institutions (Vidal et al. 2012, 3). The research posits that lobbyists are able to essentially "cash in on their connections" (Vidal et al. 2012, 4).

The private prison industry has an alarmingly high number of past employees, lobbyists and stockholders dispersed throughout the federal and state government, or who have worked in government agencies previous to their positions with private prison corporations. In recent years, the private prisons and the federal government have demonstrated a close working relationship as high-ranking government officials who have overseen the transfer of millions of public dollars in contracts to the CCA, GEO and MTC have left their government positions to accept lucrative jobs with the private prisons or receive paychecks from that industry's profits.

The BOP has had four past directors leave the government agency to then take jobs with either CCA or GEO. In 2012, the BOP provided CCA and the GEO with 15% and 16% respectively of their total revenues. From 1970-1987 Norman A. Carlon was the BOP's director; he now is on GEO Group's board of directors. Following Carlson, Michael Quinlan was the BOPs fifth director, serving from 1987-1992. Following a controversial lawsuit over a sexual harassment charge, Quinlan retired from his position with the BOP and took a senior position with the CCA in the Strategic Planning Division. Currently Quinlan is a Senior Vice President with CCA. Harlan G. Lappin was BOP's 6th director. Lappin was in charge and personally oversaw tens of millions of dollars in contracts to the CCA. In May 2011, less than a month after Lappin retired, CCA announced that Lappin would be their new Executive Vice President of CCA and Chief

Corrections Officer.

In Arizona, through their access to the legislature, the offices of Maricopa County and Governor Brewer, CCA has made sure that its interests would be represented by influential and powerful ties. Two of Arizona Governor Janice Brewer's top advisers in 2010, Paul Senseman, her spokesman, and Chuck Coughlin, her campaign manager, have strong connections to CCA. Paul Senseman, who was Brewer's spokesman and deputy chief of staff, previously worked as CCA's chief lobbyist as an employee of Policy Development Group, an influential Phoenix consulting firm. His wife, Kathryn Senseman continues to lobby for the company. Chuck Coughlin who managed Brewers campaign in 2010 is president of HighGround Consulting which was hired by CCA shortly after Arizona Senator Pearce introduced SB1070. During the time which SB1070 was being passed in the Arizona legislature, HighGround Consulting helped to lobby state policymakers, with Chuck Coughlin as president, and also right hand man to Governor Brewer, who passed the bill without hesitation.

An example is Stacia Hylton, the current director of the USMS. A coalition of human rights, citizens' advocacy and criminal justice-related organization protest her appointment as unethical because of her past services for GEO. Prior to Hylton's appointment as Director of the USMS, Hylton was employed from June 2004 until February 2010 as the Federal Detention Trustee and. According to the Office of the Federal Detention Trustee's website, this office is the primary government agency in charge of federal programs involved with detainment of people in the custody of the United States while they wait for a trial or immigration proceedings, and it is in charge of

awarding private facility contracts. (USDOJ; OFBT).

During Hilton's tenure, among many other responsibilities, she was in charge of the negotiations with private prisons and awarded several million dollar contracts to GEO, CCA and MTC. According to DBA's report, Hilton awarded GEO a ten-year contract at their Western Region Detention Facility in San Diego, with an approximated $34 million annual revenue, a 20-year contract to GEO to operate the 1,500-bed Rio Grande Detention Center in Laredo, Texas, with an estimated $34 million annual revenue and a 20-year sole-source contract to GEO to manage the Robert A. Deyton Detention Facility in Lovejoy, Georgia, generating $16-20 million revenue. Hylton awarded CCA a 20-year contract to design, build and operate the $80 million 1,072-bed Nevada Southern Detention Center, a second 20-year contract to CCA to hold U.S. Marshals prisoners at the company's Leavenworth Detention Center in Kansas, and a sole-source contract for CCA to house U.S. Marshals detainees at a prison in Pinal County, Arizona (DBA 2011).

One month prior to her retirement from the position of Federal Detention Trustee, in January of 2010, Hylton formed a consulting company of which she was president and sole owner, Hylton Kirk & Associates LLC. According to the *Washington Times*, following her retirement, Hylton was hired by GEO for "consulting services for detention matters, federal relations and acquisitions and mergers" and received an income of $112,500 from the sole company on her income disclosure statements, GEO (McElhatton 2010). Her retirement party was attended by CCA President, Damon Hininger. Soon after her retirement, Hylton was nominated by President Obama to head the USMS in direct and clear conflict with President Obama's executive order in 2009, Ethics Policy 13,490

which states:

> Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2009, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:
>
> 2.) *Revolving Door Ban -- All Appointees Entering Government (Italics in Original).* I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts. (whitehouse.gov April 1, 2014)

Hylton was reviewed and passed on by the Ethics Committee and was voted in by the Committee and Senate at the end of December 2010. She is the current Director of the USMS. Despite that fact that her previous connections with the private prison industry and direct conflict of interest, having once worked and received her paycheck from GEO, Hylton was nominated as the director of one of private prison's biggest customers. This revolving door situation demonstrates the close ties this industry has with government, and the lack of attention to such a conflict of interest causes worry to those questioning the independence and integrity of the government decisions when awarding contracts, making contractual terms and the overall use of private prisons.

The Immigration Industrial Complex: A Policy Network

The way in which we understand the power dynamics between the state, the private sector, and the public has changed drastically over the past century. In the 1950s and 60s the "iron triangle" was the leading model used to describe state-industry relations. Iron triangles are described as "closed, mutually supportive relationships[...]between government agencies, special interest lobbying organizations and the legislative committees and subcommittees with jurisdiction over a particular

functional area of government policy" (Johnson 2005, 1). This simple, limited and closed relationship presented by iron triangles has become outdated and new concepts which recognize the present day complexity have replaced this older model.

In 1978, political scientist Hugh Heclo presented an alternative to the disastrously incomplete iron triangle concept, and coined the term issue network to explain a specific public-private linkage involving an unlimited amount of actors with expert knowledge. These issue networks are described as open, fragmented, informal, intricate and unstable webs without a central authority or power center (Waarden 1992, 30). Policy network serves as a more accurate term, describing the system's complexity far better than the anachronistic iron triangle paradigm and more specifically than the term issue network which may describe state-private relationships interacting on issues other than policy.

The private prison industry acts within a policy network and allies with numerous groups pushing for a variety of objectives, including but not limited to the privatization of government services, stricter immigration law and tough-on-crime laws. A specific policy network made up of interest groups, corporations and lobbyists who benefit from increased immigration incarceration rates has been termed the immigration industrial complex. The immigration industrial complex is buoyed by alliances with some of the wealthiest and most powerful companies in the U.S. economy. Some of the biggest benefactors of increased incarceration levels and private prisons include the bail industry such as the American Bail Coalition, construction companies, health services like GlaxoSmithKline, weapon suppliers for the guards at prisons, food services like the

Fortune 500 company Aramark and telecommunications companies such as AT&T, Qwest and Sprint.

In many cases the objectives of the military and prison industrial complexes overlaps with that of the immigration industrial complex. An increasingly militarized nation, especially at the border, has provided private contractors and companies billions of dollars in contracts with the government. Technology companies such as ManTech and Cross Match profit from selling the government high tech surveillance systems as well as individual identification and tracking technology. In 2004, ManTech won a contract with the DHS for $33.1 million dollars (Fernandes 2007, 176). The contract was for ManTech's Homeland Security Information Network (HSIN), a mapping web based system that stores information which can be accessed by any law enforcement officer anywhere in the country. Cross Match provided biometric detection units for vocal recognition, iris scans, and forensic quality fingerprinting for the U.S. government following 9/11 in the $10 million dollar program USVISIT. However, as this program which collected digital biometrics at 115 airports and 14 ports of entry was originally used to catch terrorists, it has now been utilized by the DHS to identify and catch unauthorized immigrants.

These multiple corporations and groups lobby and fight for their objectives such as higher budgets for the DHS, to expand the potential pool of government money going towards contracts. Teles argues "In the name of markets and innovation [...] the United States has created what public administrators call a 'hollow state' in which core functions of government have been hired out to private contractors [...] This army of consultants

and contractors then became a lobby for even great transfer of governmental function to outsiders including [...] the transfer of such core roles as formulating policy recommendations and overseeing contractors"(2013, 107).

Lobbying on matters such as immigration policy and pressuring government officials to be accountable for those individuals coming into the United States without authorization, "securing the border" and "cracking down on immigration" can bolster the profits these companies earn when they provide solutions to the government's problems. The private prison industry has profited from such alliances like its membership in the American Correctional Association (ACA) and during 1990s until 2010, with the American Legislative Exchange Council (ALEC). Members in ALEC which could potentially have an objective to influence laws include the American Bail Coalition, the health care provider GlaxoSmithKline, GEO and CCA. The following case studies will reveal the importance of such alliances.

The American Legislative Exchange Council

One avenue through which the private prisons and other corporations in the prison industrial complex policy network have accessed policy makers is by way of their membership with the conservative association ALEC. The numerous benefits from joining associations include the opportunity to create alliances with other companies and through the group's membership, gain more political clout and influence over policy discourse than an individual company could hope to have. Hart asserts that "[f]irm representatives use associations as venues in which to create, shape, implement, and...block political strategies" (2004, 50). Especially in public-private associations such

as ALEC, corporations have a higher level of access and contact with policy makers, providing more opportunities to influence legislation.

> Our members join for the purpose of having a seat at the table. That's just what we do, that's the service we offer. The organization is supported by money from the corporate sector, and, by paying to be members, corporations are allowed the opportunity to sit down at the table and discuss the issues that they have an interest in. (Dennis Bartlett, ALEC website, April 1, 2014)

ALEC is one of the nation's largest, non-partisan public-private membership associations of state legislators which claims to work towards advancing "the fundamental principles of free-market enterprise, limited government and federalism" (ALEC webpage April 1, 2014). The group's main objective is to adopt and disseminate model legislation that it crafts in each of its 8 national task forces. ALEC is comprised of corporations, law firms, lobbying firms, and policymakers, the overwhelming majority of which are Republicans. These task forces serve as public policy laboratories where legislators and private companies sit down together in "a synergistic alliance of equals" and develop model policies to use across the country. Although public private interest group meetings such as ALEC is technically legal and accepted as a legitimate arena for policy discussion and development, such associations have often times been charged with skewing the democratic process by allowing certain factions of the business industry more time, contact and influence over policymakers who should be taking into consideration the entirety of their constituents needs as much or more than business. ALEC claims that 20% of its model legislation is introduced in state legislatures nationwide and this high rate of success undoubtedly comes at a price.

ALEC is funded primarily by the private sectors annual dues and donations.

While the 2,000 state legislators who are part of ALEC pay only a $50 fee to join, the private sector buys varying levels of access. The lowest membership fee to become a Washington Club member is $7,000 annually. The next level is Madison Club membership at $12,000 annually and finally the Jefferson Club membership at $25,000 annually (ALEC webpage April 1, 2014). Although ALEC is a 501(c) 3 non-profit organization, it has a $1 million "scholarship fund" towards which the private sector may donate to be used for wining and dining state lawmakers in expensive hotels and at retreats. According to Right Wing Watch, in 2007 ALEC's operating budget was $7,803,119 and in addition to its hundreds of private sector members, its private enterprise board was made up of over 23 corporations, 13 of which made the 2013 Fortune 500 list. Multibillion dollar corporations such as Koch Industries, Wal-Mart, Exxon Mobil, AT&T Services Inc., Coca Cola Company, Johnson & Johnson, U.S. Parcel Service, Kraft Foods Inc., Pfizer Inc., Reed Elsevier, Peabody Energy, Bayer Corporation, Altria Client Services and State Farm Insurance all were part of ALEC's private leadership enterprise board prior to 2010.

Over the course of 2009 and 2010, the top three private prison corporations, CCA, GEO Group and MTC, were part of ALEC. CCA was an active member in ALEC through the 1990s until 2010 and was a member and co-chair of ALEC's national task force on Criminal Justice & Homeland Security Task Force. Beginning in the 90s ALEC's Criminal Justice & Homeland Security Task Force produced over 85 pieces of model legislation that focused on increasing criminal sentencing, expanding immigration enforcement and promoting the privatization of the prison industry (Ortega 2011). Some

have suggested that ALEC in partnership with the NRA strategized to perpetuate the tough-on-crime sentiments of the 90s. CCA's senior director of business Lauria Shanblum was the private-sector chair of the task force in the mid-late 90s when ALEC's task force produced a series of model bills such as "Truth in Sentencing Act", "Mandatory Minimum Sentencing Act" and "Third Strike" laws. These bills promoted tough-on-crime measures that would send more people to prison for longer periods of time. Many human rights groups and unions charged that these bills drove up demand for prison space by increasing the pool of prisoners, thereby enhancing the need for private prisons.

The same ALEC task force also advanced bills promoting prison privatization, such as the Private Correctional Facilities Act which allowed private corporations to operate state prisons. The Private Correctional Facilities Act was advanced by ALEC in partnership with CrimeStrike, a division of the NRA, and supported by the conservative think tank Heartland. Arizona legislators who were ALEC council members, including Russell Pearce (R-AZ), Jay Tibshraeny (R-AZ), Thayer Verschoor (R-AZ), John Verkamp (R-AZ) and Wes Marsh (R-AZ), introduced near duplicates of these model bills from the ALEC task force to be voted on in the legislature (Ortega 2011). In April 2003, ALEC member, Harold Brubaker (R-NC), was interviewed by the BBC radio station on private prisons. In response to the question whether or not "there may be some vested interest in companies like Wachenhut (a private prison company later acquired by the GEO) and CCA pushing for tougher legislation", Brubaker responded "Absolutely. Yes, I can visualize that point." (Mattera and Khan 2004, 19). It comes as no surprise that

during the 1990s, following the enactment of harsher sentencing and crime laws, that CCA saw its number of contracts rise.

In the past, ALEC supported harsh immigration laws including the Taxpayer and Citizen Protection Act and the Immigration Law Enforcement Act (an abbreviated version of the No Sanctuary Cities for Illegal Immigrants Act). Both were adopted by the Criminal Justice & Homeland Security Task Force at the Spring Task Force Summit, May 17, 2008, and approved by the full ALEC Board of Directors in June, 2008. ALEC was a staunch supporter of the Patriot Act, and created and adopted the Resolution in Support of the USA PATRIOT Act at the Annual Meeting on July 29, of 2004. This resolution was adopted by ALEC's Criminal Justice Task Force and approved by the full ALEC Board of Directors in August of 2004.

These pieces of legislation crafted, approved of or supported by ALEC all added to the growing anti-terrorism, anti-immigrant rhetoric following 9/11. The specific task force of ALEC, the Criminal Justice and Homeland Security group, provided a useful place where private corporations could voice their ideas and project their interests to the other members. The complicated and at times questionably biased alliance between private corporations and policymakers manifested itself to the public most clearly following the enactment of the Arizona bill SB1070 and several Voter ID laws passed nationally.

In December 2009, at ALEC’s "States and Nation Policy Summit" Arizona Senator and ALEC member Russell Pearce introduced a piece of immigration legislation at the Grand Hyatt hotel conference room in Washington, D.C. According to Michael

Hough, the then director of ALEC's Criminal Justice & Homeland Security Task Force, every bill introduced by any member legislator or corporation must go through a 30-day review process of approval by both public and private sector ALEC members before it can become model legislation. While Pearce denies that he submitted the bill to ALEC for any purpose other than to gain its endorsement and strengthen the legislation's ability to weather legal challenges both in Arizona and other states, Hough says that this review process was set in motion for Pearce's immigration bill when he presented it to the task force in December. According to Hough, ALEC does not issue endorsements, but rather works with lawmakers in the formation and dissemination of model legislation. Pearce's immigration idea went through ALEC's formation and review process and was voted on unanimously by corporate lobbyists and legislators, including CCA. In ALEC the legislation became known as No Sanctuary Cities for Illegal Immigrants Act. Later that January, in the Arizona State Legislature, Peace introduced a virtually identical bill to the model legislation that emerged from ALEC task force meeting. In the state legislature the bill was introduced as the Support Our Law Enforcement and Safe Neighborhoods Act otherwise known as SB1070.

A week after Peace introduced SB1070 to the Arizona legislature, CCA hired Highground Consulting which at the time was also employed by Maricopa County during the time of the bill's formation. Highground Consulting, which is one of the most influential lobbying firms in Phoenix, is owned by Charles Coughlin, who in 2010 while owning the lobbying firm also managed his position as the top advisor and campaign manager for Governor Brewer. A spokesman for the private prison stated that CCA

"unequivocally has not at any time lobbied — nor have we had any outside consultants lobby – on immigration law." (Sullivan 2010). SB1070 was undoubtedly an immigration law and four provisions were especially aggressive which many argued would legalize racism. SB1070 would require officers to make a reasonable attempt to determine the immigration status of any person stopped, detained or arrested if they possessed "reasonable suspicion" that the person was unlawfully present in the United States, and would require the verification of the immigration status prior to releasing them. Additionally, SB 1070 criminalized immigrants who failed to apply for or carry alien registration papers, barred unauthorized immigrants from soliciting, applying for, or performing work, and finally, authorized the warrantless arrest of noncitizens where there was "probable cause to believe" the person had committed a public offense that would make the person removable. According to a report by NPR, "As soon as Pearce's bill hit the Arizona state house floor in January, there were signs of ALEC's influence. Thirty-six co-sponsors jumped on, a number almost unheard of in the capitol. According to records obtained by NPR, two-thirds of them either went to that December meeting or are ALEC members" (Sullivan 2010). Records obtained by DBA Press show the likely involvement of lobbyists not only employed by CCA but the additional attendance of GEO and MTC in ALEC's December meeting. Remarkably 30 of the 36 co-sponsors received donations over the next six months from prison lobbyists and/or the three largest prison companies, Corrections Corporation of America, GEO and MTC.

In 2010, amidst public exposure of ALEC's policy agenda and model bills led by a campaign coalition of groups such as Colors of Change, Rebuild the Dream, Center for

Media and Democracy, the Republic Report and the website ALEC-Exposed, ALEC lost a significant number of its corporate sponsorship and legitimacy in the public eye. According to the website database ALEC-Exposed, as of December 2013, 70 corporations and 19 non-profit groups (a total of 89 private sector members) publically announced that they were cutting ties with ALEC. Of those 89, only 3 corporations have returned. Without going into further detail, CCA stated that they left ALEC at an undisclosed time in 2010.

Today, ALEC has reoriented its focus to its stated core values in an effort to regain the lost support base. In 2010 the Criminal Justice and Homeland Security Task Force was renamed the Public Safety & Elections Task Force, and in 2012 was phased out and replaced with ALEC's new Justice Performance Project. On April 17, 2012, David Frizzell, Indiana state representative and 2012 chairman of ALEC, issued a statement on behalf of ALEC's legislative board of directors: "We are refocusing our commitment to free-market, limited government and pro-growth principles, and have made changes internally to reflect this renewed focus. We are eliminating the ALEC Public Safety and Elections task force that dealt with non-economic issues, and reinvesting these resources in the task forces that focus on the economy." (ALEC 2012). After taking such a huge loss in membership and with the renewed focus on the economy, ALEC changed its tune about the incarceration rates around the country, now viewing the overcrowded jails as an issue the government has caused. The Justice Performance Project centers around the dire need for criminal justice reform in the country to reduce government spending on prisons, reduce the overall proliferation of criminal statutes and

reform our bail and pretrial release system. A complete change in direction from the proliferation of tough-on-crime sentencing laws which they disseminated, supported and lobbied from during the 90s. Undoubtedly, the scandal over SB1070 and the need to reorient its priorities has led ALEC and the private prison industry to part ways. However, the influential associational power which the private prison industry wielded in ALEC undoubtedly paid off. SB1070 led to a series of copycat laws in several other states and although the Department of Justice challenged the law in the Supreme Court, one provision of the four still remains legal in Arizona.

The American Corrections Association-2005 Annual Conference

Another associational group in which the private prison industry has an interest in is the American Correctional Association (ACA). Founded in 1870, the organization was formed by a group of wardens interested in the reform that rehabilitation and religious redemption might bring to prisoners. They called the organization the National Prison Association, but in 1952 it was renamed the American Correctional Association. The ACA holds annual conferences bringing together a large assortment of those industries which benefit from the $50 billion per year prison industry (Herivel and Wright 2007, 119) and in 2005 its annual conference had over four thousand attendees. As elaborated previously, there are many benefactors participating in the prison industry complex. The ACA annual conferences are where many of the transactions between businesses in the prison industry are made.

In the 2005 conference in Phoenix Arizona, undercover reporter Silja J.A. Talvi

observed a militaristic theme throughout. The name of the conference was “Corrections Contributions to a Safer World” and the 201 page ACA booklet featured a tank and soldier over a planet Earth. The keynote speakers were all members of the military or conservative politicians including retired general Anthony Zinni, pilot of Black Hawk Down Michael Durant and the Homeland Security nominee Bernard Kirk (Talvi 2005, 121). Talvi reports that the conference was financially supported by the two private prison giants CCA and GEO as well as Correctional Services Corporation and Correctional Medical Services. Beyond the excellent opportunity for networking and creating strong relationships between the businesses in the prison industry the other big draw at the conference are the many workshops and exhibits which showcase the wares and services of each industry.

“The exhibition hall corridors had been given names such as ‘Corrections Corporation of America Court’, ‘Verizon Expressway’, ‘Western Union Avenue’ and ‘The GEO Court Lounge’, where one could sip Starbucks coffee and eat free glazed donuts.” (Tavil 2005, 122). The reporter lists the plethora of items showcased during the two days of exhibitions including restraint chairs, tracking systems, drug detection tools, suicide prevention smocks, prison facility insurance, private healthcare systems, pharmacy plans, commissary services, surveillance systems, Internet and phones services. Sprint, AT&T, NEC, MCI Communications, Verizon, Global Tel*Link and Qwest all were involved in the telecommunication sales at the 2005 ACA conference. Weapons manufacturers included Smith and Wesson, Glock and Taser International. Prison health services included the giant industry Prison Health Services and food services Canteen and

Aramark attended (Tavil 2005, 125). Other benefactors of the prison industry include Starbucks and Nintendo who pay prisons to employ prisoners at wages far below market rates in some states.

From the previous case studies this vast and complex policy network is only partially revealed. Certainly, there are many industries which stand to benefit from the increased incarceration rates, including that of immigrants, the fastest growing inmate population. The ACA annual conferences is a venue in which many of these corporations meet, do business, network and sell their products or services. However, certainly there are venues not as public as annual conferences in which this process of networking and inter-industrial conversation takes place. The ALEC case study demonstrates one interest group alliance of dozens of powerful corporations working together with policymakers to form legislation. In exchange for industry's interests to be represented in the policies that legislators take back to their parties, these corporations foster support among other policymakers through donations and lobbying.

In regards to the private prison industry we see that CCA and GEO are active in donating through PACs and campaign contributions, at a higher level to state candidates rather than to federal officials. Perhaps this is because already there is a close working relationship between the three federal agencies which contract with private prisons, as can be seen with ICE's proposal to Congress to privatize all of their prisons, the BOP's history of director to private prison employment, as well as Stacia Hylton's new position as head of the USMS. Lobbying expenditures are much higher from CCA and GEO than their recorded donations, and despite this often ambiguous and opaque political process it

seems clear that the private prison industry does in fact lobby on policies that will affect incarceration rates, and affect the enforcement practices regarding immigration policy. Close mutually beneficial relationships between wealthy corporations and policymakers result in legislation that benefits private interests, leaving the general constituency and justice out of the dialogue. Together these facts point to a political influence which the private prison industry wields at the federal and state level.

Conclusion and Recommendations

This research explores the mutually beneficial relationship between the private prison industry and criminalizing immigration policy since 1996 in the United States. Over the past two decades and especially following 2001, immigration policy developments have resulted in the increasing detention and incarceration of unauthorized immigrants in the civil and criminal justice system. This effective combination of harsher sentencing, the removal of judicial review, the extension of the federal immigration control to local and state enforcement agencies, expansion of offenses deemed as deportable activity, the bed mandate and increased law enforcement budgets across the board has resulted in these skyrocketing numbers. Operation Streamline is a prime example of the criminalization of immigration. This program has been responsible for the incarceration, detention and deportation of tens of thousands of undocumented immigrants arrested for entry and reentry offense and funneled into the criminal judicial system, superseding the civil immigration system despite the civil nature of their immigration offenses. This amalgamation of criminalizing immigration laws has

contributed heavily to the expansion of the private prison industry's partnership with the federal and certain state governments, resulting in a massive increase of undocumented immigrants incarcerated in private prisons.

Private prisons enjoy a unique niche within a much larger immigration industrial complex and policy network as its contracted services have been useful to federal and state governments managing the rise and fluctuation of detainee and prisoner populations. However in addition to the private prisons, the immigration industrial complex encompasses a host of other benefitting industries which include construction companies contracted to build prisons, banks that facilitate revenue bonds between government and private prison corporations and the plethora of services in prisons such as healthcare, food services and weapons suppliers. Additional corporations such as technology surveillance providers, bail and pharmaceutical companies also benefitted greatly from the overall increase in inmate numbers and the militarization of the border. The ACA annual conference is a venue in which many of these corporations meet, do business, network and sell their products and services. As the SB1070 case study demonstrates, "model" legislative groups provide the perfect organization for corporate and political leaders to work together in creating policy. Often, this influence is wielded behind the scenes, making it difficult to point fingers or find the source of policy decisions. In this way, the private prisons are part of a considerable political force, the immigration industrial complex which influences and works to maintain our nation's criminalizing policies. The ALEC case study demonstrates one interest group alliance of dozens of powerful corporations working together with policymakers to form legislation. In

exchange for industry's interests to be represented in the policies that legislators take back to their parties, these corporations foster support among other policymakers through donations and lobbying.

Close mutually beneficial working relationships between wealthy corporations and policymakers results in legislation that benefits private interests, leaving the general constituency and justice out of the dialogue. These close working ties between the political and business elite in our country contribute to growing inefficiency and actuality of our acclaimed democracy which seems in this day and age closer to an oligarchy. Together these facts point to a political influence which the private prison industry wields at the federal and state level. In order to maintain and encourage increased corrections spending, contracts and criminalizing immigration policy, the private prison industry asserts political influence through several political strategies including PAC and campaign contributions, lobbying and revolving doors relationships. The research demonstrates that there are significant conflicts of interest between many government officials and private prison companies. The lobbying activity of the private prison industry has focused on appropriation, homeland security, law enforcement and prison privatization related bills and in several cases, bills that change immigration law: Arizona's SB1070, California's Proposition 6, and the federal government bill Department of Homeland Security Act of 2013 serving as prime examples. Additionally, changes in prison financing have allowed government officials to keep their debt for prison construction off the books, enter into more agreements for construction, as well as provide more incentive for government officials to increase the use of private prison

facilities, and fill them with inmates to reach occupancy quotas.

Another conclusion drawn from this research is that the amount of undocumented immigrants in private and public facilities is a number obscured and potentially significantly underestimated. I reason that the main causes of this obscurity surrounding immigrants is due to the complexity of the immigration system in which multiple governmental officials, with varying training, are able to arrest undocumented immigrants and entering them in either the civil immigration system or criminal justice system and often times in cases of double jeopardy enter the former system after serving time in the latter. There are multiple agencies which handle undocumented immigrants at the federal level; ICE, BOP, USMS, as well as at the state and local levels, thanks to policies which have authorized state and local enforcement officials to make arrests of undocumented immigrants using the system wide IDENT identification system.

The fact that immigrants are increasingly housed in private prisons due to their low security risks and the nature of their fluctuating population, despite the well documented findings of poor health care, food quality, facility structure, high staff turnover rates and numerous cases of sexual harassment, rape and abuse in the two largest prison corporations CCA and GEO. According to by Day (2014), there are serious structural injustices in the immigration court system including infringements on the due process of individuals awaiting their immigration court hearings, low levels of legal representation for detained immigrants, and inadequate safeguards for individuals with Limited English Proficiency. Another consequence of increased border security and harsher immigration policies is danger and death in the U.S.-Mexico border regions.

Since 2005, the actions of Customs and Border Patrol agents have led to the death of at least 44 individuals. As Border Patrol monitors the highways and frequently traveled routes from Mexico to the United States, migrants attempt more dangerous routes through the desert and mountains. The numbers of reported migrant deaths along the border has increased and as Cornelius (2004, 669) suggests such numbers are most likely low estimates, as the migrant routes become more remote, there will be underreporting and that migrants dying in more remote areas trying to cross into the country, underreporting will stymie accurate numbers.

My research was limited to the relationship between the private prison industry and federal governmental agencies, excluding a more comprehensive study of state and local contracts and relationships with the private prison industry. Future research should include a more inclusive and comprehensive study of statewide immigration policy, state contracts with private prison corporations and inspection of the political strategies and political connections private prisons have at the state level. An interesting research investigation could center around why certain states have contracted with this industry while others have chosen to keep their justice system facilities public.

One of the greatest assumptions and challenges I overcame throughout this research was the desire to point one finger at the source of evil. Initially the private prison industry seemed like a powerful and influential player that was perhaps the strongest lobbying power in Washington on issues regarding crime policy. It's obviously lucrative position and benefits from increased inmate numbers seemed to offer a straightforward connection on which to base the foundation of a strong argument. Initially knowing next

to nothing about the civil and criminal justice system, entering the true complexity of the problem expanded my understanding of policy, federal departments, coalitions of policy network groups, the huge diversity of organizations lobbying and using political connections to further corporate interests. I found that the private prison industry although influential is not the biggest fish, nor has it been the driving factor of immigration law, only one aspect of the political force currently in power.

As part of the immigration industrial complex and the many other powerful industries it encompasses, the private prison industry strategically uses its alliances, membership and business partnerships to further its interests in immigration policy. However, much more is at work on immigration policy and agenda, and the private prison industry has mainly ridden the wave of the rise in undocumented immigrants, rather than fostered its passage singlehandedly. Without the reintroduction of the private prison industry, it is probable that the immigration system and policies would regardless still be as criminalizing. However, this industry has allowed the government to continue putting off true policy reform and allowed government officials to push the problem downstream. The private prison industry has allowed the government to ignore the rising numbers of inmates, to avoid asking why these numbers are so high, allow massive debt without involving the public constituency, as well as overlook the rampant human rights violations due to the obscurity and extra layer of bureaucracy the private prison industry adds.

My research has found that the burgeoning prison and detention systems in the United States are the result of inadequate responses to crime and immigration challenges.

The system is maintained in part by a confluence of business interests, an industry complex which benefits from warehousing prisoners and detainees, and although identified as a problem in Congress, the issue continues to be stymied by partisan dispute over exactly how to reform our justice and immigration system. There are several aspects of our immigration system and general law enforcement practices that are in need of serious reparation.

Due process must be prioritized in order to relieve overburdened immigration courts and restore independence to our judiciary branch. Judicial review and judgment must be restored in immigration courts in order to allow judges the decision over whether an individual should be deported based on their crime and past history. In addition, the astounding amount of immigration court cases without representation would benefit from assigned lawyers or by increasing the availability of immigration lawyers. The criteria of a crime which is grounds for immediate and automatic deportation should be reduced to only violent or terrorist related crimes. In other nonviolent but serious crimes, the use of alternatives to detention should be employed while the individual awaits her/his court case. Many alternatives to detention like electronic monitoring bracelets and check-ins offer cost savings and do not infringe on that individual's freedom of movement. Only federally trained immigration officers should be allowed to question individuals about their citizenship or check their immigration status because they have been trained in immigration law and procedures, and subsequently are federal representatives. When local and state officers are given the additional duty to ascertain the immigration status of an individual, this not only takes away from their focus on crime but additionally erodes

the trust between communities and local police forces. Operation Streamline and zero-tolerance programs should be ended immediately as they have been the cause of tens of thousands of the incarceration and deportation double jeopardy plight of unauthorized immigrants who have committed civil offenses but are criminalized through this program. Immigration without authorization should not be a crime, humans have immigrated to new places and lands since their beginnings in order to find better opportunities for their family and the creation of borders and states should not forever bar individuals from moving to new places. Immigration without authorization rather than a crime is simply a lack of proper paperwork, due to bureaucratic obstacles in our overloaded and highly inefficient immigration system. Immigration offenses of unauthorized entry and reentry are currently prosecuted in criminal courts when the civil immigration justice system should be handling all those apprehended for immigration offenses. What's more, the number of undocumented immigrants detained by ICE and incarcerated in the BOP and USMS should be made more accessible to the public in order for the public, researchers, government and enforcement agencies to understand the true impact of these policies and practices. Rather than looking at unauthorized immigrants as a problem, to be locked up and sent through a long process of the justice system, the government should view this population influx as a new face to the diversity in our nation, as fundamental growth in our economy and the enrichment of our culture and linguistic variety.

In regards to the private prison industry, there is significant research and evidence which demonstrate that the use of private prisons is not in the interest of the American public or those incarcerated in these facilities. I believe the federal and state governments

should not enter into new or renew any contractual agreements with the private prison industry. Rather than basing government solutions on creating more space to incarcerate and detain individuals, our federal and state governments should take a closer look at the immigration system and its contracted services, the justice or injustice it is serving and finally, ascertain who all exactly is mass imprisonment benefitting.

Acronym Reference List

ACA- American Corrections Association

AEDPA- Antiterrorism and Effective Death Penalty Act

ALEC- American Legislative Exchange Council

BIA- Bureau of Indian Affairs

BOP- Federal Bureau of Prisons

CAR- Criminal Alien Requirements

CBP- Customs and Border Patrol

CCA- Corrections Corporation of America

DOJ- Department of Justice

DHS- Department of Homeland Security

GEO- The GEO Group Inc.

ICE- Immigration and Customs Enforcement

IIRIRA- Illegal Immigration Reform and Immigrant Responsibility Act of 1996

INA- Immigration and Nationalization Act

INS- Immigration and Naturalization Services

IRTPA- Immigration Reform and Terrorism Prevention Act

MTC- Management and Training Services

PAC- Political Action Committee

USA PATRIOT Act- United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001

USAF- United States Air Force

USMS- United States Marshals Service

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