JAILS FARGO

BANKING ON IMMIGRANT DETENTION

WELLS FARGO'S TIES TO THE PRIVATE PRISON INDUSTRY

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NATIONAL PEOPLE'S ACTION

public accountability initiative

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Executive Summary

Private prison operators are profiting from the deepening immigration crisis in the United States. Companies like CCA and GEO Group have seen steady growth due to the country's policy of locking up immigrants in privately-managed detention facilities. These companies have spent millions to shape this policy, win contracts, and ensure that the rules are fixed in their favor – all at the expense of some of the country's most vulnerable people.

These companies would not be positioned to profit from the country's immigration crisis without the help of prominent Wall Street banks. The industry is capital-intensive and requires enormous amounts of financing from banks that sit at the country's financial and economic crossroads. One bank, in particular, has distinguished itself from the competition as an investor in and lender to the industry: Wells Fargo.

This report details the financial ties between Wells Fargo and the top private prison operators in the country: Corrections Corp of America (CCA), GEO Group, and Management and Training Corp (MTC). The information compiled in the report shows that as a lender and investor, Wells Fargo has provided critical support for the private prison industry.

In fact, Wells Fargo is unique among its peers in the financial industry in having strong financial connections to the country's three largest private prison operators:

- **CCA.** Wells Fargo is a major lender to Corrections Corp of America (CCA), the largest private prison company in the country, acting as the syndication agent and issuing lender on CCA's $785 million line of credit.

- **GEO.** Wells Fargo is a major investor in GEO Group, with $95.5 million invested through its mutual funds, and serves as trustee for $300 million of the company's corporate debt.

- **MTC.** Wells Fargo is a lender to Management & Training Corp (MTC). MTC is a private company and so it is difficult to find data on its investors and lenders, but Wells Fargo is listed as a lender to MTC in a Utah UCC filing.

The records reviewed for this report show that no other major bank has strong ties to each of the top three private prison companies (CCA and GEO are the top two prison operators in the country, MTC is a somewhat distant third).

The Private Prison Industry's Vicious Cycle. As a major investor in and lender to the private prison industry, Wells Fargo is at the center of the industry's vicious cycle. This cycle involves profiting from the detention of vulnerable immigrant communities by understaffing the prisons and cutting costs so that basic food and medical needs are not met. The private prisons then use the profits to attract additional capital and investment, and invest in lobbying and other political efforts to win prison contracts and laws that result in higher levels of immigrant detention, which translates into increased profits from increased detention, and so on. Increased detention also drains public dollars from state and federal governments, money that could and should be used to invest in people and create jobs. By lending to and investing in the private prison industry, Wells Fargo plays a crucial role in perpetuating this cycle, and if it were to withdraw from it, this cycle would break down. This report details Wells Fargo's role in this cycle as an investor and lender. A future report will also detail how Wells Fargo supports the political and economic agenda of the private prison industry.

Preying on Immigrant Communities. The private prison industry's growth model is premised on the exploitation and detention of undocumented immigrants. The report details how private prison company executives recognized the opportunity to profit from immigrant detention in the wake of 9/11 and sought to capitalize on it. Fundamentally, the industry profits from the mismatch between its own power and political influence, and the extreme vulnerability of immigrant communities. As part of the vicious cycle, the more the industry profits, the greater the magnitude of this imbalance of power.

Profiting from Unemployment. The report notes that the private prison industry contributes to unemployment by supporting prison labor and profiting from it. Higher levels of unemployment translate into higher levels of detention, a fact noted by industry executives.

Wells Fargo's Denials. As recently as April 2012, Wells Fargo denied significant ties to the private prison industry, perhaps due to the reputational risks of financing such a controversial and predatory industry. But this report clearly demonstrates that despite its stated commitment to "corporate social responsibility," Wells Fargo has made a business decision to profit from the private prison industry and, in turn, the country's immigration crisis. Now that their central role in the private prison industry has been documented, will they continue to lend their financial support to these practices?

Future Report. This report is the first in a series. A future report will detail other aspects and consequences of Wells Fargo's support for the private prison industry, and will raise further questions about the bank's role in the private prison industry and the vicious cycle of imprisonment and detention, profit, and political influence it facilitates.

I. The Private Prison Industry: Preying on Immigrant Communities

Before documenting Wells Fargo's ties to the private prison industry, it is necessary to understand what the industry is, how it is profiting from the immigration crisis, and ultimately why Wells Fargo is hesitant to be associated with the industry. The following section offers background on the industry and places it in the context of a decades-long trend toward the increasing privatization of public services, discusses how private prison companies are profiting from the immigration crisis, details abuses at prisons run by the three private prison operators discussed in this report (CCA, GEO, and MTC), and briefly examines the use of private prison labor and what this means for the US economy.

Taking Prisons Private

The private prison industry is an outgrowth of a decades-long trend towards the privatization of public services in the United States. Private prison companies do business by contracting with federal and state agencies to house inmates, often in facilities of their own design and construction, though they have also privatized formerly government-run prisons.[i] At the end of 2010, the private prison population in the U.S. was more than 128,000, comprising 8 percent of all federal and state inmates.[ii] Not included in this figure are the 400,000 undocumented immigrants held in civil detention centers in the U.S., nearly half of which are administered by private prison operators.[iii] As detailed below, the detention of immigrants is a key component of the private prison industry's business model, which is premised on profiting from the exploitation of vulnerable communities.

As rapidly as the total number of prisoners in the U.S. has increased in recent years - combined federal and state prison occupancy doubled between 1990 and 2009 - the for-profit prison industry has grown at an even faster rate. The industry's two giants, CCA and GEO Group, have doubled their annual revenue in just the last ten years to a combined $3.3 billion in 2011.[iv]

> "The industry's two giants, CCA and GEO Group, have both doubled their annual revenue in just the last ten years, to a combined $3.3 billion in 2011."

Immigrant Detention as Profit Driver

Much of this increased profitability comes from immigrant detention. The Detention Watch Network found that, between 2005 and 2010, the number of immigrants detained doubled to approximately 392,000 at a cost of $1.77 billion.[v] On a 2008 conference call with investors, GEO Group's chairman George Zoley said: "The federal market is being driven for the most part as we've been discussing by the need for criminal alien detention beds. That's being consistently funded."[vi] Indeed, GEO Group and CCA revenues from detaining immigrants have more than doubled since 2005.[vii] SEC filings from both companies acknowledge that their profitability is dependent on tough immigration laws. From GEO Group's 2011 10-K statement:

> **In particular, the demand for our correctional and detention facilities and services and BI's [a company with exclusive ICE contracts that GEO acquired in 2011] services could be adversely affected by changes in existing criminal or immigration laws,** crime rates in jurisdictions in which we operate, **the relaxation of**

> **criminal or immigration enforcement efforts, leniency in conviction, sentencing or deportation practices,** and the criminalization of certain activities that are currently proscribed by criminal laws **or the loosening of immigration laws.** For example, any changes with respect to the decriminalization of drugs and controlled substances could affect the number of persons arrested, convicted, sentenced and incarcerated, thereby potentially reducing demand for correctional facilities to house them. Similarly, reductions in crime rates could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities. **Immigration reform laws which are currently a focus for legislators and politicians at the federal, state and local level also could materially adversely impact us.**[viii]

The growth in the immigrant detention sector began after the attacks of September 11, 2001, when the federal government created the Department of Homeland Security (DHS) and shifted the enforcement of immigration law from the Department of Justice to the new DHS agency, Immigration and Customs Enforcement (ICE). The private prison industry recognized this shift as an opportunity. Steve Logan, the CEO of Cornell Companies (a prison company purchased by GEO Group), said in a quarterly earnings call: "It's clear that since September 11th there's a heightened focus on detention…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."[ix]

The change in immigration enforcement was accompanied by an exponential increase in lobbying expenditures by the prison industry. GEO Group spent $40,000 on lobbying in 1999, a number that increased to $860,000 in 2005. CCA spent $200,000 lobbying in 2001 and $3.8 million in 2005. Since 2003, CCA has never spent less than $1.8 million on lobbying[x] At the same time as the companies' lobbying expenditures hit their peak, ICE's budget increased from $3.5 billion to $4.7 billion.[xi]

According to DHS, 75% of undocumented immigrants were born in Mexico, El Salvador, Guatemala, Honduras, and Ecuador.[xii]

Abuses at Private Prisons

Privately operated prisons are notorious for their abhorrent conditions, shoddy security, and blind eyes to violence at the hands of both guards and other inmates. These abuses, a result of corporate cost-cutting and competition for inmates, have led to investigations into and public outcry against all three of the United States' leading private prison companies.

CCA has exhibited what Corazon de Tucson refers to as a "culture of brutality" for abuse on the part of its guards and for neglectful conditions that have led to riots in the past.[xiii] According to a 2007 report by the Bureau of Justice Statistics, the Torrance County Detention Facility, a prison run by CCA, had the highest rate of sexual violence in the country: 13.4 percent of prisoners were victims of sexual violence.[xiv] The American Civil Liberties Union sued CCA after it "routinely exposed inmates to beatings from other inmates and guards as a disciplinary strategy and then denied medical care to those injured in the attacks."[xv]

GEO Group has a history of abuse and neglect in its facilities, coming under fire in 2007 for the squalid conditions in an Idaho prison when an inmate committed suicide. An inspector said that prison was "the worst he'd ever seen" and that its guards "showed no concerns for the living conditions."[xvi] The corporation was sued in 2010 after an inmate died of a seizure while in solitary confinement after being denied epilepsy medication.[xvii] In 2009, the company was found liable and assessed $42.5 million in punitive damages after guards watched inmates beat a prisoner to death.[xviii]

MTC-operated Santa Fe County Adult Detention Center was investigated by the Department of Justice in 2002 and 2003, which found that "persons confined suffer harm or the risk of serious harm from deficiencies in the facility's provision of medical and mental health care, suicide prevention, protection of inmates from harm, fire safety, and sanitation. In addition, the facility fails to provide inmates sufficient access to the courts and opportunity to seek redress of grievances."[xix] The DOJ reported that some inmates went weeks without receiving underwear under MTC's management, that one guard was expected to monitor 120 inmates 12 hours at a time, and that there had been one suicide and seven attempted suicides in the first seven months that MTC operated the prison.[xx]

A month after the investigation findings were released, MTC executive Lane McCotter, who was in charge of the Santa Fe County Adult Detention Center, was chosen by the Justice Department to reopen the prisons in Iraq. McCotter selected Abu Ghraib as America's main prison in Iraq and oversaw its reconstruction.[xxi]

Detained immigrants in particular face shocking conditions. Undocumented immigrants, including asylum-seekers and victims of human trafficking, can be subjected to squalid conditions and abuse, sometimes for months or years in America's for-profit detention centers.[xxii] Children can be placed in the child welfare system and adopted while their parents await a disposition from the Department of Homeland Security.[xxiii] The switch from "catch-and-release", where undocumented immigrants remained free until their deportation hearings, to "catch-and-detain", and the lack of clear regulations for immigration cases involving children can bring about challenges to parental rights and difficulty in reuniting families after parents are deported.[xxiv]

Children may also be imprisoned alongside their parents. The CCA-operated T. Don Hutto Residential Center is a former medium-security prison in west Texas that, until 2009, housed families.[xxv] There, children as young as toddlers were made to wear prison scrubs and remain in cells up to 12 hours a day without toys, pencils, or crayons.[xxvi] In order to avoid licensing as a child-care facility, Hutto required detainees to constantly supervise children, including during interviews to determine their eligibility for asylum where they may have to recount personal histories of torture, rape, or domestic abuse.[xxvii] Lawsuits led to a mild improvement in conditions for children (they were allowed to wear pajamas, play, and attend classes) before Hutto stopped housing families in 2009.[xxviii] Hutto is still used to house female immigrants, and faced scandal in 2010 when a CCA employee sexually assaulted several detainees.[xxix]

Detainees at the 2,000 bed Willacy County Processing Center, described in *Mother Jones* as "razor-wire-ringed compound holding 10 Kevlar tents of the sort used by troops in Iraq" and operated by MTC, have reported appalling conditions including maggot-infested food and problems with heat and air conditioning.[xxx] Willacy also had numerous reports of sexual assault, including an instance of a guard locking a female detainee in a room with a male detainee so that he could rape her.[xxxi]

All three of the largest private prison operators in the United States reap profits from contracts with Immigration and Customs Enforcement, capitalizing on the immigration crisis at the expense of the human rights of hundreds of thousands of immigrants, half of whom have never committed a crime.[xxxii]

Taking Jobs Out of the Economy

Long-outlawed in the United States, prison labor has come back in a big way in the latter half of the 20th century, and to the detriment of businesses that pay their workers a fair wage.

In 1979, Congress created a program called the Prison Industries Enhancement Certification Program (PIE) which "encourage[d] states units of local governments to establish employment opportunities for prisoners that approximate private sector work opportunities." While PIE provided that prison laborers be paid minimum wage, it allowed for "reasonable" deductions for room and board to "defray the costs of inmate incarceration."[xxxiii]

This program was expanded in many states beginning in 1995 when the American Legislative Exchange Council (ALEC) (which both GEO Group and CCA have supported) circulated a piece of legislation crafted by former Texas state representative and current GEO Group lobbyist Ray Allen.[xxxiv] The bill, called the Prison Industries Act, allowed for deductions from wages paid to prison laborers to "construct work facilities, recruit corporations to participate as private sector industries programs, and pay costs of the authority and department in implementing [these programs]."[xxxv]

> "The result is that prisoners can net as little as $0.20 per hour making products from processed foods to eyeglasses to office furniture, undercutting businesses that cannot afford such cheap labor."

The result is that prisoners can net as little as $0.20 per hour making products from processed foods to eyeglasses to office furniture, undercutting businesses that do not use such cheap labor.[xxxvi] Prison Rehabilitative Industries and Diversified Enterprises (PRIDE) operates Florida's 41 prison work programs and is one of the largest printing companies in the state.[xxxvii]

The president of Cornell Companies (a private prison company now owned by GEO Group) once said: "We do not believe we will see a decline in the need for detention beds particularly in an economy with rising unemployment among American workers."[xxxviii] Replacing jobs with pennies-per-hour or no-cost prison labor makes good business sense for an industry that views the unemployed as a future source of revenue.

II. Wells Fargo's ties to Private Prison Operators

Wells Fargo provides critical financial support to the country's top three private prison operators: Corrections Corp of America (CCA), GEO Group, and Management and Training Corp (MTC). CCA and GEO are the top two largest private prison operators, by far, with MTC a distant third. Wells Fargo supports these companies by both investing in them and lending them significant amounts of capital.

The below analysis of the ties between Wells Fargo and these private prison companies is based on public record financial filings made by Wells Fargo and the three companies.[xxxix]

Note: A catalogue of public filings related to CCA, GEO, and Wells Fargo and detailing the financial relationships between them is available at http://wfdetentions.wordpress.com.

a. Corrections Corp of America (CCA)

Corrections Corp of America, or CCA, is the country's largest private prison company. It is the fourth largest prison operator in the country behind the federal government and three states, and is the largest for-profit prison company in America.[xl] CCA runs 67 prisons in 20 states and the District of Columbia, with space for 91,000 inmates.[xli]

How Wells Fargo Supports (and Profits from) CCA's Operations

$785 million line of credit. Wells Fargo provides critical financing to CCA as the syndication agent and issuing lender on CCA's $785 million line of credit.[xlii]

The line of credit was amended January 6, 2012 – months after Wells Fargo first came under pressure for its financial ties to the private prison industry – and expanded from $450 million to $785 million.[xliii]

$75.4 million in interest payments to banks. The company's high level of indebtedness resulted in $75.4 million in interest payments to its creditors in 2010, a percentage of which went to Wells Fargo. CCA pays an interest rate of LIBOR plus 1.5% to its lenders, including Wells Fargo. Wells Fargo's relationship with CCA is a legacy from its takeover of Wachovia in 2008; Wachovia was named as administrative agent on CCA's line of credit in 2006.

$2.9 million in CCA stock. Wells Fargo also owned 98,731 shares of CCA stock, worth over $2.9 million as of June 29, 2012 (the date of its last disclosure filing). [xliv] Wells Fargo owns this stock primarily through investments managed by Wells Fargo Advisors.

"Ethics. This is the foundation of how we're perceived as a socially responsible company. We want to go beyond what the law and industry standards require. We monitor and refine our business practices to help ensure all team members are performing ethically and with integrity."

– Wells Fargo, "Vision and Values"[xlv]

b. GEO Group

Florida's GEO Group is another giant in the private prison industry, with almost 75,000 beds in 115 prisons nationwide.[xlvi]

How Wells Fargo Supports (and Profits from) GEO's Operations

$95.5 million in GEO Group stock. Wells Fargo is one of GEO Group's largest investors, owning 6.84% of the company, or 4,201,468 shares of stock worth $95.5 million.

Wells Fargo owns and manages this stake through several of its mutual fund companies. Of these companies, Wells Capital Management is the largest GEO Group shareholder, by far, with 4.15 million shares worth $94.5 million as of June 29, 2012.[xlvii] Most of this stake, over $60 million, is managed as part of the Wells Fargo Advantage Small Cap Value Fund.[xlviii] Wells Fargo increased its stake in GEO Group significantly beginning in 2005.

Senior Note. Wells Fargo is also the trustee for a GEO Group senior note in the amount of $300 million.[xlix] As the bond trustee, Wells Fargo manages bond payments from the issuer, GEO Group, to the bondholders.

“Our responsibility goes far beyond protecting our customers’ assets. We’re responsible for being leaders to promote the long-term economic prosperity and quality of life for everyone in our communities.”

– Wells Fargo, “Vision and Values”[l]

c. Management & Training Corp, or MTC

Management & Training Corporation, or MTC, is the third-largest private prison operator in the country, with the capacity to house 29,000 inmates at 22 facilities nationwide.

How Wells Fargo Supports (and Profits from) MTC’s Operations

Credit agreement with Wells Fargo. MTC is a privately-held company, and it is therefore difficult to obtain information on its investors and financiers. However, UCC filings in the state of Utah, where MTC is based, show that the company has two credit agreements with Wells Fargo dated 2008.[li] UCC filing searches turn up no other lenders to MTC.

III. Wells Fargo's Response to Community Pressure

The private prison industry's predatory business model has made it a lightning rod for controversy. Private prison operators acknowledge this dynamic publicly, and it may help explain Wells Fargo's responses to public pressure to cut its ties to the industry.

In their SEC filings, both CCA and the GEO Group acknowledge that private prisons' reputation for brutality and inhumane conditions poses a risk to corporate profits. In the GEO Group's 2012 10-K statement, the company said: "Public resistance to privatization of correctional, detention, mental health and residential facilities could result in our inability to obtain new contracts or the loss of existing contracts, which could have a material adverse effect on our business, financial condition and results of operations."[lii] In its 2012 filing, CCA said: "Moreover, negative publicity about an escape, riot or other disturbance or perceived poor conditions at a privately managed facility may result in adverse publicity to us and the private corrections industry in general."[liii]

Perhaps sensing the reputational risk associated with financing the private prison industry, Wells Fargo has made several attempts to downplay its ties to private prison companies in response to protests.

- The bank responded to a July 2011 protest of private prison companies by arguing that it did not invest directly in CCA or the GEO Group, but rather managed investments on behalf of clients.[liv]

- In April 2012, in response to protests about the ties between Wells Fargo and private prison companies, Wells Fargo repeated its assertion that it did not own private prison company shares directly, but managed these investments on behalf of clients.[lv]

Wells Fargo's ties to the three major private prison companies suggest that the company does not have a casual relationship with the industry, as it has argued in the media, but rather that it has sought out a profitable relationship with the private prison industry, regardless of the industry's record of irresponsibility and unethical practices.

"Wells Fargo's ties to the three major private prison companies suggest that the company does not have a casual relationship with the industry."

Response to Apartheid

Wells Fargo has given in to calls for divestment in the past. In 1977, a spokesman for Wells Fargo told the *Los Angeles Times* that though the bank "thoroughly abhors apartheid", they would still make loans to South Africa as loans were judged "on the 'ability of the borrower to repay and the purpose for which the loan is to be used' rather than on whether the bank liked the recipient country's political stance."[lvi] By 1985, under multilateral pressure, Wells Fargo had not only stopped lending to the South African government and its agencies, but also announced that it would not renew loans or make new loans until apartheid had ended.[lvii]

IV. Conclusion

Wells Fargo plays a central role in this country's private prison industry, financing the three largest private prison companies and profiting from these relationships. More than any other bank, Wells Fargo provides the industry with the financial backing it needs. And so Wells Fargo is a key contributor to the vicious cycle of immigrant detention and exploitation for profit that has done deep and lasting damage to the country's most vulnerable communities.

How can Wells Fargo repair its relationship with Latino and immigrant communities, considering the damage it has done to the fabric of these communities by contributing to this vicious cycle? How can Wells Fargo repair its relationship with the public, who are seeing their tax dollars wasted on excessive detention and imprisonment?

It can start by acknowledging its role in the private prison industry, rather than denying it as it has in the past. It should then end its relationships with private prison companies: divesting from them and exiting its financing relationships with them.

Wells Fargo has an opportunity to take an important stand against the country's immigrant detention nightmare and the private prison companies that profit from it. Will it continue to support and profit from this vicious cycle? Or will it begin withdrawing its financial backing from the industry?

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