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Who is in private prisons? Demographic profiles of prisoners and workers in American private prisons

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ABSTRACT

Who is in private prisons? This seemingly straightforward question has received surprisingly little attention in the United States. This paper analyzes national prison data to provide demographic profiles of prisoners and workers in private prisons in the United States and to compare them to prisoners and workers in state and federal prisons. It summarizes data on jurisdiction, sentence length, race, and citizenship of prisoners, as well as the race and gender of correctional officers. Results reveal differences between private and public prisons with respect to both prisoners and workers. Specifically, private prisons detain inmate populations that are disproportionately non-white, under federal jurisdiction, and serving short sentences; and they employ officers that are disproportionately female and black or Hispanic. These results depict the private prison sector as distinct from its public counterpart—both in terms of prisoner and staff composition. A discussion considers the implications of these findings for equity in punishment.

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1. Introduction

Who is in private prisons? This seemingly straightforward question has received little attention in the United States. Despite many attempts to compare the performance of private versus public prisons, research typically pays little attention to the people that occupy private prisons—either as prisoners or as employees. The identity of the prisoners and workers in private prisons is important for several reasons. First, there is a growing body of evidence that private prisons fare poorly on a variety of performance measures, including access to health care and work assignments. Second, critics have long suspected that private prison firms skim the best inmates with lowest needs in an attempt to minimize costs. Third, private prisons are typically non-unionized workplaces that provide lower levels of compensation to employees. Thus, overexposure to private prisons—as a prisoner or as a worker—may have negative consequences for the people they detain and employ.

This paper seeks to offer a demographic portrait of prisoners and workers in private prisons, and to compare them to prisoners and workers in state and federal prisons. It does so by analyzing national prison data from the Bureau of Justice Statistics. The paper summarizes data on jurisdiction, sentence length, citizenship, and race of private prison inmates, and it summarizes the race and gender of correctional officers employed in private prisons. Results reveal differences between private and public prisons with respect to both prisoners and workers. In particular, private prisons hold inmate populations that are disproportionately non-white, under federal jurisdiction, and serving short sentences; and they employ officers that are disproportionately female and black or Hispanic. These results suggest that private prisons do not simply replicate the practices of the public sector. Instead, private prisons rely on workers from historically marginalized groups to incarcerate

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relatively low-risk inmates. The findings raise two questions for future research. First, what is the process by which inmates are assigned to private (versus public) facilities? Second, what is the process by which women and minority correctional officers are relegated to work in the low-wage private prison market?

2. Prior research on prisoners and employees in private prisons

The modern private prison industry emerged in the US in the 1980s. The industry was powered by two forces: rising imprisonment rates and an ascendant market-oriented conservatism. Increasing reliance on prison as a form of punishment meant that the existing prison stock was inadequate to hold the growing population of prisoners (Blumstein and Beck, 1999). Reagan-era fondness for market solutions and disdain for big government led some jurisdictions to turn to the private sector to supplement their existing prison stock. Not only would private firms build the prisons, they would also operate them. This move allowed harsh state punishment to continue while giving the appearance of shrinking (or slowing growth of) government bureaucracy.

Despite a wealth of research comparing the cost and quality of private and public prisons, few studies have examined the occupants of private prisons—both prisoners and employees. There are several exceptions. The earliest is a report by Austin and Coventry (2001), published for the Bureau of Justice Assistance. It included a systematic comparison of inmates and staff at public prisons (in 1995) and private prisons (in 1997) in the US. The following year, Camp and Gaes (2002) published an article in *Criminology & Public Policy* that summarized staffing data from a 1999 survey of private prisons. And Blakely and Bumphus' (2004) article in *Federal Probation* analyzed staff and inmate data using a sample of private prisons in 1998 (representing 54% of private prisons). These studies offer some insights regarding who inhabits private prisons. The identity of prisoners and workers in private prisons deserves further study because of concerns regarding the quality of incarceration and employment at private prisons, as discussed below.

2.1. Private prison inmates

There is evidence that conditions for inmates in private prisons are inferior to those in state or federal prisons. Although not unambiguous (Feeley, 2014), recent research has found that inmates in private prisons receive unjust discipline (Mukherjee, 2014), are less likely to have a work assignment (Makarios and Maahs, 2012), have limited access to disease prevention programs (Makarios and Maahs, 2012), have more grievances (Lundahl et al., 2009), and are guarded by staff with less training and experience (Camp and Gaes, 2002; Lundahl et al., 2009).

Who decides whether an inmate is held in a private or public prison? The assignment process is opaque. At least one lawsuit claims that (in Oklahoma) the process of assigning inmates to equivalent private or public prisons is “arbitrary” (Tolan, 2016). Yet critics have long suspected that private prisons craft contracts that exclude high-cost inmates from private sector incarceration. While systematic data on contracts is not readily available (Tartaglia, 2014), reports from individual states offer evidence of this “skimming” (Friedmann, 2014). For example, private prison contracts in Arizona mandated that high-risk inmates or those with high medical needs were not to be sent to private prisons (Pranis, 2005). And in Minnesota, a private prison “did not accept any offenders over the age of 60 [...] or any prisoners with serious medical conditions or mental health disorders” (Duwe and Clark, 2013, p. 379). Such cost-related assignment criteria may influence the composition of private prison inmate populations. In practice, what types of prisoners end up in private prisons? Previous work and knowledge of the industry lead to expectations regarding inmates' jurisdiction, sentence length, citizenship, and race.

2.1.1. Jurisdiction

A given private prison may contract with multiple jurisdictions to hold prisoners. As such, they are likely to hold inmates for different levels of government (local, state, federal) and from different parts of the country. In extreme cases, speculative (or “spec”) prisons may be built in the hopes of eventually receiving inmates from some—any—jurisdiction (Taylor-Grover, 2012). Additionally, private prisons contract with the federal government to hold non-US citizens for immigration-related purposes (discussed further below). As a result, we should expect that the industry will hold proportionately more federal inmates and out-of-state inmates than do state prisons.

2.1.2. Sentence length

Private prisons are also likely to hold inmates serving shorter average sentences. Previous research has revealed a bifurcation in carceral responsibilities: the private sector has taken over a large share of low-security, community-based correctional facilities, while the public sector has retained a near monopoly over high-security confinement facilities (Austin and Coventry, 2001; Burkhardt, 2016). Because individuals' sentence length is correlated with prison security levels, we would expect that private prisons hold inmates serving relatively short sentences. In fact, there is some evidence that this is the case. Blakely and Bumphus (2004) found that prisoners in private prisons averaged 11 months of time served (compared to 28 months in the public sector).

2.1.3. Citizenship

Recent years have seen the private prison industry shift its focus to immigrant detention. From 2002 to 2010, the number of detainees held by private firms for Immigration and Customs Enforcement (ICE) tripled—from 4841 to 14,814. Private firms now

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