

Private Corrections Institute, Inc.

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POLICY BRIEF

PRISONER RAPE AND SEXUAL ABUSE IN PRIVATE PRISONS

Introduction

Rape and sexual abuse of prisoners is an unfortunate reality at all correctional facilities, both public and private. However, some research, as well as high-profile incidents and litigation, indicates that sexual abuse may be more prevalent at privately-run prisons and jails.

This may be due to the business model of the private prison industry, which includes cutting costs, particularly in the area of staffing, in order to generate profit. As a consequence, privately-operated facilities historically have had higher staff turnover rates than in the public sector. For example, a December 2008 [Senate Committee on Criminal Justice report](#) to the Texas legislature found that “During FY 2008 the correctional officer turnover rate at the seven private prisons was 90 percent (60 percent for the five privately-operated state jails), which in either case is higher than the 24 percent turnover rate for [state] correctional officers during FY 2008.” Higher turnover rates contribute to understaffing at private facilities. For example, New Mexico fined GEO Group [\\$1.1 million](#) in 2011 for understaffing the company’s Lea County Correctional Facility; the staff vacancy rate was over 20% for 12 of the 14 months studied.

Privately-run facilities with high staff turnover and understaffing rates may experience [higher rates](#) of sexual misconduct, as they have fewer experienced staff and lower staff-per-prisoner ratios, which result in less effective oversight and monitoring of the inmate population.

Research

A May 2012 [report](#) by the U.S. Department of Justice, Bureau of Justice Statistics, titled “Sexual Victimization Reported by Former State Prisoners, 2008,” examined survey data from former state prisoners under parole supervision related to sexual victimization during their most recent term of incarceration. According to the study, “Whether a facility was publicly operated or privately operated was an inconsistent predictor of victimization. While reports by male former state prisoners of staff sexual misconduct were higher in privately operated facilities (4.6%) than in state facilities (2.5%), reports by female former prisoners did not differ statistically between state and privately operated facilities. Rates of inmate-on-inmate victimization among women, but not among men, were lower in privately operated facilities than in state facilities.”

A June 2008 [report](#) by the U.S. Department of Justice, Bureau of Justice Statistics, titled “Sexual Victimization in Local Jails Reported by Inmates, 2007,” found that of the 282 jails surveyed, the Torrance County Detention Facility in New Mexico, operated by Corrections Corporation of America (CCA), had the highest rate of sexual victimization. In Torrance County, 13.4% of the prisoners surveyed reported an incident of sexual victimization – a rate more than four times the national average of 3.2%. Torrance County also had the highest reported rate of staff-on-inmate sexual victimization, at 7.0%, compared with a national average of 2.0%. CCA officials appeared before the Review Panel on Prison Rape on September 30, 2008 to discuss the jail’s excessively high rate of sexual victimization.

An August 2007 [report](#) by the U.S. Department of Justice, Bureau of Justice Statistics, titled “Sexual Violence Reported by Correctional Authorities, 2006,” included data on sexual violence reported at all state prison systems, 344 local jails and 46 privately-operated prisons and jails. The study found that private facilities had a rate of sexual violence of 1.91 incidents per 1,000 prisoner population in 2006, compared with a rate of 1.50 in federal prisons and 3.75 in state prisons. Thus, privately-operated facilities had a reported rate of sexual violence higher than federal prisons but lower than state prisons.

Notable Incidents

On March 30, 2012, the U.S. Department of Justice, Civil Rights Division, issued a [report](#) on the Walnut Grove Youth Correctional Facility in Mississippi, operated by the GEO Group, Inc. The report found, among other serious problems, that employees at the privately-operated facility were “deliberately indifferent to staff sexual misconduct and inappropriate behavior with youth. Further, staff fails to report allegations of staff sexual abuse to supervisors and State officials, as required by law.” The report further stated, “During our investigation, we found that staff sexual misconduct with youth in their custody occurred on a monthly basis, at a minimum,” and the facility had a “pervasive level of brazen staff sexual misconduct....”

In 2009, the State of Hawaii [removed](#) all of its female prisoners from CCA’s Otter Creek Correctional Center in Kentucky following a sex scandal in which at least six CCA employees were charged with rape or sexual misconduct, including the facility’s chaplain. The State of Kentucky also removed its female prisoners, replacing them with male inmates. According to news reports, CCA had failed to report at least one incident involving staff sexual misconduct. The number of reported sexual assaults at Otter Creek in 2007 was four times higher than at the state-run Kentucky Correctional Institution for Women. The sexual misconduct at Otter Creek resulted in a number of lawsuits filed against CCA; in at least [one case](#), CCA moved to dismiss the lawsuit by claiming a female prisoner who had been sexually abused had not filed a formal grievance with prison staff concerning the alleged incident.

Notable Litigation

In October 2011, the ACLU filed a class-action [federal lawsuit](#) against CCA on behalf of three female immigration detainees who were sexually abused at the company's T. Don Hutto Family Residential Center in Texas by CCA guard Donald Dunn. Dunn had pleaded guilty to federal charges of deprivation of the civil rights of a person in custody; he admitted touching female immigration detainees "in a sexual manner" between December 2009 and May 2010, when he transported them to a bus station or airport terminal in a prison van. He was sentenced to ten months in federal prison. The lawsuit states that although CCA was required to follow ICE rules that specified a female guard must accompany female prisoners, CCA failed to do so.

On February 16, 2012, a federal jury in New Mexico [awarded](#) \$3 million to three female inmates who were raped by Anthony Townes, a guard at the Camino Nuevo Women's Correctional Facility in 2007, which was operated by CCA at the time. The jury held CCA liable for negligent supervision, and punitive damages were awarded against both Townes and CCA. Townes had previously been convicted of rape and sentenced to 18 years in prison.

On December 5, 2011, the ACLU [filed suit](#) on behalf of former prisoner Tanya Guzman-Martinez, a transgender woman who was held at CCA's Eloy Detention Center in Arizona when she was sexually abused by CCA guard Justin Manford, who masturbated into a cup and then "demanded that she ingest his ejaculated semen." Manford was charged in June 2010 with attempted unlawful sexual contact. The federal lawsuit also accuses CCA of failing to protect Guzman-Martinez from a second sexual assault by another prisoner.

TransCor, a subsidiary of CCA, agreed to pay [\\$5 million](#) in 2002 to settle a lawsuit filed by two prisoners, Cheryl Schoenfeld and Annette Jones, who were sexually abused by two TransCor guards. One of the guards, Michael Jerome Edwards, forced Schoenfeld to expose her breasts and perform oral sex, and penetrated her vaginally with a flashlight and gun barrel. Three other prisoners testified that Edwards pulled over and threatened to shoot them, saying he would claim they were trying to escape. Edwards had been accused of sexually assaulting a female prisoner he transported a month earlier, but CCA claimed it had "misfiled" a complaint filed by that prisoner. Edwards was convicted of sexual assault and sentenced to 12 years.

Prison Litigation Reform Act

The [Prison Rape Elimination Act](#) (PREA) was enacted by Congress in 2003 with the laudable goal of reducing incidents of prisoner rape and sexual abuse. Proposed PREA standards were developed by the National Prison Rape Elimination Commission in 2009, and the final standards were released in May 2012. Although the PREA standards contain provisions related to their applicability to privately-operated facilities, there is no direct enforcement mechanism to ensure compliance with the standards by private prison companies. States that fail to comply with the standards face the loss of 5% of their federal prison funding; however, there is no comparable sanction for privately-operated facilities. CCA's then-general counsel, Gus A. Puryear IV, was a commissioner on the National Prison Rape Elimination Commission, but [missed half](#) of the Commission's eight public hearings.