

The Private Detention Facilities *Moratorium Act*



Sponsor: *Rep. Angelica Rubio*

Nationally, and in New Mexico, the number of people incarcerated is declining. Despite this, private prison contractors continue to pursue incarceration for profit, while making false promises that state and local economies would benefit from privatization. With a long sordid history of serious and chronic violations in privately-run facilities, private prison corporations continue to advance their profiteering while failing to fix abundant documented problems. Given the financial and human costs of privatized detention, now made more acute by a global pandemic, it is time to end the costly business of private detention in New Mexico.

This proposed legislation would prohibit the operation and management of a detention facility in New Mexico by a private contractor – it would make private incarceration illegal. No state or local government entity could enter into new contracts, renew, extend, or expand any existing agreements that now exist between private contractors and New Mexico government bodies.

How did we get here?

In the 1990s, New Mexico witnessed one of the nation's biggest surges in the use of private prisons. The shift to private prisons came on the heels of the state's [worst prison riot](#),¹ and one of the worst in the nation. Evidence of corruption in the state prison system,² promises of reform, rural economic development, and cost cutting fed the private prison building boom. New facilities were built under the untested pretext that rural prison hosting would drive economic growth and create jobs. In 2017, New Mexico incarcerated 53% of the state's prison population in private facilities, while the nationwide average was 8.2%. Today, New Mexico [remains the state most reliant on private prisons](#).³ Privatized detention facilities in New Mexico are operated not only for counties and the Department of Corrections, but also for Immigration and Customs Enforcement and the U.S. Marshals.

Why do we need this bill?

The early promises of safer and improved conditions, cost savings, and economic development for New Mexico were not realized by privatization. Private prison contractors:

- are more expensive, overcharging the state for their services, while local economies suffer demonstrably from the economic drains of these facilities;
- maneuver in and out of contracts to try to maintain their profits, fail to pay fines by the state, and New Mexico has been unable to hold these corporations accountable;
- are responsible for egregious abuses of human and civil rights, creating poor and dangerous conditions;
- find other populations to detain, such as immigrants, and will continue to drive mass incarceration.

The current global pandemic makes these problems and violations more acute, and reveals the major public health threat created, and exacerbated, by the negligence of these for-profit businesses.

1. Phaedra Haywood, "Devastating Penitentiary Riot of 1980 Changed New Mexico and Its Prisons," Santa Fe New Mexican, February 1, 2020.

2. Roger Morris, *The Devil's Butcher Shop: The New Mexico Prison Uprising* (Albuquerque, N.M.: University of New Mexico Press, 1988).

3. Kara Gotsch and Vinay Basti, "Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons" (Washington D. C.: The Sentencing Project (TSP), August 2, 2018).

Private Prisons are Expensive:

Between 2001-2007, state spending on private prison contracts increased 57%. In 2007, the Legislative Finance Committee found that private prison companies [charged New Mexico higher per diem rates](#) than other states.⁴ In 2012, private prison contractors GEO Group and Corrections Corporation of America (now CoreCivic) incurred \$1.6 million in penalties in New Mexico for understaffing, contract violations, and holding inmates beyond their release date. New Mexico had to sue these private contractors for unpaid penalties and fines.

Private Prisons are Associated with Negative Economic Impacts:

Small rural towns hosting new prisons experience more unemployment, greater poverty, lower median value of housing, fewer housing units, lower household wages, fewer non-agricultural jobs, fewer youth residents, and [less growth than small towns that did not host prisons](#).⁵ In the two New Mexico counties with the highest number of private prison beds, Cibola and Otero County, the establishment of prisons there produced [no positive impact on employment rates](#).⁶ It is a myth that private prisons provide jobs to rural counties. What few jobs do arrive are of poor quality and often do not go to local communities. In fact, much of the work to maintain facilities is done by those imprisoned or detained for little to no pay, benefiting private prison contractors but not our communities.

Private Prison Contractors are not Accountable to New Mexico:

Nationwide private prison corporations are destabilized financially. In New Mexico, several times profit losses prompted these companies to end their contracts within the state, often on short notice and with little transparency. These businesses also take measures to hide their wrongdoing from the public, including violating our state's robust open government laws. Private prison company CEO's recently lied to Congress about mishandling of COVID-19 and abusive behaviors in their facilities. These companies' deceptiveness is a danger to our state.

Private Prisons Contractors Commit Civil and Human Rights Abuses:

In New Mexico, Management and Training Corporation (MTC), CoreCivic and GEO Group lost, settled out of court, or are currently defendants in major lawsuits filed by plaintiffs seeking justice for wrongdoing that ranges from violations of labor laws to wrongful death. Private detention facilities create worse conditions as a result of cost-cutting measures such as understaffing, lack of adequate medical care, and lack of access to basic needs.

Private Prisons are a Public Health Threat:

Private prison contractors rely on imprisoning the greatest number of people possible, while cutting their costs to maximize profit. Often leading to violations of [CDC guidelines](#),⁷ these cuts result in inadequate, and in some cases wholly inappropriate, responses to hinder disease spread.⁸ This includes not providing basic hygiene supplies such as soap, not testing, and continued [transfers](#), including of individuals showing [COVID-19 symptoms](#). This represents an immediate threat to the public health of already resource-strapped rural New Mexican communities in the midst of a global pandemic. As of October 2020, 97% of all cases of COVID-19 in New Mexico prisons and detention centers were in privately-run facilities. At the onset of the COVID-19 pandemic, MTC sought to back out of their contract unless Otero County could work with them to increase the detained population despite dangers of an outbreak. There is an inherent conflict between these corporations' need to make money, and New Mexico's responsibility to the public health of its communities.

People Over Private Prisons-New Mexico (POPP-NM) is a statewide coalition of organizations and individuals who seek to end the private incarceration and detention of individuals in New Mexico.

For more information go to www.poppnm.org

4. Susan Fleischmann et al., "Corrections Department Review of Facility Planning Efforts and Oversight of Private Prisons and Health Programs," Report to the Legislative Finance Committee (Albuquerque: New Mexico Corrections Department, 2007).

5. Ryan S King, Marc Mauer, and Tracy Huling, "Big Prisons, Small Towns: Prison Economics in Rural America" (Washington D.C.: The Sentencing Project (TSP), 2003); Terry L. Besser and Margaret M. Hanson, "Development of Last Resort: The Impact of New State Prisons on Small Town Economies in the United States," Journal of the Community Development Society 35, no. 2 (2004): 1-16; Tracy Huling, "Building a Prison Economy in Rural America," in Invisible Punishment: The Collateral Consequences of Mass Imprisonment, ed. Marc Mauer and Meda Chesney-Lind (New York: New Press, 2003), 221-39.

6. <https://avid.chihuahuan.org/2020/07/22/nm-rural-prison-hosting/>.

7. CDC, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," Centers for Disease Control and Prevention (CDC), March 23, 2020.

8. Mica Rosenberg, Kristina Cooke, and Reade Levinson, "U.S. Immigration Officials Spread Coronavirus with Detainee Transfers," Reuters, July 17, 2020.