

# **For-Profit Prisons: How Lobbying Has Affected the Way America Houses Prisoners**

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Abstract

*There seems to be limited research and understanding as to why for-profit prisons exist in the United States. The initial selling points used to sell private prisons to states and counties were that they would reduce recidivism and cost. Recent peer-reviewed studies have found, however, that neither are the case. This could lead one to ask why for-profit prisons are still used in America. That is what I hope to answer in this research paper. After research and analysis of campaign donations by the two largest for-profit prison corporations (collected from the National Institute on Money in State Politics) and changes in the population of prisoners held in for-profit facilities (collected from the Bureau of Justice Statistics), I found that the states that have seen an increase in the number of prisoners in for-profit facilities have a higher mean number of dollars donated to elected officials. This seems to indicate that decisions regarding incarceration may have more to do with campaign donations than justice.*

## Introduction

One of the major divides in modern American politics is the question of whether or not to privatize certain services that traditionally have been provided almost exclusively by the government. State prison systems comprise one of the largest public services that has recently experienced one of the more pronounced expansions of privatization. Prisoners throughout the United States are housed in private prisons as the result of contracts between these companies and the states. Other research into this topic has demonstrated that private prisons do not perform as well as public prisons in spite of the claims of their advocates.

I initially researched the question of whether private prisons achieved lower recidivism rates (the tendency of someone who has been released from prison to reoffend) compared public prisons. I discovered that this was a well studied question, and almost every published peer reviewed study determined there is a higher recidivism rate among inmates housed in a private prison compared to those released from a public prison. Two studies that illustrate this are from Andrew Spivak and Susan Sharp (2008) and Grant Duwe and Valerie Clark (2013). Both studies found that prisoners housed in private prisons have higher rates of recidivism.

I changed the scope of the research as I did not wish to catalogue others' research. I also did not wish to research the question of why private prisons might have a higher recidivism rate. Instead I researched why private prisons in the United States have continued to exist and grow in some parts of the United States in spite of these results. I decided to research the effects lobbying and election spending might have had on the policy of prison privatization. Private prison corporations can donate an unlimited amount of money to promote the election of candidates who would introduce or expand the use of private prisons in their state.

Several researchers and editorialists believe money is a corrupting influence in most elections and legislation. The research and experience of observers suggests that large corporations have a disproportionate impact on policy making, and many policies that have little public support and which are not supported by the facts are passed into law. It would seem that campaign donations and lobbying have influenced the expansion and development of private prisons in spite of underperformance compared to public prisons.

## **Literature**

In order to explore the question of how private prisons have increased their power and influence in the modern era, the following literature has been selected and sorted into four groups:

- 1. History of Private Prisons in the United States**
- 2. Private Prison Performance Compared to Public Prison Performance**
- 3. Why Private Prisons are Still Common**
- 4. Why Private Prisons Have Persisted.**

### **History of Private Prisons in the United States**

Private prisons have been expanding in the last 35 years, with the first private prison company opening its doors in 1983. Corrections Corporation of America (CCA), now known as CoreCivic, laid the foundation for other private prison companies. CoreCivic is still one of the largest private prison companies in the United States. Thomas Beasley, one of the founders of CCA, once remarked in an interview with Erik Larson of *Inc magazine* that "you just sell [private prisons] like you were selling cars or real estate or hamburgers."

In 2011, *Morning Edition*, a show which airs on *National Public Radio* (NPR), discussed how many small towns seemed to want to be a prison town due to the success of the private prison industry at that time. Around this time that the episode first aired, the prison population in

the United States was starting to decline. Many of these towns needed to take out a loan to bring a private prison to town. Now, however, some of those towns are suffering as a result of the private prisons that moved in.

As a result of a lack of business, GEO Group, the owner of a facility in Littlefield, Texas, closed that location. Littlefield lost over one hundred jobs when the prison closed its doors, in addition to a significant loss of funds, among other hardships. The small farming town took out a loan of 10 million dollars to build the facility, a loan that GEO Group is not obligated to help pay back.

Geis, Mobley, and Shichor (1999) wrote about Charles Thomas, one of the co-authors of the first major study comparing private and public prisons in 1999, served as a Trustee for Prison Realty Trust (PRT) as it merged with Corrections Corporation of America (CCA). This is a conflict of interest because Thomas stood to earn large sums of money if CCA prisons were expanded. The report Thomas co-authored painted private prisons in a positive light and reported that private prisons perform better than public prisons.

### **Private Prison Performance Compared to Public Prison Performance**

In 1998 the Justice Department of the United States investigated a CCA prison in Ohio that had reported several stabbings, escapes, and killings within its walls. The investigation found that not only were the guards were inexperienced and undertrained, but the prison accepted prisoners that required maximum security observation, prisoners that they were ill prepared to hold. Another Department of Justice report from 2004 found that a private juvenile detention center in Maryland had widespread abuse of inmates by guards and underreporting of violence in the facility.

Proponents of private prisons argue that they are superior due to lower recidivism rates. As a result, the question of private prison recidivism rates compared to public prisons has been well researched. As mentioned earlier, Spivak and Sharp (2008) studied this question, they found that the group of prisoners held in a private prison had a higher rate of recidivism than those held in a public prison. Duwe and Clark (2013) found that the group of prisoners held in the private prison had a higher recidivism rate than those held in the public prison.

### **Why Private Prisons are Still Common**

Private prison companies make a lot more money than they would like the public to believe. According to CCA's annual report to shareholders, they made a just under 1.8 billion dollars in 2015 which was about one-hundred-fifty thousand dollars greater than their 2014 revenue. According to a 2011 report from the American Civil Liberties Union (ACLU), private prison companies have such massive revenues because of the increased number of prisoners being incarcerated in the United States.

One common practice of private prisons is to include clauses in the contracts they negotiate with the states in which they operate. These clauses can sometimes require states to keep a private prison at no less than 97% capacity. In 2011, Bob Ortega, a reporter for Arizona Republic, wrote of one case surrounding a private prison in Arizona that had a 97% capacity clause. The prison threatened the Arizona government with a 10 million dollar lawsuit if they did not uphold the clause. The case was settled out of court with Arizona paying a fine of 3 million dollars.

### **Why Private Prisons Have Persisted**

One reason private prisons may be still in use is related to campaign donations and lobbying. Patrick Flavin (2015) wrote that states with stricter campaign finance laws tend to

promote policies that increase public welfare spending. He also found evidence that stricter campaign finance laws tend to reduce the incentive of elected officials to respond almost exclusively to wealthier constituents and donors because larger donations are no longer as large a proportion of their funds. This tends to lead to an increase in the promotion of the policy interests of more disadvantaged populations.

In Martin Gilens 2012 book, he writes that policymakers in the United States make legislation to the preferences of the economically advantaged. Gilens even claims that the United States is closer to a plutocracy (rule by the wealthy) than a democracy. Gilens and Benjamin Page (2014) worked together to further examine the effects of money in politics. Their research found that the economic elites and those that hire lobbyists have a more substantial impact on policy in the United States while average citizens have had almost none.

Campaign donations, however, are not the only way private prison corporations could influence elected officials, private prison corporations also hire lobbyists. Michael Cohen (2015) of the *Washington Post* wrote that private prisons have a strong lobby. Cohen wrote about how over 25 million dollars have been spent by the private prison lobby since 1989. An example of possible corruption due to a lobbyist Cohen points out quickly in the article is United States Senator Marco Rubio (R-FL). Rubio, when he was speaker of the Florida House of Representatives awarded GEO Group a 110 million dollar contract after he had hired Donna Arduin, a former trustee of GEO Group real estate trust, as an economic advisor.

In an investigation featured on NPR's *Morning Edition* in 2010, Laura Sullivan discussed that the American Legislative Exchange Council (ALEC), which has pushed laws that expand prisoner populations, has CCA as a corporate member. Arizona sparked a controversy that mandated police officers to detain any individuals that could not prove that they were a citizen of

the United States or in the United States legally. This is important to know because CCA is starting to look into immigrant detention as a possible future venture. However, CCA severed ties with ALEC the following year.

## **The Data**

The data that was collected and analysed for the research originated from the National Institute of Money in Politics and the Sentencing Project, who obtained their data from the Bureau of Justice Statistics. The data collected from the National Institute of Money in Politics regards campaign donations to elected officials. Only the donations made to candidates that won their elections was collected. This was because candidates who lost their elections do not have the authority to approve or disapprove the implementation of private prisons. Only donations collected from CoreCivic (CCA) and GEO Group were collected. This is because these are the two largest private private prison corporations in the United States. Together they house more than half of the private prison population in the United States. The website for the National Institute of Money in Politics where this data was collected is called [www.followthemoney.org](http://www.followthemoney.org). On this site, anyone can search for campaign donations to a candidate or candidates from any group, corporation, or organization.

The Sentencing Project is a research group that advocates for policies it believes will lower the incarceration rate in the United States. The Sentencing Project wrote about the change in private prison populations by state from 2000 to 2016. This also includes the total percent of that states incarcerated population in a private prison and the total percent change in each state. The data presented by the Sentencing project was collected from the Bureau of Justice Statistics of the Department of Justice.

## **The Analysis**



The first way the data was analysed was to see the mean amount of dollars donated to the campaigns of elected officials in the states that experienced increases, decreases, and stagnant rates of private prison populations from 2000 to 2016. See figures 1 and 2.

Figure 1

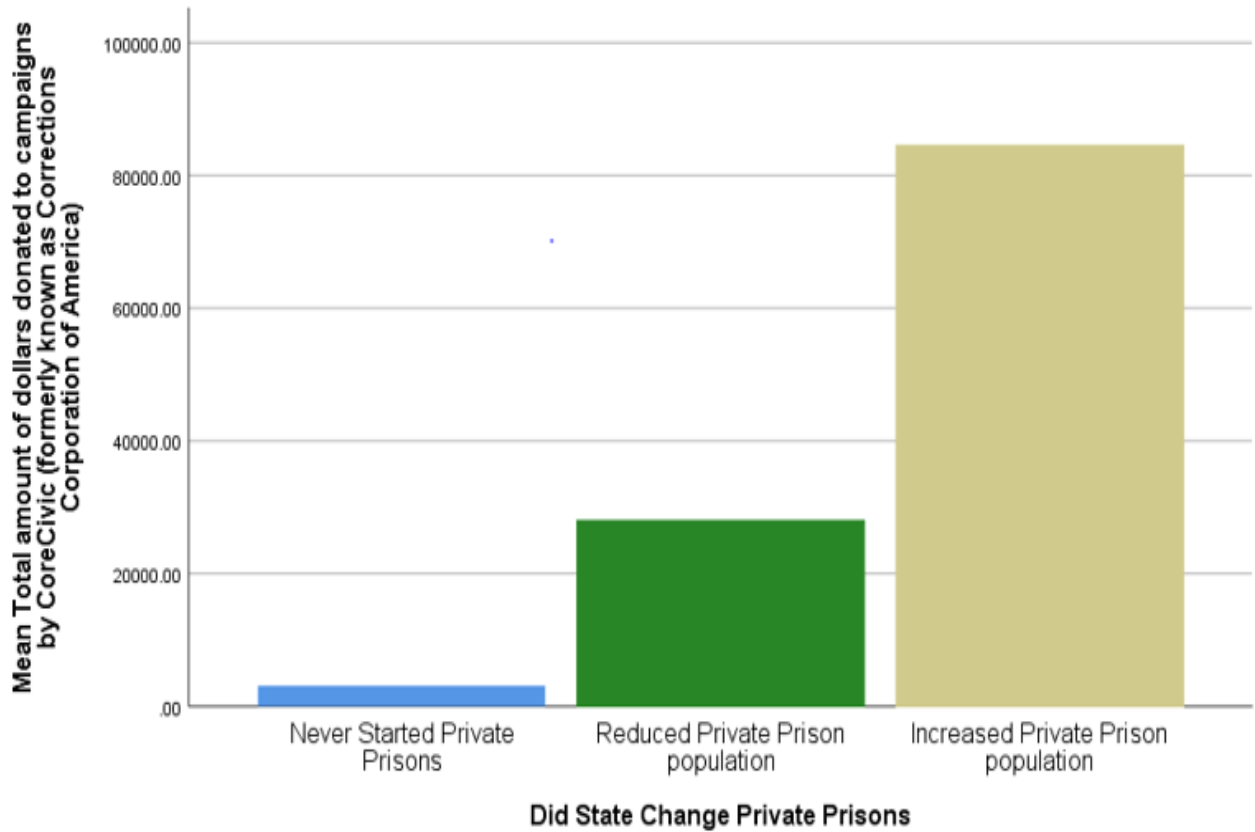


Figure 2

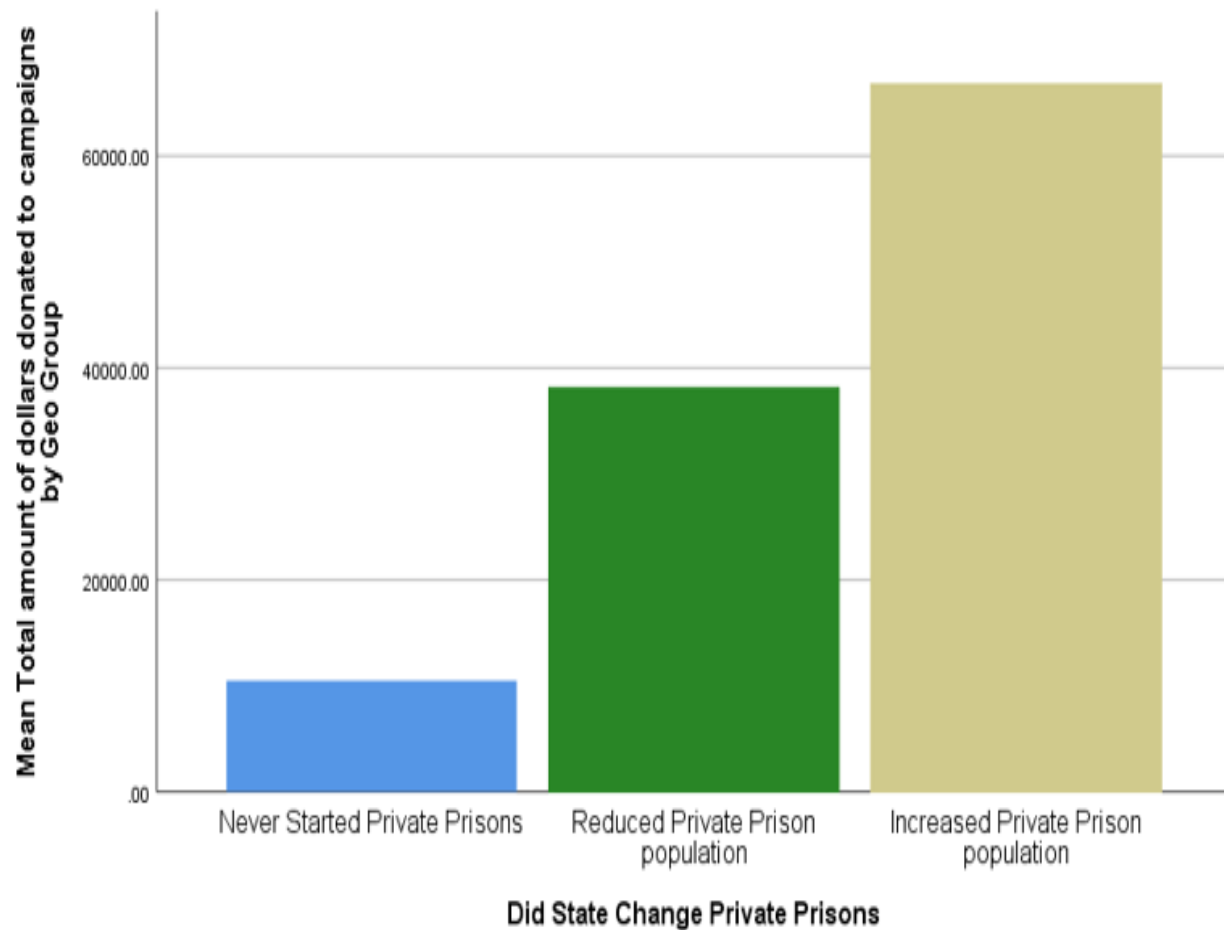


Figure 1 displays the average amount of dollars donated to elected officials by CoreCivic (CCA). These states are separated into three categories: The blue bar on the left represents states that had zero private prisoners in 2000 and zero in 2016, the green bar in the center represents states that had fewer private prisoners in 2016 than in 2000, and the beige bar in the right represents states that have more private prisoners in 2016 than in 2000. Table 2 is a bar chart measures the average amount of dollars donated to elected officials by GEO Group. The states are divided into the same categories and the bars are colored the same. Both tables demonstrate that the states that experienced an increase in the population of prisoners held in private facilities were receiving a larger average amount of campaign donations than other states.

The second way the collected data was analysed was to measure the correlation between the amount of dollars donated in each state and the total percent change in private prison populations.

Figure 3

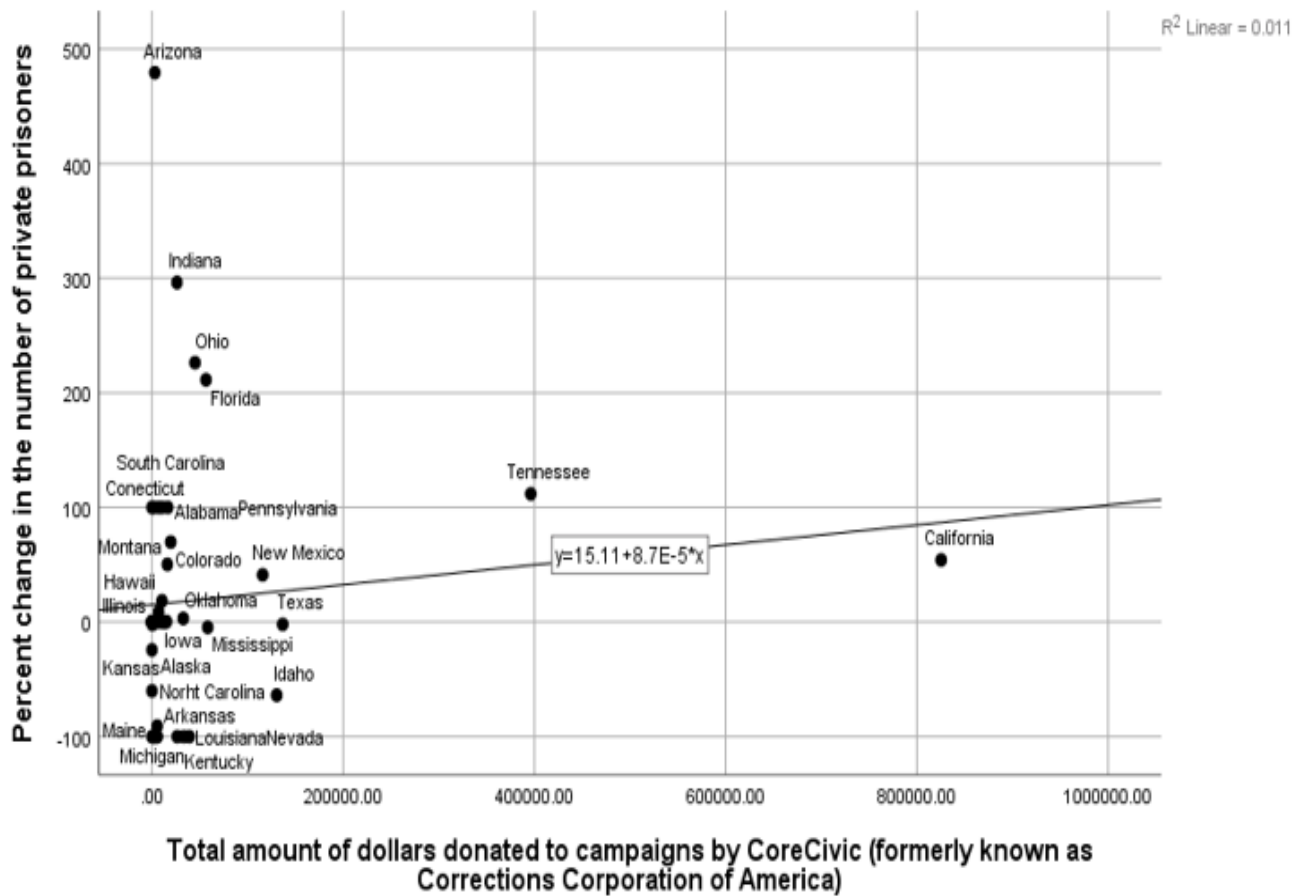


Figure 4

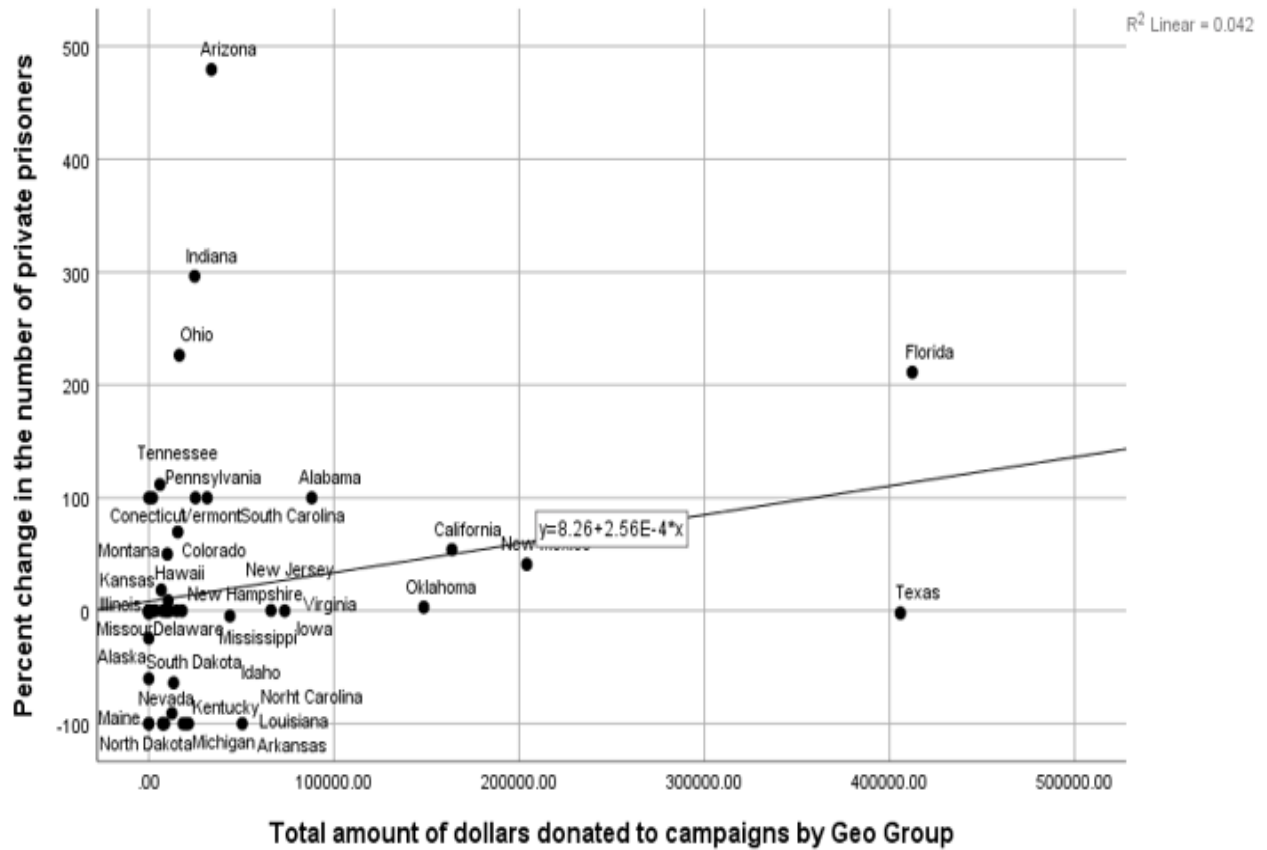


Figure 3 is a scatter plot graphs the relationship between the percent change in private prison populations by state and the total amount of dollars donated to elected officials campaigns by CoreCivic (CCA). Figure 3 demonstrates a positive correlation between private prison populations increasing in states that have received more dollars in donations. Figure 4 is a scatter plot that measures the percent change in private prison populations by state and the total amount of dollars donate by GEO Group to those states. Like in Figure 3, Figure 4 demonstrates that there is a positive correlation between population increases in private prisons and campaign donations.

Correlation does not mean causation. However, referring back to the earlier mentioned 2014 study by Gilens and Page that demonstrates that governmental and legislative action overwhelmingly favors the desires of the wealthy and companies that hire lobbyists. With that in

mind, a positive correlation between private prison population change and campaign donations becomes more meaningful.

### **Conclusion**

Overall, the research findings suggest that private prison growth in the 21st century has been significantly impacted by campaign donations. As Gilens and Page wrote in 2014, legislation is typically aimed to the wills of the wealthy elites and large companies. The states that have seen an increase in private prison populations have had a higher average amount of dollars donated to the campaigns of elected officials. There is a positive correlation between total campaign donations and private prison population increases.

The exact reason or reasons private prisons have not only persisted in the United States, but have grown in this century, is difficult to answer with certainty. However, it seems that one significant factor in the answer is campaign donations to elected officials.

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