RANKING ASSET MANAGERS REPORT

Private Prisons, Immigrant Detention and Investment Risks

PART ONE

Our Mission

The **American Federation of Teachers** is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

This report has been updated as of August 13, 2018.

Introduction

Since 2013, the American Federation of Teachers has periodically released "Ranking Asset Managers" reports. These reports have provided information, for the purpose of transparency and education, for pension fund trustees and managers.

This special edition report is part 1 of two reports that the AFT will be issuing to highlight the investment risks to pension funds and other investors whose portfolios contain exposure to the private prison industry or contractors who provide services to immigration detention centers. Since May 2018, when Attorney General Jeff Sessions conveyed plans to prosecute immigrants crossing the U.S.-Mexican border, making it official U.S. policy to routinely separate children from their parents, AFT pension trustees and members have been inquiring about public pension funds that may be invested in companies that profit from detention facilities that house separated immigrant families and the risks those investments pose to members' retirement security.

In response, the AFT is issuing this two-part report to inform trustees about the top publicly traded companies that are profiting from the detainment of separated families or the incarceration of mass numbers of people—disproportionately people of color—in private prisons. Public pension funds invested in companies identified in this report may hold direct shares, or may have investments through index funds, private equity funds or hedge funds. Part 1 of this report identifies investment managers, namely hedge fund managers, who invest millions of dollars in companies that profit from private prisons and detention facilities. Part 2 of this report will identify an expanded list of investment managers who invest in private prison companies that profit more broadly from mass incarceration of communities of color.

Since the Trump administration's "zero tolerance" immigration policy took effect, in May 2018, more than 2,000 children have been separated from their parents who are lawfully seeking asylum and/or refugee status in the United States. This policy, which the federal courts have now declared violates the law, has been carried out by U.S. Immigration and Customs Enforcement, which contracts with publicly traded companies to operate and provide services for detention facilities that house separated immigrant families. Despite the federal court-ordered July 26 deadline to reunite all families, hundreds of children are still being detained,[1] and the administration has announced plans to continue to detain immigrants in detention centers as families.[2]

Hedge funds invest millions of dollars in companies that profit from private prisons and detention facilities.

The AFT, among many others, believes that this immigration policy is unjust and inhumane. In June 2018, the AFT filed a complaint with the United Nations Human Rights Council, asking the council to condemn the Trump administration's policy of separating families and call for its immediate revocation. The complaint described the Trump administration's immigration policies as violating basic human rights and causing deep and traumatic harm to children and parents, and asked the UNHRC to help ensure that migrant families who have been separated have equal and effective access to justice.[3]

AFT members and partner organizations have taken action—not only to demand an end to family separation but also to call attention to the role of the private prison industry and other publicly traded companies in this crisis, and to raise these issues with their investors, including public pension funds. The Trump administration's family separation policy clearly violates international human rights norms and conventions, and companies that seek to profit from contracting with the federal government to run or provide services to detention centers do so without any consideration of fundamental human rights issues.

Even prior to May 2018, ICE detention centers have been accused of abusive practices, legal violations and reckless fiscal management.[4] Family detention facilities have been accused of wrongfully medicating children and of child abuse and neglect,[5] and former detainees have shared stories of sexual abuse while in ICE custody.[6] Additionally, the Trump administration has been less than transparent with respect to how many children have been separated from their families, their status and whether they have been reunited, prompting the introduction of legislation in the New York Senate requiring any child welfare agency with custody of minors to report comprehensive information to the state every 15 days.[7]

These headline risks and the lack of transparency are factors that have increased the risks posed by investments in companies that conduct business with ICE and private prisons. The family separation crisis is not only a humanitarian issue but an investment issue, to which public pension fund trustees should give careful consideration.

Accordingly, part 1 of this report will:

1. Identify the top publicly traded companies that profit from family separation, and identify the associated investment risks;
2. Provide a "watch list" of asset managers that hold significant shares in these companies;
3. Call on public pension funds to examine their direct and indirect investments in these companies and assess the risks they pose to the fund; and
4. Provide a roadmap for pension fund trustees to take action to mitigate these investment risks, including describing the steps some public pension funds have already taken to eliminate their exposure to family detention profiteers.

Private prison companies that build and operate facilities used to detain immigrants, or provide supportive services to those facilities, reap the benefits of the Trump administration's "zero tolerance" policy. As a recent *New York Times* op-ed by New York City Comptroller Scott Stringer and community organizer Javier Valdes put it, "This industry has turned human suffering into a billion-dollar business."[8]

Publicly traded companies that operate or provide services to immigrant detention facilities include:[9]

- **General Dynamics (GD)**, one of the country's top defense contractors, which provides case management services to youth detention centers. Although General Dynamics' core business is not the operation of private prisons, it is included because of its contracts with migrant shelters.[10]
- **CoreCivic (CCA)**, formerly Corrections Corporation of America, the nation's largest private prison company, which owns and operates eight immigration detention centers, including family detention centers.
- **GEO Group (GEO)**, a private prison company that operates family detention centers.

Earlier this year, the Center for Popular Democracy released a report, "Bankrolling Oppression: How Wall Street Companies Finance the Private Prison and Immigrant Detention Industry,"[11] identifying the following Wall Street firms that provide financing to CoreCivic and GEO Group:

- Wells Fargo
- JPMorgan Chase
- Blackrock

While these firms do not directly provide services to facilitate the "zero tolerance" policy, their financial support enables private prison companies to operate. Public pension funds wishing to assess their exposure to the private prison industry or raise concerns with companies involved may choose to include these financial firms in their assessments, in addition to the private prison and immigrant detention companies listed above.

> "This industry has turned human suffering into a billion-dollar business"

The private prison industry not only profits from detaining immigrant families, it also profits from mass incarceration of black and brown people in the United States. Some of the same companies that we identify in this report as playing key roles in the family separation policy are also responsible for fueling mass incarceration of people in communities of color—communities where AFT members live and work.

In February 2017, Attorney General Jeff Sessions issued guidance to end the Obama administration's policy to phase out private prisons that disproportionately incarcerate black and brown people.[12] Despite the evidence that these private prisons are significantly more dangerous for inmates, compared with government run facilities,[13] the Trump administration continues to back policies to expand the use of private prisons. Part 2 of this report will examine the role of the private prison industry in mass incarceration more closely and the companies that fund and profit from the Trump administration policies.

Many large institutional investors, including public pension funds, have millions of dollars invested in these companies, either through direct holdings of company shares, or indirectly through hedge funds or other types of investments. Since the "zero tolerance" policy took effect, some pension funds have acknowledged the significant economic risks that investments in the private prison industry pose, including headline and societal impact risks. Increasingly, pension funds are taking steps to review their portfolios for these risks and, in some cases, choosing to divest from the private prison industry.

The hedge fund industry in particular has invested billions of dollars in General Dynamics, CoreCivic and GEO Group, and many pension funds are therefore exposed to the industry not just through direct ownership of shares but also via hedge fund and other investments. This report creates a watch list of asset managers that are invested in these three companies, and urges pension funds to review their portfolios for exposure to asset managers included in this report and to consult our watch list when making asset allocation decisions. The final section of this report contains a list of recommended steps for public pension funds to take to limit their exposure to the private prison industry.

Fiduciary Arguments for Divestment

It is well within a public pension fund trustee's scope of fiduciary responsibility to consider the legitimate risks associated with the investments in the private prison industry and immigrant detention centers, and to consider whether to divest entirely, assuming other investment options offer comparable or better risk-adjusted returns.

Pension funds can also consider noneconomic secondary factors in making investment decisions; thus, consideration of the humanitarian impacts of family separation will not violate the trustees' fiduciary obligations, provided that (1) the collateral objectives are subordinate to the primary economic objective of retaining qualified managers who will provide competitive, risk-adjusted returns, and (2) the consideration of collateral factors leads to the retention of investment managers who are equivalent, from a qualification and performance standpoint, to other managers available to the plan.

> It is precisely this vulnerability to political changes that makes investments in the industry risky.

General Dynamics, GEO Group and CoreCivic pose clear risks to investors. These companies rely on incarcerating people to turn a profit and, therefore, have an incentive to forgo spending to ensure the health and safety of those incarcerated in order to increase payouts to shareholders and executives. A 2016 report from the Justice Department's inspector general revealed that privately operated federal prisons are more dangerous than federally managed prisons, with higher rates of assaults.[14] And because private prison companies do not have to respond to requests for information under the Freedom of Information Act, it is difficult for investors—and the public—to access clear information regarding conditions and possible abuses.[15]

Perhaps because the private prison industry has a record of abuses, a few states—Illinois, Iowa and New York—

have passed legislation banning private prisons, and under the Obama administration the Department of Justice announced that it would stop housing federal inmates in private prisons[16]—a decision that was reversed in 2017 by the Trump administration.[17] **It is precisely this vulnerability to political changes that makes investments in the industry risky.** As Stringer and Valdes put it in their recent *New York Times* op-ed:

> "These companies have a financial interest in perpetuating the inhumane 'zero tolerance' policies whose consequences we now see on the front page of the news each day. Consequently, as an investment, they're at the whims of a seesawing political climate."[18]

In recent years a number of pension funds have taken steps to limit their exposure to the private prison industry:

- In July 2018, New York State Comptroller Thomas DiNapoli, the sole trustee of the New York State Common Retirement Fund, announced that he had approved an updated policy on restrictions on private prison investments that applies to all asset classes and resulted in the elimination of all direct holdings in private prison companies by the fund.[19]

In 2017, the New York City Pension Funds became the first U.S. public pension fund to fully divest from the private prison industry.

- In July 2018, after California teachers attended the California State Teachers Retirement System (CalSTRS) investment committee meeting and submitted a petition to both major California public pension funds to express concerns over the pension fund's investments in companies profiting from immigrant detention, CalSTRS announced that it would be evaluating the risks associated with private prison holdings to determine if the pension fund should divest from two private prison companies.[20]
- Nashville (Tennessee) City Council members also voted in favor of a nonbinding resolution to divest from private prison holdings.[21]
- The Chicago Teachers Pension Fund is currently examining its portfolio for exposure to the private prison industry.
- In 2017, the New York City Pension Funds became the first U.S. public pension fund to fully divest from the private prison industry, citing concerns over allegations of human rights abuses in the industry.[22]
- Later in 2017, the Philadelphia Board of Pensions and Retirements[23] and the Cincinnati City Council also voted to divest from private prison holdings.[24]

Public pension funds that, to date, have not taken steps to review their portfolios for exposure to the private prison industry should consider taking actions similar to the pension funds outlined above. For more specific recommendations for pension fund trustees, see "How Pension Fund Trustees Can Take Action".

Hedge Funds and Private Prisons

Hedge funds are among the largest funders of the private prison industry. The lists of top institutional investors in CoreCivic, GEO Group and General Dynamics all contain multiple hedge fund managers, along with other asset managers. In fact, this analysis reveals 26 asset managers that own approximately $10 million worth of shares or more in at least one of these three companies; altogether, these 26 asset managers own more than $4 billion worth of stock in CoreCivic, GEO Group and General Dynamics, as of the most recent publicly available Securities and Exchange Commission filings.[25]

In the three months after the election of Donald Trump, the share prices of CoreCivic and GEO Group—which together own over 80 percent of private prison beds[26]—

doubled.[27] Trump's campaign rhetoric signaled to Wall Street that there would likely be an increase of immigrant detention centers and the contracting out of those services in a Trump administration. Since taking office, Trump has reinstated the use of private prisons for federal detainees and included a provision in his tax bill that would create a windfall for private prison companies and by extension their investors.[28] *Fortune* reported that hedge fund manager Paul Singer of Elliott Management profited $42 million in less than two months on bets placed on private prison companies whose stock valuation increased sharply upon Trump's election.[29]

Notably, most pension funds that have divested from the private prison industry have divested their direct stock holdings, with the exception of New York State Common Retirement Fund, whose private prison divestment policy applies to all asset classes prospectively, meaning that the fund screens any new hedge fund manager for exposure to the private prison industry.

Investment Manager Watch List

To be included in our watch list in Table 1, an asset manager[30] must have reported ownership of at least $10 million worth of shares in General Dynamics, GEO Group or CoreCivic as of the most recent publicly available filing with the SEC.[31] This list is not a comprehensive overview of all hedge fund ownership of private prison- and immigrant detention-related facilities, but reflects the asset mangers identified as reporting significant holdings in these companies as of the most recent public filings available; asset manager holdings are subject to change. More details are provided in Table 1.

In addition to reviewing their portfolios for direct holdings of General Dynamics, GEO Group and CoreCivic, we encourage pension fund trustees to review their portfolios for exposure to hedge funds included in this report and to consult our watch list when making asset allocation decisions. Furthermore, pension fund trustees should raise concerns with any asset manager on this watch list, including asking them to divest their private prison-related holdings and asking them to commit publicly to not investing in private prison- or immigrant detention-related holdings.

We also urge pension funds to consider adopting comprehensive policies similar to New York State Common Retirement Fund's that prohibit new exposure to private prisons in any asset class. For further recommendations for pension and employee benefit plans, see "How Pension Fund Trustees Can Take Action," below.

What Can Trustees Do?

We urge pension fund trustees wishing to consider exposure to the private prison industry as part of their investment decision-making process to consider taking any or all of the following measures:

- Review your pension fund's investment portfolios for direct and indirect exposure to these companies, including directly owned shares and exposure through hedge funds, equity index funds, debt and all other asset classes.

- Consult our watch list when making asset allocation decisions.

- Engage with the GEO Group, CoreCivic and General Dynamics if your fund directly owns shares to demand that they adopt policies to ensure just and humane treatment of detainees, which necessarily includes canceling any contracts with U.S. Immigration and Customs Enforcement, so as to mitigate investment risks to your fund.

- Direct your pension fund staff to evaluate the impact to the fund of divesting from the private prison industry and consider divesting from directly owned shares. Similarly, ask your index fund provider and consultant to undertake an analysis of the risk-and-return profile of index funds that do not hold companies in the private prison and immigrant detention industries, and consider investing in index funds that do not have this exposure.

- Develop and adopt investment beliefs or other policies that preclude investments in the private prison industry specifically and in companies involved in human rights abuses more broadly. As part of this process, reach out to public pension funds that have already taken action to divest from private prisons to learn about their decision-making process and to access policy language that may serve as a guide for your own fund.

- Support state-level legislation, such as the legislation recently introduced in New York state, requiring greater transparency and disclosure from companies that profit from private prisons and immigrant detention centers.

As this report demonstrates, a number of public pension funds have already determined that investments in the private prison industry pose risks that are too significant to justify continued investment. The AFT believes that all pension funds should take similar steps to identify and address these risks, and we will continue to work with our members, pension fund trustees and allied organizations to ensure that public pension dollars are not put at risk by investing in companies that profit off of the unjust detainment of immigrant youth and families.

Special Note to Asset Managers:

If you feel that your fund has been placed in the incorrect category, please let us know. Contact the AFT's Center for Workers' Benefits and Capital Strategies at either 202-585-5817 or aftresearch@aft.org.

Table 1: Asset Managers Invested in Private Prisons

This table has been updated as of August 13, 2018.

Fund	General Dynamics (share value)[32]	GEO Group (share value)[33]	CoreCivic (share value)[34]
Hotchkis and Wiley		$162,860,000	
Cohen & Steers		$262,992,000	
Epoch Investment Partners		$42,075,000	
Eagle Asset Management		$32,643,000	
Geode Capital Management	$617,869,000	$26,267,000	$44,021,000
Artemis Investment Management		$25,022,000	
D.E. Shaw and Co		$19,313,000	$41,991,000
Wellington Management Group	$949,119,000		
Aristotle Capital Management	$305,243,000		
Neuberger Berman Group	$293,267,000		$19,708,000
Boston Partners	$67,329,000		
Iridian Asset Management	$256,413,000		
AQR	$210,816,000		
Winslow Capital Management	$185,713,000		
Millennium Management	$180,340,000		
Eagle Capital Management	$154,216,000		
Dimensional Fund Advisors	$146,513,000		
Parametric Portfolio Associates	$121,723,000		$12,193,000
Adage Capital Partners	$111,340,000		
Renaissance Technologies	$98,831,000	$9,791,000	$48,146,000
Jennison Associates			$39,151,000
Two Sigma			$19,119,000
First Trust Advisors			$17,837,000
Chartwell Investment Partners			$17,443,000
Intrinsic Edge Capital Management			$12,343,000
Manning & Napier Advisors			$11,984,000

Endnotes

[1] Elliot Spagat and Colleen Long, "700 Kids Still Separated from Their Families after Government Misses Reunification Deadline," *Time*, July 26, 2018, http://time.com/5350788/kids-separated-from-families-july-26-deadline/.
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[3] Virginia Myers, "Protest at United Nations Fights the Separation of Immigrant Families," American Federation of Teachers, June 20, 2018, www.aft.org/news/protest-united-nations-fights-separation-immigrant-families.
[4] Detention Watch Network and the National Immigrant Justice Center, "ICE Lies: Public Deception, Private Profit," January 2018, http://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-02/IceLies_DWN_NIJC_Feb2018.pdf.
[5] Blake Ellis, Melanie Hicken, and Bob Ortega, "Handcuffs, Assaults, and Drugs Called 'Vitamins': Children Allege Grave Abuse at Migrant Detention Facilities," *CNN*, June 21, 2018, www.cnn.com/2018/06/21/us/undocumented-migrant-children-detention-facilities-abuse-invs/index.html.
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[8] Scott M. Stringer and Javier H. Valdés, "More Cities and States Should Divest From Private Prisons," *New York Times*, July 30, 2018, www.nytimes.com/2018/07/30/opinion/private-prisons-immigration-divest.html.
[9] This list is not intended to be comprehensive but reflects our current understanding of the major publicly traded companies that operate and/or provide services to immigrant detention facilities; the AFT may update this list in future reports.
[10] Manny Fernandez and Katie Benner, "The Billion-Dollar Business of Operating Shelters for Migrant Children," *New York Times*, June 21, 2018, www.nytimes.com/2018/06/21/us/migrant-shelters-border-crossing.html.
[11] Center for Popular Democracy, Make the Road New York, Enlace International, New York Communities for Change, and the Strong Economy for All Coalition, "Bankrolling Oppression: How Wall Street Companies Finance the Private Prison and Immigrant Detention Industry," 2018, https://populardemocracy.org/sites/default/files/20180427%20CBOH%20Digital.pdf.
[12] Bureau of Federal Prisons, "Memorandum on Use of Private Prisons Rescinded," February 24, 2017, www.bop.gov/resources/news/20170224_doj_memo.jsp.
[13] Office of the Inspector General, U.S. Department of Justice, "Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons," August 2016, https://oig.justice.gov/reports/2016/e1606.pdf.
[14] Inspector General, "Review of the Federal Bureau."
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[17] Bureau of Federal Prisons, "Memorandum on Use."
[18] Stringer and Valdés, "More Cities and States."
[19] Robert Steyer, "New York State Common Divests Publicly Traded Prison Holdings," *Pensions & Investments*, July 16, 2018, www.pionline.com/article/20180716/ONLINE/180719906/new-york-state-common-divests-publicly-traded-prison-holdings.
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[24] Associated Press, "City Council Pushes for Divestment from Private Prisons," *U.S. News & World Report*, September 2, 2017, www.usnews.com/news/best-states/ohio/articles/2017-09-02/city-council-pushes-for-divestment-from-private-prisons.
[25] To be included in our watch list, a hedge fund must have reported ownership of at least $10 million worth of shares in at least one of the three publicly traded companies identified in this report as of the most recent SEC filing. Because of fluctuations in stock prices, this watch list reflects hedge funds whose most recently reported holdings met these criteria as of August 7, 2018. Hedge funds on this list may own shares in other private prison companies or companies involved with immigrant detention of values less than $10 million.
[26] Mark Collette, Joshua Fechter, and Bill Lambrecht, "Companies Earn Billions to Shelter Immigrant Children," *Houston Chronicle*, June 29, 2018, www.houstonchronicle.com/business/article/Companies-earn-billions-to-shelter-immigrant-13044968.php.
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[30] Funds on the watch list were determined to be hedge funds using the Preqin database: www.preqin.com. Other institutional investors with significant holdings in General Dynamics, GEO Group and CoreCivic include large equity index funds; part 1 of this report focuses only on hedge funds.
[31] Because of fluctuations in stock prices, this watch list reflects hedge funds whose most recently reported holdings met these criteria as of August 7, 2018. The most recent SEC forms 13F are available on the Securities and Exchanges Commission website: www.sec.gov.
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[33] NASDAQ, "Geo Group Inc. Institutional Ownership," www.nasdaq.com/symbol/geo/institutional-holdings (accessed August 7, 2018).
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