Private Detention Industry Expected to Swell from "Zero Tolerance" at the Border:

New Estimates Show Number of Immigrants in Private Detention Facilities Would Grow by 290 to 580% if Trump's Policy Fully Implemented; Major Wall Street Banks JPMorgan Chase and Wells Fargo Poised to Benefit

Data Brief by Make the Road New York and the Center for Popular Democracy
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If the Trump administration is able to fully implement its "zero-tolerance" policy for people crossing the border, **new estimates from Make the Road New York and the Center for Popular Democracy show that the number of immigrants in private detention facilities will grow by 290 to 580 percent over the next two years.**[i] **The data, presented below in Table 1**, show that Donald Trump's plan to move from putting children in cages to pursuing indefinite detention of immigrant families will be an enormous boon for private detention companies.

Moreover, Wall Street banks like JPMorgan Chase, Wells Fargo and BlackRock are some of the biggest winners from Trump's plan to put as many immigrants as possible in cages. These banks' sizable private detention stock holdings and history of providing financing through bonds, term loans, and revolving lines of credit ensure that when private immigrant detention increases, Wall Street revenues soar.[ii]

Table 1: Expected Industry Growth from "Zero Tolerance"

Average Incarceration Time	Average Daily Population (ADP) in Detention	Additional ADP After "Zero Tolerance"	Additional ADP in Private Detention	Percent Change from FY 2018
Six Months	144,286	113,986	80,930	290%
One Year	288,572	227,972	161,860	580%

Attorney General Jeff Sessions announced the new "zero-tolerance" policy on April 6th, 2018, indicating that everyone who is apprehended while crossing the southern border will face criminal charges.[iii] Once it became clear that the new policy separated families crossing the border, reports in the press emerged and public pressure mounted, with protests in dozens of cities held to demand freedom for immigrants.[iv] After weeks of public opposition, Trump issued an executive order largely keeping the "zero-tolerance" policy intact.[v] While it is unclear whether the administration will implement the current policy as intended due to various constraints and continued public opposition, it is important to understand who would benefit from full implementation.

Table 1 demonstrates that the number of immigrants caged in private detention, already a multi-billion dollar industry, would grow by 290 to 580 percent in the next two years. This is due to an expected increase of between 114,000-228,000 people in the average daily population of immigrants in detention after the full implementation of "zero tolerance," 81,000-162,000 people of which would be in private detention facilities. (See below for a detailed explanation of the methodology.)

As focus turns to companies that profit directly from detaining immigrants, their financial backers' role in maintaining, expanding, and making money from the industry deserves scrutiny, as well. An April 2018 Corporate Backers of Hate report, "Bankrolling Oppression," found that JPMorgan Chase's private detention stockholdings have increased 97 times (or 9,600 percent) from before Trump's surprise electoral victory to the beginning of this year.[vi] Yet as JPMorgan Chase benefits from and finances the detention industry, CEO Jamie Dimon has the audacity to respond to the zero-tolerance policy by saying that "his heart goes out to the impacted families."[vii]

Geo Group and CoreCivic, the detention industry leaders, paid their lenders $217 million in 2017.[viii] Banks like JPMorgan and Wells Fargo hold such a significant share of the debt extended to Geo Group and CoreCivic that their withdrawal of financing could strike a blow to the private detention companies' current debt-financed business model,[ix] yet so far, they have refused. At the same time, the banks continue holding shares in the private detention companies as their stock prices increase. From the "zero-tolerance" policy announcement on April 6th to the June 22nd "request for information" to add 15,000 beds in family detention centers,[x] stock prices for Geo and CoreCivic have shot up by 23 percent and 13 percent, respectively.[xi]

Methodology and References

The estimate of private detention growth necessarily involves some assumptions because Immigration and Customs Enforcement (ICE) blocks access to what should be publicly available information.[xii]

To estimate the length of time that people apprehended on the southern border will be put in cages for their criminal charges (Average Incarceration Time), we created a range based on the administration's statements, the US criminal code, and various intensifying factors (first column). The intention of the "zero-tolerance" policy is to charge everyone crossing the border with "the full prosecutorial powers of the Department of Justice."[xiii] Therefore, the DOJ intends to criminally charge people who cross the border with at least illegal entry.[xiv] The US Code allows for people crossing the border for the first time to be charged with illegal entry, which carries a sentence of up to six months. The separate charge of illegal reentry comes with a sentence of up to two years.[xv] Historically, the latter has been the more common criminal charge,[xvi] with an average sentence length of 17 months.[xvii] Due to the policy change, it is unclear what the ratio of illegal entry and illegal reentry charges will be moving forward. An intensifying factor that will lead to people being put in cages for longer if the "zero tolerance" policy is fully implemented is that the federal court system is already at a breaking point;[xviii] at least one federal prosecutor has said that he cannot implement the policy with current resources.[xix] Recognizing the uncertainty about both the courts' processing capacity and the ratio of future charges, the variable range used for Average Incarceration Time is six months to a year.[xx] If anything, this is a conservative estimate given the 17-month average sentence length for illegal reentry.

To calculate Average Daily Population (ADP) in Detention (second column), we subtracted the number of unaccompanied children[xxi] from the total apprehensions along the southwest border from June 2017 - May 2018.[xxii] This analysis assumes that there will be the same number of such apprehensions over the next year (288,572). We multiplied the apprehensions number by the variable range for Average Incarceration Time to calculate ADP, an important statistic for ICE.

To estimate Additional ADP After "Zero Tolerance" (third column), we multiplied the ADP in Detention numbers by 79 percent because 21 percent of people crossing the border have been referred for prosecution in the past few years.[xxiii] Since 21 percent were historically referred for prosecution, "zero tolerance" means that the remaining 79 percent multiplied by the ADP in Detention numbers represents the additional people that will be prosecuted.

To calculate the Additional ADP in Private Detention (fourth column), the current share of private ICE facilities (71 percent)[xxiv] was multiplied by the Additional ADP after "Zero Tolerance" estimates.[xxv] This assumes that the privatization ratio will remain the same moving forward, which is a reasonable assumption without clear evidence to the contrary--particularly given the Trump administration's reliance on private detention facilities.[xxvi]

Finally, we calculated the Percent Change from FY 2018 (fifth column) by expressing the Additional ADP in Private Detention in terms of the private detention ADP in Fiscal Year 2018[xxvii] in ICE facilities.[xxviii]

This estimate assumes people crossing the border are put in cages in ICE facilities and do not serve time in Criminal Alien Requirement (CAR) prisons run by the Bureau of Prisons. CAR prisons are private prisons that people who cross the border have been sent to since Operation Streamline.[xxix] Because CAR prisons are privately run,[xxx] this assumption makes the estimated range more conservative. It is also reasonable since some reports say that many people who are apprehended after crossing the border will likely be sentenced to time served,[xxxi] thus avoiding CAR prisons.[xxxii]

Finally, it bears mention that, to isolate the impact of the "zero tolerance" policy change, this analysis assumes other immigration enforcement (for instance, enforcement activity in the interior) remains the same. This, too, is a conservative assumption given ICE's recent efforts to ramp up interior enforcement.[xxxiii]

Endnotes

[i] The range addresses the uncertainty of how long people who cross the border will be put in cages, on average.

[ii] "The Banks that Finance Private Prison Companies." *In the Public Interest.* November 2016. https://www.inthepublicinterest.org/wp-content/uploads/ITPI_BanksPrivatePrisonCompanies_Nov2016.pdf

[iii] "Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry." *The United States Department of Justice.* April 6, 2018. https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry

[iv] Peñaloza, Marisa and Rose, Joel. "Protesters Across the U.S. Decry Policy of Separating Immigrant Families." *National Public Radio.* June 1, 2018. https://www.npr.org/2018/06/01/616257822/immigration-rights-activists-protest-trump-administration-child-separation-polic

[v] "Read the Executive Order Trump Signed on Family Separation." *The New York Times.* June 20, 2018. https://www.nytimes.com/2018/06/20/us/politics/read-executive-order-trump-family-separation.html

[vi] "Bankrolling Oppression: How Wall Street Companies Finance the Private Prison and Immigrant Detention Industry." *Center for Popular Democracy, Make the Road New York, Enlace, New York Communities for Change, and the Strong Economy for All Coalition.* April 30, 2018. https://populardemocracy.org/bankrollingoppression

[vii] Lee, Yen Nee. "JPMorgan's Dimon Speaks Up Against Trump Policy of Separating Children from Parents." *CNBC.* June 19, 2018. https://www.cnbc.com/2018/06/19https://www.nytimes.com/2018/06/20/us/politics/read-executive-order-trump-family-separation.htm/jp-morgans-jamie-dimon-on-us-immigration-policy-child-seperation.html

[viii] "Bankrolling Oppression: How Wall Street Companies Finance the Private Prison and Immigrant Detention Industry." *Center for Popular Democracy, Make the Road New York, Enlace, New York Communities for Change, and the Strong Economy for All Coalition.* April 30, 2018. https://populardemocracy.org/bankrollingoppression

[ix] "The Banks that Finance Private Prison Companies." *In the Public Interest.* November 2016. https://www.inthepublicinterest.org/wp-content/uploads/ITPI_BanksPrivatePrisonCompanies_Nov2016.pdf

[x] Pounds, Marcia Heroux. "Boca-based Geo Group Poised to Profit from Trump Order for Illegal Immigrant Beds." *Sun Sentinel*. June 25, 2018. http://www.sun-sentinel.com/business/fl-bz-geo-immigrant-detention-20180622-story.html

[xi] These stock price changes were calculated through June 22nd using Google Finance.

[xii] Strauss, Amelia. "ICE Fights to Keep Facility Information Sheet." *Project on Government Oversight.* December 6, 2017. http://www.pogo.org/blog/2017/12/ice-fights-to-keep-facility-information-secret.html

[xiii] "Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry." *The United States Department of Justice.* April 6, 2018. https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry

[xiv] Rizzo, Salvador. "The Facts About Trump's Policy of Separating Families at the Border." *The Washington Post.* June 19, 2018. https://www.washingtonpost.com/news/fact-checker/wp/2018/06/19/the-facts-about-trumps-policy-of-separating-families-at-the-border/?utm_term=.2264ee99db6e

[xv] "8 U.S. Code § 1325 - Improper Entry by Alien." *Legal Information Institute.* https://www.law.cornell.edu/uscode/text/8/1325

[xvi] "Immigration Prosecutions for April 2018." *TRAC Immigration.* May 23, 2018. http://trac.syr.edu/tracreports/bulletins/immigration/monthlyapr18/fil/

[xvii] Rickerd, Chris. "Fact Sheet: Criminal Prosecutions for Unauthorized Border Crossing." *American Civil Liberties Union.* December 14, 2015. https://www.aclu.org/other/operation-streamline-issue-brief

[xviii] Trevizo, Perla. "Arizona Federal Courts Too Busy to Add More Border-Crosser Cases, Chief Judge Says." *Arizona Daily Star.* May 7, 2018. https://tucson.com/news/local/arizona-federal-courts-too-busy-to-add-more-border-crosser/article_9f4ace30-2653-5b3c-b469-332ce8286bdf.html

[xix] Blitzer, Jonathan. "How the Humanitarian Crisis on the Mexico Border Could Worsen." *The New Yorker.* June 23, 2018. https://www.newyorker.com/news/dispatch/how-the-humanitarian-crisis-on-the-mexico-border-could-worse

[xx] After serving a criminal sentence, people who cross the border will then go through deportation proceedings in immigration court. Convictions can have an impact on the number and type of claims for relief and the duration of the removal case itself. Because there is no rigorous way to evaluate whether these factors would lead to a material aggregate increase or decrease in time served, these estimates presume that after the criminal process, people who cross the border will spend the same amount of time in detention due to immigration court proceedings as they otherwise would have without the "zero-tolerance" policy.

[xxi] We assume that the unaccompanied children that Customs and Border Patrol lists on their website are not the children who are being separated from their parents because the website separately lists Family Units. This is a conservative assumption because we may be undercounting relevant apprehensions.

[xxii] "Southwest Border Migration FY2018." *U.S. Customs and Border Protection.* June 20, 2018. https://www.cbp.gov/newsroom/stats/sw-border-migration

"Southwest Border Migration FY2017." *U.S. Customs and Border Protection.* December 15, 2017. https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2017

[xxiii] Rizzo, Salvador. "The Facts About Trump's Policy of Separating Families at the Border." *The Washington Post.* June 19, 2018. https://www.washingtonpost.com/news/fact-checker/wp/2018/06/19/the-facts-about-trumps-policy-of-separating-families-at-the-border/?utm_term=.2264ee99db6e
[xxiv] Tidwell Cullen, Tara. "ICE Released its Most Comprehensive Immigration Detention Data Yet. It's Alarming." *National Immigrant Justice Center.* March 13, 2018. https://immigrantjustice.org/staff/blog/ice-released-its-most-comprehensive-immigration-detention-data-yet
[xxv] In the past, immigrants awaiting federal trial for entry or reentry charges were in the custody of the US Marshals Service, which is part of the Department of Justice. Trump's recent executive order says that the Department of Homeland Security will retain custody of families, and these estimates assume DHS will manage the expansion of the entire system. While it would be reasonable to assume that additional detention capacity to the system will be entirely private due to the need for rapid expansion, this estimate conservatively uses ICE's current privatization rate (71%) to scale the Additional ADP estimates and evaluate the impact on the industry. We use ICE's privatization rate because ICE has the most experience within DHS of long-term detention (Customs and Border Patrol has historically done processing of detainees).
[xxvi] Burnett, John. "Big Money as Private Immigrant Jails Boom." *National Public Radio.* November 21, 2017. https://www.npr.org/2017/11/21/565318778/big-money-as-private-immigrant-jails-boom
[xxvii] Tidwell Cullen, Tara. "ICE Released its Most Comprehensive Immigration Detention Data Yet. It's Alarming. " *National Immigrant Justice Center.* March 13, 2018. https://immigrantjustice.org/staff/blog/ice-released-its-most-comprehensive-immigration-detention-data-yet
[xxviii] The FY2018 ADP was 39,322, which we multiplied by 71% to get a private detention ADP of 27,919 in FY 2018. ICE's fiscal year runs from October to September.
[xxix] Parker, Christina. "Humpday Hall of Shame: Report Exposes Outrageous Abuse and Dangerous Quotas Inside Prisons for Migrants." *Grassroots Leadership.* June 11, 2014. https://grassrootsleadership.org/blog/2014/06/humpday-hall-shame-report-exposes-outrageous-abuse-and-dangerous-quotas-inside-prisons
[xxx] Ibid.
[xxxi] Due to the language in Trump's executive order, we assume that people will be serving six months to one year in ICE facilities. See Endnote xxv for more details.
[xxxii] Rizzo, Salvador. "The Facts About Trump's Policy of Separating Families at the Border." *The Washington Post.* June 19, 2018. https://www.washingtonpost.com/news/fact-checker/wp/2018/06/19/the-facts-about-trumps-policy-of-separating-families-at-the-border/?utm_term=.2264ee99db6e
[xxxiii] Bialik, Kristen. "ICE Arrests Went Up in 2017, with Biggest Increases in Florida, northern Texas, Oklahoma." *Pew Research Center.* February 8, 2018. http://www.pewresearch.org/fact-tank/2018/02/08/ice-arrests-went-up-in-2017-with-biggest-increases-in-florida-northern-texas-oklahoma/