

FEDS ARE FINALLY GETTING RID OF CONTRACT PRISONS

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Deputy Attorney General Sally Yates instructed Justice Department officials Thursday to begin the process to end the federal government's use of private prisons.

The Justice Department plans to end its use of private prisons after officials concluded the facilities are both less safe and less effective at providing correctional services than those run by the government.

Deputy Attorney General Sally Yates announced the decision on Thursday in a memo that instructs officials to either decline to renew the contracts for private prison operators when they expire or "substantially reduce" the contracts' scope. The goal, Yates wrote, is "reducing — and ultimately ending — our use of privately operated prisons."

"They simply do not provide the same level of correctional services, programs, and resources; they do not save substantially on costs; and as noted in a recent report by the Department's Office of Inspector General, they do not maintain the same level of safety and security," Yates wrote.

The Justice Department's Inspector General last week released [a critical report](#) concluding that privately operated facilities incurred more safety and security incidents than those run by the federal Bureau of Prisons. The private facilities, for example, had higher rates of assaults — both by inmates on other inmates and by inmates on staff — and saw eight times as many contraband cell phones confiscated each year on average, according to the report.

Disturbances in the facilities, the report said, led in recent years to "extensive property damage, bodily injury, and the death of a Correctional Officer." The report listed several examples of mayhem at private facilities, including a May 2012 riot at the Adams County Correctional Center in Mississippi in which 20 people were injured and a correctional officer killed. That incident, according to the report, involved 250 inmates who were upset about low-quality food and medical care.

"The fact of the matter is that private prisons don't compare favorably to Bureau of Prisons facilities in terms of safety or security or services, and now with the decline in the federal prison population, we have both the opportunity and the responsibility to do something about that," Yates said in an interview.

The problems at private facilities were hardly a secret, and Yates said Justice Department and Bureau of Prisons officials had been talking for months about discontinuing their use. Mother Jones recently published a 35,000-expose detailing a reporter's undercover work as a private prison guard in Louisiana — [a piece](#) that found serious deficiencies. The magazine [The Nation wrote earlier this year](#) about deaths under questionable circumstances in privately operated facilities.

The 13 privately run facilities will not close overnight. Yates said the Justice Department would not terminate existing contracts but instead review those that come up for renewal. She said all of the contracts would come up for renewal over the next five years.

It is possible the directive [could face resistance](#) from those companies that will be affected. In response to the inspector general report, the contractors running the prisons noted their inmate populations consist largely of non-citizens, and that presents them with challenges that government-run facilities do not have.

Scott Marquardt, the president of Management and Training Corporation, wrote that comparing Bureau of Prisons facilities to privately operated ones was “comparing apples and oranges” and generally disputed the inspector general’s report.

“Any casual reader would come to the conclusion that contract prisons are not as safe as BOP prisons,” Marquardt wrote. “The conclusion is wrong and is not supported by the work done by the [Office of the Inspector General].”

Yates, though, noted the Bureau of Prisons was “already taking steps” to make her order a reality. Three weeks ago, she wrote, the bureau declined to renew a contract for 1,200 beds at the Cibola County Correctional Center in New Mexico. According to [a local TV station](#), the county sheriff said the facility’s closure would have a negative impact on the community.

Yates wrote that the Bureau also would amend a solicitation for a 10,800-bed contract to one for a maximum 3,600-bed contract. That, Yates wrote, would allow the Bureau of Prisons over the next year to discontinue housing inmates in at least three private prisons, and by May 1, 2017, the total private prison population would stand at less than 14,200 inmates. She said it was “hard to know precisely” when all the privately run facilities would no longer have federal inmates, though she noted 14,200 was less than half the inmates they held at their apex three years ago, a figure she said indicated the department was “well on our way to ultimately eliminating the use of private prisons entirely.”

“We have to be realistic about the time it will take, but that really depends on the continuing decline of the federal prison population, and that’s really hard to accurately predict,” Yates said.

According to the Inspector General’s report, private prisons housed roughly 22,660 federal inmates as of December 2015. That represents about 12 percent of the Bureau of Prisons total inmate population, according to the report.

In her memo, Yates wrote that the Bureau of Prisons began contracting with privately run institutions about a decade ago in the wake of exploding prison populations, and by 2013, as the federal prison population reached its peak, nearly 30,000 inmates were housed in privately operated facilities. But in 2013, Yates wrote, the prison population began to decline because of efforts to adjust sentencing guidelines, sometimes retroactively, and to change the way low-level drug offenders are charged. She said the drop in federal inmates gave officials the opportunity to re-evaluate the use of private prisons.

Yates wrote that private prisons “served an important role during a difficult time period,” but they had proven less effective than facilities run by the government. The contract prisons are operated by three private corporations, according to the Inspector General’s report: Corrections Corporation of America, GEO Group Inc., and Management and Training Corporation. The bureau of prisons spent \$639 million on private prisons in fiscal year 2014, according to the report.

Yates said it was “really hard to determine whether private prisons are less expensive” and whether their closure would cause costs to go up, though she said officials did not anticipate having to hire additional Bureau of Prisons staff.

“Bottom line, I’d also say, you get what you pay for,” Yates said.

Shane Bauer, senior writer for Mother Jones, who spent four months undercover in a private Louisiana correctional facility, after obtaining a job as a prison guard there. (James West)

By [Margaret Sullivan](#) Media Columnist

[Style](#)

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Undercover reporting is the James Dean of journalism: thrilling, but dangerous.

Nellie Bly did it in 1887 when she checked herself into an insane asylum and emerged with stories of beatings and neglect.

ABC Primetime Live did it in 1992 when reporters posed as supermarket workers at Food Lion to expose some of the chain’s practices, including the repackaging of older meat with a new sell-by date.

And now, Mother Jones magazine has published its 35,000-word [investigation of a Louisiana for-profit prison](#), based on reporter Shane Bauer’s four-month stint as a prison guard.

In doing so, the magazine walked up to the line of accepted journalism ethics: reporters shouldn’t lie or misrepresent themselves as they pursue a story.

Bauer used his real name and Social Security number in applying for the \$9-an-hour job, and said his previous employer was the parent company of Mother Jones, the Foundation for National Progress. But he never let on that he was a reporter, or that he was using recording equipment. (A quick Google search would have revealed that Bauer was famous as one of the American hikers who were jailed in Iran for almost two years from 2009 to 2011.)

“We took these issues very seriously,” the magazine’s editor in chief, Clara Jeffery, told me. But editors decided to go ahead for a simple reason: “We felt there was no other way to cast light on privately run prisons.”

The horrendously short staffing at Winn Correctional Facility in rural Winnfield, La., meant misery for inmates and guards alike.

One prisoner who had lost fingers to gangrene was denied medical care. Inmates attacked and stabbed other inmates. And the prison had no psychiatrist on staff to deal with 1,500 inmates. Brutal force seemed the answer to every situation that arose.

Undercover reporting becomes necessary, Jeffery said, “when it’s about people who don’t get their stories told very often.”

But there are risks, as ABC found out when Food Lion sued. An initial verdict against the network of \$5.5 million was reduced to \$316,000, and then reduced again to a nominal \$2. But the episode cast a long-lasting pall on undercover reporting.

In the late 1970s, the Chicago Sun Times set up a phantom business, the aptly named Mirage Tavern. Praised for revealing how corrupt government inspectors accepted bribes from small-business owners, the Sun Times report was shunned by the Pulitzer Prize board because of concerns about the ethics of a story based on wholesale deception.

Mother Jones went ahead with publication with a legal threat already lodged by the prison's parent, Corrections Corp. of America. (Notably, it came from the same law firm that represented the billionaire Frank Vandersloot, who sued Mother Jones unsuccessfully a few years ago, and who pledged \$1 million to support other suits against the magazine; the situation is reminiscent of fellow billionaire Peter Thiel's support of legal actions intended to drive Gawker out of business.)

New York University journalism professor Brooke Kroeger, who wrote the 2012 book "Undercover Reporting: The Truth About Deception," told me she is a believer in this kind of journalism — "but only under very controlled circumstances and for something really important that matters to the public interest."

She puts Mother Jones's Louisiana prison reporting in that category, and has added it to the NYU [database](#) in which thousands of examples over many decades are collected.

Many mainstream news organizations don't countenance undercover reporting in any form because they insist that reporters identify themselves as working journalists; The Washington Post is among these.

And for good reason — being truthful is of utmost importance.

Misrepresentation, by its nature, works against reader trust. And it's not fair to those being written about.

But it's not always a clear-cut line. After all, not much of the best reporting gets clearance through public-relations departments.

Kroeger opens her book with a description of The Post's investigation into the Walter Reed Army Medical Center, which won the Pulitzer Prize for exposing the deplorable quality of care for war veterans there. While never misrepresenting themselves, Post reporters did get a crucial inside view by

staying under the authorities' radar as they visited families and patients. The investigation brought real reform.

Ted Conover's book about his undercover experiences as a prison employee, "Newjack: Guarding Sing Sing," was a Pulitzer Prize finalist in 2001, which may suggest that the journalistic establishment sees the merits of such techniques yet is unwilling to fully endorse them.

Can any form of misrepresentation (even if indirect) be justly employed to serve a larger truth? Failing the counsel of Talmudic scholars, I'll defer to Conover's description of undercover reporting: "the nuclear arrow in the writer's quiver, a potent tool that should be used only with extreme care and in a limited number of cases."