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States with private prisons put more people in prison for longer.

U.S. states that rely on private prisons incarcerate more people for longer periods of time, according to a first-of-its-kind study that establishes a causal connection between private prisons and incarceration. The paper, published in the December issue of *Labour Economics*, adds to researchers' understanding of financial incentives in the criminal justice system, according to authors Gregmar Galinato and Ryne Rohla, both economists at Washington State University. The researchers found that states that opened private prisons saw a 4% jump in prison population, or an average of between 6 and 37 extra prisoners per million residents, based on a review of data from 1989 to 2008. Incarcerating those extra people cost states an extra \$1.9 million to \$10.6 million per year if all additional prisoners were housed in private prisons. Galinato and Rohla found that the growth in prison population experienced by states with private prisons was caused by an increase in the number of people being sent to prison, as well as judges handing down longer sentences for particular crimes. Specifically, a 1% increase in private prison beds per capita will increase sentencing lengths for regulatory offenses by 29 days, weapons offenses by 13 days, drug offenses by 7 days and fraud offenses by 2 days, the researchers found. However, those figures might underestimate the actual amount of time incarcerated people spend in private prisons, the researchers added, pointing to a 2019 paper by Wisconsin School of Business professor Anita Mukherjee that found that private prison inmates in Mississippi served a full three months longer than people convicted of the same crimes who were sent to public prisons. Mukherjee attributed the lengthier time served to the fact that conduct violations, which can tack extra time onto prisoners' sentences, are more common in private prisons than in public ones. While Galinato and Rohla found that people convicted of weapons and drug offenses saw harsher sentences in states with more private prison beds, sentencing for other crimes such as murder did not change. "That was a good marker for us, because that showed that this wasn't random noise going on or some correlation," said Galinato of the fact that only some crimes saw a sentencing difference. In order to establish a causal relationship, the researchers created an instrument called "privatization knowledge" that indicated academic support for privatization by state from 1989 to 2008. That instrument, which was partially based on the use of words like "neoliberalism" in academic journals, corresponded only to the proliferation of private prisons -- not the incarceration rate, the researchers said. Galinato said that finding an instrument to establish causality was one of the most difficult parts of the project, as the connection between private prisons and incarceration can be self-perpetuating. Developing and using the "privatization knowledge" instrument took years. Galinato came up with the idea in 2015, and Rohla began compiling data shortly thereafter. It took about one year to get permission to use Department of Justice data, he said. In addition to establishing a causal relationship between private prisons and incarceration, Galinato and Rohla also examined two factors that could lead authorities to hand down more and harsher sentences in the first place. Political corruption could lead politicians to enact stricter laws and cause judges to hand down harsher sentences, the researchers said, pointing to the 2008 "kids for cash" scandal in which Pennsylvania judges received kickbacks in exchange for giving juvenile offenders harsher prison sentences. Judges may also consider prison capacity when sentencing people, Galinato added. "If you have a crowded public system, the judge will say, 'OK, this is a marginal person, we'll probably put them on probation because we don't want to overcrowd the prison.'" However, the researchers did not find a strong enough link to claim that either factor has definitively led to higher incarceration rates at private prisons. "The best we can say is there's a hint," said Galinato. "There could be more mechanisms [affecting incarceration rates] out there." Rebecca Riddell, the co-director of New York University Law School's Human Rights and Privatization Project, praised the study on Twitter. "It's appalling that private prisons increase incarceration levels," said Riddell. "But should we be surprised? Or is this a foreseeable outcome of creating a powerful industry that profits from every [additional] incarcerated person, takes in billions in taxpayer [dollars] and spends millions lobbying?" Galinato told *The Academic Times* that the link between private prisons and incarceration must factor into government policy. "There is this potential link, and this link becomes more significant if there's more corruption and you don't have oversight," he said, adding that policymakers don't typically consider that choosing private prisons over public ones increases overall incarceration. Galinato, who typically works as a natural resource and development economist, said he was inspired to conduct the study when watching an episode of the television show "Elementary," in which a prison warden murders an inmate in order to appease the owner of a private prison who wants to influence a lobby group. The idea of private prison companies influencing governments to set harsher sentences initially "made me laugh a little bit in terms of how ludicrous it was," Galinato said. "I wasn't really aware of private prisons in the U.S.," he

added. "I come from the Philippines. We don't have them." His experience studying corruption in relation to natural resources came in handy when examining the criminal justice system, he added. In terms of further research, Galinato said he was interested in examining the relationship between private prisons and private halfway houses, which are often owned by the same companies. The owners of halfway houses can set house rules that, if violated, send residents back to prison. That could incentivize halfway houses to set overly harsh rules in order to make more money. Galinato is also interested in examining private prisons' incentive structures, which currently involve significant moral hazard. Private prisons are paid based on how many prisoners they house on a given day, potentially leading them to push for unjustly harsh punishments. "That kind of contract incentivizes more prisoners and increases the length of stay," said Galinato. "What if the payment would be based on when they came out of jail and became a better member of society, then the private prison would get a bonus?" The paper, titled "Do privately-owned prisons increase incarceration rates?" was first published in the December issue of *Labour Economics*. The authors were Gregmar Galinato of Washington State University and Ryne Rohla, who earned a PhD from Washington State University and now works for the Washington State Attorney General's Office. Galinato was lead author.