

Written by Booth Gunter  
Thursday, 24 May 2012 10:30

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Michael McIntosh couldn't believe what he was hearing. He had come to visit his son at the Walnut Grove Youth Correctional Facility near Jackson, Miss., only to be turned away. His son wasn't there.

"I said, 'Well, where is he?' They said, 'We don't know.'"

Thus began a search for his son Mike that lasted more than six weeks. Desperate for answers, he repeatedly called the prison and the Mississippi Department of Corrections. "I was running out of options. Nobody would give me an answer, from the warden all the way to the commissioner."

Finally, a nurse at the prison gave him a clue: Check the area hospitals.

After more frantic phone calls, he found Mike in a hospital in Greenwood, hours away. He was shocked at what he saw. His son could barely move, let alone sit up. He couldn't see or talk or use his right arm. "He's got this baseball-size knot on the back of his head," McIntosh said. "He's got cuts all over him, bruises. He has stab wounds. The teeth in the front are broken. He's scared out of his mind. He doesn't have a clue where he's at – or why."

Though he had found his son, McIntosh still had no answers. He said prison officials wouldn't allow him to see his son again for months. No one would tell him what happened – that is, until

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he received a phone call from a Southern Poverty Law Center advocate who was investigating Walnut Grove.

“When I was at my wit’s end and couldn’t get anywhere, an advocate from the SPLC actually found *me*,” McIntosh said. “She said, ‘Your son was in a riot.’ They [SPLC] just took bits [of information] and started putting this puzzle together. Without them, we wouldn’t have a leg to stand on.”

Mike suffered brain damage. A U.S. Department of Justice (DOJ) report about the conditions at Walnut Grove later noted that after weeks of hospitalization, his “previously normal cognition resembled that of a two year old.”

In the dry language typical of such reports, the DOJ investigators wrote that on February 27, 2010, “a youth melee resulted in the stabbing of several youth, as well as other types of physical injuries necessitating treatment at an outside hospital. One of the injured youth ... suffered irreparable brain damage and sustained a fractured nose, cuts and stab wounds.”

And no one bothered to tell his father.

Others were hurt, too – stabbed, punched, kicked, stomped and thrown from an upper floor to a lower one. Mike and his cellmate, who was stabbed in the head, were both nearly killed. A dozen others were hospitalized.

There was another shocking detail: A female guard had “endorsed the disturbance by allowing inmates into an authorized cell to fight,” according to the March 20, 2012, DOJ report. She was fired but not charged with any crime.

The guard’s involvement wasn’t uncommon. Investigations showed that guards frequently instigated or incited youth-on-youth violence. Often, they were the perpetrators.

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What happened to Mike was symptomatic of a youth prison – one run for profit by a private corporation – that was completely out of control.

The initial investigation, which began in 2006, turned into a federal civil rights lawsuit, with the ACLU and Jackson-based civil rights attorney Robert McDuff as co-counselors. It was settled in March with a sweeping consent decree designed to end the barbaric, unconstitutional conditions and the rampant violations of state and federal law that were documented separately by both the SPLC and the DOJ.

The Walnut Grove story is a cautionary tale that raises alarming questions about the treatment of youthful, mostly nonviolent offenders in Mississippi and elsewhere. And it calls into question the wisdom of turning over the care of these youths, some as young as 13, to private companies that exist solely to turn a profit – companies that have no incentive to rehabilitate youths, that thrive on recidivism, and that increase their profits by cutting corners and reaping ever more troubled souls into their walls.

***The Walnut Grove Youth Correctional Facility near Jackson, Miss., was known for a culture of violence and corruption.***

### **‘Deliberate Indifference’**

On March 26, U.S. District Judge Carlton W. Reeves issued a blistering court order approving the settlement of the lawsuit. He wrote that the GEO Group Inc., the company that runs Walnut Grove, “has allowed a cesspool of unconstitutional and inhuman acts and conditions to germinate.”

Violence by youths and guards wasn’t the only problem. Neither were the gang affiliations of some guards. Or the grossly inadequate medical and mental health care. Or the proliferation of drugs and other contraband. Or the lack of educational and rehabilitative programs. Or the wild overuse of pepper spray on passive youths.

Indeed, the DOJ found that sexual abuse – including brutal youth-on-youth rapes and “brazen” sexual misconduct by prison staffers who coerced youths – was “among the worst that we have seen in any facility anywhere in the nation.”

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What's more, both the prison staff and the Mississippi Department of Corrections, which pays GEO \$14 million each year to run the prison, showed "deliberate indifference" to these problems.

In other words, nobody cared. Nobody cared that the bottom line – private profit, secured in part by dangerously understaffing the prison – was more important than providing humane conditions and services that would protect youths from violence and help get them back on the right track.

They should care – if not out of basic human decency then because these young men will eventually get out of prison. They will re-enter their communities, many lacking an education, many lacking treatment for their disabilities, many severely scarred both physically and psychologically by their experience.

### **GEO Riding Privatization Wave**

Mike was three weeks shy of his 20th birthday when he arrived at Walnut Grove to serve a four-year sentence in October 2009. After growing up with his mother in California, he had been living for the previous two years with his father in Hazlehurst, a small town about a half hour's drive south of Jackson. He was an active, athletic kid who liked to fish and was good with his hands. He had begun studying at a local community college, hoping to become a welder.

But now, after running afoul of the law, he was just another number in prison garb, living in a facility that housed young men ages 13 to 22 who had been tried and convicted as adults.

In August 2010, six months after Mike was injured, GEO purchased the company, Cornell Companies Inc., that had been operating the prison since 2003. GEO, which was born as Wackenhut Corrections Corp. in 1984, is the second-largest prison company in America, with 66,000 beds at 65 prison facilities across the U.S. and another seven overseas. With a total of 4,000 beds in three prisons, including Walnut Grove, the company houses about a quarter of Mississippi's prison population.

Built with \$41 million in taxpayer subsidies, Walnut Grove has generated about \$100 million in

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revenue for the companies operating it since the doors opened in 2001.

With the acquisition of Walnut Grove and its other prison projects, GEO is riding a wave of privatization efforts.

Across the U.S., the number of inmates in such private facilities grew by 80 percent between 1999 and 2010 – from 71,208 to 128,195 – as states and the federal government bought the industry’s pitch that it could save taxpayer money by operating prisons at a lower cost, according a January 2012 report by The Sentencing Project. Thirty states now have partially privatized their prison systems.

For GEO, more privatization means greater profits. In 2011, the company produced \$1.6 billion in revenue, a 27 percent increase over the previous year, and net income of \$98.5 million, the best performance in the company’s history, according to its 2011 annual report.

The company’s business model depends, at least in part, on tough sentencing.

With 1.6 million people living behind bars, the U.S. already has the world’s largest population of prisoners – and the highest per-capita rate of incarceration. But the prison industry wants more. GEO’s annual report is clear about that – noting that “positive trends” in the industry may be “adversely impacted” by early release of inmates and changes to parole laws and sentencing guidelines.

### **Walnut Grove Population Triples**

In the decade before Mike came to Walnut Grove, the prison’s population had soared – more than tripling from 2001 to 2010, from 350 to 1,200 inmates.

That was part of the problem. When the facility opened in 2001 with 500 beds, it was authorized to only accept “juvenile offenders” between the ages of 13 and 19.

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There are important public policy reasons to keep children and teens separate from adult prisoners. The juvenile system was created to protect children from the harsh, punitive environment of adult prisons and to rehabilitate youths, recognizing that they are still developing and can greatly benefit from educational and other services.

Research has shown that youths who stay in the juvenile system are less likely to be arrested again than those who are transferred into the adult population. Further, youths are far more likely to be sexually assaulted in adult prisons and are more likely to commit suicide.

Even so, the Mississippi legislature, under lobbying pressure, periodically raised the maximum age of those who could be housed at Walnut Grove – now at 22 – while also steadily increasing its capacity.

The staffing levels, however didn't keep pace with the rapidly growing population. In fact, a prison auditor reported to the legislature in 2005 – and again in 2010 – that staffing had actually decreased. When it acquired the facility in 2010, GEO did nothing to correct the imbalance. In fact, the SPLC lawsuit says GEO “has a policy ... of understaffing the prison.”

### **Michael McIntosh testifies before the Mississippi House Juvenile Justice Committee about the horrible conditions at the Walnut Grove Youth Correctional Facility.**

#### **Brutality the Norm**

It was a brutal place. Mike told his father that he was locked in his cell for 23 hours a day. He spoke of pervasive violence. “It didn't seem like there was much being done to curtail anything going on,” McIntosh said.

Guards frequently doused young men with pepper spray as a first response, rather than a last resort. Youths were routinely sprayed simply for refusing verbal commands, such as failing to remove their arms from food tray slots while locked in their cells – something they sometimes did to get attention for medical emergencies. Most commonly used was the “Fox Fogger,” a chemical weapon that discharges as much spray as possible per burst. Some inmates described instances in which entire cans of pepper spray were emptied into a cell, after which guards locked the door with the inmate inside. Typically, youths were not given the opportunity

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to wash away the pepper spray or decontaminate their clothes or bedding.

When DOJ investigators asked about the use of pepper spray, some guards were less than forthcoming. One lieutenant told them he couldn't recall the last time he had used it. A video taken by one of the prison's many cameras told a different story, showing him wielding it a mere two weeks earlier.

Pepper spray wasn't the only hazard.

Fights were common, occurring almost daily. Cell doors could be easily rigged to remain unlocked, allowing youths to leave their cells and enter others at will. Guards were often complicit in attacks. Weapons were readily available. Emergency call buttons in the cells didn't work.

In addition, guards "frequently and brutally react to low-level aggression" – such as using profanities or reacting too slowly to an order – by "slamming youth head first into the ground, slapping, beating, and kicking youth," the DOJ found. In one such incident, a youth said he was ordered out of his cell by a supervising guard, who then jumped him and kicked him in the back four times. Another guard stomped on his leg. Investigators later observed a bruise on his leg in the shape of a boot print.

"We also found that youth were assaulted for the way they allegedly looked at officers or for absolutely no given reason at all," the DOJ report says.

Some guards apparently saw their charges as sexual prey. Sexual misconduct between staffers and youth occurred on a monthly basis – "at a minimum," the DOJ found. But GEO did little or nothing to prevent it, other than firing those caught in the act – like the female guard who yelled "close the door" at another guard who saw her engaged in intercourse with a youth in a medical department restroom.

Between July 2009 and May 2010, 13 staffers were fired and two arrested for sexual misconduct. No one knows how many other incidents went undetected.

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In addition, youths were “routinely” subject to sexual assaults by other youths, the result of “grossly inadequate staffing” in the facility’s living areas, the DOJ found. Some youths told horrific stories of rape or attempted rape by cellmates who beat them or wielded “shanks,” the prison term for knives fashioned from ordinary metal objects.

Shanks, the investigators discovered, were far too common – and often used in assaults. During one 11-month period ending in November 2010, 91 youths were transported to outside medical facilities for treatment of injuries due to inmate violence. Many had cuts and stab wounds.

One youth, who was referred to as J.D. in the lawsuit, was tied up, brutally raped and beaten over a 24-hour period by a cellmate who had been the subject of multiple prior complaints involving sexual misconduct. The victim tried to summon guards, but the emergency button in his cell didn’t work.

### **Medical Care Lacking**

Nothing, perhaps, illustrates the inhumane, callous and unconstitutional treatment of the youths at Walnut Grove more than the provision – or lack thereof – of mental health and medical care.

New inmates were not properly screened when they arrived; in fact, the facility appeared to lack even the most basic equipment needed to check arrivals for common conditions such as asthma, kidney disease or urinary infections. Exam rooms did not even contain examination tables or chairs.

Youths who were sick or injured often had to make multiple requests to see a nurse and sometimes waited weeks for treatment. Many with chronic conditions were not always given their medicine on time, if at all. The administration of medication was “grossly deficient,” the DOJ found. And though some inmates were as young as 13, none of the physicians who provided care at Walnut Grove were trained in pediatrics or family medicine.

For all those problems, the mental health care may have been worse.



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The facility is not supposed to house inmates with serious mental health needs – but it does.

A number of inmates “have a history of prior psychiatric illness or treatment and/or are presently exhibiting symptoms of suicidal behavior or serious mental illness,” the DOJ report says. “The Facility, however, is not providing adequate mental health care to those youth. Instead, the Facility fails to adequately assess and treat youth at risk of suicide.”

In December 2008, a youth was found hanging from a noose attached to a light fixture but was revived. He was not placed on suicide watch. In October 2009, another youth with a history of depression and suicidal thoughts was found dead in his cell. Hours earlier, he had told a nurse that he had cut himself and planned to do it again. Ten days earlier, a guard had seen him with a rope around his neck.

In one six-month period in 2010, 285 youths – nearly a quarter of the population at the time – were placed on suicide watch. A psychiatrist evaluated only about 8 percent of them.

But many youths were placed in isolation as punishment, on the pretense they were suicidal. They were typically stripped, given a thin paper gown and forced into a cell with only a single blanket and a steel bed frame without a mattress. They stayed for 24 hours a day with little or no human contact.

For those who needed mental health crisis services, there were none – no therapy, no access to acute or chronic care, no special needs unit. Instead, medication and “therapeutic lockdown” were the only options available. Some youths, the DOJ found, “languish for years at a time without receiving evidence based mental health services that are routinely used to treat serious mental health conditions.”

A possible reason for the lack of care was the “shockingly low” level of psychiatric staffing. One psychiatrist, who was on call for just 14 hours per month, was responsible for providing care to 1,200 inmates. Additionally, a psychologist was available once a week for five hours.

The DOJ report came with a warning: “It must be noted that most of these youth with their

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untreated or inadequately treated mental health problems are eventually going to be released in worse condition, and often times more dangerous, than when they entered WGYCF [Walnut Grove Youth Correctional Facility].”

### **A ‘Sea Change’**

Today, Mike is 22 and no longer at Walnut Grove. After spending some time at Parchman, the state’s only maximum security prison, he was transferred to the Alcorn County Correctional Facility.

After two years, he’s still recovering. It took a year before he could twist the top off a soda bottle. Some days, Mike can remember things about his life, like the fact he owns a car. Some days, he can’t.

As far as McIntosh knows, his son never received any kind of therapy for his injuries.

“Believe it or not, he still talks about the welding,” McIntosh said. “That’s exciting. That gives me some hope.”

As for the youths at Walnut Grove, the settlement agreement offers hope – hope for educational and rehabilitative services, hope for better health care, hope for common decency and freedom from harm.

The settlement requires the state to remove all boys under the age of 18 and certain teens who are 18 and 19 from the prison and house them in separate facilities governed by juvenile justice, rather than adult, standards. In his March 26 order, the judge wrote that the evidence in the case, along with the DOJ’s findings, left him with the “unshakeable conviction” that the settlement agreement must be entered immediately.

“Those youth, some of whom are mere children, are at risk every minute, every hour, every day,” the judge wrote. “Nothing has curtailed actions of the staff and indifference of management officials to the constant violations, even though the parties and their experts have been monitoring, investigating and conducting on-site visits constantly since before the lawsuit

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was filed and during the pendency of this action.”

As a result of the agreement, pepper spray will no longer be used to punish youths and can be deployed only to prevent serious bodily injury. Guards won't be allowed to rely on inmates to enforce rules or impose punishment on others. Youths will not be subject to solitary confinement. Physical exertion used to inflict pain or discomfort won't be allowed. Regular rehabilitative, educational and recreational programs will be available. Mental health and medical care will be required. And, “at all times,” youths will be provided with “reasonably safe living conditions and will be protected from violence” and sexual abuse.

“This represents a sea change in the way the Mississippi Department of Corrections will treat children in its custody,” said Sheila Bedi, deputy legal director for the SPLC. “As a result of this litigation, Mississippi’s children will no longer languish in an abusive, privately operated prison that profits each time a young man is tried as an adult and ends up behind bars.”

Soon, the Department of Corrections will be seeking another company to run the three prisons currently in GEO’s hands. A month after the Walnut Grove settlement, the company announced it was discontinuing its \$21 million contract to operate the East Mississippi Correctional Facility, perhaps in anticipation of another SPLC lawsuit. GEO said in a press release that the facility had been “financially underperforming.” Corrections Commissioner Christopher Epps then revoked GEO’s remaining contracts, saying the state would seek another company to manage all three prisons.

But questions remain. Will the future of private prisons elsewhere be affected by the abuses uncovered at Walnut Grove – many of which were blamed on severe understaffing, a lack of accountability and other shortcomings that appear related to profits? Will states rethink the idea of trying children as adults and housing them with older prisoners?

In its report “Too Good to be True: Private Prisons in America,” The Sentencing Project questions the private prison industry’s claim that it can safely and humanely operate prisons for less money than the government. Prisons run by the government are not exactly extravagant, so where do the savings – and profits – come from?

“[P]rivate prisons must make cuts in important high-cost areas such as staffing, training and

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programming to create savings,” the report says.

Walnut Grove seems to be a case in point.

“Deliberately indifferent.” It’s a phrase used throughout the DOJ report to describe the mindset of both the staff at Walnut Grove and the prison officials who were supposed to ensure constitutional conditions there.

McIntosh believes the evidence is sufficient to show that the profit motive isn’t a good fit for prisons.

“I think it’s terrible,” he said. “Our children’s lives shouldn’t be at risk because corporations cut corners in order to increase their profits.

“They rob the kids of hope. They rob the kids of dignity. I think that’s probably the worst thing you can do to them.”

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*Special to the Trice Edney News Wire from the Southern Poverty Law Center*{comments on}