



# Assessment of the 2015 Riots in Management and Training Corporations' Kingman, Arizona Prison

**BY CAROLINE ISAACS**

**AMERICAN FRIENDS SERVICE COMMITTEE—ARIZONA**

**AUGUST 2015**

PUBLISHED BY:

AMERICAN FRIENDS SERVICE COMMITTEE

103 N PARK AVE., STE. 111

TUCSON, AZ 85716

520.623.9242

[afscaz@afsc.org](mailto:afscaz@afsc.org)

[WWW.AFSCARIZONA.ORG](http://WWW.AFSCARIZONA.ORG)



**American Friends  
Service Committee**

## Executive Summary

On July 1<sup>st</sup>, 2015, a riot erupted in a prison in Kingman, Arizona operated by the for-profit prison company, Management and Training Corporation (MTC). The next day, a second reportedly occurred. Six prison guards were injured and the facilities were so badly damaged that over 1,000 prisoners had to be transferred elsewhere.

Governor Doug Ducey ordered the Director of the Arizona Department of Corrections (ADC) to investigate the cause of the riots. While we welcome any and all information coming from the Department in regards to these incidents, the American Friends Service Committee has serious concerns about the ADC's ability to impartially assess all the factors that contributed to the riots—most significantly its own failure to properly monitor its contractors.

This report represents an effort to provide first-hand documentation from prisoners and staff, as well as a larger analysis informed by over 15 years of monitoring the for-profit prison industry and the Arizona Department of Corrections.

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### Major Findings

1. Department of Corrections' tactical support personnel sent in to quell the riot were **unnecessarily violent and disrespectful** in their treatment of prisoners—whether they were involved in the disturbances or not.
2. It appears that **several prisoners were injured *after the riot* by the Arizona Department of Corrections' tactical support unit, rather than being assaulted by other prisoners.**
3. Factors reported to have contributed to the riots have **their roots in Management and Training Corporations' efforts to cut costs.**
4. **The most significant and persistent problem at Kingman is understaffing.** Guards at Kingman are among the lowest paid in Arizona. Staff that are underpaid, undertrained, and have low morale are not willing or able to properly manage a prison, especially when disturbances arise.
5. **MTC guards were mistreating the people held in Kingman,** relying on pepper spray and other heavy-handed approaches to behavior management, resulting in high levels of resentment among prisoners.
6. **The prison was poorly managed.** Drugs were readily available, in many cases brought to the prison by guards. Prisoners were frequently locked down. The facility had a high rate of assaults.
7. Ultimately, the **Department of Corrections failed in its responsibility** to properly manage its contractor, detect and correct problems, and hold MTC accountable for persistent problems.

It is clear, given the long-standing and repetitive nature of these issues, that the problems at Kingman are systemic rather than situational. While there is no question that the contractor, Management and Training Corporation, was negligent to the point of possible violation of the terms of its contract, the ultimate responsibility lies with the Department of Corrections and the State of Arizona.

Corrections is a core public safety responsibility, and should not be hired out to the lowest bidder or subjected to short-sighted cost cutting strategies.

These issues are now before the state legislature, as it considers **contracting for up to 2,000 additional beds**. The Department issued a Request for Proposals for new medium-security beds in September of 2014. The deadline for responses was delayed once in response to the Kingman riots, and the new due date for bids is September 22.

We must not be fooled again.

**No new contract should be signed until a thorough evaluation of Kingman and the five other privately operated prisons under contract demonstrates that these facilities are safe, cost effective, humanely run, and accountable to the public.**

## Recommendations:

1. The Governor should hire an independent, impartial third party to investigate the cause of the riot and recommend solutions. It should also investigate conditions and contract compliance in all of Arizona's other privately operated prisons, to prevent a similar disaster in the future.
2. The current Request for Proposals (RFP) for up to 2,000 more prison beds should be canceled. No new contract should be signed until the public can be assured that these facilities are safe, cost effective, humanely run, and accountable to the public.
3. If it is determined that Management and Training Corporation was negligent in its management responsibilities and violated the terms of its contract in any way, the Department of Corrections should exercise its authority to cancel the contract.
4. The Arizona State Legislature should take immediate action to:
  - a. Reinstate the requirements for biennial quality and cost comparison reviews of public and private prisons, taking into account all the various factors that may contribute to the equation. This review should be done by an independent, third party.
  - b. Create an independent oversight body that will regularly monitor the performance of the Department of Corrections in all areas.

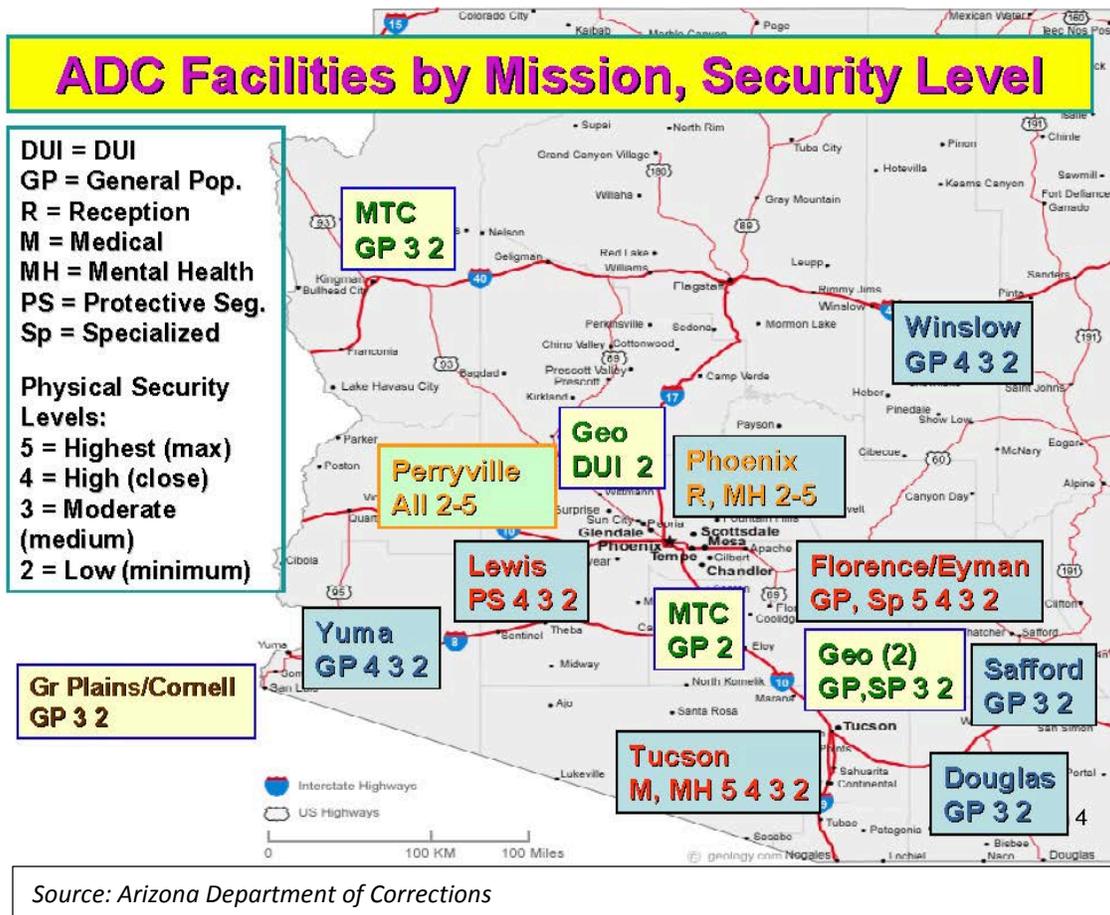
- c. Enact legislation to require that for-profit corporations under state contract be held to the same transparency and accountability standards as the Department of Corrections.

## Introduction

Management and Training Corporation (MTC), a privately-held company, operates 20 prisons in seven states, with a capacity of 26,000 prisoners. It began in 1981 operating federal Job Corps centers. MTC operates two prisons under contract with the Arizona Department of Corrections, a medium/minimum security facility in Kingman and a minimum-security facility at Marana.



The Marana Community Correctional Treatment Facility was Arizona's first privately operated prison. In 2000, the Arizona Department of Corrections (ADC) signed a contract for 450 minimum security (Level 2) beds (350 male, 100 female) for inmates "who demonstrate a need for substance abuse or alcohol intervention." MTC recently completed the full extent of its contract for Marana, and the state of Arizona bought the facility. It then awarded the management contract for the prison to MTC once again.



The Kingman facility opened in 2004, in response to complaints of overcrowding in state prisons. The facility was created in part to absorb the growing number of DUI offenders being imprisoned as a result of Arizona's extremely harsh drunk driving laws. The facility has a total of 3,500 beds: 1,500 in the medium-security Hualapai unit and 2,000 in the minimum-security Cerbat Unit.

In late July 2010, three prisoners escaped from the Kingman prison. They were able to get past locked doors, avoid surveillance cameras, deter ground and fence sensors, and went unnoticed by guard towers and ground patrol while they cut a hole in some perimeter fencing.<sup>1</sup>

It took MTC employees over an hour to notify the Mohave County Sherriff's Office that the men were at large, and the public was not notified until the next day.<sup>2</sup>

Two weeks later, a couple from Oklahoma were murdered by two of the fugitives from MTC's prison while on the run from police.<sup>3</sup>

Five days after the escape, an inspection team from the Department of Corrections found a broken alarm system, eight burned-out perimeter lights, other broken security equipment, and new and undertrained staff and rookie supervisors who ignored alarms, left long gaps between patrols of the perimeter, left doors leading out of some buildings open and unwatched, didn't alert the state or local police until hours after the escape, and failed in all manner of basic security practices.

Although the 2010 escapes captured headlines, the Kingman prison also had a history of riots and disturbances dating back to 2005. Corrections Director Ryan noted that there had been "13 instances of large groups of inmates refusing directives or chasing MTC staff off the yard."<sup>4</sup>

Also in 2010, MTC's other Arizona facility saw a serious disturbance. As many as 150 inmates were involved in a brawl at the Marana Community Correctional Treatment Facility. The fight lasted about an hour before a 20 member tactical unit helped to break it up. Twelve inmates and an MTC employee were injured.<sup>5</sup>

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## 2015 Kingman Riots

On July 1<sup>st</sup>, six corrections officers were injured during what agency officials described as a "major disturbance" among minimum-security inmates in the Cerbat Unit. Five officers were

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<sup>1</sup> Hensley, JJ. "Prison chief says that state didn't detect prison flaws," *Arizona Republic*, 8/19/10

<sup>2</sup> Gonzales, Nathan and Eddi Trevizo. "Arizona cons' escape raises many questions," *Arizona Republic*, 8/3/10

<sup>3</sup> "Arizona prison escapees links to N.M. killings," *Associated Press*, 8/7/10

<sup>4</sup> Ryan, Charles. "Cure Notice" to MTC, memo, December 29, 2010

<sup>5</sup> "Arizona prison brawl involved up to 150 inmates, leaves 13 people hurt," *Associated Press*, 2/11/10.

treated at the prison, according to a Department of Corrections spokesman, and one was transported to a local hospital for treatment and later released.<sup>6</sup>

The next day, a full-scale riot broke out involving many more prisoners, this time in the Hualapai Unit. The disturbance then reportedly spread to involve two of the prison facility's five housing units.<sup>7</sup>

The riot was quelled with the aid of 96 members of the Arizona Department of Corrections' special Tactical-Support Unit (TSU). State correctional employees wearing military fatigues and bulletproof vests and carrying rifles, tear-gas equipment and batons were sent to the prison. Local law-enforcement officers were deployed to guard the private prison's perimeter late into the night to ensure there were no escapes.<sup>8</sup>

The rioting resulted in "severe property damage" to the housing units and injury to two staff members, according to the ADC. A spokesman for the Department said three officers were treated for minor injuries at a local hospital and released, and no inmates were harmed in either incident.<sup>9</sup> However, the damage left many housing units uninhabitable.

By most accounts, the riots were motivated by prisoner frustration with MTC's management and the actions of its guards. *There were no altercations among prisoners.*

By most accounts, it is clear that the riots were motivated by prisoner frustration with MTC's management and the actions of its guards. This frustration was directed at the physical facilities themselves. **There were no altercations among prisoners.**

The Arizona Department of Corrections (ADC) moved 1,168 prisoners out of the facility. It placed 380 inmates in the Pinal County Jail, 50 inmates to Navajo County Jail, 30 to Apache County Jail, 24 to Santa Cruz County Jail and nine to state facilities. In addition, 562 were relocated to Corrections Corporation of America's Eloy Detention Center and 113 to an MTC facility in Otero, New Mexico, near El Paso, TX.<sup>10</sup>

Two weeks after the riots, a guard who had reportedly been at the center of one of the disturbances committed suicide at his home in Bullhead City. An MTC Spokesman told the

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<sup>6</sup> Harris, Craig. "Riot at Arizona prison sparks transfer of 700 inmates," *Arizona Republic*, 7/4/15

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid*

<sup>9</sup> Harris, Craig. "Ducey calls for investigation of Kingman prison riot," *Arizona Republic*, 7/5/15

<sup>10</sup> Harris, Craig. "More counties taking inmates after Kingman riots," *Arizona Republic*, 7/9/15

*Kingman Daily Miner* that the man was in an altercation with an inmate when he used pepper spray to control the prisoner, an act that may have set off the riot.<sup>11</sup>

Governor Doug Ducey called for an investigation into the riots and charged the Director of the Arizona Department of Corrections with the task. This prompted many, including the American Friends Service Committee, to question whether the ADC could perform an impartial assessment, given that the Department itself is ultimately responsible for the actions of its contractor, MTC.

Despite numerous calls for an independent investigation, the Governor chose to leave the investigation to the Department of Corrections.

### Brutality in Riot Response

Disturbing reports have emerged that the Department of Corrections' tactical response team's response to the 2015 riots was overly harsh, to the point where prisoners who were completely incapacitated were still being beaten, tazed, and shot with rubber bullets.

Numerous accounts cite a member of the Tactical Support Unit (TSU) as saying, "flash 'em, bang 'em, and roll 'em" before the team employed what has been described as a barrage of tear gas, hornet grenades that release rubber pellets, and other "less than lethal" munitions.<sup>12</sup>

*The gas filled the pod until you could barely see your hand in front of your face. Your eyes burned and watered so bad you couldn't open them, snot poured from your nose and you couldn't breath and when you could all you did was cough. After 7 or 8 minutes or so people were yelling and screaming that they couldn't breath, some broke windows that go outside, they have bars on them so you can't get out, so they could get air.*<sup>13</sup>

"... even though everyone was already on the floor and on their stomachs they still kicked us, beat us and shot us with their weapons."

At this point, rather than removing the prisoners, the TSU is reported to have thrown in a second round of gas canisters and hornet grenades. Accounts describe prisoners being left in these conditions for an additional 10-15 minutes, despite their pleas for help and reports that some had been injured and needed medical attention.

<sup>11</sup> McMurdo, Doug. "Prison guard at hub of riot kills himself," *Kingman Daily Miner*, 7/16/15

<sup>12</sup> Anonymous 2, prisoner in Kingman, email correspondence, 8/11/15. And Middle Ground Prison Reform, "Letter to Gov. Ducey RE: Kingman Private Prison Riot," 7/31/15

<sup>13</sup> Anonymous 2, prisoner in Kingman, email correspondence, 8/11/15.

Eventually, the prisoners were told to get on the floor and were then led outside where their hands were tied behind their backs with zip ties. Prisoners' accounts relate that excessive force was used in this operation as well:

*... even though everyone was already on the floor and on their stomachs they still kicked us, beat us and shot us with their weapons. The guy next to me didn't speak any English and when they came to his house and told him to get up off the ground and he didn't respond they kicked him in the head and shot him twice and screamed at him again and again to get up. I yelled that he doesn't speak any English and they kicked him again and shot him 4 more times and said "Do you speak English now mother- [expletive]?" Still he didn't move so they dragged him out.<sup>14</sup>*

**A number of prisoners appear to have been harmed by the officers responding to the riot, rather than in the riot itself.**

The Arizona Department of Corrections reported that no prisoners were injured in the riot. They failed to mention whether any were injured in the Department's **response** to the riot.

*The kid that came out right behind me had his head slammed in to the metal bars on the windows and had to get 8 staples in his head. He now has a 4 inch scar on his head... The man next to me was kicked so many times I thought they broke his ribs. A young black kid not far from me was on the ground and made the mistake of asking an officer to please loosen up his cuffs his hands were numb, the officer walked over kicked him in the face and told him to "shut up [expletive] and move your [expletive] ass closer to the guy next to you".*

*Each man that was brought out was beaten and abused physically and verbally. The kid that was kicked in the face had his eye socket busted. His eye swelled up so bad he couldn't see out of it for 3 days.<sup>15</sup>*

Another account corroborates this version of events:

*... they sent in teargas, smoke bombs and some grenade thing - causing the rioters to smash the windows for air. Then, they handcuffed every inmate, beating them while handcuffed, the cuffs were so tight it turned some men's hands black and blue. My ex-husband reported that he laid on the ground for 14 hours, after they beat him, smashing his knee and forcing him to the ground. He repeatedly told them he was non-combative, that he had an ankle injury. They stood over the inmates on the ground for 14 hours,*

<sup>14</sup> Anonymous 2, prisoner in Kingman, email correspondence, 8/11/15.

<sup>15</sup> *Ibid*

*calling them names. They hit men as they walked peacefully and in handcuffs out of the prison. He shared that several men had heart attacks, and were not receiving medical care, and he believes several men died.*<sup>16</sup>

The ex-wife of the prisoner with the ankle injury described above later told AFSC that as a result of being hit in the knee with a baton, her ex-husband has been unable to walk and has been in a wheelchair ever since. After about a month, his knee was so swollen he was taken to the hospital, as the prison staff feared he may have a blood clot.<sup>17</sup>

Prisoners were then left handcuffed, lying in the dirt on the prison yard for anywhere from 14-24 hours.

At least five prisoners or prisoners' family members have reported that the zip ties were so tight and they were handcuffed for so long that it took at least a week for the feeling to return to their hands and fingers. One family member said that her son still has no feeling in his thumbs.<sup>18</sup>

**The Arizona Department of Corrections reported that no prisoners were injured in the riot. They failed to mention whether any were injured in the Department's *response* to the riot.**

It is unlikely that the Department of Corrections' assessment of the riots will address the behavior of its own tactical unit. Yet, the full extent of the problem—and the Department's response—needs to be addressed in order for the public to be assured that the system is working properly to ensure the safety of all.

## Factors That May Have Contributed to the Disturbances

### Cost Cutting

Private prisons make their profits by winning contracts. They win contracts by being the lowest bidder, yet at the same time, they have to make a profit for their company. As a result, these corporations are notoriously tight-fisted when it comes to their facilities' construction, amenities, programs and services available to prisoners, and, most significantly, staffing.

A former staff person at the Kingman facility, who had worked there for 4 years and resigned shortly before the 2015 riots reported,

*We were working with outdated material. Everything broke, but there was no money to fix anything. It was all held together with spit and Band-Aids.*<sup>19</sup>

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<sup>16</sup> Anonymous 3, family member of prisoner in Kingman, email correspondence, 8/17/15

<sup>17</sup> Anonymous 4, family member of prisoner in Kingman, phone conversation 8/20/15

<sup>18</sup> Anonymous 5, family member of prisoner in Kingman, phone conversation 8/20/15

<sup>19</sup> Anonymous, Prison Staff, phone conversation, 8/4/15

The escapes in 2010 were found to be linked directly to Management and Training Corporations' refusal to repair malfunctioning alarms and other safety equipment, reportedly because it would have cost too much money.

**Inadequate Cooling:** Numerous accounts have cited the lack of proper cooling inside some of the units, several of which had swamp coolers rather than air conditioning. Some indicated that the swamp coolers were not working properly. One prisoner stated that the guards would openly taunt the prisoners, reminding them that the control rooms where the officers sat were air conditioned while the rest of the unit was not. The average daily temperature in Kingman in July is 98 degrees.

**Medical Care:** About three months before the riots, MTC cancelled its contract with prison-medical corporation Corizon, choosing instead to provide the medical "in house." The result was a breakdown in services. It is a safe assumption that this move was calculated to save money, however several people reported that the medical care "had deteriorated to the point it was virtually nonexistent."<sup>20</sup>

One prisoner writes, "The health care...is so bad I don't know where to start. The wait time to see a provider, or the fact that if you tell them what's wrong or what hurts they tell you you're lying. You literally have to be bleeding or near death for them to really do something."<sup>21</sup>

**Facility Design:** Another issue that, while not a cause of the riots, certainly exacerbated the extent of the damage was the poor construction of the facility. Frank Smith with the Private Corrections Institute, explains that for-profit prison corporations often employ specialty firms that design and build prisons. Smith claims,

*They have consistently used substandard materials, unskilled labor and poor design...I've seen prison facility after prison facility where the roofs leaked, for instance. Another problem has been the use of inferior materials. I recall in Crowley County, Colorado... that the locks... didn't work properly, that doors and file cabinets proved to be grossly insecure, as were the windows that were supposed to protect the control rooms.*



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<sup>20</sup> McMurdo, Doug. "Former Kingman prison employee says prison officials knew inmates were going to riot," *Kingman Daily Miner*, 7/19/15.

<sup>21</sup> Anonymous 2, prisoner in Kingman, email correspondence, 8/11/15.

*They also frequently built prisons which had porcelain commodes which could be easily destroyed and the shards remaining could be used as extremely sharp weapons.<sup>22</sup>*

Media reports on the Kingman riots show that the porcelain toilets were smashed, and that this was one of the key factors in determining that the units were “uninhabitable.”

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## Staffing Problems

Another issue related to cost-cutting, but requiring its own specific category in this analysis, is staffing. Private prison companies often pay staff less than states or the federal government. They frequently offer **minimal staff training**, which can leave employees frustrated and unprepared to handle crises. As a result, these facilities tend to have very high turnover rates and are chronically understaffed.

Essentially, the combination of low pay, understaffing, and having a “green” workforce (guards with minimal training and experience) is a recipe for unstable and dangerous prisons. Guards who are new and under trained may not have enough experience to notice when conflicts are brewing or know how to defuse them before they lead to assaults or worse.

When conflicts do escalate into fights or riots, these guards may be unsure what to do in a crisis, leading them to wait too long to intervene or fail to take any action at all.

Staffing issues were repeatedly cited in the Department of Corrections’ assessment of the 2010 Kingman escapes:

- *The unit is staffed with a very high percentage of new staff and many of them demonstrated a lack of experience and “command presence”. [The Warden] reports that approximately 80% of her staff is new or newly promoted*
- *There is a question of experience. I conservatively estimate that one third of security employees have less than three months on the job or in their promoted positions. Further, there is no FTO program to teach staff new to their job or position.<sup>23</sup>*

Between 2006 and the first part of 2013, the Arizona Department of Corrections levied a total of 152 monetary sanctions against MTC, collecting a total of **\$2,315,989** in fines for staff vacancies.

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<sup>22</sup> Smith, Frank. Email Communication, 7/27/15.

<sup>23</sup> Arizona Department of Corrections, Kingman Report, August 19, 2010

In its 2011 Biennial Comparison Review of public and private prisons, the Arizona Department of Corrections found that *every private prison under contract with the state was judged to be performing below the Department of Corrections on staffing*. The Marana prison had a turnover rate of 36.4% in 2010 and 56.8% in 2011. In 2011, MTC’s two Kingman Units both had very high turnover rates of 25.6% each.<sup>24</sup>

Materials submitted in response to the RFP for management of the Marana prison in 2013 indicate that **staffing continues to be a major deficiency for MTC in Arizona**. Between 2006 and the first part of 2013, the Arizona Department of Corrections levied 114 monetary sanctions against MTC for position vacancies in the Kingman prison and 38 sanctions for vacancies at the Marana prison. Ranging in cost from \$168 to almost \$50,000 each, **MTC had been docked a total of \$2,315,989 in fines for staff vacancies**.<sup>25</sup>

Facility	Number of Sanctions	Cost
Kingman	114	\$1,996,602.68
Marana	38	\$319,386.14
<b>Total</b>	152	\$2,315,988.82

The *Arizona Republic* reported that **MTC guards at Kingman are among the lowest paid in Arizona**, starting at a salary of \$28,392 a year, the second lowest entry-level salary among 10 public and six private prisons in Arizona. The entry-level wage at DOC is \$32,916, although officers in rural areas are paid more due to the difficulty of staffing these facilities.<sup>26</sup>

An MTC employee told AFSC that she had been working at the prison for over 4 years and was making only \$15/hr. She said her last years bonus was just \$92. “They can’t keep people because they treat them so poorly,” she said.



**MTC guards at Kingman are among the lowest paid in Arizona**

A former MTC staff person told the *Kingman Daily Miner*, *Employee morale is horrible... since correctional officers are made to work copious amounts of overtime - sometimes 16 and even 20 hours a day - and fatigue...could have*

<sup>24</sup> Arizona Department of Corrections, Biennial Comparison of Private versus Public Provision of Services ARS 41-1609.01 (K)(M), December 21, 2011

<sup>25</sup> Management and Training Corporation, “Monetary Sanctions,” Appendix F. Vendor Response to Arizona Department of Corrections RFP #130052DC. 2013.

<sup>26</sup> Harris, Craig. “Sheriffs: Mistreatment of prisoners caused Kingman riot,” *Arizona Republic*, 8/11/15

*played a role in the riot and disturbances. Inmates know when the guards have been on duty for extended hours," she said. "All they have to do is watch. They know when guards are tired and tired people don't always have the best people skills."<sup>27</sup>*

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## Routine Mistreatment of Prisoners

The issue of mistreatment of prisoners flows, in many cases, from the staffing issues described above. Lack of training combined with poor background screening of job applicants has been linked to several cases of prisoner abuse in private prisons nationally.

Underpaid, undertrained, and overworked staff who have low job satisfaction and do not feel valued by their employers are at risk for problems like depression, alcoholism, substance abuse and domestic violence. This can sometimes contribute to abuse of prisoners.

Pinal County Sheriff Paul Babeu and Navajo County Sheriff Kelly Clark told the *Arizona Republic* that they heard many complaints of poor treatment from the prisoners who were transferred to their jails after the Kingman riots.

*"What we are hearing is, they were mistreated en masse," said Pinal County Sheriff Paul Babeu, whose jail holds more than 300 Kingman prison evacuees. "From what I understand, there was a lack of professionalism in how they were treated."<sup>28</sup>*

In the majority of news reports as well as direct accounts from former guards and prisoners, the most consistently reported issue is the **over-use of pepper spray**. This was not in response to violent situations, but a rather a routine aspect of how the prison was managed. This may be a reflection of poor training or simply an act of cruelty on the part of some guards.

The rioting is said to have begun when a guard refused to allow a Muslim prisoner to attend the Ramadan ceremony for the breaking of the daily fast. When the prisoner became agitated, the guard pepper sprayed and then brutally beat him. Many other prisoners witnessed this act, as they were gathered for "chow."

This detailed account was provided by a prisoner from Kingman:

*It all started...because an officer wouldn't let one of the Muslims go to get his Ramadan meal and pray. There was argument and instead of the officer walking away and defusing the situation or even calling a sgt to come and help remedy the situation, he*

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<sup>27</sup> McMurdo, Doug. "Former Kingman prison employee says prison officials knew inmates were going to riot," *Kingman Daily Miner*, 7/19/15.

<sup>28</sup> Harris, Craig. "Sheriffs: Mistreatment of prisoners caused Kingman riot," *Arizona Republic*, 8/11/15

*instead decides to spray the person with mace, slam him to the ground and drag him out of the pod by his feet and into the horseshoe area....*

*When the door locked and the officer had the inmate alone he kicked the inmate in the ribs and told him to put his hands behind his back, when the inmate who was on his belly with his hands up to his eyes because of the mace didn't comply fast enough the officer plunged his knee into his back hard and forced the inmate's arms behind his back and cuffed him. He then yanked on the inmate's arms hard and dragged him to his feet backwards. Now the whole time people are gathered at the windows watching this cop spray, slam, drag, and beat up this inmate all over an argument about this officer refusing to let this inmate eat and observe his religion.<sup>29</sup>*

The heavy-handedness of the guards and the over use of pepper spray had been going on for some time, and the altercation with the Muslim prisoner released the collective anger that had been building among the incarcerated population. This account has been corroborated numerous times by a variety of sources.

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## Mismanagement of the Facility

**Drugs:** A number of issues related to the poor management of the facility have come to light after the riots. One staff person reported that there was a “flood” of drugs in the facility. Reportedly, the majority of these were smuggled in to the prison by the staff. The Phoenix New Times, citing a report from Middle Ground Prison Reform described the facility as having “...an atmosphere rife with drug dealing that is enabled by staff misconduct and improper security practices...Some staff are reported to be regular importers of controlled substances...”<sup>30</sup>

**Excessive Use of Lockdown:** Unable to effectively control the drug problem, the management resorted to repeatedly “locking down” the unit, meaning prisoners were locked in their cells 23-24 hours per day, without visits or other privileges. Apparently, this had been happening on and off for nearly four months.<sup>31</sup> At the same time, one of the facilities had only swamp coolers in the scorching heat of the summer, and prisoners were locked in cells with little ventilation or ability to get outside for fresh air.

**Assaults:** Another indication of the lack of the management’s control over the facility is the high levels of violence in Kingman. *The Arizona Republic* reported that **the facility had the most inmate assaults and fights among the state's private prisons every year from fiscal 2010 to 2014**. In fiscal 2014, it accounted for 119 of the 161 inmate assaults in Arizona's six private prisons. The MTC prison also had the most assaults on staff by inmates among Arizona's private

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<sup>29</sup> Anonymous 2, prisoner in Kingman, email correspondence, 8/11/15.

<sup>30</sup> Stuart, Elizabeth. “Poor living conditions sparked Kingman Prison Riots,” *Phoenix New Times*, 7/31/15

<sup>31</sup> Anonymous, Prison Staff, phone conversation, 8/4/15

prisons every year from fiscal 2011 to 2014, records show. In fiscal 2014, it accounted for 38 of the 41 private-prison staff assaults.<sup>32</sup>

**Dereliction of Duty:** It has been widely reported that the prison officials had been told by the prisoners and by staff that a riot was looming. A former staff person told the *Kingman Daily Miner*, “I left because everyone knew what was coming and management didn’t heed anybody’s warning.”<sup>33</sup>

A former staff person told AFSC that when she reported to her supervisors that the prisoners were telling her there was going to be a riot, the response was “who told you that?” Rather than addressing the problem and ensuring the safety and security of the prison, it appears that MTC staff were more interested in retaliating against the inmates.<sup>34</sup>

In the ADC investigation following the 2010 riots and escapes, there had clearly been instances in which the **MTC staff had lost control of the facility**, fleeing the yard as prisoners fought. ADC security assessments of that prison also acknowledged that the prisoners had literally “chased the officers off the yard” at least 13 times.<sup>35</sup>

There are clear indications that this was likely occurring during the 2015 riots as well. Several published accounts cite former Kingman prisoners stating that the staff abandoned their duties when the violence started:

*...when the riot began ‘every cop was scared,’ and they were left alone without supervision for 12 hours.*<sup>36</sup>

## 2015 Murder of Neil Early

In January of 2015 a 23-year old man in the Kingman prison for shoplifting was raped and beaten to death by other prisoners. Neil Early was serving a 5 year sentence and was due to be released in February. A confidential source told the *Kingman Daily Miner* that Early owed money to inmates who deal drugs at the prison. He was reportedly struck repeatedly in the head and body with a combination lock that was placed into a sock and used as a weapon. The family is suing the state and MTC for \$7.5 million.

<sup>32</sup> Harris, Craig. “Pinal County will take 380 inmates after Kingman prison riot,” *Arizona Republic*, 7/7/15

<sup>33</sup> McMurtro, Doug. “Former Kingman prison employee says prison officials knew inmates were going to riot,” *Kingman Daily Miner*, 7/19/15.

<sup>34</sup> Anonymous, Prison Staff, phone conversation, 8/4/15

<sup>35</sup> Ryan, Charles. “Cure Notice” to MTC, memo, December 29, 2010

<sup>36</sup> McMurtro, Doug. “Former Kingman prison employee says prison officials knew inmates were going to riot,” *Kingman Daily Miner*, 7/19/15.

Another prisoner suggested that “the special forces were brought in because MTC guards fled during the riots.”<sup>37</sup>

An anonymous ADC staff person, who was working with the Department’s K-9 unit, was brought to Kingman to help put down the riot. He related that, when the teams arrived, they found one MTC guard who had hidden in the ceiling panels to escape the rioting.

It appears that **the Department was aware of many of the problems at Kingman**. Materials submitted in response to the RFP for management of the Marana prison in 2013 reveal that **the Kingman prison was found to have had a total of 114 “contract deficiencies”** between 2008- and early 2013. This was by far the most of any of the 9 facilities covered in the document. The Marana prison had 36 documented deficiencies, most related to staffing.

Most of the deficiencies cited at Kingman were also related to staffing problems, but there were also several having to do with safety issues, including “security devices,” “tool control,” “key control,” weapons storage and accountability, and problems with the perimeter of the prison.<sup>38</sup>

**The Kingman prison was found to have had a total of 114 “contract deficiencies” between 2008- and early 2013.**

However, it appears that the Department of Corrections was content to simply continue collecting fees rather than demand that MTC permanently address these long-standing problems. It is possible that the sum total of these “deficiencies” could have been grounds for canceling the contract. A key question for Arizona’s leadership and taxpayers remains why didn’t the Department take stronger action to fix these problems once and for all? It is doubtful that the Department’s own investigation will address this question.

Another indication of the dysfunctionality of MTC is the number of lawsuits that have been filed against it. Documents submitted in 2013 show that **Management and Training Corporation had been sued 348 times between 2008 and 2013**. Eighteen of those lawsuits were filed in Arizona. While the majority were dismissed, 74 were still open at the time of the report (2013), 29 had

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<sup>37</sup> Harris, Craig. “Sheriffs: Mistreatment of prisoners caused Kingman riot,” *Arizona Republic*, 8/11/15

<sup>38</sup> Management and Training Corporation, “Deficiencies for the last 5 years for active contracts and 3 years for inactive contracts,” Appendix E. Vendor Response to Arizona Department of Corrections RFP #130052DC. 2013.

been settled, and 28 were labeled “watch,” which means that the case was being handled by a third party.<sup>39</sup>

One of these lawsuits was filed by the family of the Oklahoma couple that was murdered by the Kingman escapees in 2010. The family sued the state of Arizona and MTC, seeking \$40 million in damages.

MTC settled the suit in 2011 for an undisclosed amount.

Management and Training Corporation was sued 348 times in 5 years

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## Oversight and Accountability

It is particularly disturbing that the recent spate of rioting took place just 5 years after the escapes from Kingman, and that many of the same issues appear to have been at the center of the problem. Documents released after the 2010 escapes show that the corporation was reluctant to fix the problems that led to the fiasco and that the Department of Corrections was unable or unwilling to hold them accountable.

In the aftermath of the escapes from Kingman, a “Cure Notice” was sent to MTC by the Department of Corrections, citing “9 outstanding deficiencies that remained uncorrected, as well as 24 additional deficiencies identified at both Kingman units.”<sup>40</sup>

In response to this foot-dragging on the part of the corporation, the state pulled 238 prisoners out of Kingman and said it would stop sending new prisoners until MTC fixed its security problems and retrained its corrections officers. By contract, MTC was being paid \$60.10 per inmate per day, with a guaranteed minimum occupancy of 97 percent. But Corrections Director Charles Ryan suspended that guarantee, saying that MTC was out of compliance with its contract and that until MTC fully addressed lax security, it would be paid only for the inmates it actually housed.

Rather than taking responsibility to fix the problems, the company threatened to sue for breach of contract, saying the state had no right to refuse to pay the guaranteed 97 percent.

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<sup>39</sup> Management and Training Corporation, “Corrections Closed or Pending Legal Judgements, Claims, or Lawsuits for the Last Five Years,” Appendix G. Vendor Response to Arizona Department of Corrections RFP #130052DC. 2013.

<sup>40</sup> Ryan, Charles. “Cure Notice” to MTC, memo, December 29, 2010

By March 21, when the two sides settled, MTC's demand amounted to nearly \$10 million. In exchange for MTC dropping its claim, Corrections agreed to begin paying MTC at the 97 percent rate on May 1, even though it would take until the end of August to send enough new inmates to refill the prison to that level. Between May 2010 and August of 2011, Arizona had paid MTC—a company whose negligence let three prisoners escape and murder two people—over \$3 million for empty beds.<sup>41</sup>

This episode indicates that some of the contract requirements may actually impede the state from holding such contractors appropriately accountable for these kinds of problems.

In 2011, a report from the Arizona Auditor General stated that the Department of Corrections needed to improve its oversight over private prisons. The report states, “although the Department had oversight procedures in place, it had not identified the security issues that contributed to the escapes.”<sup>42</sup>

The Auditor General also made the following recommendations:

“The Department should implement its plans to:

- Revise its policies and procedures to reflect changes to the annual audit.
- Continue developing and implementing training for contract monitors.
- Compare private and state-run prison services every 2 years as required by statute.”<sup>43</sup>

In 2012, the Arizona legislature **repealed** a law requiring cost and quality comparison reviews of the state’s public and private prisons

It remains to be seen whether the Department was in compliance with the first two of these requirements.

As for the biannual comparison of public and private prison services, this statute was repealed by the Arizona State Legislature in 2012. Many have speculated that this was because previous comparisons showed that private prisons were more expensive to run, and revealed other flaws in for-profit incarceration. Rep. John Kavanagh, the Chair of Appropriations at the time the repeal was passed, defended the move by arguing that the existing comparisons did not take into account other factors that, he claimed, would prove private prisons are saving money.<sup>44</sup>

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<sup>41</sup> Ortega, Bob. “Arizona prison oversight lacking for private facilities,” *Arizona Republic*, August 7, 2011

<sup>42</sup> Arizona Auditor General, “Department of Corrections: Oversight of Security Operations,” September 2011 Report No. 11-07

<sup>43</sup> *Ibid*

<sup>44</sup> Kavanagh, John, “Private Prisons Give Taxpayers the Best Deal,” *Arizona Republic*, AZ I See It, 7/16/15

However, no alternative measurement was put in place, leaving the taxpayers of the state with no information at all about how these prisons are performing.

MTC and its supporters claimed that the company made significant improvements as a result of the 2010 escapes. In 2011, a corporate spokesman argued that “Kingman, with a new second security fence, revamped alarm systems, additional patrols and other changes, is now the safest prison in Arizona.”<sup>45</sup>

This latest fiasco clearly shows that there remain serious problems in the Kingman facility that were not addressed in a timely manner by MTC and were not identified or addressed by the Department of Corrections’ monitors.

## Conclusions and Recommendations

It is clear, given the long-standing and repetitive nature of these issues, that the problems at Kingman are systemic rather than situational. While there is no question that the contractor, Management and Training Corporation, was negligent to the point of possible violation of the terms of its contract, the ultimate responsibility lies with the Department of Corrections and the State of Arizona.

Corrections is a core public safety responsibility, and should not be hired out to the lowest bidder or subjected to short-sighted cost cutting strategies.

While many people assume that businesses can do most things better than government bureaucracy, in this case the profit motive is fundamentally at odds with the purpose of prisons: public safety and crime prevention. The drive to make a profit causes many corporations to cut corners on staff pay and training, which has a direct impact on the safety and security of these facilities and the community.

**Corrections is a core public safety responsibility, and should not be hired out to the lowest bidder or subjected to short-sighted cost cutting strategies.**

Prison privatization is far from a cure-all for budget woes, and in fact may create many more problems than it claims to solve.

These issues are now before the state legislature, as it considers contracting for up to 2,000 additional beds. The Department issued a Request for Proposals for new medium-security beds

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<sup>45</sup> Ortega, Bob. “2010 Escape at Kingman an issue for MTC’s bid,” *Arizona Republic*, 8/11/11.

in September of 2014. The deadline for responses was delayed once in response to the Kingman riots, and the new due date for bids is September 22.

We must not be fooled again.

No new contract should be signed until a thorough evaluation of Kingman and the five other privately operated prisons under contract demonstrates that these facilities are safe, cost effective, humanely run, and accountable to the public.

It must be acknowledged that there are serious deficiencies in the management of the Arizona Department of Corrections. It is not a question of whether state prisons are better than private prisons. The ADC is far from blameless in the troubles plaguing those private prisons contracting with the state, and AFSC has substantial criticisms of the Department's management of its own facilities.

But it is also clear that simply handing over control of our prisons to a private, for-profit corporation is not a viable solution. In fact, it appears to exacerbate certain problems and sometimes create new ones. And, it serves to further remove our prisons from public scrutiny and control. There is ample evidence of systemic, chronic and—arguably—endemic failures in the privatization of incarceration.

***The solution is more public control of our prison system, not less.***

## Recommendations:

1. The Governor should hire an independent, impartial third party to investigate the cause of the riot and recommend solutions. It should also investigate conditions and contract compliance in all of Arizona's other privately operated prisons, to prevent a similar disaster in the future.
2. The current Request for Proposals (RFP) for up to 2,000 more prison beds should be canceled. No new contract should be signed until the public can be assured that these facilities are safe, cost effective, humanely run, and accountable to the public.
3. If it is determined that Management and Training Corporation was negligent in its management responsibilities and violated the terms of its contract in any way, the Department of Corrections should exercise its authority to cancel the contract.
4. The Arizona State Legislature should take immediate action to:
  - a. Reinstate the requirements for biennial quality and cost comparison reviews of public and private prisons, taking into account all the various factors that may

contribute to the equation. This review should be done by an independent, third party.

- b. Create an independent oversight body that will regularly monitor the performance of the Department of Corrections in all areas.
- c. Enact legislation to require that for-profit corporations under state contract be held to the same transparency and accountability standards as the Department of Corrections.