

FROM: Undersigned Organizations

TO: Governor Neil Abercrombie Governor Bobby Jindal
Governor Mike Beebe Governor John Kasich
Governor Robert Bentley Governor John Kitzhaber
Governor Steven L. Beshear Governor Paul LePage
Governor Terry Branstad Governor John Lynch
Governor Jan Brewer Governor Dan Malloy
Governor Jerry Brown Governor Jack Markell
Governor Sam Brownback Governor Susana Martinez
Governor Phil Bryant Governor Bob McDonnell
Governor Lincoln Chafee Governor Matthew Mead
Governor Chris Christie Governor Jeremiah W. (Jay) Nixon
Governor Tom Corbett Governor Martin O'Malley
Governor Andrew Cuomo Governor C.L. "Butch" Otter
Governor Jack Dalrymple Governor Sean Parnell
Governor Mitch Daniels Governor Deval Patrick
Governor Dennis Daugaard Governor Beverly Perdue
Governor Mark Dayton Governor Rick Perry
Governor Nathan Deal Governor Pat Quinn
Governor Mary Fallin Governor Brian Sandoval
Governor Chris Gregoire Governor Brian Schweitzer
Governor Nikki R. Haley Governor Rick Scott
Governor Bill Haslam Governor Peter Shumlin
Governor Dave Heineman Governor Rick Snyder
Governor Gary R. Herbert Governor Earl Ray Tomblin
Governor John Hickenlooper Governor Scott Walker

Dear Governor:

We understand that Harley Lappin, Chief Corrections Officer at Corrections Corporation of America (CCA), recently sent a letter to nearly every state announcing the Corrections Investment Initiative – the corporation's plan to spend up to \$250 million buying prisons from state, local, and federal government entities, and then managing the facilities. The undersigned coalition urges you to decline this dangerous and costly invitation.

The letter from Mr. Lappin states that CCA is only interested in buying prisons if the state selling the prison agrees to pay CCA to operate the prison for 20 years – at minimum. Mr. Lappin further notes that any prison to be sold must have at least 1,000 beds, and that the state must agree to keep the prison at least 90% full. In other words, CCA would be buying not only a physical structure but a guarantee that your state will fill a large prison and continuously pay the corporation taxpayer money to operate the institution for two decades. While a prison sale might provide a short-term infusion of revenue, taxpayers in your state would be left paying for this short-term windfall until at least 2032. In short, this proposal to sell a valuable state asset is a backdoor invitation for your state to take on additional debt, while increasing CCA's profits.

Moreover, the requirement to keep a large prison 90% full for twenty years would pose an obstacle to more serious criminal justice reform. The United States imprisons far more people – both per capita and in absolute terms – than any other nation in the world, including Russia, China, and Iran. Over the past four decades, imprisonment in the United States has increased explosively, spurred by criminal laws that impose steep sentences and curtail opportunities for probation and parole. The current incarceration rate deprives record numbers of individuals of their liberty, disproportionately affects people of color, and has at best a minimal effect on public safety. Meanwhile, the crippling cost of imprisoning increasing numbers of Americans saddles government budgets with rising debt and exacerbates the current fiscal crisis confronting states across the nation.

As this sprawling and costly system of mass incarceration damages the nation as a whole, CCA reaps lucrative benefits. As the corporation admits in SEC filings: “The demand for our facilities and services could be adversely affected by . . . leniency in conviction or parole standards and sentencing practices . . .”ⁱ

A federal Bureau of Prisons (“BOP”) study, which compared a private federal prison, Taft Correctional Institution (“TCI”), with certain other institutions operated by the BOP, reported:

[S]everal trends at TCI were problematic. First, the review of significant incidents at TCI revealed that TCI experienced three events of critical importance. There were two escapes from the secure main facility, and there was a disturbance during which around 1,000 inmates refused to return to their housing units for the 10:00 p.m. count. The escapes threatened public safety, and the disturbance had the potential to threaten public safety and surely threatened the safety of inmates and staff at TCI. None of the comparison prisons had comparable events, and there was only one escape from any BOP prison during the five-year period examined here. During this time, the BOP operated well over 100 different prison sites, and some of the sites contained more than one prison.

. . . [T]he counts of all forms of misconduct considered together were higher at TCI than was expected given the characteristics of the inmate population at TCI. In fact, for all misconduct, TCI had some of the largest deviations from the expected counts, suggesting that performance at TCI was problematic. When all misconduct was broken into three categories based upon severity of the behavior, it was seen that the trend for overall counts of misconduct was also observed for the most serious category of misconduct . . .ⁱⁱ

Remarkably, an author of this study was *Mr. Lappin himself* who, in his new role at CCA – and despite his earlier concerns about the safety of the private facility he studied – now seeks to purchase and privatize prisons.

Recent examples of violence and human rights abuses at CCA facilities include the following:

- In October 2011, prisoner fights in several locations throughout a CCA prison in Oklahoma left 46 prisoners injured and required 16 inmates to be sent to the hospital, some of them in critical condition.ⁱⁱⁱ
- In 2010, the corporation entered into a confidential settlement agreement with a woman who was held hostage for three hours after a CCA inmate sent to an Ohio hospital overpowered guards and escaped. The victim stated that she had been “plagued by anxiety, nightmares, sleeping problems, and a fear of being alone since the incident.” The escapee also stole a gun and a uniform from the guards and robbed a bank while on the run.^{iv}
- In September 2011, Donald Dunn, a CCA employee responsible for transporting immigration detainees, pleaded guilty, according to a Department of Justice press release, to two federal deprivation of rights charges: “While transporting the females between the correctional center and either Austin Bergstrom International Airport or the Greyhound Bus Terminal in Austin, Dunn admittedly would stop the vehicle, order the females to exit the vehicle, then mislead each of the victims to believe that he was conducting a legitimate search of their bodies, when in fact, the defendant touched the victims in a sexual manner and for the purposes of self gratification.”^v Dunn earlier pled guilty to state charges of official oppression and unlawful restraint in connection with the sexual abuse of five immigration detainees.^{vi}
- In 2009, State of Hawaii investigators sent to Otter Creek Correctional Center, a CCA prison for women in Kentucky that held Hawaii prisoners, found, according to a news report, that “at least five corrections officials at the prison, including a chaplain, had been charged with [engaging in sexual intercourse] with inmates in the last three years, and four were convicted.”^{vii} Both Hawaii and Kentucky later removed inmates from the facility.^{viii}

Selling off prisons to CCA would be a tragic mistake for your state. Mr. Lappin’s proposal is an invitation to fiscal irresponsibility, prisoner abuse, and decreased public safety. It should promptly be declined.

Sincerely,

AdvoCare, Inc.

American Civil Liberties Union – National Prison Project

American Federation of Government Employees, AFL-CIO

American Federation of State, County and Municipal Employees, AFL-CIO

Center on Policy Initiatives

Communications Workers of America

Detention Watch Network

Enlance

Grassroots Leadership

Human Rights Defense Center

In The Public Interest

International Brotherhood of Teamsters

International CURE

Justice Policy Institute

Justice Strategies

Marijuana Policy Project

NAACP

National Employment Law Project

Private Corrections Institute

Private Corrections Working Group

The Sentencing Project

Service Employees International Union

Southern Center for Human Rights

Southern Poverty Law Center

Southern Region, Workers United, Service Employees International Union

Youth Transformation Center

Washington Lawyers' Committee for Civil Rights and Urban Affairs

ⁱ CORRECTIONS CORPORATION OF AMERICA, 2010 ANNUAL REPORT ON FORM 10-K 19 (2010).

ⁱⁱ HARLEY G. LAPPIN ET AL., FEDERAL BUREAU OF PRISONS, EVALUATION OF THE TAFT DEMONSTRATION PROJECT: PERFORMANCE OF A PRIVATE-SECTOR PRISON AND THE BOP 89-90 (2005).

ⁱⁱⁱ Henry K. Lee, *California Convicts Brawl in Oklahoma Prison*, SAN FRANCISCO CHRON., Oct. 13, 2011.

^{iv} John Fuddy, *Former Hostage Settles Lawsuit*, COLUMBUS DISPATCH, Nov. 16, 2010; *Ohio Officials: Escaped Inmate Caught*, USA TODAY, Apr. 2, 2007.

^v Press Release, U.S. Dep't of Justice, *Former T. Don Hutto Correction Center Employee Pleads Guilty to Civil Rights Charges* (Sept. 7, 2011).

^{vi} Shannon Wolfson & Erin Cargile, *Former Guard Takes Plea Deal for Abuse*, KXAN, Nov. 9, 2010.

^{vii} Ian Urbina, *Hawaii To Remove Inmates Over Abuse Charges*, N.Y. TIMES, Aug. 25, 2009.

^{viii} R.G. Dunlop, *Behind the Bars: Kentucky Had Gaps in Monitoring Troubled Otter Creek Prison*, THE COURIER-JOURNAL, Jul. 4, 2010.