



December 11, 2017

Joint Subcommittee of Government Operations
Tennessee General Assembly
Cordell Hull Building
Nashville, TN 37243

Dear Members of the Joint Subcommittee of Government Operations,

I am writing on behalf of the more than thirteen thousand American Civil Liberties Union of Tennessee supporters, who live in every county across our state. We applaud the careful scrutiny that you have given to the recent Department of Correction performance audit conducted by the Tennessee comptroller. While we believe that ideally the state of Tennessee should completely end its relationship with CoreCivic, at a minimum it is crucial that leaders like you continue to hold the Department of Correction's feet to the fire to ensure that CoreCivic meets its contractual obligations and protects the safety of correctional staff and inmates, or risks the loss of the contract.

As you are well aware, the audit is nothing short of appalling. Not one, but multiple CoreCivic facilities in our state demonstrate a clear pattern of understaffing, as well as inadequate and error-ridden recordkeeping that put the safety of guards and inmates alike at risk. In fact, according to the audit, CoreCivic's Trousdale facility's continued noncompliance with contract requirements makes it challenging for the Tennessee Department of Corrections to even monitor the private prison. Every year, the state of Tennessee pays CoreCivic over \$100 million to run prisons and jails. While CoreCivic has promised us better, cheaper and safer prisons, this recent state audit illustrates that they are failing to deliver.

This is not a new problem. In a 2012 audit, the Tennessee Comptroller's office found that two of three CCA facilities audited did not meet the performance standard of "Limit(ing) the rate of violent institutional incidents (per 100 inmates)."

The issue also extends beyond Tennessee. Time and again across the country CoreCivic has delivered a pattern of abuse, mismanagement and violence at its facilities.

One CoreCivic prison in Idaho, the Idaho Correctional Center, was known as the "Gladiator School" because it had four times the number of prisoner-on-prisoner assaults than the state's seven other prisons combined. Inadequate staffing was identified as a primary cause of the violence. In 2010, the ACLU sued CoreCivic over the extraordinary level of violence at this facility. The class action complaint identified epidemic violence at the facility as the direct result of, among other things, correctional center officials turning a blind eye to brutality, a prison culture that relies on the degradation, humiliation and subjugation of prisoners, a failure to discipline guards whose misconduct precipitated assaults, and a reliance on violence as a management tool.

AMERICAN CIVIL
LIBERTIES UNION
OF TENNESSEE
P.O. BOX 120160
NASHVILLE, TN 37212
T/ (615) 320-7142
F/ (615) 691-7219
WWW.ACLU-TN.ORG

In 2011, the parties agreed to settle the lawsuit after CoreCivic promised to make a number of improvements, including meeting specific requirements for security staffing. Two years later, however, it became clear that company officials had actually been falsifying thousands of hours of records to make it appear as if they were actually staffing security posts that had remained empty. In response, the ACLU asked the judge to find CoreCivic in contempt of court, forced CoreCivic to turn over more records, and called CoreCivic employees to testify. Ultimately, the federal court in Idaho found the company in contempt of court, extended the period of court supervision of CoreCivic's compliance, ordered the appointment of an independent monitor, and set prospective fines of \$100 per hour for each mandatory post left unstaffed in the future. CoreCivic appealed the sanctions to the U.S. Court of Appeals for the Ninth Circuit. In 2016, the appeals court upheld the 2013 sanctions against the company. More information on this case, including legal documents, can be found at <https://www.aclu.org/cases/kelly-v-wengler>.

In 2012, 24-year-old CoreCivic employee Catlin Carithers was killed in a riot at CoreCivic's Adams County Correctional Center in Mississippi. A Bureau of Prisons report after the riot found that the facility was deficient in staffing levels and staff experience, among other problems. When the U.S. Department of Justice's Office of the Inspector General [audited](#) the facility four years later, they found that understaffing was even more severe in terms of actual post coverage.

At the Hutto detention facility in Texas, a CoreCivic guard responsible for driving detainees to the airport for deportation flights made a practice of sexually assaulting female detainees, typically on the side of the road at night, from 2009 to 2010. He was able to do this unnoticed because, in violation of the terms of CoreCivic's federal contract, CoreCivic supervisors cut costs by not requiring a second guard to accompany him in the van.

After losing its contract to hold federal prisoners in the company-owned Cibola Correctional Center in New Mexico, CoreCivic signed a contract with U.S. Immigration and Customs Enforcement to hold more than 1,100 Central American and Haitian refugees and migrants in the facility. CoreCivic allowed this prison to go several months without a doctor on site.

In Ohio, the state sold a public prison to CoreCivic in 2011. By the end of 2012, the prison had experienced a 300% increase in prisoner-on-staff assaults and a 187% increase in prisoner-on-prisoner assaults since the last state correctional inspection. CoreCivic was ordered to pay the state \$500,000 for violations of 47 state standards, including prisoners being forced to defecate in bags because they lacked access to running water.

In August 2016, the Justice Department's inspector general published the results of a multi-year [investigation](#) finding that private prisons compare poorly to their federally-run counterparts, experiencing nine times as many lockdowns and more safety and security incidents, improperly using solitary confinement cells as overflow housing, and failing to provide adequate medical staffing.

While proponents claim that private prisons save governments money, evidence of cost savings is mixed at best. In Tennessee, taxpayers were contractually required to pay CoreCivic nearly a half-million dollars for empty beds at the Nashville jail in 2011. In Idaho, as described above, CoreCivic admitted in court to falsely billing the state for 4,800 hours of unstaffed security posts at one prison. In 2010, Arizona's auditor general found that private prisons were actually more expensive than public prisons. In 2016, the U.S. Department of Justice's inspector general was unable to validate claims that private

prisons resulted in cost savings. Indeed, numerous meta-studies have found that private prisons offer no cost advantage. One of the few studies that does show a cost benefit is a Temple University study often cited by private prison corporations. What they fail to note, however, is that this study was funded by for-profit prison companies and that its authors were the subject of an ethics investigation by the university. Even where short-term cost savings exist, they are likely to come in the form of cuts to staffing and salaries, which leads to other problems such as higher staff turnover, poor staff coverage, and low staff morale.

Opposition to prison privatization is widespread. Numerous religious groups, including the United Methodist Church, the Presbyterian Church, the Episcopal Church, the U.S. Conference of Catholic Bishops and many others, have condemned prison privatization because of the inherent conflict between the justice system's goal of rehabilitation and private prisons' profit motive. Numerous investors have divested millions of dollars from CoreCivic and other private prisons for ethical and financial reasons.

Privatization is not always a bad thing. But incarcerating people should be the government's responsibility. The government has a vested interest in protecting public safety and reducing both the number of people behind bars and recidivism. CoreCivic has a vested interest in keeping prisons and jails full. Indeed, CoreCivic has reported in SEC filings that "risks" to its bottom line include "reductions in crime rates," lower minimum sentences for nonviolent crimes, and greater use of cost-saving probation and electronic monitoring in place of incarceration. Clearly, private prisons are beholden to shareholders, not taxpayers. These "risks" to CoreCivic's bottom line are at odds with our state's goal of ensuring that our criminal justice system rehabilitates people, reducing recidivism and ensuring public safety.

On behalf of ACLU members and supporters across the state, I urge you to take action to minimize the dangerous impact of Tennessee's relationship with CoreCivic by requiring the Tennessee Department of Correction to make the corporation meet contractual obligations or end the contract.

Thank you,



Hedy Weinberg
Executive Director