

# An Open Letter to the Corrections Corporation of America

Christopher Petrella  
Researcher, U.C. Berkeley

July 2014



July 1, 2014

Dear Corrections Corporation of America:

You need to stop.

You need to stop citing<sup>i</sup> the 2013 Temple University study<sup>ii</sup> that alleges for-profit, private prison companies like yours can “cut” corrections costs by “12-58 percent” in places like Arizona, California, Florida, Kentucky, Maine, Mississippi, Ohio, Oklahoma, Tennessee, and Texas. Others have already explained why it’s intellectually dishonest for you to flaunt this report as an “independent study” – it was commissioned and funded<sup>iii</sup> by you and two other for-profit, private prison companies. But you’ve already heard that explanation and you’ve brazenly chosen to ignore it.

So, I’m going to take this opportunity to explain why the research methodology contained within the Temple University report is fundamentally misleading and tilts the study’s conclusions in favor of the for-profit prison industry.

I’ve chosen to focus this letter on the state of California because the California Department of Corrections and Rehabilitation (CDCR) singlehandedly accounts for a mammoth 12 percent<sup>iv</sup> of your total operating revenue, more than any agency except the U.S. government. By your own admission, “the CDCR [is your] only state partner [to] account for 10% or more of [your] total revenue.”<sup>v</sup>

The Temple University study claims that privatizing a portion of the CDCR’s prisons—roughly 10 percent of the total population—will result in a “short-run cost savings of 29.43% - 57.09%.” According to the report, the aforementioned estimates originate from a 2010 California Legislative Analyst’s Office (LAO) document showing that the CDCR budgets “between \$61 and \$72 per day per inmate in [private] out-of-state facilities<sup>vi</sup>” and projects “\$104...[per inmate per day] for its in state public prisons.” While the accuracy of these figures is difficult to dispute<sup>vii</sup>, they are astonishingly misleading. And here’s why.

First, the study fails to account for dramatic demographic differences among populations housed in any one of California’s 34 public adult facilities and your 4 private adult out-of-state facilities<sup>viii</sup> in which 8,600 CDCR prisoners currently reside. Second, the research fails to acknowledge your company’s practice of securing health-related contractual exemptions, an exercise that effectively inoculates you from having to house exceptionally “high-cost” prisoners. As I’m sure you’re aware, the practice of incarcerating the least expensive California prisoners artificially deflates your per diem rates while correspondingly inflating the cost of operating in-state public prisons, precisely the types of facilities that don’t have the financial luxury of “cherry picking” young and healthy individuals.

So which types of individuals are you contractually obligated to house? The answer: 8,600 of the youngest, healthiest, and least expensive CDCR prisoners. These exemptions—exemptions negotiated

by your company—represent significant financial externalities (re)absorbed by the state. Surprisingly, they aren't once mentioned in the Temple report. Despite their conspicuous absence from the study, these exclusions *absolutely must* be considered in any public-private cost-comparison analysis because prisoner health care outlays account for 31 percent of the entire CDCR budget and represent the single greatest line-item expenditure after “operations / security.”<sup>ix</sup>

Understanding the ways in which institutional demographic variation manifests itself fiscally—particularly with regard to health and age—is necessary for a valid cost comparison. Yet, the Temple University study conveniently fails to note the degree to which health care expenses differ by facility, even though different facilities house vastly different percentages of individuals with acute medical conditions.

For instance, the California Health Care Facility (CHCF)—the institution with the highest percentage (63 percent) of High Risk Priority 1 and 2 prisoners<sup>x</sup>—spends \$93,084 per prisoner, per year on medical care alone. In contrast, Pleasant Valley State Prison (PVSP)—an institution that's demographically similar to your out-of-state, private facilities in that it doesn't accept High Risk Priority 1 or 2 individuals<sup>xi</sup>—spends an average of only \$9,600 in medical expenses per prisoner, per year.<sup>xii</sup> This cost differential is staggering—and it's an area left completely unaddressed by the Temple University study.

So what are some specific exemptions from which your company benefits? Your most recent contract with the CDCR reads:

*“CDCR and CONTRACTOR shall mutually agree upon offenders to be housed by CONTRACTOR, and offenders shall be suitable for placement in the facility designated. In the event that the CDCR requests that the CONTRACTOR accept offenders with serious or significant mental health or serious or significant physical problems, included but not limited to physical disability, CDCR and the CONTRACTOR shall mutually agree to an appropriate plan of care for the population and the allocation of costs associated therewith.”<sup>xiii</sup>*

Since your contract unsurprisingly fails to enumerate exactly which types of prisoners fall under the categories of “serious or significant mental health [problems]” and/or “serious or significant physical problems, including but not limited to physical disability,” I approached the CDCR and California Correctional Health Care Services (CCHCS) – the organization under the Federal Receivership<sup>xiv</sup> responsible for health care delivery within the CDCR—for answers.

In conjunction with information procured through a series of open records requests and a thorough review of CDCR and CCHCS policy, I discovered that your company enjoys at least 14 interrelated prisoner exclusion criteria exempting you from housing the most costly prisoner categories. Below is a list of relevant exclusions and exemptions (mostly health-related) obliquely referenced in your contract and explicitly codified in CDCR and CCHCS documents.

Based on CDCR and CCHCS protocol your company is exempt from housing CDCR prisoners who meet at least one of the following criteria:

1. Those individuals requiring single cell accommodations
2. Those individuals requiring mental health services
3. Those individuals participating in the CDCR’s developmental disability program
4. Those individuals actively undergoing treatment for HCV<sup>xv</sup> <sup>xvi</sup>
5. Those individuals who are HIV+<sup>xvii</sup>
6. Those individuals with hospital specialty care costs totaling more than \$100,000 over the course of six months
7. Those individuals with two or more inpatient admissions over the course of a year
8. Those individuals with three or more emergency department visits over the course of a year
9. Those individuals with two or more high risk specialty consultations over the course of six months
10. Those individuals with at least one abnormal lab value suggesting poor control of a chronic or serious medical condition
11. Those individuals on chemotherapy
12. Those individuals with dementia
13. Those individuals with other sensitive medical conditions and/or high risk diagnoses that have not yet already been described
14. Those individuals who are 65 years or older<sup>xviii</sup>

Publicized here for the first time, please consider disparities in prisoner health and age demographics between *your* out-of-state facilities and California’s public facilities:

<b>Prisoner Categories</b>	<b>In-State CDCR Institutions</b>	<b>Out-of-State CCA Facilities Housing CDCR Prisoners</b>
Percent HCV+	12	6.55
Percent High Health Risk Priority 1 & 2	11	0
Percent with a Disability (ADA)	6	0
Percent 65 Years or Older	4.4	0
Percent with a Mental Health EOP	4.2	0
Percent HIV+	1	0 <sup>xix</sup>

Based on the exclusion criteria detailed above, your company (at least in the state of California) will never be responsible, for instance, for providing medication to HCV+ patient-prisoners, a treatment that minimally costs \$84,000 per individual.<sup>xx</sup> Similarly, your company will never have to foot the bill for HIV+ patient-prisoner care which typically constitutes a series of treatments ranging from \$24,000-\$60,000 *annually*.<sup>xxi</sup> These are colossal expenses that your company simply externalizes. Again, they are expenses (re)absorbed by the state and routinely unconsidered in cost-comparison studies.

And finally, the Temple University report fails to acknowledge that an exceedingly small percentage of prisoners with high-cost health conditions—precisely those your company will never house—account for a disproportionately large slice of specialty health care expenditures. For instance, in 2010 the California State Auditor found that from 2007-2008 some 58,726 prisoners received at least one form of specialty health care. Moreover, the agency discovered that 1,175 of these prisoners—or just 2 percent of those with the most expensive treatment plans—represented close to 40 percent of the total specialty health care costs totaling \$185 million and equating to an average expenditure of \$158,000 per prisoner, per year.<sup>xxii</sup> Again, these are the very types of prisoners you’re exempt from housing.

So, you need to stop.

You need to stop citing a study whose omissions and distortions are manifest.

Assertions of taxpayer savings are only valid when comparing public and private facilities with similar populations. The dramatic differences in prisoner health, age, and cost by facility are indisputable and challenge the legitimacy of the study you continue to publicize.

I invite your response.

Warmest Regards,

Christopher Petrella

*Researcher, U.C. Berkeley*

# Appendix A

Agreement Number C06.298-0

California Department of Corrections and Rehabilitation  
SCOPE OF WORK

Exhibit A

## **Section 3.02 Selection and Placement Process.**

The CDCR Offenders to be housed in the Facility shall be selected on the basis of compliance with all applicable state statutes or such other applicable laws or regulations of the state in which the Facility is located relating to the housing of out of state offenders as may apply, and in addition thereto, the following criteria and conditions:

3.02.1 CDCR and CONTRACTOR shall mutually agree on offenders to be housed by CONTRACTOR, and offenders shall be suitable for placement in the facility designated. In the event that CDCR requests that the CONTRACTOR accept Offenders with serious or significant mental health or serious or significant physical problems, included but not limited to physical disability, CDCR and the CONTRACTOR shall mutually agree to an appropriate plan of care for the population and the allocation of costs associated therewith. If the overall percentage of inmates in CONTRACTOR facilities requiring Hepatitis C treatment exceeds the overall percentage of offenders requiring Hepatitis C treatment in the CDCR system, CDCR agrees to pay the treatment costs for those offenders in excess of the percentage of offenders requiring Hepatitis C treatment in the CDCR system.

3.02.2 Offenders assigned to the Facility shall be males eighteen years of age or older.

3.02.3 CONTRACTOR may reject any offender found not to meet the receiving state's criteria or otherwise deemed by the CONTRACTOR, with CDCR's concurrence, to be unsuitable for assignment to a particular Facility. In the event the initially considered Facility is deemed unsuitable for a particular offender, the CONTRACTOR shall make all due effort to assign offenders to an alternate appropriate Facility under this Agreement.

Upon arrival of any CDCR Offender to the Facility, the CDCR shall provide to the Facility's Warden, without charge, copies of pertinent data from institutional files, commitment or other judicial orders, and medical records of each CDCR Offender to be housed at the Facility. The CONTRACTOR shall assume any costs associated with a review of inmate central files to determine the impact to CDCR of the receiving state's statutory requirements. All CDCR Offender information shall be subject to statutory limitations on disclosure, including but not limited to State privacy laws, and provisions of the federal requirements imposed by the Health Insurance Portability and Accountability Act (HIPAA) or other Federal privacy laws. The CONTRACTOR shall release information only in accordance with CDCR direction.

# Appendix B

April 11, 2014

Mr. Christopher Petrella  
[REDACTED]

RE: PUBLIC RECORDS ACT (PRA) REQUEST (PRA14-0326-AJ)

Dear Mr. Petrella:

This letter is in response to your PRA request received on March 26, 2014, for information from the California Correctional Health Care Services (CCHCS). Specifically, you requested information regarding the prevalence of Hepatitis C (HCV) positive inmates in out of state facilities.

Although CCHCS does not track the prevalence of HCV among patient-inmates in out-of-state facilities, our internal programs were able to coordinate with the Corrections Corporation of America (CCA) to obtain the following data responsive to your request:

Location	Patients
Tallahatchie County	130
La Palma	197
North Fork	187
Florence	53

If you have any questions or concerns, you may contact us via e-mail at [CCHCSHealthPRAS@CDCR.ca.gov](mailto:CCHCSHealthPRAS@CDCR.ca.gov), or by regular mail at California Correctional Health Care Services, Attention: PRA Coordinator, Building C, P.O. Box 588500, Elk Grove, CA 95758.

Sincerely,



G. Milliken  
PRA Coordinator

# Appendix B, continued

**Chronically Infected HCV Patients By Institution  
December 31, 2013**

Institution	Census	HCV Infected	
ASP	4,088	472	12%
CAC	153	16	10%
CAL	3,874	448	12%
CCC	5,023	330	7%
CGI	4,419	743	17%
CCWF	3,602	250	7%
CEN	2,966	282	10%
CHCF	1,194	223	19%
CIM	4,726	794	17%
CIW	2,154	207	10%
CMC	4,912	565	12%
CMF	2,078	354	17%
COR	4,352	765	18%
CRC	3,282	316	10%
CTF	5,210	588	11%
CVSP	2,394	202	8%
DVI	2,347	164	7%
FSP	3,418	375	11%
HDSP	3,366	404	12%
ISP	3,072	308	10%
KVSP	3,741	648	17%
LAC	3,697	553	15%
MCSP	2,852	539	19%
NKSP	4,620	136	3%
PBSP	2,659	387	15%
PVSP	3,263	378	12%
RID	3,190	678	21%
SAC	2,202	262	12%
SATF	5,503	852	15%
SCC	4,931	371	8%
SOL	4,125	478	12%
SQ	4,073	448	11%
SVSP	3,377	471	14%
VSP	3,292	407	12%
WSP	4,961	239	5%
STATE	123,116	14,653	12%



# Appendix C

May 5, 2014

Mr. Christopher Petrella  
[REDACTED]

RE: PUBLIC RECORDS ACT (PRA) REQUEST (PRA14-0423-3TT)

Dear Mr. Petrella:

This letter is in response to your PRA request received on April 23, 2014, for information from the California Correctional Health Care Services (CCHCS). Specifically, you requested information regarding the percentages of HIV+ prisoners in each CDCR facility, including out-of-state facilities.

Attached is a .pdf file responsive to your request:

1. CDCR HIV Population as of 3-31-14

In regards to the respective data for out-of-state facilities, there are no responsive records as HIV+ inmate-patients are not transferred outside of California. If an inmate-patient is diagnosed with HIV+ while residing in an out-of-state institution they are returned to California as soon as possible.

If you have any questions or concerns, you may contact us via e-mail at CCHCSHealthPRAS@CDCR.ca.gov, or by regular mail at California Correctional Health Care Services, Attention: PRA Coordinator, Building C, P.O. Box 588500, Elk Grove, CA 95758.

Sincerely,

  
G. Milliken  
PRA Coordinator

## Appendix C, continued

Institution	Population	HIV+	%HIV+
ASP	3,928	-	-
CAC	1,429	-	-
CAL	3,860	1	0.03%
CCC	5,021	-	-
CCI	4,356	-	-
CCWF	3,668	21	0.57%
CEN	2,861	-	-
CHCF	1,345	34	2.53%
CIM	4,756	223	4.69%
CIW	2,118	19	0.90%
CMC	4,479	137	3.06%
CMF	2,065	110	5.33%
COR	4,302	-	-
CRC	2,968	25	0.84%
CTE	4,955	2	0.04%
CVSP	2,291	-	-
DVI	2,608	41	1.57%
FSP	3,208	-	-
HDSP	3,389	-	-
ISP	3,018	-	-
KVSP	3,774	-	-
LAC	3,599	63	1.75%
MCSP	2,913	82	2.81%
NKSP	4,693	9	0.19%
PBSP	2,755	1	0.04%
PVSP	3,106	-	-
RJD	3,139	110	3.50%
SAC	2,189	53	2.42%
SATI	5,574	1	0.02%
SCC	4,582	-	-
SOL	4,050	5	0.12%
SQ	3,936	100	2.54%
SVSP	3,352	13	0.39%
VSP	3,186	2	0.06%
WSP	5,132	15	0.29%
<b>STATE</b>	<b>122,615</b>	<b>1,067</b>	<b>0.87%</b>

# Appendix D

<b>High Risk - Priority 1</b>			
Patients who are High Risk Priority 1 trigger at least <b>2 flags</b> from the selection criteria found in the table below			
<b>High Risk - Priority 2</b>			
Patients who are High Risk Priority 2 trigger only <b>1 flag</b> from the selection criteria found in the table below			
<b>Flag</b>	<b>Description</b>	<b>Data Source</b>	<b>Timeframe</b>
<b>Sensitive Medical Condition</b>	Medications associated with important diagnoses which, if not taken, may lead to a serious adverse event (e.g. immunosuppressants, chemotherapy Rx) <b>See Table 1 and 2 below</b>	Guardian	6 months
<b>High hospital, ED, Specialty Care and Pharmacy Costs</b>	Patients whose care in the past 6 months has a cost of more than \$100,000	Guardian, TPA Claims	6 months
<b>Multiple Hospitalizations</b>	2 or more inpatient admissions	CADDIS	12 months
<b>Multiple Emergency Department Visits</b>	3 or more emergency department visits	TPA Claims	12 months
<b>High Risk Specialty Consultations</b>	2 or more appointments to 'high risk' specialist(s) (e.g., oncologist, vascular surgeon) <b>See Table 3 Below</b>	TPA Claims	6 months
<b>Significant Abnormal Labs</b>	1 or more abnormal lab value that suggests poor control of a chronic condition or serious medical condition (most recent) <b>See Table 4 Below</b>	Quest	All - Most Recent or Any
<b>Age</b>	65 years of age or older	SOMS	Current Age
<b>Specific High-Risk Diagnoses/Procedures</b>	1 or more ICD-9 codes from ED visit, hospitalization or specialist visit, suggesting serious condition (e.g., cancer, SLE, dementia) <b>See Table 5 Below</b>	TPA Claims	All

# Appendix E

## Appendix II CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES Institutional Medical Groupings

<i>Description of Institutional Setting</i>	<i>Medical Classification System Criteria</i>	
<b>Fire Camps:</b> These settings require that the inmates be able to be located in remote areas, capable of vigorous physical activity if in firefighter assignments, and require no daily nursing care. Population as of August 2009: 4312	Functional Capacity:	Vigorous Activity Or Full Duty
	Level Of Care:	OP
	Proximity To Consultation:	No Particular Need Or Infrequent Basic Consultation
	Medical Risk:	Low Risk
	Nursing Care Acuity:	Basic Nursing.
<b>Minimum Support Facilities:</b> These settings require that inmates be located in a facility attached to but separate from an institution. Nursing and primary care provider care is available, but patients must be taken into the secure perimeter in order to access urgent care. Population as of August 2009: 8400	Functional Capacity:	Limited Duty (Or Better).
	Level Of Care:	OP
	Proximity To Consultation:	Frequent Basic Consultation (Or Less)
	Medical Risk:	Low Risk
	Nursing Care Acuity:	Uncomplicated Nursing (Or Less).
<b>Community Correctional Facilities:</b> These settings require that the inmate be able to be located in a small to medium sized contracted facility that may be many miles from a hub institution. These facilities provide limited nursing and primary care provider access. Patients must be taken to local emergency rooms or transported to the hub for urgent care. Population as of August 2009: 4990	Functional Capacity:	Limited Duty (Or Better)
	Level Of Care:	OP
	Proximity To Consultation:	Infrequent Basic Consultation (Or Less)
	Medical Risk:	Low Risk
	Nursing Care Acuity:	Uncomplicated Nursing (Or Less).
<b>Out-of-State Facilities</b> These settings require that patients must be able to be located in a medium-sized contracted facility in another state. These facilities provide nursing and primary care provider services on a continuous basis and can provide urgent care on-site. Short and long term placements into OHU or CTC are available on-site. Patients must be able to be transported to and from California using routine custody transportation. Population as of August 2009: 7713	Functional Capacity:	Limited Duty (Or Better)
	Level Of Care:	OP
	Proximity To Consultation:	Frequent Basic Consultation (Or Less)
	Medical Risk:	Medium Risk (Or Less)
	Nursing Care Acuity:	Low Intensity Nursing (Or Less).

Endnotes:

<sup>i</sup> Corrections Corporation of America. "Contracted Prisons Cut Costs without Sacrificing Quality: A Report from Economics Professors at Temple University's Center for Competitive Government" April 2013. <http://cca.com/cca-resource-center>

<sup>ii</sup> "Cost Analysis of Public and Contractor-Operated Prisons" April 2013 [http://www.researchgate.net/profile/Simon\\_Hakim/publication/257780985\\_Cost-Analysis-of-Public-and-Contractor-Operated-Prisons-FINAL3/file/60b7d525d89b12cebb.pdf](http://www.researchgate.net/profile/Simon_Hakim/publication/257780985_Cost-Analysis-of-Public-and-Contractor-Operated-Prisons-FINAL3/file/60b7d525d89b12cebb.pdf)

<sup>iii</sup> Please note that Simon Hakim's CV reads "Analysis of state and private prisons costs and performance conducted for CCA, GEO Group, and MTC, 2012-2013 (with Erwin Blackstone)." This suggests that the study was funded entirely by the three largest for-profit, private prison companies. <http://astro.temple.edu/~shakim/simonvitae.doc>

<sup>iv</sup> Corrections Corporation of America. "CCA Annual Report" <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-reportsannual>

<sup>v</sup> Corrections Corporation of America. "CCA Annual Report" <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-reportsannual>

<sup>vi</sup> California Legislative Analyst's Office. "Hearing Handout: Out-of-State Correctional Facility Program" January 2010. <http://www.lao.ca.gov/Publications/Detail/2175>

<sup>vii</sup> In January 2014 California's Department of finance estimated that it costs the state \$29,500 a year for each prisoner housed out-of-state. <http://www.kpbs.org/news/2014/jan/08/california-prisoners-could-be-moved-out-state-due/> This figure can be compared to the CDCR's recent estimate of \$51,889/annually to house a prisoner in state. <http://www.lao.ca.gov/reports/2013/crim/criminal-justice-primer/criminal-justice-primer-011713.aspx>

---

<sup>viii</sup> 8,600 CDCR prisoners currently reside in CCA facilities in Arizona, Oklahoma, and Mississippi. Please see:

[http://www.cdcr.ca.gov/Visitors/CA\\_Out\\_Of\\_State\\_Facilities.html](http://www.cdcr.ca.gov/Visitors/CA_Out_Of_State_Facilities.html)

<sup>ix</sup> California Legislative Analyst's Office. "California's Criminal Justice System: A Primer" January 2013.

<http://www.lao.ca.gov/reports/2013/crim/criminal-justice-primer/criminal-justice-primer-011713.pdf>

<sup>x</sup> The CDCR, in conjunction with CCHCS, applies the terms "High Risk-Priority 1" and "High Risk-Priority 2" to those prisoners with the "most serious medical conditions."

<sup>xi</sup> Please see Appendix E

<sup>xii</sup> Data mined and tabulated from: <http://www.cphcs.ca.gov/docs/special/Public-Dashboard-2014-04.pdf>

<sup>xiii</sup> Please see Appendix A

<sup>xiv</sup> California Prison Health Care Services. "Fact Sheet: What is the Receivership?" July 2010.

<http://www.cphcs.ca.gov/docs/resources/factsheet.pdf>

<sup>xv</sup> A spokesperson for CCHCS recently told me via e-mail that if an HCV+ patient-prisoner housed in an out-of-state private facility required treatment, for instance, with Sovaldi (a very effective yet expensive HCV drug recently approved by the FDA), then "we would ship them back to an in-state facility, where our medical personnel could oversee the course of treatment...If an inmate [is] shipped back to be provided services in-state, that would be paid for by CDCR." (April 24, 2014)

*Note: I will furnish complete correspondence upon request.*

<sup>xvi</sup> Please see Appendix B

<sup>xvii</sup> Please see Appendix C

<sup>xviii</sup> CDCR. "California Correctional Health Services Memorandum" August 2013.

[http://www.cphcs.ca.gov/docs/court/T25\\_20140201\\_Appendix7.pdf](http://www.cphcs.ca.gov/docs/court/T25_20140201_Appendix7.pdf)

<sup>xix</sup> Please see appendices. Note that the category "In-State, Percent 65 years or Over" is an estimate based on data of those "60 years or over." Accessible:

[http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Annual/Census/CENSUSd1306.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/Census/CENSUSd1306.pdf)

<sup>xx</sup> USA TODAY. "Should Prisoners get Expensive Hepatitis-C Drugs?" March 2014.

<http://www.usatoday.com/story/news/nation/2014/03/25/stateline-prisoners-hepatitis-drugs/6871187/>

<sup>xxi</sup> NPR. "Cost of Treatment still a Challenge for HIV patients in U.S" July 2012.

<http://www.npr.org/blogs/health/2012/07/27/157499134/cost-of-treatment-still-a-challenge-for-hiv-patients-in-u-s>

<sup>xxii</sup> California State Auditor. "Inmates Sentenced Under Three-Strikes Law and Small Number of Inmates Receiving Specialty Health Care Represent Significant Costs" May 2010. <http://www.bsa.ca.gov/pdfs/reports/2009-107.2.pdf>