

## PRESS RELEASE

Human Rights Defense Center – *For Immediate Release*

December 19, 2012



### **Organizations Urge U.S. Rep. Sheila Jackson Lee to Reintroduce Private Prison Information Act**

Washington, DC – Yesterday, a joint letter signed by 33 criminal justice, civil rights and public interest organizations was submitted to the office of U.S. Representative Sheila Jackson Lee, urging her to reintroduce the Private Prison Information Act.

The Private Prison Information Act (PPIA) would require for-profit prison companies that contract with the federal government to comply with public records requests made under the Freedom of Information Act (FOIA) to the same extent as federal agencies. Currently, FOIA does not apply to private companies that contract with the federal government.

“We are deeply troubled by the secrecy with which the private corrections industry presently operates. Whereas the Federal Bureau of Prisons (BOP) and state departments of corrections are subject to disclosure statutes under the Freedom of Information Act and state-level public records laws, private prison firms that contract with public agencies generally are not,” the joint letter submitted to Rep. Jackson Lee noted. “This lack of public transparency is indefensible in light of the nearly \$8 billion in federal contracts that Corrections Corporation of America (CCA) and the GEO Group (GEO) – the nation’s two largest private prisons firms – have been awarded since 2007.”

In fact, according to the U.S. Senate’s Lobbying Disclosure Electronic Filing System, CCA has lobbied against the PPIA when it was introduced in previous Congressional sessions. Other allies of the private prison industry, including the Reason Foundation – which receives funding from CCA and GEO – have also opposed extending FOIA to private prison contractors.

Both CCA and the GEO Group receive over 40 percent of their revenue from federal contracts, which “makes them the perfect candidates for FOIA compliance” because “The private prison industry is fundamentally different in that no citizen can freely purchase incarceration services as a private individual. There is no natural market for incarceration services; the entire market would cease to exist without direct government intervention in the form of taxpayer-funded contracts to operate correctional facilities.”

The joint letter submitted to Rep. Jackson Lee was a cooperative project between UC Berkeley doctoral student Christopher Petrella and the Human Rights Defense Center. Signatories include the ACLU National Prison Project, Florida Justice Institute, In the Public Interest, Justice Policy Institute, National CURE, Prison Policy Initiative, Southern Center for Human Rights, Southern Poverty Law Center, Texas Civil Rights Project, Enlace and YouthBuild USA.

“The private prison industry operates in secrecy while being funded almost entirely with public taxpayer money,” noted Human Rights Defense Center associate director Alex Friedmann, who testified in support of the PPIA before the U.S. House Subcommittee on Crime, Terrorism and

Homeland Security in June 2008. “The public has a right to know how its money is being spent, and transparency and accountability demand that private prison corporations answer to the public by being subject to FOIA requests to the same extent as federal agencies. If they have nothing to hide from the public, they should not object – but they do, which speaks volumes.”

“Obligating private prison companies to comply with FOIA requirements applies a single standard for transparency in corrections reporting regardless of agency type,” added Christopher Petrella. “And because efforts to privatize federal detention facilities are on the rise – populations held in privately-operated facilities have grown by nearly 20 percent over the past year – the time is right to demand meaningful accountability in the private corrections industry.”

A copy of the joint letter to Rep. Jackson Lee is attached.

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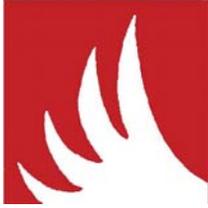
The Human Rights Defense Center. HRDC, founded in 1990 and based in Brattleboro, Vermont, is a non-profit organization dedicated to protecting human rights in U.S. detention facilities. HRDC publishes Prison Legal News (PLN), a monthly magazine that includes reports, reviews and analysis of court rulings and news related to prisoners’ rights and criminal justice issues. PLN has almost 7,000 subscribers nationwide and operates a website [www.prisonlegalnews.org](http://www.prisonlegalnews.org)) that includes a comprehensive database of prison and jail-related articles, news reports, court rulings, verdicts, settlements and related documents.

Christopher Petrella is a doctoral candidate in African American Studies at the University of California, Berkeley where he is currently working on a manuscript entitled “Race, Markets, and the Rise of the Private Prison State.” His work on the private corrections industry has been cited by a number of national organizations and campaigns including Prison Legal News, the ACLU’s National Prison Project, Southern Poverty Law Center, Justice Policy Institute, Prison Policy Initiative, National Prison Divestment Campaign, and the Real Cost of Prisons. He’s also a frequent contributor to Truthout, Business Insider and Nation of Change.

**For further information, please contact:**

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# Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

December 18, 2012

The Honorable Sheila Jackson Lee  
U.S. House of Representatives  
2160 Rayburn Building  
Washington, DC 20515

## **Re: Private Prison Information Act**

Dear Representative Jackson Lee:

We, the undersigned not-for-profit criminal justice and public interest organizations, respectfully urge you to reintroduce the Private Prison Information Act (PPIA) during the 113<sup>th</sup> Congress. The bill, which would extend Freedom of Information Act (FOIA) reporting obligations to private corrections companies that contract with federal agencies, is a critical first step in bringing transparency and accountability to the private prison industry.

We are deeply troubled by the secrecy with which the private corrections industry presently operates. Whereas the Federal Bureau of Prisons (BOP) and state departments of corrections are subject to disclosure statutes under the Freedom of Information Act and state-level public records laws, private prison firms that contract with public agencies generally are not. This lack of public transparency is indefensible in light of the nearly \$8 billion in federal contracts that Corrections Corporation of America (CCA) and the GEO Group (GEO)—the nation's two largest private prisons firms—have been awarded since 2007.

If private prison companies like CCA and GEO would like to continue to enjoy taxpayer-funded federal contracts, then they should be required to adhere to disclosure laws equivalent to those governing their public counterparts—including FOIA.

Though five separate iterations of the Private Prison Information Act have been introduced in Congress since 2005, each bill has died as a result of vigorous lobbying efforts on behalf of the private corrections industry. According to documentation maintained by the U.S. Senate's Lobbying Disclosure Electronic Filing System, Corrections Corporation of America has spent over \$7 million lobbying against the passage of various Private Prison Information Acts since 2005. They claim that the bill violates their "trade secret" FOIA exemption.

But why should private prison contractors, which are paid exclusively with taxpayer funds, be any less accountable to taxpayers than public corrections agencies such as the Bureau of Prisons? We contend that because the private prison industry relies entirely on taxpayer support, the public has a right to access information pertaining to its operations.

There is little evidence that taxpayers currently have access to the type of information that would allow them to evaluate the performance of private corrections firms in comparison to the public sector. Though the private prison industry routinely cites its record on measures of efficiency and safety relative to public agencies, it nonetheless refuses to disclose the very information required to substantiate its most basic claims of success.

Disclosure statutes providing the public with access to information pertaining to the operations of private prisons is vital if reasonable comparisons are to be made between the private and public sectors.

The time to reintroduce and pass this bill is now. Privately-operated federal facilities have grown 600 percent faster than state-level contract facilities since 2010, and now represent the single most quickly-growing corrections sector. Moreover, business from federal customers like the Bureau of Prisons, U.S. Marshals Service, and Immigration and Customs Enforcement now accounts for a greater percentage of revenue among private prison companies than ever before.

In the past, critics of the Private Prison Information Act have argued that its passage would set a “dangerous precedent” for FOIA overreach. In his 2007 testimony before the House Subcommittee on Crime, Terrorism, and Homeland Security, Mike Flynn, the Director of Government Affairs for the Reason Foundation, testified that applying FOIA to private prison companies could open the “floodgates” to any other federal contractor and, by extension, their contractors and suppliers. “Thousands of individuals, small and large businesses, provide services to the government and products to the government at great efficiency for the taxpayers [and] all of that could be opened up to the FOIA process,” he claimed. He did not mention that Reason Foundation receives funding from private prison companies, including CCA and GEO.

We squarely reject these unfounded assumptions. The Private Prison Information Act should be applied narrowly and judiciously. It is unlikely that the Private Prison Information Act, if enacted, would unwittingly extend FOIA provisions to other private companies because private prison firms hold an exceptional market position relative to other private companies. To our knowledge, no other type of private industry is contracted by the public sector solely to perform an essential governmental function such as incarceration.

That private corrections firms are supported exclusively by public agencies and enjoy the benefits of operating within an artificial government contract-driven market makes them the perfect candidates for FOIA compliance. In most economic sectors there is a free market analogue for many kinds of services that governments typically provide. A field such as education, for example, has a robust market of existing non-profit and for-profit organizations and agencies willing to sell/provide services to a market of potential buyers that includes both individuals and governments.

This is not the case with private corrections firms.

The private prison industry is fundamentally different in that no citizen can freely purchase incarceration services as a private individual. There is no natural market for incarceration services; the entire market would cease to exist without direct government intervention in the form of taxpayer-funded contracts to operate correctional facilities.

We, the undersigned, argue that because private prison firms are ultimately functionaries of the state, they must come under the same FOIA requirements as their public counterparts. We therefore urge you to reintroduce the Private Prison Information Act this Congressional session and are willing to support your efforts. Should you have questions or require additional information, please feel free to contact either Christopher Petrella at 860-341-1684 or [cpetrella@post.harvard.edu](mailto:cpetrella@post.harvard.edu), or Human Rights Defense Center associate director Alex Friedmann at 615-495-6568 or [afriedmann@prisonlegalnews.org](mailto:afriedmann@prisonlegalnews.org).

Respectfully,

ACLU National Prison Project

Center for Media Justice

Center for Prison Education

Enlace

*(continued)*

FedCURE

Florida Justice Institute

Florida Reentry Resources & Information (FreeRein)

Grassroots Leadership

Human Rights Defense Center

In the Public Interest

Justice Policy Institute

Justice Strategies

Maine Prisoner Advocacy Coalition

Media Alliance

National CURE

National Immigrant Justice Center

Partnership for Safety and Justice

Prison Policy Initiative

Private Corrections Institute

Private Corrections Working Group

Southern Center for Human Rights

Southern Poverty Law Center

Texas Civil Rights Project

Texas Jail Project

The Center for Church and Prison

The Fortune Society (David Rothenberg Center for Public Policy)

The Real Cost of Prisons Project

The Sentencing Project

The Workplace Project/Centro de Derechos Laborales

Urbana-Champaign Independent Media Center

Vermonters for Criminal Justice Reform

Voters Legislative Transparency Project

YouthBuild USA, Inc.