

# ENDOWING INJUSTICE



## YALE UNIVERSITY'S INVESTMENT IN CORRECTIONS CORPORATION OF AMERICA

A Report Prepared by the Graduate Employees & Students Organization at Yale (GESO)

## Executive Summary

This report provides details of Yale’s approximately \$1.5 million investment (through its investment manager, Farallon Capital Management) in Corrections Corporation of America (CCA), the largest private prison company in the United States.

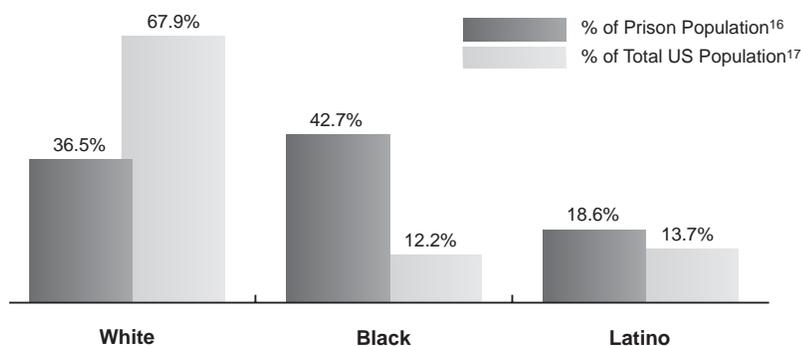
The private prison system has come under serious criticism. One recent article concludes, “Chronic employee turnover and understaffing, a high rate of violence, and extreme cost-cutting make the private prison model a recipe for disaster.”\*

There is a history of prisoner abuse at CCA prisons. Amnesty International reports:

There have also been reports of torture and ill-treatment in several facilities run by Corrections Corporation of America (CCA), the second-largest private prison operator in the USA. In August 1998, up to 20 Wisconsin inmates in CCA-run Whiteville Correctional Facility in Tennessee, were allegedly ill-treated by a Special Operations and Response Team (SORT) following an attack on a guard: the treatment reported included prisoners being kicked, slammed into walls, subjected to racist abuse and electro-shocked by stun guns and stun shields. One prisoner said that he was handcuffed, stripped, forced to kneel on the floor, sexually assaulted with a shampoo bottle by a guard and shocked with a stun gun; another inmate reported being stripped, kicked and shocked in the stomach and testicles with a stun gun.†

Over the last 25 years in the United States, public and private funding of the explosive growth of the prison population has come at the detriment of investments in education and other social needs. CCA, as part of ALEC, a national network of conservative legislators, has helped draft model punitive criminal justice legislation.

Percentage of U.S. Prison Population by Race



The American prison system affects people of color disproportionately. This report calls on Yale University to divest its holdings in CCA and to mitigate the effects of prisons on the New Haven community by:

- Providing a fair share contribution to the New Haven Public Schools and \$1.5 million to prison education and re-entry programs.
- Investing in hiring qualified applicants from the local community for campus jobs, and providing increased training for current and potential employees.

• Changing the dialogue on campus about crime, prisons and race.

\* Miller, Joshua, “Worker Rights in Private Prisons.” In Andrew Coyle, et al, eds. *Capitalist Punishment: Prison Privatization & Human Rights*. Clarity Press, Inc., 2003, p. 150.

† Amnesty International. *UNITED STATES OF AMERICA: A Briefing for the UN Committee against Torture*. May, 2000, p. 25. At the time of this report, CCA was the second largest operator of private prisons, today they claim to be the largest.

## Yale University and the Private Prison Industry

*In short, if colleges and universities (or other institutional investors) set about the business of self-regulation, they will have challenging work to perform. And we are persuaded that it will be important work. The application of negative injunctions, to be sure, will not rebuild cities or make deserts bloom, but it can limit or halt the destruction of life, of opportunity, and of beauty. That may not be enough, but it is a great ideal.*

—*The Ethical Investor*<sup>1</sup>

In 1972, Yale University adopted the guidelines for ethical investment set forth in *The Ethical Investor*, a publication drafted by Yale law professor John Simon along with two Yale graduate students, Charles Powers and Jon Gunnemann.<sup>2</sup> *The Ethical Investor* provides a “social injury” or “grave social injury” standard of scrutiny for ethical investment, defined in its guidelines as:

The injurious impact which the activities of a company are found to have on consumers, employees, or other persons, particularly including activities which violate or frustrate the enforcement of rules of domestic or international law intending to protect individuals against deprivation of health, safety or basic freedoms.<sup>3</sup>

This report discusses one such grave social injury: investment in Corrections Corporation of America (CCA), “the nation’s largest owner and operator of privatized correctional and detention facilities and one of the largest prison operators in the United States behind only the federal government and three states.”<sup>4</sup>

Through the world’s largest hedge fund, Farallon Capital Management, LLC (Farallon) Yale University invests approximately \$1.5 million in Corrections Corporation of America.<sup>5</sup> At least twenty-five other public and private colleges and universities<sup>6</sup> invest in Farallon, which owns 5.5% of CCA.<sup>7</sup>

## Prison Dependency: Private Prisons and American Punishment in Context

*Our company continued to benefit from an environment characterized by growing prison populations and a restricted supply of new prison beds resulting from budgetary constraints. Growth in the nation’s prison population continues to fuel the need for our services among our existing customers and is motivating additional states to consider the merits of partnering with CCA for outsourced corrections management.*

— *Corrections Corporation of America. Capitalizing on Our Strengths: CCA 2004 Annual Report*<sup>8</sup>

*Approximately half of the prison inmates in the world are in the US . . . we have incarcerated in US prisons and jails at county, state or federal level approximately 1.8 million. The sum of all the rest of countries on the face of the earth is about 1.8 million, counting the People’s Republic of China, which says it has one million people locked up. A country like England has 60,000 people incarcerated. So the international market is not very interesting when compared with the domestic market.*

—Former CCA president Doctor Crants, 1994.<sup>9</sup>

Private prison companies including Corrections Corporation of America are for-profit corporations, which own, manage, and operate private prisons, jails and immigration

detention facilities across the United States. CCA operates 63 corrections facilities in 19 states and the District of Columbia. On its website, CCA states that it is “the nation’s largest owner and operator of privatized correctional and detention facilities and one of the largest prison operators in the United States behind only the federal government and three states.”<sup>10</sup> CCA relies upon an increasing United States prisoner population and the overcrowding of state and federal prisons for its future growth.

In its 2003 annual report, CCA assessed the continual increase in the United States

**Bureau of Justice Projections for lifetime likelihood of serving time in prison:**

“Nearly 1 in 3 black males [is] likely to go to prison [in their lifetime] based on constant 2001 incarceration rates”

“1 in 19 black females compared with 1 in 118 white females [is] likely to go to prison [in their lifetime]”  
—Thomas P. Bonczar, Bureau of Justice. *Prevalence of Imprisonment in the U.S. Population, 1974-2001*

prison population. “The 2002 Bureau of Justice Statistics report documents the largest increase in the nation’s prison population in three years—more than 36,000 inmates—as well as growing demand in areas predisposed to utilizing the private sector, which also have no immediate source of relief for their expanding inmate populations.”<sup>11</sup> CCA thrives on the expansion of the U.S. prison population, literally calculating its future success based upon the number of prisoners who will fill its beds.

The United States incarcerates more people than any other country in the world. As of mid-year 2004, the U.S. imprisoned approximately 2,131,180 people, far outpacing any other country.<sup>12</sup> While the United States leads the world in incarceration,

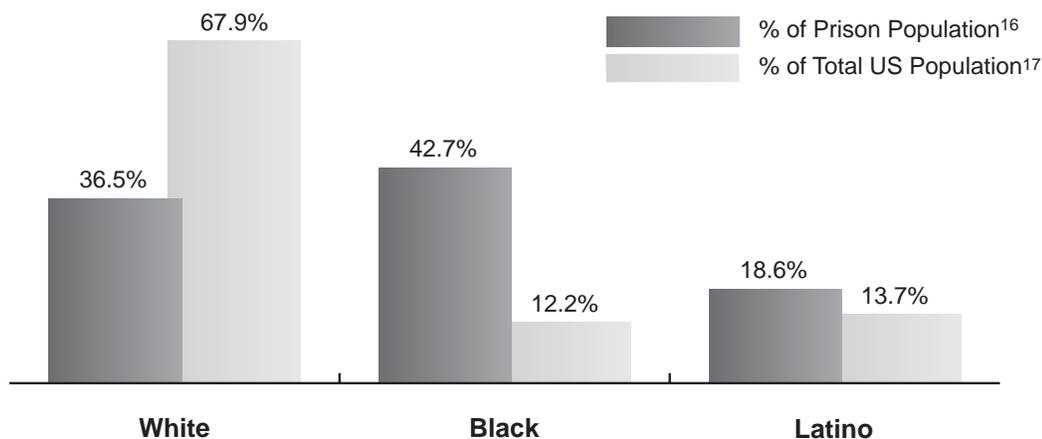
61.3% of US prisoners are black and Latino. In 2004, approximately 1 in 58 black and Latino residents of the United States were in prison or jail, in contrast to 1 in 253 whites.<sup>13</sup> In Connecticut and Pennsylvania, Latinos are incarcerated at seven times the rate of whites.<sup>14</sup>

**World, National and Local Imprisonment**

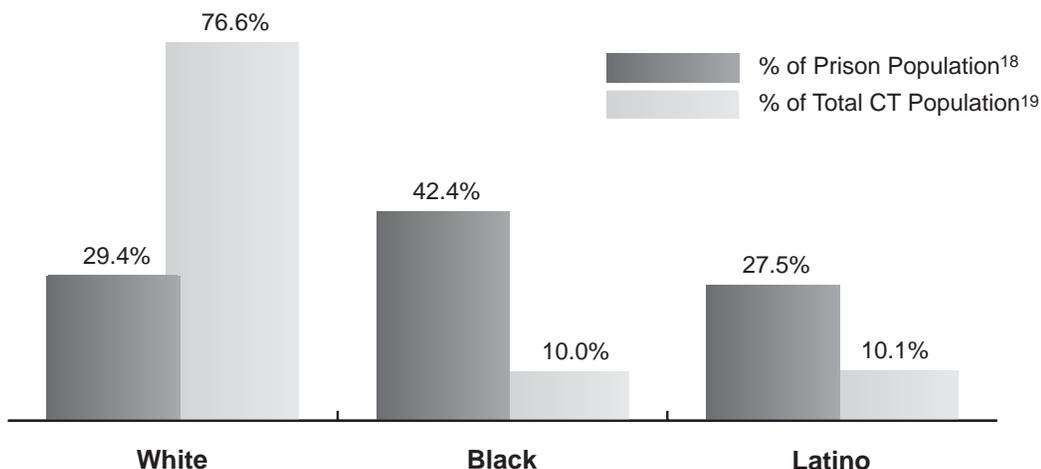
**The Five Largest World Prison Populations<sup>15</sup>**

Country	Total Population, in millions	Prison Population, in millions	Prisoners per 100,000 Residents
United States	293.6	2.13	726
China	1,312.3	1.55	118
Russian Federation	143.1	.79	550
Brazil	180.7	.33	183
India	1,039.9	.32	31

Percentage of U.S. Prison Population by Race



Percentage of Connecticut Prison Population by Race



While the United States' over-reliance on imprisonment and the stark racial disparity in American punishment has prompted increased public scrutiny of the criminal justice system in general, private prison expansion has received particularly intense criticism.

## Cruel and Unusual: CCA and its Prison Conditions

*"She was slammed into an object with such force that it fractured her skull, broke four ribs, and damaged her liver."*

—Medical Examiner on the extreme force used by CCA guards in death of Estelle Richardson

In 2001, the American Civil Liberties Union issued a statement of priorities for prison reform in America. It urged the elimination of private prisons, arguing that profit should not be a factor in the decision to place offenders in prison. Moreover, the ACLU found that private prisons posed a grave safety risk for prisoners, prison staff, and the broader public.

Cost-conscious private industry has little financial incentive to meet constitutional standards. A company's loyalty lies primarily with its stockholders. A 1998 Department of Justice report cited the inexperience and lack of training of staff at an Ohio private prison and detailed the resulting excessive use of force by staff. After two stabbing deaths, several escapes and medically-related deaths, a lawsuit resulted in a \$1.65 million settlement to be paid by the private corporation to the prisoners.<sup>20</sup>

The Ohio private prison under Department of Justice investigation was a CCA-operated prison. On July 28, 1998, then-Ohio Governor George Voinovich requested that the United States Department of Justice investigate the Northeast Ohio Correctional Facility in Youngstown. Many of the prison's inmates were from out of state, specifically, Washington, D.C. In a letter to then-Attorney General Janet Reno, Governor Voinovich noted, "Although the prison has been housing inmates for little more than a year, a number of serious incidents there have caused me great concern for the safety of Ohio's citizens in the Youngstown and northeastern Ohio area."<sup>21</sup> According to this letter, there had been 13 inmate stabbings, two of which were fatal. Additionally, two prisoners' deaths raised questions about the adequacy of the medical staff and services at the prison. Moreover, corrections officials were forced to solicit federal court intervention in order to ensure CCA's contract compliance with the City of Youngstown.<sup>22</sup> A subsequent Bureau of Prisons report on private prisons cited numerous problems of the Youngstown Facility including a potentially fatal lack of training for its staff. According to the report, "CCA failed to supply a sufficient number of, and adequately trained, staff. For example, where CCA had one corrections officer assigned to watch two pods housing 128 inmates, an Ohio prison would have assigned four guards. Furthermore, guards armed with shotguns were never trained to use a firearm."<sup>23</sup>

The conditions of the Youngstown facility are not unique in CCA's history of prison management. On October 1, 2004, the Colorado Department of Corrections detailed similar conditions at another CCA-owned and operated prison, Crowley County Facility. Crowley County Facility incarcerated prisoners from Colorado, Washington State, and Wyoming. In response to a prison riot in July 2004, the Colorado Department of Corrections conducted an investigation of prisoner and staff complaints, general prison conditions, and the specific events of the riot. The Department of Corrections elaborated its findings and recommendations in its *After Action Report*. The report detailed a series of prisoners' complaints including: "misuse of force," inadequate food quality, and disregard for grievances. Prisoners and staff alike cited lack of training of guards assigned to key posts.<sup>24</sup>

The Colorado Department of Corrections Prison Monitoring Unit had observed Crowley Prison prior to the riot and identified a series of problems including inadequate and poor quality food service, inadequate staffing for medical and mental health treatment, and a deficient inmate grievance process.<sup>25</sup> The Colorado Department of Corrections conclusions included that the staff and administration of Crowley County Correctional Facility delayed in responding to inmates' food service complaints and failed to respond in a timely manner to the Private Prison Monitoring Unit's prior recommendations.<sup>26</sup>

The conditions at Crowley County Correctional Facility and Northeast Ohio

Correctional Facility raise serious concerns about the ability of Corrections Corporation of America and other private prison corporations to curtail profit considerations in order to operate prisons and ensure conditions that accord with constitutional standards. In particular, CCA's employment practices have been linked to the inferior conditions of its prisons; at the end of 2004, only about 1200 of the company's 15,420 employees were unionized.<sup>27</sup> A 1999 article in *Corrections Professional* reported that guards at one of CCA's Oklahoma facilities earned only \$8.25 per hour.<sup>28</sup> In 2000, *The Corrections Yearbook* reported that the average salary of guards in private adult prisons was \$17,628 and the maximum salary was \$22,082. In 2003, "a state official in Colorado said that CCA was paying its employees in the state an average of \$8,000 a year less [than] the salaries of public-sector correctional officers. In August 2003 the union at the D.C. Correctional Treatment Center held a press conference to complain about inadequate pay and forced overtime."<sup>29</sup> CCA's failure to report its wages to *The Corrections Yearbook* prompted the journal to stop reporting private prison guards' salaries altogether after 2000.<sup>30</sup>

Grassroots Leadership<sup>31</sup> cited poor pay as one of CCA's self-defeating labor practices, which has led to high turnover rates in recent years. The organization uncovered a 1999 Tennessee Department of Corrections report, which found that the turnover rate at one CCA prison was 104.8 percent and 81.7 percent at another. At public Tennessee prisons the turnover rate averaged 34 percent. In 2003, an analysis of CCA records for Tennessee found that turnover rates exceeded 60 percent. In July 2001, a newspaper reporter analyzed records of CCA's Tulsa Jail and found that 72 percent of staff hired when the facility opened in 1999 were no longer there.<sup>32</sup> A recent article on private prisons concluded:

Private corrections is structurally flawed. The profit motive drastically changes the mission of corrections from public safety and rehabilitation to making a quick buck. Chronic employee turnover and understaffing, a high rate of violence, and extreme cost-cutting make the private prison model a recipe for disaster.<sup>33</sup>

Crowley and Youngstown are clear examples of such a recipe. In fact, in its official report on the Crowley County riot, the Colorado Department of Corrections concluded that "High staff attrition rate and inexperience has contributed to lack of ability to appropriately respond to emergencies."<sup>34</sup>

If Crowley and Youngstown seem extreme but isolated incidents, a closer look at the past several years of CCA's history is instructive. Although far from exhaustive, the following is a description of several instances of abuse and neglect at CCA prisons and jails.

- In 1999, Michael Jerome Edwards, a prison transportation driver for the CCA owned TransCor America, was convicted of improper sexual activity with a person in custody and sexual assault. According to the appellate transcript, testimony admitted at the trial claimed Edwards:

terrorized complainant by forcing her to raise her shirt and bra to expose herself to other passengers and appellant. Appellant also reached into the female prisoners' compartment and penetrated complainant's vagina with his fingers, a flashlight, and handgun; he kept a shotgun on a rack above the female prisoners' heads; he conducted "screen tests" for entertainment, whereby he would slam on the van's brakes, forcing prisoners to hit their faces against the wire screens; and he

intimidated and humiliated the women prisoners by illuminating their faces and exposed breasts at night with flashlights.<sup>35</sup>

Edwards appealed the sexual assault conviction, but the appeals court upheld his conviction.<sup>36</sup>

- In December 2000, a federal jury awarded William Pacetti, a teenager who was incarcerated at a CCA juvenile prison, \$125,000 in compensatory damages and \$3 million in punitive damages for abuse he suffered at the hands of one of the guards.<sup>37</sup> According to *Mother Jones*, Pacetti had alleged that CCA guards hog-tied him and beat him.<sup>38</sup> In early 2001, CCA settled 16 civil suits brought against them by teens who alleged abuse while they were at a CCA-run juvenile facility.<sup>39</sup>

- On October 24, 2001 Shane Spencer was incarcerated at CCA's Tulsa Jail. Intoxicated when he was arrested, Spencer was left unattended in his cell for the entire night. The next morning, Spencer was dead. His family received a \$200,000 settlement from the city of Tulsa for Spencer's death; a civil suit against CCA was settled for an undisclosed amount.<sup>40</sup>

- In October 2000, two CCA Huerfano County Correctional Center guards pled guilty to beating Daniel Murphy, a prisoner in Colorado, while his hands were cuffed and his ankles were shackled in response to the prisoner's assault on a guard.<sup>41</sup> According to one of the plea agreements:

The defendant [one of the guards] and others then escorted Murphy to the intake area. The defendant ordered Murphy to bend at the waist and put his head against the wall. When he started to comply, another officer slammed Murphy's head against the wall. Murphy turned toward the defendant and the defendant forcefully kned the inmate in the common peroneal nerve in the thigh, causing him to fall. The officers helped Murphy back up and the other officer gave Murphy a knee strike to the other thigh. The defendant then, with no justification, gave Murphy another knee strike to the thigh, causing him to fall back down to his knees. The other officers pushed Murphy and began kicking him. They kicked him multiple times. All of this happened while Murphy was still restrained, causing him pain and physical injury. During the beating, various officers made comments to the inmate about how he should not have assaulted an officer. The defendant noticed there was blood about Murphy's nose, which the defendant then cleaned up.<sup>42</sup>

The two guards were sentenced to two years in prison.<sup>43</sup>

- In April 2001 prisoners at Cibola County Correctional Center staged a peaceful protest over conditions at the facility. CCA responded by spraying seven hundred prisoners with tear gas.<sup>44</sup>

- In March of 2004, Estelle Richardson, a 34-year-old mother of two, was sentenced to a CCA prison in Nashville for food stamp fraud and probation violation. Richardson was listed in the prison records as "mentally deficient and psychologically impaired," and was segregated from other prisoners beginning in April.<sup>45</sup>

A CCA employee filed a report noting that Richardson had asked for medical help on June 29th. According to the Complaint filed in a lawsuit against CCA, Richardson's need for medical attention was a result of injuries received on June 27th or 28th as the "result of the use of excessive force" by four CCA employees. On July 2nd, Richardson was assault-

“Of the 8,700 state inmates housed outside of their home states, more than 6,000 are in CCA prisons—sent there from Alabama, Alaska, Hawaii, Indiana, Wisconsin and Wyoming.”<sup>i</sup>

The private prison industry has been denounced for its exacerbation of prisoners’ isolation and separation from their families.

This issue came to a head in 2004 when Connecticut contemplated sending up to 2,000 inmates to an Ohio CCA prison. “Think about what this does to the families left here in Connecticut,” remarked one spouse of a Connecticut prisoner.<sup>ii</sup>

Although Connecticut has not implemented a contract with CCA, families in other states have borne the great impact of estrangement: “virtually no Hawaiian families can afford to visit the 1,400 inmates from the islands held at CCA prisons in Oklahoma and Arizona... the consequences include sky-high phone bills and a recidivism rate that, according to state officials, is higher for inmates sent to the mainland than for those held in Hawaii.”<sup>iii</sup>

ed by a guard, “who used excessive force, causing her to bleed from her head with large amounts of blood.” A fellow inmate reported that Richardson “had been bleeding for about a week over her ear.” Richardson attempted to use a sanitary napkin to stop the bleeding.<sup>46</sup>

On July 4, Richardson had an altercation with guards over cleaning her cell. The following day she was found unresponsive in her cell. According to the *Tennessean*, the autopsy report found that “she was slammed into an object, perhaps a wall, with such force that it fractured her skull, broke four ribs, and damaged her liver.”<sup>47</sup> Nashville’s medical examiner said, “It’s a restricted area. There’s a limit to what you can do. If she had fallen from a high window or if she had been hit by a car, I would expect to see these types of injuries. Given the environment she was in, I cannot come up with a way for her to injure herself this way.”<sup>48</sup>

Both the Nashville Police Department and the Medical Examiner ruled Estelle Richardson’s death a homicide.<sup>49</sup>

- In September 2004 Jonathan Magbie was sentenced to 10 days at CCA’s Correctional Treatment Facility in Washington, D.C. for marijuana possession. Paralyzed as a child and unable even to breathe on his own, Magbie spent his last few days between Correctional Treatment Facility and Greater Southeast Community Hospital. Upon his sentencing Magbie was found to be in need of acute medical services and was sent to Southeast Community Hospital. He was discharged the very

next day, back to Correctional Treatment Facility. Within the next few days Jonathan Magbie was dead.<sup>50</sup>

In its 2000 report, *UNITED STATES OF AMERICA: A Briefing for the UN Committee against Torture*, Amnesty International detailed the treatment of prisoners in private prisons. With respect to Corrections Corporation of America, they wrote:

There have also been reports of torture and ill-treatment in several facilities run by Corrections Corporation of America (CCA), the second-largest private prison operator in the USA. In August 1998, up to 20 Wisconsin inmates in CCA-run Whiteville Correctional Facility in Tennessee, were allegedly ill-treated by a Special Operations and Response Team (SORT) following an attack on a guard: the treatment reported included prisoners being kicked, slammed into walls, subjected to racist abuse and electro-shocked by stun guns and stun shields. One prisoner said that he was handcuffed, stripped, forced to kneel on the floor, sexually assaulted with a shampoo bottle by a guard and shocked with a stun gun; another inmate reported being stripped, kicked and shocked in the stomach and testicles with a stun gun. Other cases included the misuse of stun shields during cell searches by SORT teams in the Northeast Ohio Correctional Center in Youngstown, Ohio; and allegations of excessive force, including the use of stun shields, against Alaska

prisoners in the Central Arizona Detention Center in Florence, Arizona, in August 1998. Amnesty International is seeking information on CCA company policy regarding electro-shock stun weapons and has urged that the company suspend their use in the facilities under its control.<sup>51</sup>

Amnesty International also expressed concern about the relationship between corporate profit motive and human rights, noting “Many penal experts have expressed concern that private for-profit companies have a particular interest in cutting costs which can lead to low investment in staffing, training, health care and rehabilitation programs - all of which can lead to poor conditions or ill-treatment.<sup>52</sup> In addition to widespread concern over the ways in which profit motive has led to ill-treatment of prisoners and inferior conditions at CCA’s prisons, public apprehension has mounted over the relationship between the private prison industry, profit, and public policy.

## Profiting from Public Policy: CCA and the Private Punishment Industry

*We are compensated for operating and managing prisons and correctional facilities at an inmate per diem rate based upon actual or minimum guaranteed occupancy levels. The significant expansion of the prison population in the United States has led to overcrowding in the state and federal prison systems, providing us with opportunities for growth.*

—Corrections Corporation of America.<sup>53</sup>

*The Criminal Justice Task Force is dedicated to developing model policies that reduce both crime and violence in our cities and neighborhoods. The Task Force is accomplishing this by approving model bills that hold criminals accountable for their actions and provide swift and certain punishment for their crimes.*

—American Legislative Exchange Council.<sup>54</sup>

Private prison corporations do not simply wait and respond to the demand of state and federal prison populations in order to fill their beds. Instead, CCA, as part of a national network of conservative legislators, *has helped draft model punitive criminal justice legislation.* The Sentencing Project, a national advocacy and research organization, reports that Corrections Corporation of America is a major contributor to the American Legislative Exchange Council (ALEC).<sup>55</sup> ALEC is a leading Washington, D.C.-based policy advocacy organization that supports conservative legislation and legislators. ALEC’s nine task forces produce model legislation which its legislative members then modify and introduce at the state and national levels. ALEC’s corporate members obtain a seat at the legislative table and negotiate legislation favorable to their interests. According to ALEC’s background statement, “since its founding, ALEC has amassed an unmatched record of achieving ground-breaking changes in public policy. Policies such as mandatory minimum sentencing for violent criminals, teacher competency testing, pension reform, and Enterprise Zones represent just a handful of ALEC’s victories in the states.”<sup>56</sup> In 2000, Brad Wiggins, CCA Director of Business Development, became co-chair of ALEC’s Criminal Justice Task Force. Before Wiggins, then-CCA vice-president John Rees co-chaired the Task Force.<sup>57</sup>

In 2002, ALEC boasted over 2400 legislative members and 300 private companies and

foundations, making it an enormously influential organization.<sup>58</sup> Its 2400 legislative members represent approximately 40 percent of state legislators across the country.<sup>59</sup> ALEC offers four private sector membership rates, \$5,000, \$10,000, \$25,000, and \$50,000.<sup>60</sup> Membership in one of its nine task forces, which produce the model legislations, costs an additional fee. ALEC's membership brochure boasts that its member legislators introduced 1,245 pieces of legislation based on ALEC models in 2001, 200 of which passed.<sup>61</sup> In the past ten years, ALEC has drafted model criminal justice legislation specifically relating to prison labor and industry. They include the Private Correctional Facilities Act (allows state governments to contract with the private sector to perform services currently performed by a corrections agency),<sup>62</sup> which has passed in several states including Arkansas, Mississippi, Virginia, and Connecticut, and the Prison Industries Act.<sup>63</sup> Additionally, and perhaps more importantly, punitive laws based on ALEC models have passed in numerous states. They include the Habitual Offender/Three Strikes Act (mandating life imprisonment for the third felony conviction), which passed in 11 states. The Truth in Sentencing Act, which requires that prisoners serve at least 85% of their sentence thereby limiting their access to parole, passed in 25 states, including Connecticut.<sup>64</sup>

## Recommendations

*Public resistance to privatization of correctional and detention facilities could result in our inability to obtain new contracts or the loss of existing contracts: The operation of correctional and detention facilities by private entities has not achieved complete acceptance by either governments or the public. The movement toward privatization of correctional and detention facilities has also encountered resistance from certain groups, such as labor unions and others that believe that correctional and detention facilities should only be operated by governmental agencies. Moreover, negative publicity about an escape, riot or other disturbance or perceived poor conditions at a privately managed facility may result in publicity adverse to us and the private corrections industry in general. Any of these occurrences or continued trends may make it more difficult for us to renew or maintain existing contracts or to obtain new contracts, which could have a material adverse effect on our business.*

—Corrections Corporation of America, from 2003 10-K tax filing.<sup>65</sup>

As this report has demonstrated, CCA's business practices constitute a "social injury" in the sense used in the *The Ethical Investor*. Under the guidelines set out in the *The Ethical Investor*, Yale should sell the stock that it holds in a company when "it is unlikely that, within a reasonable period of time, the exercise of shareholder rights by the university (together with any action taken by others) will succeed in modifying the company's activities sufficiently to eliminate at least that aspect of social injury which is grave in character."<sup>66</sup>

Given that CCA's pursuit of profit through incarceration inherently leads to social injury, **it is the conclusion of this report that Yale must divest from CCA.**

Another major investor with ties to higher education has already divested from CCA. Prior to 2001, Sodexho Alliance, a Paris-based catering company, was CCA's largest shareholder. Sodexho also served over nine hundred colleges and universities across the

United States.<sup>67</sup> In 1999, however, student activists from across the country joined the network, Not With Our Money!, and embarked on a campaign to demand that Sodexo dump its 10% stake in Corrections Corporation of America. During the campaign, students at Oberlin boycotted their cafeterias; activists at Ithaca College staged a 36-hour sit-in, which was followed by a similar action at the University of Texas. Students at SUNY-Binghamton and Earlham College used student organization funds to provide alternative food services to over 1,000 people; activists waged a sleep-out at Oberlin. The campaign spread to 60 colleges and universities, and direct actions took place at over 50 campuses across the country, resulting in several college and university administrations ending their contracts with Sodexo.<sup>68</sup> By May 2001, Sodexo had decided to sever its ties with Corrections Corporation of America.

Over the last 25 years in the United States, public and private funding of the explosive growth of the prison population has come at the detriment of investments in education and other social needs. The results of this choice are starkly visible in New Haven, where the public education system is failing while the state of Connecticut spends tens of millions of dollars incarcerating New Haven residents, most of them for non-violent offenses.

Yale, one of the wealthiest universities in the world, sits in New Haven, one of the poorest cities in the nation. It is incumbent on Yale to use its wealth and influence to expand educational and employment opportunities, not to profit from increasing incarceration rates. Although Yale cannot single-handedly change societal and political trends that have created this situation, it can take several simple steps on its campus and in New Haven: 1) Invest in the New Haven public schools. 2) Invest in hiring qualified applicants from the local community for campus jobs and provide increased training for current and potential employees. 3) Change the dialogue on campus about crime and expand education on the effects of increased incarceration, particularly on communities of color.

1. Yale is a tax-exempt institution with an endowment of \$15 billion. New Haven's tax base is small because of the vast quantity of untaxed property—largely owned by Yale. In 2005, 15 New Haven schools that failed to make adequate yearly progress under the No Child Left Behind law, with 12 of those schools having failed two years in a row.<sup>69</sup> Yale should provide the City of New Haven with a fair-share contribution to help improve city schools. In addition, Yale should dedicate the \$1.5 million they currently invest in CCA to programs that directly address populations affected by the prison system by funding prison arts and education programs, family visiting programs, and prisoner re-entry programs. Yale should dedicate a portion of these resources to community programs for New Haven's youth, in particular its youth who have experienced incarceration.
2. Yale should invest in the community, by hiring New Haven residents. In addition, Yale should fund additional training for current and prospective employees. There is a particular need for training programs devoted to promoting people of color out of the lowest wage scales, where they are disproportionately concentrated.
3. Yale must not allow an atmosphere of racial profiling on its campus. Vague campus-wide announcements identifying the race or age of alleged perpetrators of crimes near the Yale campus contribute to an atmosphere of racialized fear, which disproportionately burdens local youth of color, as well as students of color at Yale. Descriptions such as

“The robber was a black male in his late teens or early twenties” serve no apparent safety function, but do considerable harm by creating generalized suspicion of youth of color on campus.<sup>70</sup> The Yale administration should not issue such statements in its official messages, and should be careful that its safety messages and policing practices do not create unnecessary tension between students, faculty, and the larger Yale community. The Yale administration should promote better education and more dialogue on campus about prisons and race. One important resource for such dialogue in the past was the Center for the Study of Race, Inequality and Politics (CSRIP). The administration should commit institutional resources to reinstating this center and staffing it with dedicated faculty. In addition, it should commit to broadening its curriculum on the role of prisons in US society.

Three decades ago Yale set the standard for institutional ethical investing with the publication of the *Ethical Investor*. Today Yale has the opportunity to demonstrate its leadership in ethical investing by divesting from CCA and investing in New Haven.

## Notes

- 1 John G. Simon, et. al. *The Ethical Investor: Universities and Corporate Responsibility*. (New Haven: Yale University Press, 1972), 14.
- 2 Yale University, Advisory Committee on Investor Responsibility. *Fiscal Year 2003-2004 Report*. <http://www.acir.yale.edu/2002PublicReport.html#private>
- 3 John G. Simon, et. al. *The Ethical Investor: Universities and Corporate Responsibility*, 171
- 4 <http://www.correctionscorp.com/aboutcca.html>.
- 5 According to Yale's most recent tax form, Yale owns 88% of Farallon Capital Institutional Partners II, LP (FCIP II). In turn, FCIP II owns 47,100 shares of CCA according to the most recent 13 G filing with the SEC (May 19, 2005). See <http://sec.gov/Archives/edgar/data/909661/000090966105000064/0000909661-05-000064>.
- 6 Other private and public universities investing with Farallon Capital Management, LLC include Bowdoin College, Brandeis University, Case Western Reserve University, Christian Theological Seminary, The Cleveland Institute of Music, Denison University, Drew University, Duke University, Indiana University and Foundation, Marine Biological Laboratory, Michigan State University, Mills College, National University, Oberlin College, Princeton University, Scripps College, Tufts University, University of Michigan, University of Nevada Foundation, University of Pennsylvania, University of Richmond, University of Texas System, Virginia Tech Foundation, Washington University, Whitman College. See <http://www.unfarallon.info/partners.asp>.
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