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January 31, 2020

Mr. Dean Williams, Executive Director
Colorado Department of Corrections
1250 Academy Park Loop
Colorado Springs, CO 80910
Sent via email to: dean.williams@state.co.us

Re: Plan to transfer Idaho inmates to Colorado

Dear Director Williams:

The Colorado Criminal Justice Reform Coalition urges you to deny the state of Idaho's proposed plan to transfer inmates to the Kit Carson Correctional Facility (KCCF) or any other private prison in Colorado.

Colorado's history of allowing private prisons to house prisoners from other states has been marked by a pattern of dangerous situations. Most notably, it played a significant role in a series of riots over the past two decades: In 1999, Washington inmates rioted at Crowley County Correctional Facility; in 2004, the introduction of Washington and Wyoming inmates to that facility contributed to our state's most devastating prison riot in well over half a century; in 2009, there were security disturbances by Arizona inmates housed at Huerfano Correctional Facility; and in 2010, a group of inmates from Alaska rioted at the Hudson Correctional Facility.

Colorado's history of sending inmates to other states as a way to reduce prison overcrowding has also proven problematic, as it is my recollection that those inmates were also involved in serious security incidents at private prison facilities in Mississippi, Minnesota, and Oklahoma.

How many times does our state need to experience the dangers and disadvantages associated with the practice of "importing/exporting" inmates? This practice is neither an acceptable nor humane strategy for managing prison populations, and it exposes Colorado to multiple levels of liability and expense that can easily be avoided by not allowing it. Idaho's inability to effectively manage its prison population should not become Colorado's problem to solve.

In the event that an out-of-state inmate is prosecuted and sentenced to prison for a crime committed while incarcerated in a private prison in Colorado, those expenses will be borne by Colorado taxpayers, including the absurd scenario of requiring an out-of-state inmate to serve a period of parole in Colorado. To the best of my knowledge, the 2004 riot at the Crowley Correctional Facility resulted in substantial costs to state and local governmental agencies, which were not fully reimbursed by either the state of Washington or the private owner of the prison, Core Civic.

Lastly, but certainly not insignificantly, is the negative impact the transfer has for inmates in Idaho and their families. You know as well as anyone that transferring inmates hundreds or even

thousands of miles away from their families and communities adds another layer of challenge to the already difficult processes of rehabilitation and reintegration. Often times the inmates selected for transfer are the “model inmates” who, justifiably, feel like they are being punished for being good inmates. What a perverse incentive that creates for Idaho inmates (either in Idaho or at KCCF) to engage in less than “model” behavior. We certainly received many of those letters from Colorado inmates who were shipped out of state in the 2000s.

As you know, state law vests you with the authority to approve or deny this request, and that approval should not be unreasonably withheld. The only expectation in state law is that the private prison is appropriate for the security level for the out of state inmate being transferred. (See CRS 17-1-104.5)

Current law is woefully inadequate in setting forth relevant criteria and guardrails to protect Colorado’s varied interests. I understand HB20-1019 was amended to try to strengthen the framework but I do not believe those proposed modifications would be adequate, either.

Consequently, I strongly urge you to deny approval based on the reasonable aforementioned concerns and risks to Colorado. In the case that you are considering approving it, I hope you will seriously consider requiring additional stipulations that are not covered under current law and are necessary to protect the safety and interests of our state, including:

- Only medium and below Idaho inmates should be permitted at KCCF, similar to the limitation placed on Colorado inmates housed in private prisons.
- CoreCivic must ensure adequate staffing levels to house the approximately 1,100-1,200 inmates they want to transfer. It is my recollection that when KCCF housed Colorado inmates, the population never could exceed approximately 700-800 inmates due to chronic staffing shortages, despite the larger design capacity. Even though the staff is employed by CoreCivic and not the state, most of them are also Colorado residents and their safety should be considered and protected, as well.
- Idaho should be responsible for having monitors from their Department of Corrections on-site on a daily basis. That responsibility should not be shifted to the Colorado DOC as this just creates unnecessary liability.
- The contracting parties (including the City of Burlington, the Idaho Department of Corrections, and CoreCivic) must agree to joint and several liability for reimbursing the state or other political subdivision in the event of an incident or riot at KCCF that requires the engagement of state or local law enforcement, first responders, medical personnel, criminal investigators or others.
- The contracting parties should agree to reimburse the state of Colorado and any of its subdivisions for all expenses related to the investigation, prosecution, incarceration, or supervision in the event that an inmate from Idaho commits an offense while incarcerated at KCCF. Idaho should guarantee that any of its inmates that are required to serve a period of mandatory parole for a crime committed while incarcerated at KCCF will be accepted through the Interstate Compact to serve their parole period in Idaho.

- The contracting parties referenced above should also indemnify the state and any of its political subdivisions from any liability related to litigation that may be filed regarding conditions of confinement, transport, or treatment of Idaho inmates at KCCF. The contracting parties should also have to provide the state with proof of adequate insurance coverage that names Colorado and its political subdivisions as additionally insured.
- Under no circumstances should inmates from other states be comingled at KCCF as a way for Idaho to meet the 1,200 bed guarantee they have provided to CoreCivic, as reported in the Idaho press.
- Inmates from Idaho should only be transferred to KCCF on a voluntary basis and the cost of phone calls or other means of communicating with families should be free for the inmate and/or their loved ones.
- Idaho DOC should have in place a process by which an individual inmate may rescind their voluntary transfer due to hardship or a lack of programming consistent with their needs and preparation for release.
- No Idaho inmate should be transferred to KCCF who is within twelve months of their eligible release date.
- No Idaho inmate with serious mental health or medical care needs should be transferred as there have been challenges in providing that kind of care at KCCF when Colorado inmates were housed there.

I know you take this decision very seriously, and I appreciate your consideration of the concerns expressed above. I look forward to the opportunity to discuss this with you in the near future.

Yours truly,

Christie Donner
Executive Director
cc: Governor Jared Polis