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## "Lockup Quotas," "Low-crime Taxes," and the For-Profit Prison Industry

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In 2012, Corrections Corporation of America (CCA), the largest for-profit prison company in the country, sent a letter to 48 state governors offering to buy their public prisons. CCA offered to buy and operate state prisons in exchange for a 20-year contract, which would include a 90 percent occupancy rate guarantee for the entire term. Essentially, the state would have to guarantee that its prison would be 90 percent filled for the next 20 years (a lockup quota), or pay the company for unused prison beds if the number of inmates dipped below 90 percent capacity at any point during the contract term (a "low-crime tax" that essentially penalizes taxpayers when prison incarceration rates fall).

Fortunately, no state took CCA up on its outrageous offer. But many private prison companies have been successful at inserting quotas into private prison contracts, requiring states to maintain high occupancy levels in their private prisons. In fact, according to a new study released by In the Public Interest, an alarming 65% of the state and local private prison contracts we studied include these quotas.

While the most frequent lockup quota is 90%, three for-profit prison contracts in Arizona operate under contracts that guarantee an astounding 100% occupancy. While crime rates across the country are lower than they have been in decades, Arizona taxpayers are on the hook to pay for prisoners that don't exist when the lockup quota isn't met.

These contract clauses incentivize throwing people in jail, which runs counter to our basic sense of moral decency as Americans, as well as to many states' public policy goals of reducing the prison population and increasing efforts for inmate rehabilitation. When policymakers received the 2012 CCA letter, some worried the terms of CCA's offer would encourage criminal justice officials to seek harsher sentences to maintain the occupancy rates required by a contract. Policy decisions should be based on creating and maintaining a just criminal justice system that protects the public interest, not ensuring corporate profits.

Lockup quota provisions are costly for taxpayers, too. These clauses can force corrections departments to pay thousands, sometimes millions, for unused beds - a "low-crime tax" that penalizes taxpayers when they achieve what should be a desired goal of lower incarceration rates. The private prison industry often claims that prison privatization saves states money. Numerous studies and audits have shown these claims of cost savings to be an illusion, and lockup quota requirements are one way that for profit prison companies lock in inflated costs that guarantee profits after the contract is signed.

Criminal justice advocates from many perspectives believe occupancy guarantees in private prison contracts work against rational public policy and fiscal prudence. Marc A. Levin, who runs justice initiatives for the conservative Texas Public Policy Foundation, said of these contract clauses last year, "Clearly it would be a very bad public policy and tie the hands of public officials. I'm sure Marriott Hotels would like a government guarantee for a 90 percent occupancy rate."

For-profit prisons, and the lockup quotas and low crime taxes that come with them, are a raw deal. Grassroots organizations across the spectrum are lining up to stand against them. The Center for Media and Democracy, which previously launched ALECExposed.com, this week released corporate profiles of CCA and the Geo Group, America's second largest for-profit prison operator. Color of Change and Grassroots Leadership have launched a campaign to urge divestment from the private prison industry. Earlier this year, the NAACP and the Tea Party Network, strange bedfellows to say the least, both issued statements opposing for-profit prisons. Citizens in Illinois are fighting to expand their state's ban on private prisons and New Hampshire is in a battle to institute a ban. And ITPI is helping state and local lawmakers consider the proposals of our Taxpayer Empowerment Agenda that will prevent taxpayers from losing control of their corrections systems (and other public services) to for-profit corporations and Wall Street banks.

The facts are clear: Lockup quotas and low crime taxes are bad for taxpayers, bad for justice, and bad for communities. States that lack taxpayer protection statutes should pass legislation banning them now.

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