

Private Corrections Institute, Inc.

March 13, 2008

SENT VIA FAX

The Honorable Patrick Leahy, Chairman
Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Whistleblower Testimony – Nomination of Gustavus A. Puryear IV

Dear Senator Leahy:

Today, *Time* magazine published an article implicating federal judicial nominee Gustavus A. Puryear IV in a scheme to exclude certain incidents at prisons run by Corrections Corporation of America (CCA) from internal quality assurance reports before such reports were disclosed to government agencies, and perhaps to CCA's own board. This was reportedly accomplished by using different sets of quality assurance reports, with unredacted versions reserved for internal use only under "attorney-client privilege," with Mr. Puryear's direct involvement.

These disclosures came to light through a CCA whistleblower, Mr. Ronald T. Jones, who was employed as a senior manager in the company's quality assurance division. Mr. Jones worked under Mr. Puryear's direct supervision for approximately two-and-a-half years after the quality assurance division was placed under CCA's legal department in 2005. Prior to his employment with CCA, Mr. Jones had worked in the public sector for Florida's Correctional Privatization Commission and as a contract administrator for the State of Ohio.

I met with Mr. Jones in July 2007 after he resigned from CCA on amicable terms. He stated he was under no confidentiality, non-disclosure or non-compete restrictions subsequent to leaving CCA. Mr. Jones provided information regarding the dual quality assurance reporting procedure that was instituted under Mr. Puryear's direction, as reported in today's *Time* article.

Dee Hubbard
President

Alex Friedmann
Vice President

Stephen Rahe
Secretary/Treasurer

Deb Phillips
Director

Ken Kopczynski
Executive Director

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Chairman Patrick Leahy
March 13, 2008
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Indeed, in Mr. Puryear's written answers to questions posed by your office, he stated, "Under my leadership, the Quality Assurance department was completely reorganized."

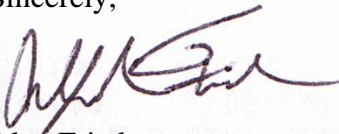
I notified the Judiciary Committee staff by way of letters dated February 26 and March 3, 2008, that a credible whistleblower had pertinent information concerning Mr. Puryear's "conduct as CCA's general counsel related to concealing and failing to disclose complete audit information to contracting government agencies." I supplied a copy of Mr. Jones' written statement with his name and contact information redacted, under a confidentiality notice.

Attached to this letter is a copy of today's *Time* magazine article; a copy of Mr. Jones' original statement submitted to the Committee staff (redacted); and an internal CCA quality assurance report for the week of October 16, 2006, which states the report "was prepared at the request of the Office of General Counsel. It is an attorney-client privileged communication. This document is not to be released to anyone without the expressed written approval of the Office of General Counsel." This is the type of internal-use only document described by Mr. Jones.

Based upon this recently-disclosed information implicating Mr. Puryear, the Private Corrections Institute and *Prison Legal News*, which oppose Mr. Puryear's confirmation, urge the Committee to hold another evidentiary hearing so that Mr. Jones' whistleblower testimony can be considered by the Committee and Mr. Puryear can testify in his own behalf on this and any other matters of concern to the Committee members.

Alternatively, we support the position of not bringing Mr. Puryear's judicial nomination forward for a Committee vote. Thank you for your time and attention in this regard;

Sincerely,



Alex Friedmann
Vice President, PCI
Associate Editor, PLN

cc: All Senate Judiciary Committee members
Ken Kopczynski, PCI Exec. Director
Paul Wright, Editor PLN

Dee Hubbard
President

Alex Friedmann
Vice President

Stephen Rahe
Secretary/Treasurer

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Thursday, Mar. 13, 2008

Scrutiny for a Bush Judicial Nominee

By Adam Zagorin/Washington

As the top lawyer for America's biggest private prison company, Corrections Corporation of America (CCA), Gus Puryear IV, is known to sport well-pressed preppy pink shirts, and his brownish mop of hair stands out among most of President Bush's graying nominees to the federal bench. A favorite of G.O.P. hardliners, Puryear, 39, prepped Dick Cheney for the vice presidential debates — both in 2000 and 2004 — and served as a senior aide to two former senators and onetime presidential hopefuls, Bill Frist and Fred Thompson.

Political connections, though, may not be enough to get Puryear a lifetime post as a federal district judge in Tennessee. Puryear recently confronted tough questions about his conduct, experience and potential conflicts of interest from Democrats on the Senate Judiciary Committee, which must approve him before a full Senate vote. Now, a former CCA manager tells TIME that Puryear oversaw a reporting system in which accounts of major, sometimes violent prison disturbances and other significant events were often masked or minimized in accounts provided to government agencies with oversight over prison contracts. Ronald T. Jones, the former CCA manager, alleges that the company even began keeping two sets of books — one for internal use that described prison deficiencies in telling detail, and a second set that Jones describes as "doctored" for public consumption, to limit bad publicity, litigation or fines that could derail CCA's multimillion dollar contracts with federal, state or local agencies.

CCA owns or operates 65 prisons, housing some 70,000 inmates across the U.S. According to the company's website, it has a greater than 50% share of the booming private prison market. CCA is also a major contributor to Republican candidates and causes, and spends millions of dollars each year lobbying for government contracts. (Puryear enjoys a friendship with Cheney's son-in-law, Philip Perry, who lobbied for CCA in Washington before serving as general counsel for the Department of Homeland Security, which has millions of dollars in contracts with CCA, from 2005 to 2007.) The company has likewise given financial support to tax-exempt policy groups that support tough sentencing laws that help put more people behind bars. Like other prison companies, CCA has faced numerous lawsuits that stem from allegedly inadequate staff levels that can be a cause of high levels of violence in the prisons. Though hundreds of such lawsuits are often pending at any given time, many brought by inmates in its own facilities, CCA under Puryear has mounted an especially vigorous defense against them, refusing to settle all but the most damaging.

Jones knows CCA intimately. Until last summer, the longtime Republican was in charge of "quality assurance" records for CCA prisons across the U.S. He says that in 2005, after CCA found itself embarrassed on several occasions by the public release of internal records to government agencies, Puryear mandated that detailed, raw reports on prison shortcomings carry

a blanket assertion of "attorney client privilege," thus forbidding their release without his written consent. From then on, Jones says, the audits delivered to agencies were filled with increasingly vague performance measures. "If the wrong party found out that a facility's operations scored low in an audit, then CCA could be subject to litigation, fines or worse," explains Jones. "When Mr. Puryear felt there was highly sensitive or potentially damaging information to CCA, I would then be directed to remove that information from an audit report." Puryear would not comment on the allegations. Jones resigned from CCA last summer to pursue a legal career.

According to Jones, Puryear was most concerned about what CCA described as "zero tolerance" events, or ZT's — including unnatural deaths, major disturbances, escapes and sexual assaults. According to Jones, bonuses and job security at the company were tied to reporting low ZT numbers. Low numbers also pleased CCA's government clients, as well as the company's board, which received a regular tally, and Wall Street analysts concerned about potentially costly lawsuits that CCA might face.

In 2006, for example, Jones says CCA had to lock down a prison in Texas to control rioting by as many as 60 inmates. Despite clear internal guidelines defining the incident as a ZT, Jones says he was ordered not to label it that way. Instead it was logged as, "Altered facility schedule due to inmate action". And this was not unusual, says Jones: "Information was misrepresented in a very disturbing way concerning the company's most important performance indicators, which included escapes, suicides, violent outbreaks and sexual assaults."

Companies often try to show their best face to customers, and safeguard internal records with "attorney-client privilege." But according to Stephen Gillers, a leading expert on legal ethics at New York University, CCA's use of that privilege seems like "a wholesale, possibly overreaching claim," similar to the blanket assertions of major tobacco companies that tried to keep damaging internal documents from public view. Those assertions of privilege have been rejected by federal judges as an attempt to improperly conceal their internal data on the dangers of smoking from customers, the courts and legal adversaries. CCA could also be in legal trouble if it minimized the tally of serious prison incidents and, by implication, its possible financial liability. As chief legal counsel, Puryear would have also had an obligation to ensure his board had all the information it needed, good or bad, to make decisions. If Puryear's reporting system had the effect of withholding information relevant to official prison oversight, that could bear on his suitability as a federal judge by suggesting his "disdain for the proper operation of an important function of government," notes Gillers.

Contacted by TIME, CCA says that Puryear, "has served the company well and honorably as general counsel and will be an outstanding judge." The company denies allegations that it keeps two sets of books, saying: "A final audit report is made available to our customers. Appropriate information gathered in the audits is separately provided to our legal department." The company adds that "CCA has produced all relevant, non-privileged documents in litigation," that its board is regularly apprised of the most serious prison incidents, and that "all appropriate" information is given to the financial community.

President Bush recently called Puryear and his 27 other judicial nominees facing Senate confirmation "highly qualified." Whether or not the Senate agrees on Puryear, Bush is likely to

leave the White House with fewer judges approved than Bill Clinton or Ronald Reagan, both two-term chief executives.

Original (redacted) statement sent by Mr. Ronald T. Jones

To [REDACTED]

I am writing in opposition to the nomination of Gus Puryear to become a district judge for the Middle District of Tennessee, because of his unethical conduct as Legal Counsel for Corrections Corporation of America (CCA) in trying to hide potentially damaging (to CCA) audit findings from governments who contracted with CCA.

I used to work for Mr. Puryear at Corrections Corporation of America (CCA) for nearly 2 1/2 years. I was the senior manager of corporate quality assurance for the company until June 2007, and had worked for CCA since 1999. I used to daily collect and analyze the company's most sensitive operational data from over 60 correctional facilities. I would also analyze and track weekly audit findings from corporate quality assurance audit teams and distribute the information in various internal reports as directed. Unless a facility had significant operational problems to cause it to be audited more than once, a facility was typically audited operationally once per year.

As noted, I would take the audit findings from the reports as directed by senior quality assurance staff, and distribute the information throughout the company. These reports would sometimes be requested by governmental entities as "sunshine law" requests, or simply given to governments upon their request as a contractual right of oversight.

Upon the Quality Assurance Department being placed under the CCA Legal Department and Gus Puryear in 2005, Mr. Puryear directed that all of the quality assurance audits had to be combed over by an in-house attorney and had to be reviewed by him. I would personally e-mail the weekly facility audit reports with complete findings to both Mr. Puryear and his attorney Sherrill Geautreux for their review before they were widely distributed internally. When Mr. Puryear felt there was highly sensitive (or potentially damaging information to CCA), I would then be directed to remove that information from an audit report because it would be considered "under further investigation" and then nothing would be said about it to me again.

Because of this method of non-reporting, some department heads outside the Legal Department who relied on information from the audit reports to prompt them to take action (for example, an audit finding that the fence alarm system at a facility had not been working properly for a year may alert the Design and Facility Construction Department to look into it further.) did not like that sometimes the audit reports did not contain that type of significant information.

Mr. Puryear then directed me, and other quality assurance department staff who process audit report findings, to create two reports for distribution of audit findings. I would prepare one report with all of the audit findings and auditor comments in it for "internal purposes only" and a separate more generic report that contained only general information about audit results as a whole. The generic report focused on scores only,

and failed to mention in detail, it at all, any individual significant findings. I was instructed to put language at the bottom of the detailed report that indicated to recipients of that report that it was internal privileged information and was not to be distributed unless authorized by Mr. Puryear. I was told by senior quality assurance department staff that Mr. Puryear wanted the language inserted into the detailed report to prevent that information from being accessible under Sunshine Laws.

I strongly feel that Mr. Puryear's conduct in this regard was highly unethical and should preclude him from consideration as a federal district judge. Particularly because of the high dollar value of CCA's contracts and its charge to appropriately incarcerate our nation's prisoners, I feel governments who contract with CCA have a fundamental contractual right to know about significant operational events at CCA facilities that could indicate significant problems and potentially jeopardize public safety.

Mr. Puryear's conduct in this regard should not be looked upon as "just being a good advocate" for CCA. In being an advocate, or an officer of the court for that matter, it is never permissible to operate in such a highly unethical manner as Mr. Puryear did in developing a two-pronged system of reporting audit findings that was designed to skirt Sunshine Laws and hide the truth from the public.

I believe the public demands our federal judges to have the highest integrity and Mr. Puryear has demonstrated a fatal flaw in this regard. Please let me know if I can be of further assistance.

Respectfully submitted,

A black rectangular redaction box covering the signature of the author.

Submitted February 24, 2008

ZERO TOLERANCE – 2004 to 2006 Totals

Zero Tolerance Events	2004	2005	2006 (As of 10/15/06)
Escapes	8	4	4
Disturbances/Disruptive Events	8	5	3
Unnatural Deaths	6	11	6
Sexual Assaults/Misconduct**	5	2	2
Hostage Situations	1	1	0
TOTALS	28	23	15

*Data compiled from Operations Department Priority Incident Database, from Administrative Duty Officer Reports, from Health Services Department mortality records, and from 5-11 Weekly Report of Facility Incidents forms.
 **Data for sexual assaults in 2004 and 2005 only included inmate on inmate sexual assaults. Sexual assault data in 2006 includes substantiated employee on inmate, inmate on employee, and inmate on inmate sexual assaults.
 *** Data In the 2006 table reflect only validated zero tolerance items.

SIGNIFICANT FACILITY EVENTS - *The incidents in this section were reported from 10/09/06 through 10/15/06.*

WHITEVILLE CORRECTIONAL FACILITY – Attempted suicide requiring outside medical treatment

On 10/10/06, at approx. 1109 hours, an officer was cross counting in IA-pod when he got to cell 104 and saw inmate Rhea, Joseph #271369 lying on his right side on the top bunk facing the wall. The officer then observed 2 small spots of blood on the inmate's shirt. When he approached the bunk he pulled back the sheet and observed blood coming from the inmate's neck. The inmate was quickly treated by facility staff and then transported to a local hospital for treatment.

BAY CO. JAIL – Attempted suicide requiring outside medical treatment

On 10/11/06, at approx. 1513 hours, inmate Terry Locklear #06-12498 attempted to hang himself in the shower area of 5B by tying a sheet around his neck. Inmate Locklear was taken down by Inmates Jeremy Riley #06-5523, Inmate Passion Williams #06-1310 and Inmate Davulun Williams #06-11670 while staff was entering the unit. Inmate Locklear regained consciousness and was seen by medical then transported to Bay Medical Center with no significant injuries.

CENTRAL ARIZONA DETENTION CENTER – Attempted suicide requiring outside medical treatment

On 10/12/06, at approx. 0643 hours, an officer found inmate Medrano, Manuel #81076008 lying on his back on the floor with blood covering the inmate and floor. Senior Correctional Officer Rachel Madoneccky and Case Manager Christina Frappiea entered the cell after observing a laceration to the right side of the inmate's neck, and began basic first aide by applying pressure to the right side of the neck area of the inmate. The inmate was transported to a local hospital for treatment.

EDEN DETENTION CENTER - Altered facility schedule due to inmate action

On 10/10/06, at approx. 0500 hours, Dorm F was released to Food Service under controlled movement due to a scheduled Scabies screening in that unit. At approximately 0520, six inmates refused to return to Dorm F and comply with the screening. Approximately 50-60 inmates gathered in the compound and refused to return to Dorm F. After staff initiated confrontation avoidance, the inmates complied with orders to return to Dorm F. However, the initial six inmates continued to refuse and were placed in Special Housing. At approximately 0630, medical staff entered Dorm F to perform Scabies screenings. The inmates refused to be screened. After further attempts at confrontation avoidance proved unsuccessful, the Incident Management Team was initiated and the Disturbance Control Team was activated. The facility was placed under an altered building schedule with controlled movement and Dorm F was placed in lockdown status. On 10/11/06, at approximately 0330, the Food Service workers refused to report to work. The facility was placed under lockdown with no inmate movement, requiring the breakfast and noon meals to be provided in the form of sack lunches. At approximately 1320, medical staff entered Dorm F and the inmates complied with the scabies screening. At approximately 1410, the afternoon kitchen workers were released from their units and reported to Food Service. Upon the clearing of the 1530 count, the compound was opened with limited program activities. At approximately 1900, the Disturbance Control Team was deactivated. On 10/12/06,, at approximately 0500, the facility resumed normal operations.

RED ROCK CORRECTIONAL CENTER – Loss of ammunition

On 10/07/06, at approximately 0610 hours, Shift Supervisors were informed by Day Shift C/O's that there were only 8 rounds per perimeter vehicle - this is a loss of two 12 gauge double 00 buck rounds. Shift Supervisors went out to perimeter and verified that there were only 8 rounds per vehicle. Both vehicles were searched with no results. Upon assuming duties of Night Shift Perimeter, an officer accounted for 9 rounds per vehicle and reported no discrepancies. Staff attempted to contact Second Shift Supervisor and both perimeter drivers to find out if there were any discrepancies or changes in the number of rounds assigned to perimeter and were unable to make contact. There is an ongoing investigation of the incident; all areas have been searched, to include perimeter and vehicles. We have reasonable belief that one of two officers may have taken the rounds home by accident. The two missing rounds were later found in a perimeter truck in a box.

Incident from previous report:

SILVERDALE FACILITIES – Employee on inmate sexual misconduct (Potential Zero Tolerance event)

On 10/4/06, an investigation was initiated into allegations of sexual misconduct between a male correctional officer and a female inmate at the facility. The female inmate claims she performed oral sex and engaged in sexual intercourse with the officer in the laundry area on 10/01/06. The inmate also claims to have taken possession of a quantity of tobacco following the sex act and later sold it in the housing unit. **An investigation could not substantiate the female inmate's claim of sexual misconduct by the officer.**



Quality Assurance Weekly Report October 16, 2006

OPERATIONAL AUDITS

There were no audits scheduled last week. Audits are scheduled this week at the 1,600-bed Prairie Correctional Facility and the 1,676-bed South Central Correctional Center. Audits for the week of 10/23/06 are scheduled to take place at the 1,092-bed Metro-Davidson Detention Facility and the 2,016-bed Northeast Ohio Correctional Center.

INTERNAL/EXTERNAL AUDITS

FOOD SERVICE INCIDENT REPORTS: In October to date, there has been one food service incident report filed (at Winn Correctional Center) for menu non-compliance

From January – August 2006, there were 259 incident reports (41 in Jan., 36 in Feb., 42 in Mar., 46 in Apr., 56 in May, 15 in June, 12 in July, 11 in August, and 3 in September) filed at facilities system-wide.

INMATE CONCERN CENTER HOTLINE

In October to date, there have been 4 calls to the hotline regarding 3 facilities. The facility with the most calls was:

Correctional Treatment Facility with 2 calls. Calls concerned an attorney saying he could not see his client, and a caller alleging an inmate is not getting funds sent to him.

From January-August 2006, 199 calls (30 in January, 28 in Feb., 38 in Mar., 23 in Apr., 38 in May, 25 in June, 17 in July, 38 in August, and 43 in September) were made to the hotline in reference to alleged issues/concerns in over 54 facilities.

Calls to the Concern Center Hotline in 2006

