

Congress of the United States

Washington, DC 20510

September 30, 2019

Sami Mnaymneh
Founder and Co-Chief Executive Officer
H.I.G. Capital, LLC
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Tony Tamer
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H.I.G. Capital, LLC
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Dear Messrs. Mnaymneh and Tamer:

We are writing regarding H.I.G Capital's (H.I.G.) investment in companies providing support services to prisons, jails and detention facilities across the country, and to request information about your firm's structure and finances as it relates to these companies.

The United States' criminal justice system, driven by a misguided "tough on crime" approach that disproportionately targets Black and Latinx Americans, has allowed private prisons and companies providing support services to correctional facilities to rake in billions of dollars at the expense of incarcerated individuals, their families, and taxpayers for decades.¹ These support companies, responsible for providing support medical, food, and phone services to prisons, jails, and detention facilities housing over two million incarcerated people across the country, often deliver low-quality services to incarcerated individuals and their families at exorbitant fees, collecting over \$40 billion in tax-payer funds annually.² These problems are exacerbated by the lack of a functioning, competitive market for these companies and their services. The users of these services – incarcerated individuals and their loved ones – are literally captive, not able to shop around and find the best mix of price and quality.

We have concerns about the rapid spread and effect of private equity investment in many sectors of the economy – including the correctional facility support services industry.³ Private equity funds often operate under models where they purchase controlling interests in companies for a short time, then load them up with debt, strip them of their assets, extract exorbitant fees,

¹ Prison Policy Initiative, "Following the Money of Mass Incarceration," Peter Wagner and Bernadette Rabuy, January 25, 2017, <https://www.prisonpolicy.org/reports/money.html>; NAACP, "Criminal Justice Fact Sheet," <https://www.naacp.org/criminal-justice-fact-sheet/>.

² Worth Rises, "The Prison Industrial Complex: Mapping Private Sector Players," April 2019, <https://worthrises.org/picreport2019>.

³ The Nation, "How Private Equity Is Turning Public Prisons Into Big Profits," Tim Requarth, April 30, 2019, <https://www.thenation.com/article/prison-privatization-private-equity-hig/>.

and sell them at a profit – implementing drastic cost-cutting measures at the expense of workers, consumers, communities, and taxpayers.⁴ This is why, we have introduced legislation that will force private equity funds to take responsibility for the outcomes of companies they take over and to disclose important financial information that will provide transparency on their composition, financial status, and profits.⁵

Likewise, we have concerns about the role H.I.G. and other private equity firms are playing in the continued consolidation of these profit-seeking companies, the decline in quality of the services they provide, and the effects on incarcerated individuals, their families, and their communities.⁶ For example, as of July 2017, three companies – GTL, Securus Technologies (Securus), and Inmate Calling Solutions Inc. (ICSolutions) – provided telephone service in between 1,141 and 1,668 correctional facilities across the United States and collectively controlled an estimated 65% to 79% of the correctional phone market, with GTL alone controlling about half of the market.⁷ Each of these companies is private equity-owned and generates hundreds of millions of dollars in revenue each year.⁸

In no small part because of this market concentration, these few companies have the power to “limit facilities’ choices,” “lock them into unfair contracts,”⁹ and dictate contract terms that push additional costs on to incarcerated individuals and their loved ones. Companies providing telephone services in correctional facilities have been accused of setting “rates and fees far in excess of those established by regular commercial providers,” imposing significant costs on families and friends of incarcerated individuals, and ultimately “profiting off of people in vulnerable situations.”¹⁰ A February 2019 analysis by the Prison Policy Initiative found that these companies charge up to \$25 for a 15-minute phone call and in many cases draw up contracts that allow them to collect “fees to open an account, have an account, fund an account, close an account, get a refund, [and] receive a paper bill,” at the expense of incarcerated individuals and their families.¹¹ The Federal Communications Commission found that these extra

⁴ Private Equity Stakeholder Project and Center for Popular Democracy, “Pirate Equity: How Wall Street Firms are Pillaging American Retail,” July 2019, <https://united4respect.org/wp-content/uploads/2019/07/Pirate-Equity-How-Wall-Street-Firms-are-Pillaging-American-Retail-July-2019.pdf>; Center for Economic and Policy Research, “Private Equity Partners Get Rich at Taxpayer Expense,” Eileen Applebaum and Rosemary Batt, July 2017, <http://cepr.net/images/stories/reports/private-equity-partners-2017-07.pdf>.

⁵ Stop Wall Street Looting Act, S.2155, <https://www.congress.gov/bills/116/congress/senate-bill/2155>.

⁶ Private Equity Stakeholder Project, “Fact Sheet: Private equity-owned firms dominate prison and detention services,” September 17, 2018, <https://pestakeholder.org/report/private-equity-owned-firms-dominate-prison-and-detention-services/>.

⁷ Prison Policy Initiative, “Prison phone giant GTL gets bigger, again,” Peter Wagner, August 28, 2017, <https://www.prisonpolicy.org/blog/2017/08/28/merger/>.

⁸ Urban Justice Center, “The Prison Industrial Complex: Mapping Private Sector Players,” April 2018, <https://static1.squarespace.com/static/58e127cb1b10e31ed45b20f4/t/5ade0281f950b7ab293c86a6/1524499083424/The+Prison+Industrial+Complex+-+Mapping+Private+Sector+Players+%28April+2018%29.pdf>.

⁹ Prison Policy Initiative, “State of Phone Justice: Local jails, state prisons and private phone providers,” Peter Wagner and Alexi Jones, February 2019, https://www.prisonpolicy.org/phones/state_of_phone_justice.html.

¹⁰ New York Times, “The High Cost of Calling the Imprisoned,” Timothy Williams, March 30, 2015, <https://www.nytimes.com/2015/03/31/us/steep-costs-of-inmate-phone-calls-are-under-scrutiny.html>.

¹¹ Prison Policy Initiative, “State of Phone Justice: Local Jails, state prisons and private phone providers,” Peter Wagner and Alexi Jones, February 2019, https://www.prisonpolicy.org/phones/state_of_phone_justice.html; The Nation, “How Private Equity Is Turning Public Prisons Into Big Profits,” Tim Requarth, April 30, 2019, <https://www.thenation.com/article/prison-privatization-private-equity-hig/>.

fees “can increase the cost of families staying in touch by phone with loved ones who are incarcerated by as much as 40%.”¹²

Similarly, the correctional medical care industry is experiencing consolidation and raising new concerns about the quality of health care provided to incarcerated individuals. The two largest private correctional medical care providers in the country – Corizon Health Inc. (Corizon) and Wellpath – collectively provide health care services to hundreds of thousands of incarcerated individuals in hundreds of correctional institutions located in at least 36 states. Both companies are private equity-owned. Wellpath, formed from the 2018 merger of two private prison health care companies, “is expected to bring in about \$1.5 billion annually, [while] Corizon’s revenue was pegged at about \$1 billion in 2017.”¹³ These two companies have “been sued about fifteen hundred times during the past five years ... over matters including alleged neglect, malpractice, and, in dozens of cases, wrongful injury or death.”¹⁴

The privatization and consolidation of the commissary and food services sector – steered by private equity investment – has allowed private companies to rake in significant profits despite delivering low-quality services. For example, over the span of two years and under the ownership of a private equity firm, Trinity Services Group (Trinity), one of the largest private food and commissary service providers with contracts in 44 states and 700 facilities¹⁵, accumulated \$3.8 million in fines for contract violations in Michigan alone.¹⁶ Trinity has also been accused of serving meals “which included not only maggots but also ““crunchy dirt” in potatoes and mold in apple crisp and pancakes,” and providing such meager portions that incarcerated individuals in one county jail were reduced to “eat[ing] toothpaste and toilet paper.”¹⁷

These services are part of the private equity-owned criminal justice ecosystem. When incarcerated individuals are not satisfied with the quality and quantity of food provided in their facilities, they are likely to purchase food and beverages from commissaries, commissaries that are increasingly and similarly controlled by private equity firms. Those commissaries provide unaffordable products, pushing the cost on to “families, who are overwhelmingly poor and

¹² Federal Communications Commission “FCC takes next big steps in reducing inmate calling rates,” press release, October 22, 2015, https://apps.fcc.gov/edocs_public/attachmatch/DOC-335984A1.pdf.

¹³ American Federation of Teachers, “Private prisons and investment risks part two: How Private Prison Companies Fuel Mass Incarceration – and How Public Pension Funds Are at Risk,” February 2019, <https://www.aft.org/sites/default/files/private-prisons-invest-2019-part2.pdf>; The Atlantic, “The Private Option,” Marsha Mcleod, September 12, 2019, <https://www.theatlantic.com/politics/archive/2019/09/private-equitys-grip-on-jail-health-care/597871/>.

¹⁴ New Yorker, “The Jail Health-Care Crisis,” Steve Coll, February 25, 2019, <https://www.newyorker.com/magazine/2019/03/04/the-jail-health-care-crisis>.

¹⁵ Prison Policy Initiative, “Paging anti-trust lawyers: Prison commissary giants prepare to merge,” Stephen Raheer, July 5, 2016, <https://www.prisonpolicy.org/blog/2016/07/05/commissary-merger/>.

¹⁶ Prison Legal News, “Michigan’s New Prison Food Service Provider Failing to Meet Contract Terms,” David M. Reutter, January 2018, <https://www.prisonlegalnews.org/news/2018/jan/8/michigans-new-prison-food-service-provider-failing-meet-contract-terms/>.

¹⁷ Prison Legal News, “Michigan’s New Prison Food Service Provider Failing to Meet Contract Terms,” David M. Reutter, January 2018, <https://www.prisonlegalnews.org/news/2018/jan/8/michigans-new-prison-food-service-provider-failing-meet-contract-terms/>; Letter from Southern Center for Human Rights to Gordon County Sheriff Mitch Ralston, October 28, 2014, <https://www.schr.org/files/post/files/SCHR%20to%20Sheriff%20Ralston%2010%2028%2014.pdf>.

disproportionately come from communities of color.”¹⁸ Trinity counts among its sister companies, “Swanson Services Corporation, a leading provider of commissary goods operating in 41 states,” and Keefe Group,¹⁹ the “nation’s leading supplier of food products, personal care products, electronics, clothing, technology, telecommunications and software solutions to the correctional market.”²⁰ As a result, in facilities where Trinity and Swanson or Keefe operate, if Trinity fails to provide quality food for incarcerated individuals, the parent company is still likely to profit via its commissary businesses. The holding company in control of these companies generated over \$1 billion in revenue in 2017 alone.²¹

Private equity-owned prison support services use their market power to make millions of dollars off those who are incarcerated, their families, and their communities – often while providing subpar products and services. And, private equity firms may be making these problems even worse – undertaking an effort to control a growing number of support service providers in each sector. For instance, your firm owns Keefe Group, ICSolutions and Wellpath, the large private commissary, telephone and medical care providers. This allows the companies to “offer facilities packages of unrelated services in one huge bundled contract” – creating a disincentive for facility administrators to abandon the companies and seek out alternatives when the quality of services in one arm of the company declines.²²

H.I.G. is a large investor in the prison support services sector. We have introduced legislation, the *Stop Wall Street Looting Act*, to reform the private equity industry by holding private equity firms liable for the responsibilities and debts of companies under their control and increases transparency by requiring private equity managers to disclose fees, returns, and political expenditures.²³ To inform our approach to passing this legislation, and to better understand your firm’s role in the prison support service industry, we ask that you provide answers to the following questions no later than October 14, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.²⁴
2. Which prison support service companies, including all affiliates or related entities, does H.I.G. have a stake in or own? Please provide the name of and a brief description of the services each company provides.

¹⁸ Prison Policy Initiative, “The Company Store: A Deeper Look at Prison Commissaries,” Stephen Raheer, May 2018, <https://www.prisonpolicy.org/reports/commissary.html>.

¹⁹ The Nation, “How Private Equity Is Turning Public Prisons Into Big Profits,” Tim Requarth, April 30, 2019, <https://www.thenation.com/article/prison-privatization-private-equity-hig/>.

²⁰ Keefe Group, “About Keefe Group”, accessed Sep. 21, 2019, <https://www.keefegroup.com/>

²¹ Worth Rises, “The Prison Industrial Complex: Mapping Private Sector Players,” April 2018, <https://static1.squarespace.com/static/58e127cb1b10e31ed45b20f4/t/5ade0281f950b7ab293c86a6/1524499083424/Te+Prison+Industrial+Complex+-+Mapping+Private+Sector+Players+%28April+2018%29.pdf>.

²² Prison Policy Initiative, “State of Phone Justice: Local jails, state prisons, and private phone providers,” Peter Wagner and Alexi Jones, February 2019, https://www.prisonpolicy.org/phones/state_of_phone_justice.html.

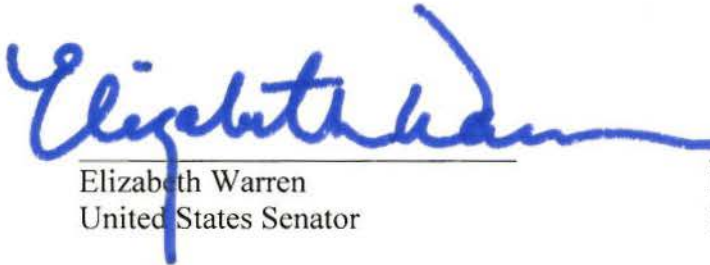
²³ Stop Wall Street Looting Act, S.2155, <https://www.congress.gov/bill/116th-congress/senate-bill/2155>.


²⁴ *Id.*

- a. Which prison support service companies, including all affiliates or related entities, has H.I.G. had a stake in or owned in the past ten years? Please provide the name of and a brief description of the services each company provides or provided.
 - b. For each H.I.G.-owned prison support service company, including all affiliates or related entities, please provide the following information for each year that you have had a stake in or owned this company and the five years preceding your investment.
 - i. The name of the company
 - ii. Ownership stake
 - iii. Total revenue
 - iv. Net income
 - v. Total expenditure
 - vi. Total number of employees
 - vii. Total number of corrections facilities or relevant authority with which the company has a contract to provide services
 - viii. Total number of incarcerated individuals for whom the company provides service
 - ix. Other private-equity firms that own a stake in the company
3. Does H.I.G. have a stake in or own companies, including all affiliates or related entities that provide telephone services to correctional facilities? If so, please provide the following information for each year that your firm has had a stake in or owned each company and the five years preceding your investment.
- a. Revenue generated from per-minute phone rates
 - b. Revenue generated from fees and a list of each type of fee
4. Private equity-owned corrections companies have reportedly entered into countless settlements over the years and paid millions of dollars in fees for contract violations.
- a. Has any prison support service company, including all affiliates or related entities, in which H.I.G. has an ownership stake, been investigated for violation of any federal or state law or regulation? If so, please provide a complete list, including the date and description, of each investigation.
 - b. Has any prison support service company, including all affiliates or related entities, in which H.I.G. has an ownership stake, been found to have violated any federal or state law or regulation? If so, please provide a complete list, including the date and description, of all such violations.
 - c. Has any prison support company, including all affiliates or related entities, in which H.I.G. has an ownership stake, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state law or regulation? If so, please provide a complete list, including the date and description, of all such settlements.
 - d. Has any prison support service company, including all affiliates or related entities, in which H.I.G. has an ownership stake, reached a settlement with any incarcerated individual or group of incarcerated individuals related to a

potential violation of any federal or state law or regulation? If so, please provide a complete list, including the date and description, of all such settlements.

Sincerely,


Elizabeth Warren
United States Senator


Mark Pocan
Member of Congress


Alexandria Ocasio-Cortez
Member of Congress