

Olson took governor to court of public opinion

Marty Trillhaase/Lewiston Tribune

U.S. Attorney Wendy Olson did not indict Gov. C.L. (Butch) Otter's administration in the private prison scandal over which he presided.

That did not, however, stop Olson from issuing a condemnation in the court of public opinion.

Last week, Olson wrapped up the 15 months her office and the FBI spent sifting through the story of how Corrections Corporation of America ran the Idaho Correctional Center outside Boise under its \$29 million contract with the state of Idaho. CCA bilked the state for unworked staff shifts, which fits the pattern of a prison so under-staffed that inmates preyed on each other and created a violence-filled culture dubbed the "gladiator school."

Over time, the disclosure led U.S. District Court Judge David Carter to hold CCA in contempt of court for failing to comply with staffing levels specified in a settlement with the American Civil Liberties Union.

Otter's Board of Corrections let CCA's contract expire after securing a \$1 million settlement from the company - an amount some suspect was far less than the state was owed - before taking over management of the state prison.

Olson's office got involved after it turned out Idaho State Police Col. Ralph Powell - an Otter political appointee - had never pursued the criminal investigation that everyone, including Carter, believed was underway.

So she had two questions:

- Was CCA guilty of federal fraud?

Technically, no. Idaho's contract apparently paid for warehousing people. The more inmates housed at ICC, the more the state paid. If the staff happened to show up to safeguard them, all the better.

"Evidence showed that CCA and ICC employees responsible for billing were unaware of the staffing issues or the falsified rosters," Olson said. "This evidence supports the finding that neither CCA nor its employees acted with the intent to defraud."

- Were Otter, Powell, anyone working for them or the Department of Correction guilty of public corruption by seeking to "delay, hinder or corruptly influence a state criminal investigation, as is required under the federal corruption statutes?"

Nope. Incompetence is not a crime. Miscommunication is not an indictable offense. Neither is misleading the public or even a federal judge.

"While these miscommunications ultimately gave rise to suspicion of any effort to delay, hinder or influence a state criminal investigation, such miscommunications, unsupported by any other evidence, do not rise to the level of criminal intent," Olson said.

Then she went off script:

"There were a number of other actions or matters that may be of concern to the state agencies or to the voters or whatever," she said.

But Olson will have the last say. Idaho Attorney General Lawrence Wasden lacks authority to pursue state charges on his own. That power falls to newly installed Ada County Prosecutor Jan M. Bennetts, who is unlikely to take on the most powerful people in this state.

That leaves CCA free to court new clients in other states, telling them with a straight face that the company left the Gem State when its contract was finished. It was not fired.

"With the investigation resolved, CCA has fulfilled the commitment our company made from the beginning to make Idaho taxpayers whole," CCA public affairs

director Jonathan Burns said in a prepared statement. "CCA's goal is to provide every person entrusted to our care with safe, secure housing and quality rehabilitation and re-entry programming."

That's more than you've heard from Otter, Powell or anybody who works for them.

With good reason.

Summing up for the Spokesman-Review's Betsy Russell, Boise State University professor emeritus Jim Weatherby put it this way: "If not criminal negligence, then at least gross mismanagement was on display in the CCA case. This will be a blemish on the Otter record regardless of legal technicalities." - M.T.