

Nobody's laughing at ISP's comedy of errors

Marty Trillhaase/Lewiston Tribune

There's one clear winner in Idaho's private prison debacle:

Corrections Corporation of America, the company that ran Idaho's private prison.

How did that happen?

Well, mistakes were made.

So say the people surrounding Idaho State Police head Col. Ralph Powell.

About two years ago, Rebecca Boone of The Associated Press exposed CCA for billing the state for unworked shifts at the Idaho Correctional Institution outside Boise.

Until then, Gov. C.L. (Butch) Otter, a recipient of CCA campaign cash and an acolyte of prison privatization, had been loyal to the company. By 2014, however, the state ultimately chose not to renew its \$29 million CCA contract and assumed management over the renamed Idaho State Correctional Center.

For a \$1 million settlement, the Board of Correction agreed to let CCA off the legal hook.

Then, Powell - an Otter political appointee - disclosed the criminal probe former Department of Correction Director Brent Reinke requested had been dropped before it ever got started.

As the Idaho Statesman's Cynthia Sewell reported Sunday, that came as news to Reinke's department, Attorney General Lawrence Wasden, the American Civil Liberties Union - which was suing CCA in U.S. District Court - and the judge presiding over that case, David Carter.

How could so many people be so misled?

Combing through state police documents, Sewell found this gem attributed to an ISP spokeswoman: "No one contacted ISP to inquire whether or not ISP had a criminal investigation open in this matter."

After spending 15 months on the case, U.S. Attorney Wendy Olson could not break through that comedy-of-errors defense.

"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.

Of course, you're free to ask why Powell did not speak up - or at least formally tell Reinke earlier how he planned to proceed.

Or why ISP Maj. Steve Richardson - an administrator with no direct role in investigations - would accept Department of Correction Deputy Warden Timothy Higgins' investigatory records.

Nothing's stopping you from pondering why Powell claimed he relied on the advice of a deputy attorney general assigned to the ISP, Stephanie Altig, when she contradicted him. Altig told her superiors "she was never asked to review any documents, do any charging memorandums, research or any other work of any kind on the matter."

Altig also said the CCA matter "appeared to involve a breach of contract, but could involve criminal activity as well on examination."

Sound familiar?

Back in 2014, Powell asserted he acted in concert with prosecutors, only to have Deputy Ada County Prosecutor Roger Bourne repudiate him.

However it happened, here are the results:

- Higgins dropped his own investigation. "If I had known there was not going to be any criminal investigation, you better believe I would be interviewing those people who falsified this ... trying to find out how far this went, because that would have been a key item that we would have used in the discussions on settlement," he told investigators.
- Had it known of Powell's decision, the Board of Correction would have been under the gun to dig deeper instead of limiting forensic auditors KPMG to one year of CCA employee records.
- Critics of the \$1 million settlement - including former Board of Correction member J.R. Van Tassel of Lewiston - would have had greater leverage to seek larger damages.
- Carter might have leaned harder on CCA. For instance, the judge denied the ACLU's request about issuing an order related to how CCA staffed the prison because he would "not intrude on CCA staffing decisions when a criminal investigation is ongoing."

So CCA got out of Idaho with its reputation relatively intact and by paying a fine many believe was inadequate. The company retains a \$4.5 million contract for housing 226 Idaho inmates at a Colorado prison.

And the people running state law enforcement played right into CCA's hands.

The only question is why?