

July 30, 2012

The Honorable Robert F. McDonnell
Office of the Governor
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

SENT VIA FACSIMILE: (804) 371-6351

Dear Governor McDonnell:

We understand that Virginia received two unsolicited bids from companies wishing to run the Commonwealth's civil commitment facility for sex offenders who are being held after the end of their sentence (the Virginia Center for Behavioral Rehabilitation, or VCBR). A state employee indicated that Mr. James W. Stewart, Commissioner of the Department of Behavioral Health and Rehabilitative Services, assembled a committee to evaluate these proposals and the committee has made a recommendation to you. While we don't know the committee's recommendation, we are writing to respectfully urge you to not privatize this facility; it will not benefit the Commonwealth and could lead to increased costs to taxpayers and decreased public safety.

The two corporations that have offered unsolicited bids, the GEO Group and Liberty Gilbane, have both experienced significant problems in managing both prison and detention facilities, including a private civil commitment facility in Florida, where problems ranged from violence in the facility to escapes. According to the New York Times, when run by Liberty the Florida facility "failed to meet a central purpose: treating sex offenders so they would be well enough to return to society... In Liberty's tenure, only one of the hundreds of men here progressed far enough in therapy to earn a recommendation from company clinicians that he be released." Also, "under GEO's watch, a resident said he was attacked by another in his bunk. His screaming, kicking and banging on his door went unanswered for almost 15 minutes before staff members responded."

(http://www.nytimes.com/2007/03/05/us/05civil.html?_r=1&pagewanted=all)

GEO, one of the country's two largest for-profit prison corporations, has been sued many times for unsafe conditions and providing unacceptable care in its facilities. GEO contracts at three facilities were recently ended in Mississippi, including a youth facility that a federal judge described as having "allowed a cesspool of unconstitutional and inhuman acts and conditions to germinate." Last week, the Associated Press reported three gruesome deaths, including a patient who died in a scalding bathtub, at GEO's South Florida State Hospital.

What is currently an overcrowded situation at VCBR could become dramatically worse if run by a company that increases its profits at the expense of programs and operations, including security, in the facility. An underfunded and dangerous civil commitment facility could lead to expensive lawsuits for which the Commonwealth will be liable.

While the potential problems around privatization of a "regular" prison are large, civil commitment facilities pose an even greater potential for negative consequences. Unlike most people in prison, someone who has been civilly committed has no end-of-sentence: they only leave the facility if they are effectively treated. As a for-profit facility has a monetary incentive for keeping people there, and retains

more profits the less they spend on programming, we believe privatization will reduce the already low rate of release from the VCBR. GEO employs half as many treatment professionals per person at their Florida facility as does Virginia at VCBR. Holding people for many years unnecessarily will lead to millions in extra costs.

Certainly, the burgeoning cost of civil commitment in Virginia should be of concern to you as policymakers and taxpayers. VCBR's 2011 budget was \$24.5 million. The VCBR census grew 1,374 percent from 2006-2011, while appropriations for the facility increased about 320 percent. The current facility, opened in 2008, cost \$62 million to build, and is already over designed capacity. The best way to substantially and permanently address these costs is for the Commonwealth to re-examine its policies and practices.

In recent years, Virginia has increased the number of offenses that can be used as the basis for a civil commitment from four to 28. In addition, rather than allowing state professionals to determine the best way to assess risk, the state has set the risk assessment guidelines in statute, which may be leading to overuse of civil commitment. The Virginia Joint Legislative Audit and Review Commission (VJLARC) has estimated that under current laws and practices, the number of people committed to VCBR could increase to over 600 by 2016. Virginia policymakers should be re-examining these laws and practices, so that civil commitment is used only when absolutely necessary, employing less costly and more effective options that still protect public safety.

Privatization of correctional facilities has not been shown to save taxpayers money, when all the costs associated with them are taken into account. Addressing the systemic issues that are leading to high rates of incarceration and confinement, on the other hand, has been shown to save states money. We strongly recommend you reject the unsolicited bids to turn over VCBR to a for-profit corporation, and instead pursue ways to safely reverse current trends in civil commitment. Please feel free to contact Bob Libal at Grassroots Leadership at 512-971-0487, blibal@grassrootsleadership.org, or Tracy Velázquez at 202-558-7974, x 311, tracy@justicepolicy.org, to discuss further our concerns around privatizing VCBR.

From Representatives of the undersigned organizations:

AFSCME
Communication Workers of America
Grassroots Leadership
Human Rights Defense Center
In The Public Interest
Justice Strategies
Justice Policy Institute
Private Corrections Institute
Progressive States Action
The Sentencing Project
United Methodist Church, General Board of Church and Society