Crony capitalism in Virginia prison scandal

by Edward Spannaus

Virginia's five-year binge of prison-building, and farming out the expanding inmate population to private businesses, have turned out to be a costly failure.

After the 1993 election of Republican George Allen as Governor, and Jim Gilmore as Attorney General, both running on demagogic "tough-on-crime" platforms, Allen and Gilmore made good on their campaign promises to seek longer prison sentences and the abolition of parole—despite the fact that Virginia was already infamous for its brutal justice system and draconian prison sentences.

During 1994, the legislature did abolish parole for inmates coming into the system. To warehouse the expanding prisoner population, the Commonwealth of Virginia embarked on a huge prison-building spree—such that state officials admitted last year that they had spent much more than necessary on new prison construction.

By last year, Virginia was resorting to two major methods of keeping its over-built prisons occupied: 1) drastically reducing the parole rate for those sentenced prior to 1994 and still technically eligible for parole, and 2) renting out surplus prison cells to out-of-state inmates. For example, a brand-new maximum security facility in Sussex contains no Virginia inmates at all, but it is filled with prisoners transferred from the District of Columbia. Virginia has also leased out space for inmates from Michigan, Delaware, Vermont, and Iowa.

Prison labor

After getting parole abolished and sentencing toughened in 1994, Governor Allen then launched a high-profile advertising campaign offering cheap inmate labor to private businesses in "joint ventures" with the prison-industry program, Virginia Correctional Enterprises (VCE).

The joint-venture program was riddled with corruption and cronyism—involving VCE's Director and Assistant Director, among others—and it has now been shut down after losing millions of dollars of taxpayers' money.

"Virginia prisons. They're wide open to business," an Allen administration promotional brochure boasted. With regard to the virtues of cheap prison labor, the brochure offered such inducements as: "There are no employee benefit packages to fund. No pensions, health insurance, vacation or sick leave."

Coincidentally, Allen conducted a number of trade missions abroad seeking investment in Virginia, and touting Virginia as a low-wage, anti-union state. There are credible rumors that at least one VCE contract came out of a May 1996 trade mission to the Far East.

That particular contract, involving the manufacture of flight suits for foreign customers, was terminated less than four months later amidst a criminal probe, and it remains shrouded in mystery to this day.

The flight suits were being manufactured to military specifications; documents indicate that the destination of the flight suits included Thailand, Peru, and Spain; Cambodia was also rumored to be a customer. Work on the project began in August 1996, and lasted only until January 1997 when the prison factories were raided by State Police and FBI agents. During the period when the flight suits were being made, a number of well-dressed oriental businessmen visited the production facilities, according to inmates.

Both Governor Allen and Attorney General Gilmore were reportedly well aware of the flight-suit deal. A spokesman for now-Governor Gilmore told the Norfolk *Pilot* that Gilmore ordered an investigation of VCE because VCE was manufacturing flight suits "for a company in Massachusetts that was shipping the flight suits offshore, stamping 'approved by the U.S. Military' on them, and then shipping them back to the U.S."—which violates Federal law.

No contracts, no approval

Another state official told this news service that the flight suit deal was also "completely illegal" from the standpoint of Virginia state law. There were no contracts, and the deal did not go through the approval process required by the Virginia state code.

Some sources view Gilmore's ordering of the investigation as purely designed to cover his own rear end—since he was Attorney General when informal approval was given for both the flight suit deal and other equally shady deals.

Eddie Dovner, the Massachusetts businessman who arranged the flight-suit deal, also was getting pants and promotional vests manufactured for him at cut-rate prices by the Virginia prison system. The flight suits cost the Commonwealth almost $60 apiece to manufacture, but they were sold to Dovner for $3 each. The pants cost $28 each, and were sold for $2.50; and the vests (promoting the release of the video version of H.G. Wells's "The Island of Dr. Moreau") cost $13 each to make, and were given away for $1.10 each. There were many rumors of under-the-table deals made with VCE officials, but what was under the table, was then quickly swept under the rug as well.

The only individual prosecuted for any of this was Dovner. Last November, Dovner pled guilty to violating the Federal law which prohibits shipping prison-made goods in interstate commerce, and in February he was given the extremely lenient sentence of a $40,000 fine and five years' probation, with no prison time.

One indication of the collusion between VCE officials and Dovner can be found in Dovner's pre-sentencing report, which discloses the astounding fact that Dovner had, prior to the illegal vest contract, "entered into a joint business venture with David Addington [then Assistant Director of VCE] to privatize and buy the prison textile industry."

This deal—never before reported—might help explain why Addington and other VCE officials allowed Dovner to purchase goods at one-tenth to one-twentieth of their cost of production.

More Virginia 'crony capitalism'

There were other sweetheart deals besides Dovner's, in which prisoners, paid an average of 63¢ an hour, were being used for the benefit of private businessmen who were friends and associates of state officials.

As a result of these and other factors, VCE was losing taxpayer money hand over fist in recent years—and much of it is now gone for good.

As of March 1998, according to a state audit, VCE had debts of more than $5 million, with only $3.5 million in assets. And of those assets, only $148,000 was cash. The audit said that VCE's cash-flow problems began seriously in 1996 when it began entering into the joint ventures with private contractors.

The audit identified the biggest single problem for VCE as Morton Marks & Sons, a Richmond office furniture dealer, which owed about $1.2 million to VCE at that time. The audit noted: "Although VCE could not collect Morton Marks receivables, VCE continued to make sales to Morton Marks, increasing the dealers' receivables and worsening VCE's cash-flow problems."

It so happens that Morton Marks was Gilmore's second-biggest campaign contributor in his 1997 gubernatorial campaign. Furthermore, the vice president of Morton Marks, David Jones, had been the Director of VCE from 1992 until 1996, when he left the Department of Corrections to immediately take a position with Morton Marks. (According to a 1997 state audit, most of the records of VCE's joint-venture deals disappeared when Jones left VCE to go to work for Morton Marks, and there is no indication that state officials made any effort to reclaim the records.)

After public exposure of the links between Gilmore's campaign and Morton Marks, which owed the state more than $1.5 million, Governor Gilmore bombastically vowed to collect "every penny" owed to the Commonwealth.

After the publicity around the losses and Gilmore's conflict of interest, the public dispute between Morton Marks and VCE—which had a large dog-and-pony show element for the gullible—intensified. In June 1998, Morton Marks sued the Commonwealth of Virginia for hundreds of thousands of dollars of unpaid bills, accusing the state of violating its contract and acting illegally.

To represent it in this lawsuit, Morton Marks retained the law firm of McGuire Woods Battle & Booth—the law firm which had hired George Allen after he left the Governor's mansion. Later, after Morton Marks filed bankruptcy, the creditors committee also retained McGuire Woods, but after the firm's conflict of interest was disclosed, the creditors had to find new lawyers.

The biggest creditor by far was the Commonwealth of Virginia, but the state was not even represented on the creditors committee. And, instead of having the State Attorney General's office represent the Commonwealth and VCE, they hired outside lawyers—who happened to be the law firm headed by Patrick McSweeney, who was Virginia Republican Party chairman when Allen and Gilmore were elected in 1993.

In August 1998, the Commonwealth of Virginia in turn sued Morton Marks for $1.7 million. A month later, Morton Marks filed for bankruptcy. In October, Morton Marks filed another action against state officials in Federal bankruptcy court, accusing the state officials of "intentional violation of Federal law."

Morton Marks has now been almost entirely liquidated, and the creditors are still fighting over the scraps.

The prison-building boom

The most recent state audit of VCE states that VCE has terminated all of its joint-venture projects with private businesses, and that it is now strictly back in the business of making license plates, furniture, uniforms, and other products for the state.

The audit report gives some indication of how much money the state lost on its private-industry "partnership" program of hiring out inmate labor to the outside businesses. When Morton Marks filed for bankruptcy, it owed VCE $1.6 million. Although various bookkeeping tricks have been applied, it seems clear that none of that will ever be collected. There is another $260,000 due from other furniture dealers. Additionally, a sewing project under the Federal Prison Industry Enhancement program left VCE with upaid invoices of $215,OOO, which was determined to be uncollectible. Still another failed joint venture apparently resulted in writing off more than $40,000 of receivables.

After shutting down all of the private-sector joint ventures, VCE actually had record sales in fiscal year 1998 and produced a net profit. The reason? The audit report says that "VCE shows significant improvement in profit over recent fiscal year primarily because of increased sales volume from the opening of new prison facilities." In other words, Virginia's extravagant prison-building boom has created a temporarily expanding market for the furniture, clothing, and uniforms manufactured by Virginia's prisoners—an ironic result of Virginia's campaign to become the "prison capital" of the nation.