

**Performance Audit of the
Department of Corrections
for the
Legislative Service Bureau of the
Oklahoma Legislature

FINAL REPORT**



December 31, 2007



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December 31, 2007

The Honorable Lance Cargill
Speaker of the House
2300 N. Lincoln Boulevard
Room 401
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The Honorable Mike Morgan
President Pro Tempore
2300 N. Lincoln Boulevard
Room 422
Oklahoma City, OK 73105

The Honorable Glenn Coffee
Co-President Pro Tempore
2300 N. Lincoln Boulevard
Room 418
Oklahoma City, OK 73105

Dear Sirs:

In July 2007, the leadership of the Oklahoma State Legislature, through the Legislative Services Bureau, requested that MGT of America conduct a comprehensive performance review of the Oklahoma Department of Corrections. Per the provisions of the agreement between MGT and the Legislative Services Bureau, the attached final report containing the observations, findings and recommendations of our project team is submitted for your review and consideration.

The recommendations contained in this report were derived after weeks of interviews, analysis of data, review of documents, and personal observations of the operations of the Oklahoma Department of Corrections and related criminal justice functions. We received enthusiastic input into this assessment by a wide range of individuals representing virtually all aspects of the criminal justice system of Oklahoma. These individuals included:

- Members and staff of the Oklahoma State Legislature;
- Director Justin Jones and staff at all levels of the Oklahoma Department of Corrections;
- Commissioner Terri White of the Oklahoma Department of Mental Health and Substance Abuse Services and staff of her department;
- Representatives of the county criminal justice systems including sheriffs, district attorneys, public defenders, judges, and county commissioners;
- Representatives of a variety of constituent groups and organizations including victim rights organization, district attorneys association, sheriffs association, employee organizations, etc.; and
- Citizens at large who submitted suggestions, recommendations, observations, and comments on the criminal justice system and particularly the Department of Corrections.

In total, we interviewed over 500 individuals during the course of this review and analyzed hundreds of documents and reports provided to us by the Department of Corrections, the Criminal Justice Resource Center, the Department of Mental Health and Substance Abuse Services, and members and staff of the legislature.

Although it is impossible to fully comprehend and dissect every issue and problem of an organization as complex as this in the time allotted to us, we believe we have developed an understanding of the core issues facing the corrections system of Oklahoma. Nonetheless, we present the options that are available to improve its efficiency and cost effectiveness. We believe the information obtained from our interviews, our review of the documents made available to us, combined with our own personal observations, analysis and assessment, have enabled us to develop some specific recommendations, that if implemented, will improve the effectiveness of the corrections system of Oklahoma and enhance its ability to meet its primary challenge, to assist in providing for the safety and security of the citizens of Oklahoma.

The 141 recommendations outlined in this report have been developed with input from the members of the legislature who actively participated in this assessment by providing us direction, information, opinions, feedback and a historical perspective of the issues presented to us. The commitment of the members who participated on this project was extraordinary in terms of their willingness to allot a significant amount of time reviewing our analysis and participating in lengthy briefings of our preliminary findings and recommendations. Without their active participation this assessment could not have been completed in the manner in which you envisioned.

We also have to acknowledge the active and enthusiastic participation in this review by Director Justin Jones and the staff of the Oklahoma Department of Corrections. We were impressed by the professionalism, enthusiasm, and commitment to excellence by staff at all levels of the department. The willingness of the director and members of his staff to actively participate and support this review enabled the project team to obtain information on the complex issues they face in a manner that facilitated our review and the conclusions included in this report.

We believe that the attached report provides you and the members of the Oklahoma State Legislature the independent and professional assessment of the Department of Corrections that you envisioned this project. Thank you for the opportunity to assist you as the legislature continues to develop long-term solutions to very complex and important issues.

Sincerely,



Kenneth McGinnis
Partner

LEGISLATIVE SERVICE BUREAU OF THE OKLAHOMA LEGISLATURE

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ACKNOWLEDGEMENTS

The MGT project team wishes to extend our appreciation and thanks to those within the Oklahoma criminal justice system who assisted us in completion of this review. Virtually everyone we came into contact - district attorneys, judges, public defenders, sheriffs, constituent groups, employees, and concerned citizens – willingly provided information, documents, comments, and suggestions on the strengths and weaknesses of the department with the hope and belief that this process would improve its ability to serve and protect the citizens of the state of Oklahoma.

We extend our appreciation to the staff at the Oklahoma Department of Corrections who were extremely generous with their time and cooperated and accommodated our request for information, access to documents, and open access to their facilities over the course of this project. Without the assistance of the many line staff and managers who took time from their assigned duties to explain their operations and programs, the analysis contained in this report would not have been possible. Neville Massie and Pam Ramsey, the Director's Executive Assistants, provided invaluable assistance in obtaining department data and coordinating the logistics of our review. We in particular acknowledge the cooperation of Director Justin Jones. His openness and willingness to candidly share his perceptions of the challenges facing the department made a major contribution to this report. In addition, his leadership set the tone for all the staff of the department to view this process as an opportunity to improve the operations and performance of all aspects of the department, rather than a process that would hinder and criticize their performance.

We also acknowledge the support and assistance of the staff of the Criminal Justice Resource Center who provided an extraordinary amount of data support and analysis to our project team. Similarly, the research staff of the Department of Mental Health and Substance Abuse Services provided critical support to our assessment of the Oklahoma Drug Courts.

We also wish to express our appreciation to the members of the Oklahoma Senate and House of Representatives that commissioned this study and provided ongoing feedback throughout the process. Their sincere commitment to an objective, comprehensive assessment of the state correctional system was apparent throughout the process. Finally, the staff of the Legislative Service Bureau, and the staff members of both the House and Senate provided helpful direction and support through this project.



1.0 EXECUTIVE SUMMARY

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On July 16, 2007, the Oklahoma Legislative Service Bureau contracted with MGT of America, Inc. for a comprehensive performance review of the Oklahoma Department of Corrections (DOC) and related criminal justice functions. The scope this performance review is as follows:

MGT of America will complete a comprehensive performance review of the Oklahoma Department of Corrections. MGT will conduct a review of the department's operations with a primary focus on improving efficiency, reducing costs, and planning for the growth of the system's inmate population in a manner consistent with the public's safety.

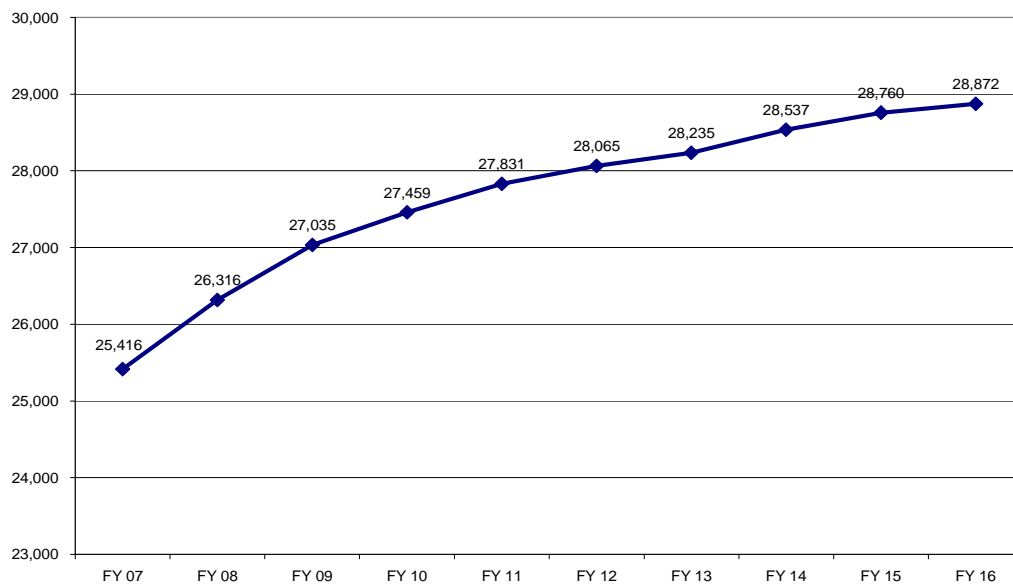
During the course of the review, MGT conducted regular briefings for members and staff of the legislature to advise them of the project's progress; discuss any impediments or problems encountered in the course of completing the review; obtain feedback from the members on the project's direction and scope; and summarize preliminary observations and findings.

This report summarizes MGT's observations, findings, and recommendations.

Analysis of Prison Population Growth

The Oklahoma Criminal Justice Resource Center (CJRC) calculates population projections for DOC. CJRC projections indicate that DOC's prisoner population will rise from about 25,000 today to nearly 29,000 by fiscal 2016 (**Exhibit 1-1**).

EXHIBIT 1-1
Oklahoma Department of Corrections Population Growth
Projections Through 2016



Source: Criminal Justice Resource Center.

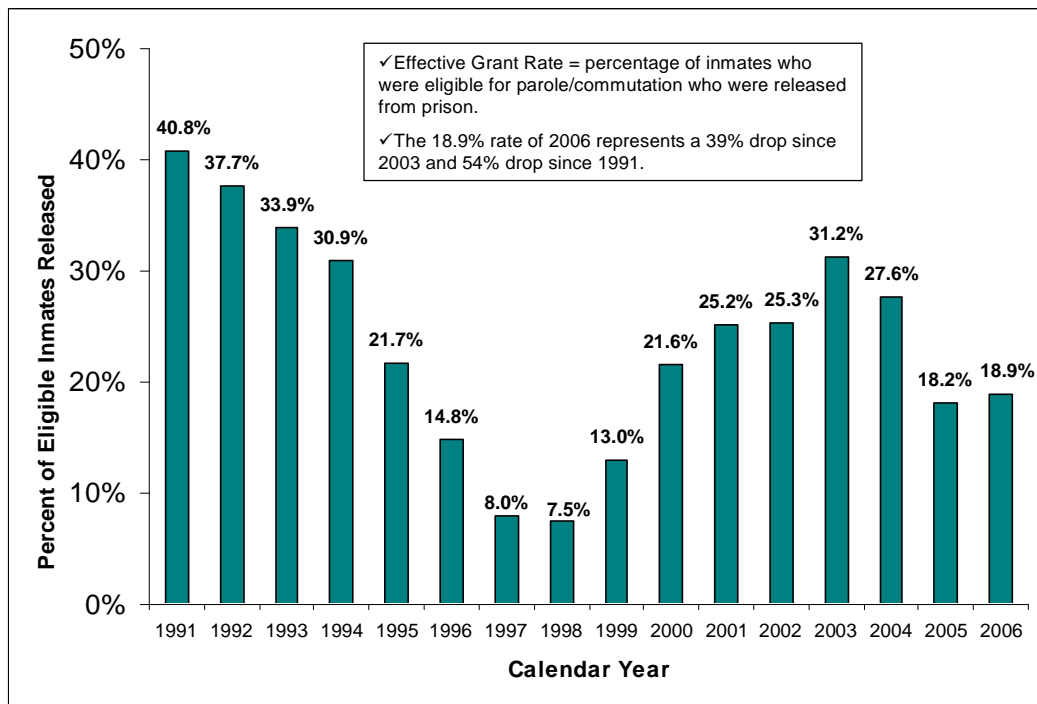
The expected increase of nearly 4,000 inmates over the next ten years is particularly notable given that the current forecast assumes no increases in the numbers of persons sentenced to prison by the courts, and no increases in admissions for probation or parole violations. Contrary to these assumptions however, DOC did experience an increase in admissions in fiscal 2007. If this trend continues, the prison population will be higher than forecasted by CJRC.

Despite these concerns, there are sound reasons to assume that there will be no significant increases in prison admissions over the next decade. The so-called “at-risk” population (males aged 18 to 35) is not expected to increase in the next decade. Furthermore, Oklahoma crime rates have declined over the past decade (as they have in all states) and the volume of arrests has remained flat.

MGT found that virtually all of the projected growth is a consequence of longer periods of imprisonment associated with the “85%” sentencing laws, accompanied by a very low parole grant rate.

In 2006, 18.9 percent of eligible inmates received parole from prison (**Exhibit 1-2**). The parole grant rate has fluctuated dramatically over time, but has declined over the last four years and is now significantly lower than in most other states.

EXHIBIT 1-2
Oklahoma Department of Corrections Parole Grant Rates,
1991-2006



Source: Oklahoma Pardon & Parole Board.

The current population projections indicate that the number of offenders incarcerated for “85%” crimes will nearly double over the next ten years. As the new admissions for these offenses stack up in the prison system, and the parole rate remains low, the natural outcome will be more growth in the population.

Our analysis indicates that the methodology used to develop these projections is generally sound. Even so, MGT makes a number of technical recommendations to improve the forecasting process:

- adopt a jurisdiction-based population projection that includes the DOC population in local jails.
- commission an independent review of the simulation protocol used by the independent consultant and associated training, to help ensure that its staff has a complete understanding of the model.
- create and develop a new admissions assumption using more sophisticated statistical methods that take demographic, crime, arrest and court sentencing trends into account.
- form an assumptions consensus committee to review the key assumptions (new admissions, violator return rates and parole grant rates) used in the baseline projection and fiscal impact statements.
- expand the current projection report to provide more information on its assumptions and analysis.
- eliminate the CJRC database’s data entry backlog.
- issue projections every six months.
- upgrade the Prophet simulation software to the more current Wizard Simulation model.
- track admissions and releases in addition to prison population for accuracy on a monthly basis.

We believe it is critical that CJRC’s executive director implement the recommendations of this report to ensure that the organization maintains a reputation for non-partisan, reliable analysis.

System Crowding

DOC has a current capacity of 24,845 beds, including all contract jail beds, private prisons and halfway houses. At the end of November 2007, the system held 24,124 inmates. Given the projected growth of the prison population, DOC must either expand its present capacity of 24,845 to at least 28,872 beds by fiscal 2016, or implement other program alternatives that will slow the projected growth.

Exhibit 1-3 details DOC’s current (fiscal 2008) capacity expansion plans, as well as requested capacity expansion projects included in the fiscal 2009 budget request, which would add a net total of 3,769 beds to the prison system.

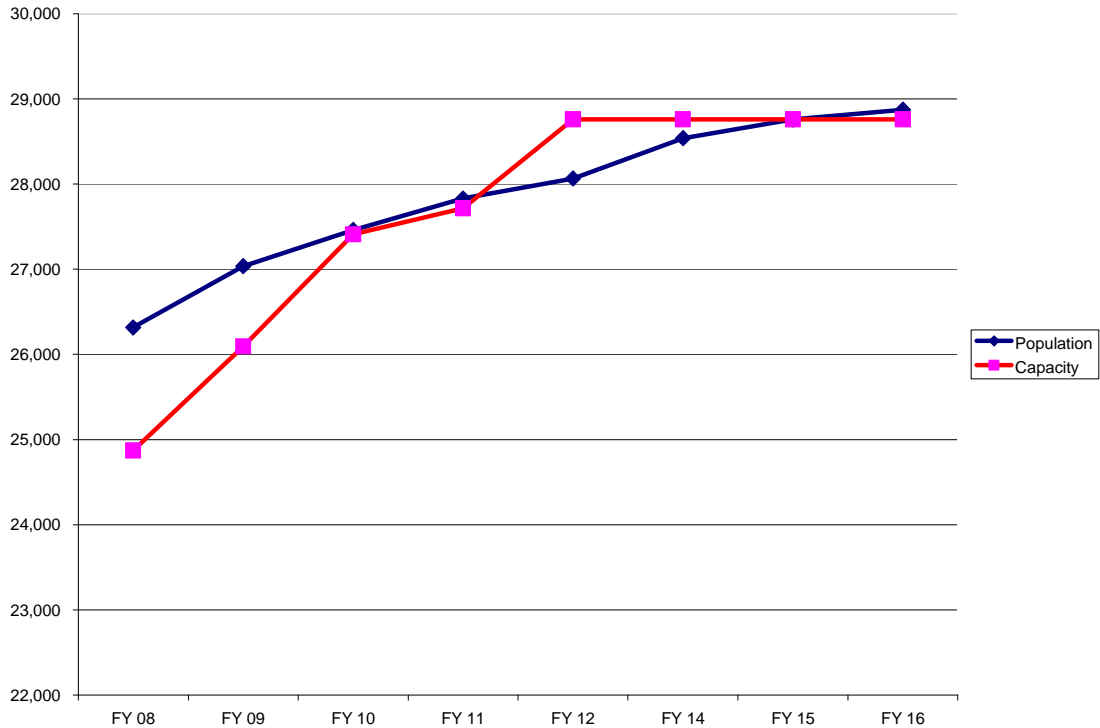
EXHIBIT 1-3
DOC Fiscal 2009 Capacity Expansion Plan

Project	Total Beds	Net Beds	FY Open	Secure Beds	Total Capacity	EOY Capacity Shortfall
FY 08 Budget				21,152	24,476	(940)
Work Centers	100	100	2008	21,152	24,576	(1,446)
Clara Waters	294	294	2008	21,152	24,870	(1,446)
James Crabtree	200	115	2009	21,267	24,985	(2,050)
Jihn Lilly	150	150	2009	21,417	25,135	(1,900)
NE OK Corr Center	350	350	2009	21,767	25,485	(1,550)
subtotal	1,094	1,009		21,767	25,485	(1,550)
Proposed FY 09 New Facilities						
Bill Johnson	608	608	2009	22,375	26,093	(942)
Dick Conner	300	300	2010	22,675	26,393	(1,066)
James Crabtree	600	378	2010	23,053	26,771	(688)
Reformatory	300	300	2010	23,353	27,071	(388)
Alford	600	337	2010	23,690	27,408	(51)
Key	40	27	2011	23,717	27,435	(396)
Harp and LARC	300	281	2011	23,998	27,716	(115)
OSP	1,568	1,044	2012	25,042	28,760	695
subtotal	4,316	3,275		25,042	28,760	695
Total	6,504	5,293		25,042	28,760	695

Source: Oklahoma Department of Corrections.

Given the current population projections, the department's requested expansion plans will add sufficient beds to the prison system to address capacity needs up to 2016.

EXHIBIT 1-4
Oklahoma DOC Capacity Plan vs. Projected Population,
2008-2016



Source: Oklahoma Department of Corrections and MGT of America.

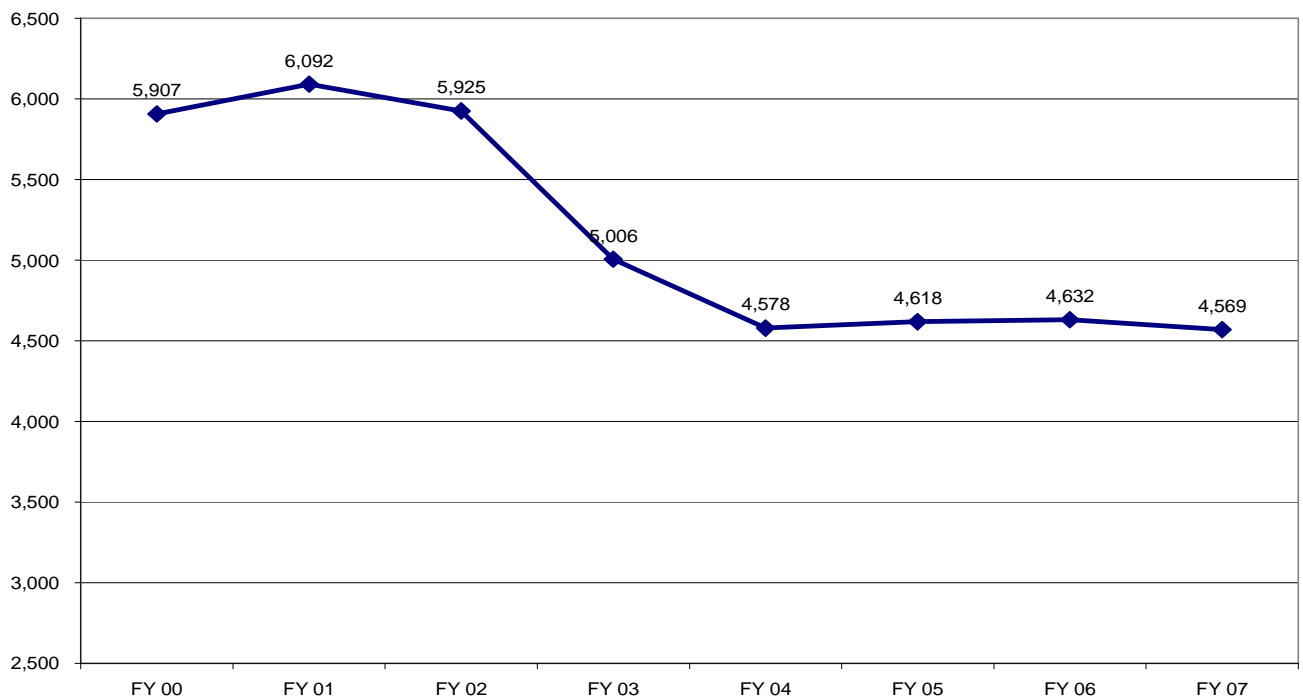
The proposed capacity expansion plan appears warranted and appropriate. To ensure that this and future expansion plans prioritize capacity expansions by cost-effectiveness and operational need, we strongly recommend the department commission a formal engineering and architectural master plan of the department’s facility and bed needs. Such a master plan can address the type and location of proposed new capacity, as well as the costs and benefits of expanding current facilities versus construction of new institutions.

We also note that DOC’s current expansion plan does not adequately address the most immediate capacity issue facing the department at this time, a shortage of maximum-security beds. The department needs these beds now, but the additional maximum-security beds included in the plan do not become available until 2012. DOC has attempted to address this issue by requesting funds to contract for maximum-security beds at the Davis Correctional Center in its fiscal 2009 budget. Davis, operated by Correctional Corporation of America (CCA), is constructing two 330-bed maximum-security units, including a 60-bed segregation unit. We recommend approval of funding for a multi-year contract for this bed expansion. We also recommend that DOC evaluate opportunities for further expansion of private prison capacity that may serve as an alternative or adjunct to its capacity expansion plan.

Privatization

Oklahoma's use of private prisons has dropped by 26 percent since fiscal 2002 (**Exhibit 1-5**). Key factors behind this shift include the state's purchase of the former Dominion facility; the termination of DOC's agreement with CCA for the Diamondback facility; the end of the department's agreement with Cornell for the use of its facilities; and the development of additional contract bedspace in the halfway house and contract county jail programs. As a result of these actions, and ongoing growth of the prison population, the percentage of the state's offenders housed in private prisons has dropped from a high of 27 percent in fiscal 2001 to a low of 19 percent by the end of fiscal 2007.

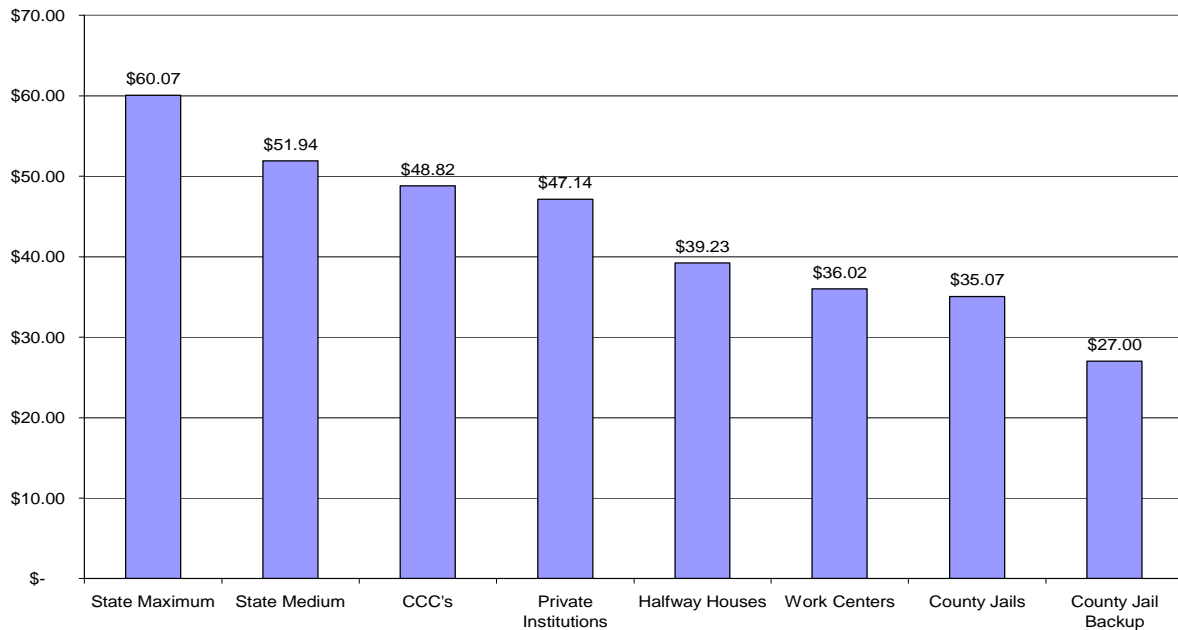
EXHIBIT 1-5
Private Prison Population, 2000-2007



Source: Oklahoma Department of Corrections.

Private prison beds currently cost the state \$47.14 per bed per day, a rate significantly below the \$51.94 cost of the most directly comparable state-run medium-security institutions (**Exhibit 1-6**).

EXHIBIT 1-6
Per Diem Cost by Type of Facility, Fiscal 2006



Source: Oklahoma Department of Corrections.

The relative cost efficiency of the private prisons appears attributable to the fact that DOC institutions tend to be antiquated, poorly designed facilities that require higher staffing levels to compensate for severe security deficiencies inherent in their physical plant. The private prisons, by contrast, are relatively new institutions designed to facilitate the efficient use of staff resources and to enhance security.

To conduct a fair comparison of the state's cost for private prisons versus state-operated facilities, we compared the expected cost of private operation of the new maximum-security facilities at Davis to the estimated amount DOC would spend to operate comparable facilities. Our analysis shows a per diem cost of \$62.34 for private operation of the facility (\$58 contract rate + \$4.34 in associated indirect costs) versus a \$65.36 per diem for government operation, a difference of 4.8 percent.

Private operation, then, appears cheaper for the state up to a contract rate of \$61.03 per bed. Above that price, department management is the cheaper option.

Cost however, is only one of the many factors that require evaluation in a thorough assessment of privatization. The ability of the private sector to develop and open new facilities quickly is a critical advantage. On the other hand, relying upon private correctional capacity involves an element of risk, as demonstrated by DOC's recent loss of critical bedspace due to Cornell's termination of its contract with the state. Even so, our report recommends improved systems for contract control and management, and an approach to procurement that emphasizes competition and diversification, to address this concern.

Classification

DOC's custody classification system uses a point system to determine an appropriate custody level for each inmate. System scores indicate that the vast majority of the population does not pose a significant management problem.

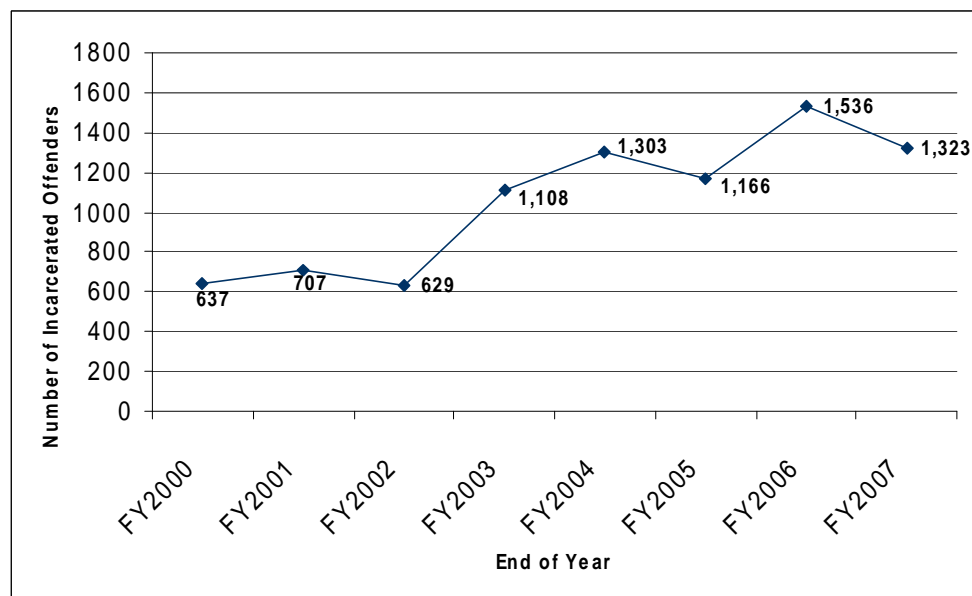
MGT's analysis, however, indicates that DOC makes excessive use of discretionary overrides, which allow classification personnel to make changes to the security level indicated by the point system. All too often, overrides are used to make changes in inmate custody levels solely to match available bedspace. In particular, inmates who score as maximum or minimum security often are overridden to medium, because of the availability of bedspace in that security level. This practice defeats the purpose of classification. Custody levels should be based upon an individual inmate's risk factors, *not* the type of bed available at any given time.

In addition, unlike most states, DOC does not operate general population maximum-security beds. All current maximum-security capacity is on permanent lockdown status. We recommend that DOC lock down maximum-custody inmates only for administrative and disciplinary segregation purposes and establish a maximum-security general population status.

County Jail Beds

The number of offenders committed to the state correctional system, but "backed up" in local county jails, has more than doubled since fiscal 2000 (**Exhibit 1-7**). Backlogged offenders spent an average of 55 days in jail before DOC reception, a substantial increase over the 2005 average of 47 days.

EXHIBIT 1-7
DOC Inmates in County Jails
Backup Population, 2000-2007



Source: Oklahoma Department of Corrections.

With an estimated total statewide jail capacity of 11,727, DOC's backlog represents 11 percent of the state's total county jail bed capacity. Including the 645 county jail beds under formal contracts with DOC, the department occupies *16.7 percent* of Oklahoma county jail beds.

The jail backup directly relates to DOC's capacity issues. As its available capacity diminishes, the department simply cannot accept newly sentenced offenders on a timely basis. With the present reception center operating at maximum capacity, and internal options to move inmates laterally within DOC restricted due to capacity limitations, the only relief valve available is to delay the intake of new inmates. As a result, the county jail backup has become an *indispensable element* of DOC bed capacity.

We recommend that DOC develop a strategic plan to establish and maintain a 45-day cap on jail backup detention. To achieve this, DOC should expand its reception capacity to a level that allows for the processing of all admissions in a routine manner. Whenever feasible, however, DOC should continue to contract with sheriffs for available jail beds. These provide the department with a dependable source of relatively cheap secure beds for inmates who do not need extensive programming, while assisting the counties with critical funding.

In addition, we recommend that the legislature clarify and expand DOC's responsibility for the medical expenses of state inmates in county jail. Current law restricts DOC from reimbursing counties for inmate medical care under most circumstances. This policy places a substantial fiscal burden on the counties and can interfere with medical care DOC inmates may require, as the policy provides counties with incentive to defer medical treatment in anticipation of the inmate's transfer to DOC. The inmate may arrive at DOC in worse physical condition and requiring more medical care due to the lack of timely treatment.

Drug Courts

The Oklahoma Drug Court (ODC) program is a district court-supervised substance abuse treatment program that offers nonviolent felony offenders an alternative to prison. Offenders enter the drug court program by pleading guilty to a specific charge and punishment that includes a substantial prison sentence. In exchange for successful completion of the treatment program, the court dismisses the original charge. For repeated noncompliance with the program, however, the individual can be terminated from the program and be committed to prison as originally agreed.

The program has two unique components that set it apart from those in most other jurisdictions. First, its stated intent is to accept only persons who, had the drug courts not existed, would have received a sizable prison term. Most drug courts in the nation do not explicitly target prison-bound defendants. Second, if the offender fails to complete the drug court program, a lengthy prison term must be served.

Since its inception, more than 7,000 people have been admitted to the ODC. In fiscal 2007, nearly 2,000 additional offenders were admitted. In that year, the program had funded capacity for approximately 4,000 persons.

There have been 3,504 official terminations from ODC, with about 58 percent successfully completing the terms of the program. The average length of time spent in the program is 17 months, with successful terminations spending about 20 months in the program and unsuccessful terminations about 13 months.

Program Characteristics

Drug court participants are primarily white (67 percent) and male (57 percent), with a disproportionate number of females (43 percent) in the program (**Exhibit 1-8**). The primary drugs used are methamphetamine, alcohol, and marijuana. Tulsa and Oklahoma counties are the largest contributors to drug court admissions. The principal charges participants face are possession of controlled substance (51 percent) followed by DUI (21 percent).

**EXHIBIT 1-8
Characteristics of Persons
Admitted To and Completing Drug Court
Fiscal 2002 to 2007**

Attribute	%	Attribute	%
Gender		Prior Felony Convictions	
Male	57%	None	37%
Female	43%	One	22%
Race		Two or more	41%
White	67%	Drug Of Choice	
Black	15%	Alcohol	27%
Native American	17%	Cannabis	20%
Other	1%	Methamphetamine	32%
Average Age	33 years	Cocaine	14%
Controlling Offense		Other	7%
Possession of CDS	51%	Primary County	
DUI/APC	21%	Tulsa Drug	15%
Distribution of CDS	6%	Tulsa DUI	9%
Manufacture of Drugs	4%	Oklahoma	15%
Burglary II	3%	Pontotoc	8%
Other misc. crimes	15%	Creek	5%
Prior Arrests		Wagoner	5%
None	22%	Rogers	4%
One	18%	Seminole	4%
Two or more	60%		

Source: Oklahoma Department of Corrections.

The majority of drug court participants have prior arrests (78 percent) and prior felony convictions (63 percent). Furthermore, the percent of persons entering the drug courts with prior felony convictions has steadily increased since 2002.

EXHIBIT 1-9
Percent of Drug Court Admissions with Prior Felony Convictions

Fiscal Year	0 Priors	1+ Priors
FY2002	46.4%	53.6%
FY2003	41.3%	58.7%
FY2004	28.8%	71.2%
FY2005	29.5%	70.5%
FY2006	28.6%	71.4%
FY2007	26.9%	73.1%

Source: Oklahoma Department of Corrections.

On the other hand, a sizeable proportion of ODC participants had no prior arrest (22 percent) or prior convictions (37 percent), creating some question as to whether these participants are truly being diverted from prison.

Program failures are most likely to be terminated for technical violations, rather than a new crime. Program failures experienced an average of 4.6 violations cited, primarily for positive drug tests or being late for treatment.

Diversion of Offenders from Prison

There is little evidence that ODC has actually diverted significant numbers of offenders from prison. The total number of people admitted to prison has continued to increase despite the initiation of the drug courts, as have prison admissions for offenses typically handled in drug court. MGT found no discernible reduction in historic rates of increase in the DOC prison population in these crime categories. Similarly, there is no evidence that suggests prison admissions for these offenses would have been even higher without the drug court program. In fact, law enforcement data indicates that arrests for drug crimes have actually declined since 2002.

Cost Savings

The primary way that a drug court can save, or more correctly avert, state expenditures is to divert people who, had the drug court not existed, would have been incarcerated. Additional costs savings can occur if there is evidence that persons going through the program have lower recidivism rates.

MHSAS has estimated that the drug court program has saved the state (or averted the spending of) \$263 million over a four-year period, based on the following assumptions:

- 4,026 persons are admitted to the drug courts in a single year.
- All drug court admissions would have been incarcerated with an average sentence of 64 months.
- A very small proportion of participants fail the program over a four-year period.

Our analysis shows, however, that the MHSAS savings estimates are extremely excessive. As previously discussed, there are no data to suggest a significant reduction in prison admissions or the prison population for the targeted drug offenses. In fact, both prison admissions and the daily prison population for targeted drug court crimes have grown at the same rate as or a slightly higher rate than those for other crimes.

In addition, the data show a significant number of drug court admissions have no prior arrests or convictions. It is highly unlikely that these offenders would otherwise have been sent to prison in the absence of the ODC program. Finally, while MHSAS assumes the vast majority of program participants successfully complete it, the data shows that 37 to 41 percent of the drug court admissions result in unsuccessful terminations, and as a result, serve lengthy prison sentences.

MGT developed an alternative savings projection model that identifies the level of diversions from prison and program failure rate required to make the program cost-effective. For success rates, **Exhibit 1-10** employs a 67 percent reported in a previous study to show the effect on costs. With a 67 percent success rate, the program's total annual costs are \$43.6 million. The direct ODC program cost is only \$14.5 million. The more expensive component of the program is the prison time associated with program terminations, which totals \$25.4 million. The average cost per program participant is \$22,970.

EXHIBIT 1-10
Costs of Oklahoma Drug Courts: 67 Percent Success Rate

Cost Factor	Failure	Success	Total Costs
Total Admissions	1,900		
% that Fail/Succeed	33%	67%	
Number of Failures	627	1,273	
Time in program/prison	13	21	
ODC Cost Per Month	\$417	\$417	
Drug Court Program Cost	\$3,396,250	\$11,138,750	\$14,535,000
Prison Term	74 mos	0 mos	
% Time Served	39%	0	
Cost Per Year Served	\$16,824	0	
Total Prison Costs	\$25,369,498	0	\$25,369,498
Probation Supervision	13 mos	20 mos	
Probation Costs Per Month	\$60.38	\$60.38	
Total Probation Costs	\$492,157	\$1,537,275	\$2,029,432
Re-imprisonment Costs	\$1,708,922	\$0	\$1,708,922
Total Costs	\$30,966,828	\$12,676,025	\$43,642,852
Costs Per Drug Court Admission			\$22,970

Source: Oklahoma Department of Corrections.

Assuming 75 percent of the program participants are in fact diverted from prison, the ODC diverts an average of 1,425 offenders from prison each year (**Exhibit 1-11**). The annual cost of incarcerating these offenders would total \$57.1 million, or \$30,074 per admission. Based on these assumptions, the ODC program would save the state nearly \$14 million annually.

EXHIBIT 1-11
Oklahoma Drug Courts:
Averted Prison Costs With 75 Percent Diversion

Cost Factor	Failure	Success	Total Costs
Total Admissions		1,900	
% Prison Bound		75%	
Number Admitted		1,425	
% Recidivating	28%	72%	
Number Recidivated	399	1,026	
Initial Prison Sentence	64	64	
% Time Served	39%	39%	
Costs Per Year Served	\$16,824	\$16,824	
Initial Imprisonment Costs	\$13,962,574	\$35,903,762	\$49,866,336
Parole Supervision Time	39	39	
Parole Costs Per Month	\$60.38	\$60.38	
Parole Supervision Costs	\$940,537	\$2,418,523.32	\$3,359,060
Re-incarceration Costs	\$3,909,521	\$0	\$3,909,521
Total Costs	\$18,812,632	\$38,322,285	\$57,134,917
Costs Per Prison Admission			\$30,074

Source: Oklahoma Department of Corrections.

If one makes a lower, more realistic assumption on prison diversions, however, these savings *disappear*. If ODC diverts only 25 percent of its admissions from incarceration, the number diverted from prison shrinks to 475. The cost of incarcerating this group drops to \$19 million or \$25 million *less* than the cost of using ODC for the same cohort.

This analysis indicates that, to ensure that ODC is cost-effective, the program requires a diversion rate of 75 percent and a failure rate of no more than 40 percent. These parameters ensure the program targets participants appropriately and significantly reduces the high costs of the ODC program failures.

Projected Need for Drug Court Slots

One of the issues that need to be assessed on an annual basis is the number of drug court slots that are needed to meet the demand for the commitments to the program. This can be easily estimated by using the annual number of admissions to drugs court per year (approximately 2,000 in FY2007) and the current length of stay (17 months) for all admissions and releases. Using the formula of *admissions x length of stay (in months) divided by 12 months* produces an average daily population of drug court participants of 2,833 as shown below:

$$(2,000 \text{ admissions} \times 17 \text{ months length of stay}) / 12 \text{ months} = 2,833 \text{ daily population.}$$

The calculation of the number of necessary slots would be lower if the drug court program were in fact more restrictive, as suggested by this assessment, in whom they admitted to the program. For example, only accepting people with at least one prior felony arrest would reduce the

admissions by 37 percent from 2,000 to 1,260 and thus lower the estimated daily population from 2,833 to 1,785. On the other hand increasing the success rate would increase the length of stay in the program as fewer people would fail and terminate early. Assuming the success rate went from 58 percent to 65 percent, the average length of the offenders in the program would increase by about two months thus increasing the daily population from 2,833 to 3,200.

For all of these reasons it is essential that the number of program slots funded by the legislature should be reassessed on an annual basis. Based on data available from 2007 it would appear that the current need is in the area of 3,000 funded program slots, not the current 4,000 funded slots. It would be necessary to validate on the calculation on a regular basis to determine the participation levels and vacancy rates are by each individual county.

Drug Court Conclusions

Oklahoma's drug courts have a high degree of support, credibility, and impact on recovery and recidivism. They are well-conceived and reflect practices that meet or exceed national standards.

The next generation of drug courts across the nation is increasing its use of research and other locally available data to inform decisions about participation, programming and supervision. In other words, they are fine-tuning their ability to match offenders to the appropriate court, treatment and supervision strategies. Oklahoma is ready for this next level of implementation.

This report identifies a series of findings and recommendations to further refine ODC. Key recommendations include:

- cap prison sentences for revocations so that they more closely mirror sentences for non-drug court participants with similar criminal histories.
- conduct research on the type of offender and offense most appropriate for drug courts.
- allow for greater use of judicial review to reduce the undue influence of district attorneys in selecting cases for ODCs.
- require all drug court program participants to have at least one prior felony conviction.
- the number of program slots funded by the legislature should be reassessed on an annual basis.

Community Sentencing

Oklahoma's community sentencing program provides a community sanction that includes deferred or suspended sentences for eligible felony offenders. Offenders eligible for participation in the program include those convicted or who have pled guilty to a felony offense, and found to be in the moderate range of risk as determined by the Level of Service Inventory assessment instrument. Those convicted or pleading guilty of the "85%" felonies are excluded from participation in the program.

As of November 1, 2007, Oklahoma had 3,056 offenders on active community sentencing status. Sixty-seven percent of these participants were drug or DUI offenders, meaning that the program's target population substantially overlaps with that of the drug court program.

The Community Service Sentencing Program (CSSP) reimburses local jails for housing community sentencing offenders. In theory, the program provides a diversion from prison. However, 75 percent of the program's participants have either no prior felony convictions or one prior felony, indicating they have a very low probability of serving a prison sentence for their offense.

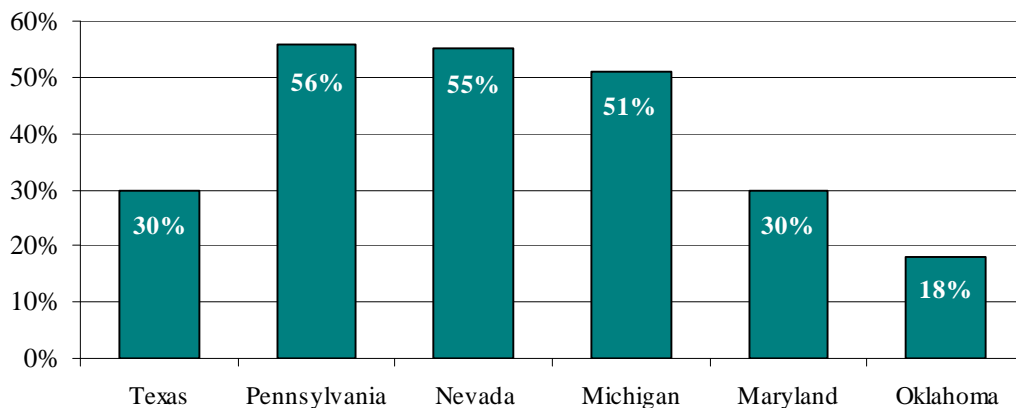
MGT recommends the establishment of target population criteria that clearly differentiate this program from the drug courts. DOC should complete a long-term study of program participant recidivism to ensure that it is reducing prison commitments as intended. We also recommend the elimination of the CSSP program, as it does not appear to target prison-bound offenders.

Parole Decision-Making

Parole review in Oklahoma is a complex process that involves two separate agencies, the Department of Corrections and the Pardon and Parole Board, as well as the governor, who has final review and approval on any releases. Oklahoma is the only state in the nation where the governor is directly responsible for the routine approval of all parole releases from the state's correctional system.

Parole approval rates in Oklahoma have fluctuated from a high of 41 percent to a low of 7.5 percent over the last 16 years. The current approval rate is 18 percent, a rate much lower than those of other states with discretionary parole release programs (**Exhibit 1-12**).

EXHIBIT 1-12
State Parole Rates



Source: MGT of America.

In April 2007, the Pardon and Parole Board implemented risk assessment guidelines to improve its decision-making process. The risk assessment guidelines classify each offender as low, moderate or high risk, based on a recidivism study funded by the National Institute of Corrections.

Experience with the guidelines to date shows that while investigators recommend individuals for parole to the board in about 45 percent of the cases they review, the board recommends parole consistently at a lower rate (about 30 to 35 percent). In terms of risk level, about 75 percent of the cases heard are at low to moderate risk of recidivism. This indicates that a significant proportion of the eligible parole population pose an acceptable risk for parole. Board recommendations are consistent with the guidelines; the highest grant rates are associated with the lowest-risk group and the lowest grant rates are associated with the highest-risk group.

To illustrate the effects of parole decision-making on the prison population, we projected the impact of increasing the overall parole grant rate to 30 percent and 40 percent, respectively (**Exhibit 1-13**). These assumptions are based on the fact that the board’s hearing investigators recommend parole in about 45 percent of all the cases reviewed, and that the board itself recommends parole in approximately 30 to 35 percent of the cases. Our results show that under both scenarios, the prison population would cease to grow and actually decline, thereby eliminating the need for additional bed capacity.

EXHIBIT 1-13
Impact Current of Alternative Parole Grant Rates On The Prison Population

Year	Current Projection 18% Grant Rate	40% Grant Rate	30%Grant Rate
2006	24,561	24,545	24,591
2007	25,416	25,272	25,375
2008	26,316	25,506	25,743
2009	27,035	23,994	24,896
2010	27,459	23,320	24,222
2011	27,831	23,139	24,244
2012	28,065	23,168	24,396
2013	28,235	23,350	24,356
2014	28,537	23,434	24,584
2015	28,760	23,664	24,777
2016	28,872	23,937	24,954

Source: Criminal Justice Resource Center.

However, such parole grant rates would require an increase in the number of parole officers necessary to supervise significantly larger parole and probation populations.

We recommend that current statutory and constitutional provisions that require gubernatorial review of all parole releases be modified to require the governor’s review of only select heinous offenses. Routine parole decisions should be the sole responsibility of the Pardon and Parole Board.

Community Corrections

DOC's Division of Community Corrections is responsible for the supervision and oversight of the department's correctional centers and halfway houses, and for the monitoring of offenders placed under the custody of the division's parole and probation officers (PPOs). As of September 30, 2007, the division was responsible for supervising 27,415 probation offenders, 3,637 parolees, 1,109 inmates housed in correctional center facilities and 1,307 inmates placed in contracted halfway houses. In addition, the division administers several specialized programs including GPS supervision, work release, work centers and a variety of community-based treatment programs.

Community Supervision

In 2005, the division began implementing "Evidence Based Practices" as the guiding principle for its supervision of offenders. Evidenced Based Practices (EBPs) are usually described as operating policies and procedures developed from the application of scientific, empirically based research into approaches that can be proven to positively affect inmate behavior. It is sometimes called the "what works" approach.

To monitor the impact of EBP, the DOC has established and is tracking specific, measurable outcomes concerning the offender population completing probation and parole. Most of these measures indicate that the impact has been positive. The implementation of EBP has allowed the division to redirect its resources toward those areas, programs and services that, based on research and evaluation, appear to offer the greatest impact on recidivism rates. One result has been a movement of low-risk offenders to administrative (inactive) caseloads, thus allowing PPOs to focus on offenders who present high or moderate risks.

As the number of probationers on active status has decreased, the average caseload size has fallen as well, from a high of 95.6 per PPO in 2003 to a 75.6 in June 2007. A more recent calculation of the average caseload indicates that as of September 30, 2007, the caseload had dropped further, to 73 cases per PPO. This is a significant reduction that permits officers to work more effectively.

On the other hand, any premature movement of offenders to administrative caseloads is a legitimate concern. Recognizing this fact, DOC should carefully monitor the supervision process to ensure that it is effective and does not negatively affect public safety. We recommend that DOC expand its efforts to monitor the performance and recidivism rates of offenders placed on administrative status and report its findings to the legislature annually.

DOC's efforts to maximize the effectiveness of limited staff resources have been complicated in the Tulsa and Central districts by increases in the workload associated with drug courts. The concentration of drug court cases in these two districts has significantly affected the size and composition of regular caseloads. We recommend that the legislature fund the additional 50 PPO positions it authorized two years ago to assist in reducing caseload sizes.

Sex Offender Programs

Like most states, Oklahoma state and local governments have placed extensive restrictions on where sex offenders can reside. While all areas are affected by these measures, the Central and Tulsa districts in particular have few areas available for housing sex offenders in accordance with

these legal requirements. PPOs interviewed agree that sex offenders are being driven out of the metropolitan areas and into rural Oklahoma or “underground.” MGT recommends that DOC propose legislative solutions to the problems related to finding housing for sex offenders posed by restrictions on their residential placement.

Furthermore, present legal requirements effectively discourage the judicial use of global positioning satellite (GPS) monitoring for sex offenders. State law requires that sex offenders designated as “habitual” or “aggravated” must be monitored through GPS monitoring for the duration of the required registration period, if so ordered by the court. DOC staff said that, since registration as a sex offender lasts for *life*, judges rarely use it. The legislature should alter the statutes to encourage greater use of GPS for sex offender cases. One option would be to permit a fixed period of GPS monitoring that is not tied directly to the period of registration.

Community Correctional Centers and Halfway Houses

Eligibility for placement in a community facility depends upon time until release; the nature of the offense; criminal and adjustment history; and classification and custody level. The following table summarizes the amount of time remaining to be served before an offender may be placed in a community correctional center or halfway house.

**EXHIBIT 1-14
Time Served: Limitations on Community Placement**

Status	Remaining Days
New Reception - with no disqualify criteria	1,460
Minimum	2,930
Minimum w/restrictions	760
57.O.S.521 – regardless of security level	210
Halfway House/Work Release	1,095

Source: Oklahoma Department of Corrections.

These standards rank among the most liberal community placement criteria in the nation, allowing some offenders to be placed in a community setting as much as *eight years* before the end of their sentences. That is three times greater than time requirements found in other states. Many jurisdictions restrict community placement to the last 18 to 24 months before release, while others have even more restrictive criteria. We do not believe any further loosening of these criteria to further increase community placements would be prudent.

Supervision Fees; Fee Collection Waivers

DOC collects a \$40 per month supervision fee for each offender on supervision unless the imposition of the fee would impose an unnecessary hardship. In fiscal 2007, SOC collected more than \$5 million in these fees.

District supervisors can waive the collection of these fees, and do so for a variety of reasons. In practice, it appears that fees are waived for reasons other than hardship. During the course of the staff interviews, probation officers routinely stated that the supervision fees are waived as an incentive and reward for compliance with supervision requirements and the completion of required programs. This practice is consistent with EBP policy and practices of evidence-based practices and appears to have been adopted without modification of the department's operating procedures. We recommend that the department review the fee collection process and bring its policy into alignment with current operating practices.

Staff Training

State law requires all probation and parole officers to meet all of the training and qualifications for peace officers required by Section 3311 of Title 70 of the statutes, as determined by the Council on Law Enforcement Education and Training (CLEET). This requirement results in an initial training requirement in excess of 720 hours in the first year of PPO employment. In January 2008, this requirement will increase to 851 hours of required training.

As a result of these requirements, 40.7 percent of the available work hours in a PPO's first year of employment are devoted to training. Furthermore, much of this training has little relevance for probation and parole officers. Training subjects include Field Sobriety Testing (32 hours), Radar/Lydar (24 hours) and Crime Scene Investigation (40 hours).

We recommend that the legislature amend the CLEET requirements to permit the creation of a special peace officer category, with an accompanying modification of the training curriculum that is more consistent with the duties and responsibilities of a probation and parole officer. CLEET should eliminate those elements of the training that have no relevance to a PPO's duties and responsibilities and, where possible, substitute relevant training that would enhance and improve their performance.

Institutions

MGT's review included a comprehensive on-site review of the operations of 13 separate institutions, including interviews with administrative, supervisory and line staff; a staffing analysis; and a review of available data and documents related to institutional operations.

Institutional Staffing

Officer staffing in many DOC institutions is below advisable levels. The department has established a policy of budgeting all programs, offices, and institutions at 82 percent of authorized staffing levels. Establishment of such an arbitrary staffing level, without some consideration of each institution's specific post requirements, inmate classification levels and physical plant inevitably will produce poor staffing decisions.

MGT recommends that DOC prioritize its institutional staff budgets to ensure that the facilities facing the greatest problems in maintaining safety and security receive the staff resources they need. Our analysis indicates that the Oklahoma State Penitentiary (OSP), Oklahoma State Reformatory (OSR), James Crabtree Correctional Center (JCCC), Lexington Assessment &

Reception Center (LARC), and the Jackie Brannon Correctional Center (JBCC) are particularly understaffed and require additional officers to assure safe, effective operations. We recommend adding 42 officers to these facilities as indicated in **Exhibit 1-15**.

**EXHIBIT 1-15
Recommended Staffing Levels For Five DOC Institutions**

	OSP	OSR	JCCC	JBCC	LARC
Authorized Staff	402	166	125	79	196
Funded Staff	330	136	102.5	65	161
Filled Positions	292	101	81	62	133
Additional Staff Required	12	10	7	5	8
Recommended Minimum Funding level	342 (85%)	146 (87.95%)	109 (87.2%)	70 (88.6%)	169 (86.2%)

Source: MGT of America.

Even where staffing budgets are adequate, many institutions are facing severe difficulties in filling vacancies. At the time of MGT’s review, OSR had 35 officer vacancies from its budgeted staffing level; OSP had 38. Factors driving high officer vacancy rates include uncompetitive salaries; tight labor markets in many areas of the state; the demanding nature of correctional officer work; and a very slow hiring process.

We recommend that DOC enhance its statewide recruitment strategies to better assist facilities that are not able to meet funded staffing levels. The hiring process should be evaluated to develop alternatives that could expedite hiring. DOC already hires some staff as temporary employees while they complete the necessary pre-employment background checks; it should build on this initiative to help it aggressively recruit new employees.

Retention of existing staff, particularly newly hired staff, is another difficulty for the department. OSP, for example, lost more than 30 percent of the new staff hired in fiscal 2007 in that year. The retention issue is even more serious for the private prisons. Lawton Correctional Center hires an average of 34 new officers every month, and loses 27 officers every month. Retention issues are similar to those hurting recruitment: low salaries, ample alternative employment opportunities and the challenges of correctional work.

Physical Plant and Infrastructure

Six of DOC’s current facilities were not originally built as prisons. These institutions are inefficient and present serious security issues. All of them contain structures more than 75 years old. Other facilities, while designed for corrections, still are antiquated and in very poor condition. MGT found uniform evidence of serious deterioration to DOC’s physical plant and infrastructure. The existing situation at some facilities *places the health and safety of staff and inmates alike at risk*.

The most common needs are roof repairs and electrical system upgrades. Others include wastewater treatment plant upgrades, boiler repairs and replacement, new kitchen and dining room facilities and additional emergency generators to cover vital security areas. In fiscal 2007, DOC's institutions submitted 200 capital outlay requests with an overall estimated cost exceeding \$490 million.

MGT recommends that a review of the capital needs of the department be included in the master plan project recommended above. This will allow it to prioritize needed capital repairs and determine the long-term costs and benefits of continuing to operate its older facilities, or beginning to replace them.

Private Prison Operations

The state's private correctional facilities are newer, well-maintained facilities, designed to American Correctional Association standards and retaining their ACA accreditation to date. Their designs and physical plants are clearly superior to the state's facilities. The three prisons currently under contract function well and generally correct deficiencies promptly when they occur.

The most serious issue concerning the private prisons is their seeming inability to retain employees. In fiscal 2006, CCA's Cimarron facility experienced a 58 percent staff turnover rate; the company's Davis facility reported 38 percent turnover. GEO's Lawton facility is experiencing a 69 percent staff turnover rate in 2007. These levels are dramatically higher than those experienced in the state-run facilities.

Staff turnover at these levels creates legitimate concerns regarding staff preparedness. While the private facilities all have training programs consistent with national standards, a continuing reliance on inexperienced line employees to perform essential security responsibilities can lead to problems. In fiscal 2006, the private prisons had an average of 0.42 serious incidents per 100 inmates, twice the public prisons' rate of 0.21 per 100 inmates.

Prison Gangs

Prison gangs, sometimes called "security threat groups," pose an ongoing threat to the security and safety of other inmates and staff members, and are disruptive to the orderly management of institutions. A number of prison systems have formally recognized the existence of gangs and have developed strategies for dealing with them.

DOC has had a policy of not formally recognizing gangs or individuals affiliated with them. As a result, the department has neither formal preventive measures nor a coordinated statewide intelligence system to address the impact of gangs on daily operations. During fiscal 2006, six DOC inmates were murdered as direct result of gang activity.

While the department is developing a gang intelligence policy and recently designated a gang intelligence officer in the Internal Affairs Unit, the current response is limited and uncoordinated. MGT recommends that develop a management plan to assess, identify and coordinate information related to gangs and related individuals or activities. DOC should develop a comprehensive

intelligence system that includes trained staff members, an electronic data system and coordination both within the department and with outside agencies to identify and answer potential security threats in its facilities.

Housing and Classification

All adult offenders admitted to the DOC are received at the Lexington Assessment & Reception Center, which has an operating capacity of 379 male reception beds and 39 female reception beds. LARC receives between 40 and 60 inmates each day. Each week, the staff identifies the number of inmates scheduled for intake and reception and determines the number of inmates that must be transferred out of the facility to remain within capacity.

DOC facilities were housing more than 97 percent of the rated capacity as of November 5, 2007, making it difficult to provide appropriate housing for newly assigned inmates and internal transfers. When segregated housing, protective custody, death row, disciplinary, and medical housing are excluded, the available bed space is extremely limited. As a result, a large number of classification overrides are approved to ensure that inmates qualify for whatever bed space is available. This practice results in mixed populations presenting various levels of risk, which puts both inmates and staff in unsafe situations.

During an August site visit, MGT found that 16.3 percent of the Lawton population initially had been classified as maximum security but overridden to medium security. Not coincidentally, Lawton experienced two inmate homicides and 127 serious incidents since fiscal 2006. The Dick Connor Correctional Center has had three inmate homicides in the past two years. This level of violence is extremely unusual for a facility of this type and security level.

These issues underscore the importance of our recommendations to expand department capacity in appropriate security classifications.

Health Care

From fiscal 2000 to 2007, DOC spending on health care rose by 72 percent, from nearly \$40 million to more than \$72 million. Improvements to service quality, increases in the inmate population and medical cost inflation were the primary factors underlying this growth. Even with this growth, DOC's medical care costs appear very low compared to other correctional departments. The per diem of \$7.41 for prison medical care in Oklahoma in 2006 is about the same as the national mean expenditure of state prison medical programs for 1997. The department has taken active steps to contain medical costs, including contracting for pharmaceutical services.

MGT examined DOC's claims management and utilization review systems, which are provided by Fiserv Health Harrington. Our audit of the claims data provided to us found a 24 percent error rate, with more than \$193,000 in payment and coding errors on just 148 claims. We also ran these claims through an alternative provider network to test the cost-effectiveness of the rates DOC paid; this resulted in a projected \$1.2 million in savings on 100 claims. DOC should validate these findings and if confirmed, assess alternatives to improve the accuracy of its claims payments, and consider using alternative provider networks to achieve greater savings.

Our review of clinical staffing indicates that DOC should fill its existing authorized vacancies. At the time of the last national study of correctional health care staffing, in 1999, Oklahoma had the second-lowest ratio of health care workers to inmates in the nation, one for every 63 inmates. This ratio has actually worsened since then, and now stands at one to 67 inmates. Combined with a 39 percent turnover rate among medical staff, this places severe strain on DOC's delivery of health care services.

The department has only 42 infirmary beds to serve a population of more than 24,000 inmates. This has caused unnecessary hospitalizations and may lead to denial of care. We recommend that any expansion of department capacity incorporate additional infirmary space. DOC needs up to 50 additional infirmary beds to serve its current population adequately.

Female Offenders

Oklahoma has the nation's highest female incarceration rate. Women make up 10.2 percent of DOC's population, far exceeding the national average. This is a complex issue resulting from a combination of factors, including a shortage of local jail beds for the short-term incarceration of female offenders; the availability of departmental mental health services; and an extensive use of delayed sentencing options.

DOC should assess the number of jail beds and local sentencing options available for women to determine if these options should be expanded. This review was unable to come to a definitive conclusion on whether a lack of local incarceration beds is contributing to the high incarceration rate for women. DOC also should monitor the use of delayed sentencing to ensure that it is not being used simply as an alternative to local incarceration.

Information Technology

DOC lacks an effective system for management, planning and operating its information technology (IT) resources. At present management of the IT functions resides in several different divisions, hampering coordination of services. Furthermore, DOC's core offender management information system is unreliable, leaving the department in an extremely vulnerable position.

Electronic offender databases are essential for modern correctional agencies. They should provide correctional staff and others with quick access to inmate demographics, offense histories, sentence information and information on behavioral adjustment and program involvement. MGT found serious deficiencies in DOC's Offender Management System (OMS) that call its accuracy and reliability into question. The department's attempt to build its own replacement application, the Criminal Offender Management Information Tracking system (COMIT), has been unsuccessful to date, and appears unlikely to meet the department's needs within an acceptable timeframe.

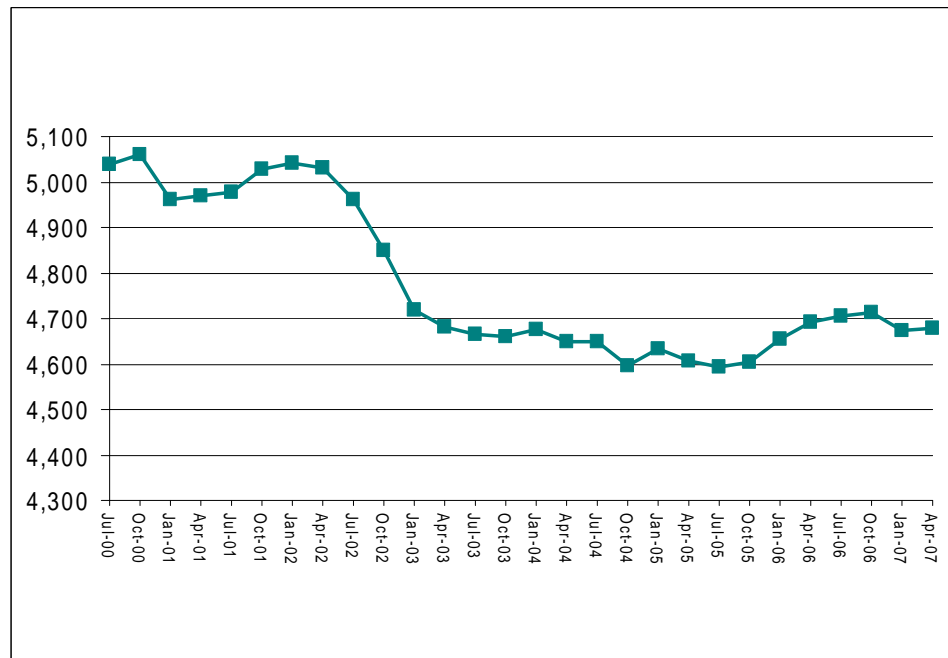
DOC must quickly evaluate and determine the best alternative for replacing OMS. We recommend that DOC fund a thorough review of its current application requirements and identify an optimal path for a future offender application, given the time and funding constraints it faces. This review should compare the benefits and costs of upgrading OMS, adding more resources to complete COMIT or adopting a different solution.

Budget

Oklahoma ranks 41st among the 50 states in per diem spending, making it one of the nation's least expensive correctional systems based on spending per inmate per day. DOC's costs are about 33 percent below the national average. Despite this cost efficiency, Oklahoma allocates a much greater proportion of its state budget to corrections than most other states—7 percent, twice the national average. This is attributable to the state's very high incarceration rate. In effect, Oklahoma makes incarcerating criminals a higher priority than other state.

Over the last eight years, department spending has grown by an average of just 2.5 percent annually. DOC has contained its growth, despite a growing inmate population, by reducing staffing by 7 percent over the same period.

EXHIBIT 1-16
DOC Monthly Employment In Full-Time Equivalents, 2000-2007



Source: Oklahoma Department of Corrections.

Supplemental Funding

Over the last nine years, the legislature has established a practice of intentionally providing only partial-year funding for the department, using a supplemental appropriation late in the fiscal year to supply the rest. This has been characterized as an effort to control DOC spending more tightly. Unfortunately, the unintended consequences of this practice appear to offset any benefits.

Without a realistic, approved spending plan, the legislature cannot hold the department accountable for complying with its budget allocations and priorities. Instead, DOC must juggle funding in available accounts to address its needs, intentionally reducing staffing below optimal

levels to create budgetary flexibility. Furthermore, the timing of the supplemental appropriation, late in the fiscal year, and the incentive to spend requested resources before the year's close, can at least potentially lead to spending patterns and expenditures that are not consistent with department priorities or legislative intent.

Departmental accountability is best served by formal legislative review of department spending allocations and priorities. The present system of ongoing supplemental funding is not effective public policy.

The legislature and DOC should work together to develop a realistic agreement on the department's annual budgetary requirements. This agreement should be fully funded in the annual appropriations process. Supplemental funding requests should be reserved for unforeseen emergencies or important developments not specifically addressed during consideration of the appropriation request. To establish a firm common understanding of funding priorities, we also recommend that the legislature modify DOC's appropriation bill to establish specific funding allocations for major operations and program components.

MGT estimates that DOC will require supplemental funding of \$24 to \$25 million for this fiscal year. Department staffing and spending trends should be carefully monitored over the next few months to further refine these estimates as the fiscal year progresses.

Fiscal 2009 Budget Request

DOC has requested \$573 million for fiscal 2009. This request includes operating funds for 1,054 new beds to be opened next year, and a \$310 million bond program to support the development of 3,818 additional prison beds. We recommend a fiscal 2009 budget level that will fully fund all known rate and price increases; provide sufficient resources to open and operate all new beds; and contract for new maximum-security beds at the CCA Davis facility. DOC data indicate that funding these components of its request will require an increase of \$29.7 million, or about 5.8 percent above fiscal 2008 estimated spending.

Potential Savings

Our review of the department's budget found limited opportunities for significant additional savings. As noted earlier, DOC is cost-efficient by virtually every objective measure of unit costs or staffing ratios. Consistent reductions in staffing and programs over the last eight years have left little opportunity for additional cuts that would not seriously impair current operations. Current contract rates for prison beds are extremely low and pressure to increase capacity is likely to force spending on contract beds up.

Furthermore, DOC has been unable to make reasonable investments in infrastructure and equipment in recent years. There is a large pent-up demand for spending in these areas. Organizational or program realignments may be feasible, but would achieve very minor savings.

However, recommendations made in this report could potentially have a major impact upon DOC resource requirements. MGT estimates of potential reductions are not definitive calculations of savings, but are instead intended to provide an approximation of the fiscal impacts associated with the policy and operational recommendations contained in this report. **Exhibit 1-17**

summarizes the direct savings associated with the most significant recommendations contained in this report. As noted above, given the cost-efficiency of current DOC operations, the majority of the savings identified are attributable to population reductions driven by major policy changes.

EXHIBIT 1-17
Direct Cost Savings Recommendations: \$55 Million

Recommendation	(in thousands)	Implementation Issues
1. Remove governor from routine review of all parole cases	\$ (40,734.4)*	Statutory/constitutional changes
2. Require a prior felony conviction for Drug Court	\$ (6,000.0)	Statutory changes
3. Change medical provider network	\$ (5,133.0)	DOC medical provider contract change
4. Eliminate CSSP reimbursement program	\$ (1,350.0)	Statutory changes
5. Eliminate medical claim payment errors	\$ (1,135.0)	Administrative change in DOC claims processing
6. Eliminate Community Sentencing Division	\$ (125.0)	Statutory changes
7. Abolish OK County Residential District	\$ (100.0)	DOC administrative action
Total Savings	\$ (54,577.4)	

*Cumulative 10 year savings from reduced inmate population levels. Additional savings could be achieved by averting capital and operating expenditures for new facilities that would not be required.

Many of the recommendations contained in this report have indirect fiscal implications. In other cases, there is no data available to project a reasonable estimate of savings. For example, while many of our staffing recommendations would probably result in reduced overtime expenditures, the actual extent of any savings realized is speculative at this time. However, because these recommendations would ultimately improve the efficiency and cost-effectiveness of the DOC, they are summarized in **Exhibit 1-18**.

EXHIBIT 1-18
Indirect/Undetermined Cost Savings

Recommendation
1. Develop a competitive RFP for the private development and long-term operation of a correctional facility.
2. Divide future private prison contracts into separate agreements for facilities and facility operation.
3. Consolidate management of private prison and halfway house contracts into a single unit reporting to the associate director of Administrative Services.
4. Streamline the process for assessing liquidated damages on private contractors to ensure that it provides a credible incentive for performance.
5. Cap prison sentences for Drug Court revocations at a level comparable to prison sentences for non-drug court participants with similar criminal histories.

**EXHIBIT 1-18 (Continued)
Indirect/Undetermined Cost Savings**

Recommendation
6. Establish a research-based delineation of the type of offender and offense most appropriate for community sentencing or drug courts.
7. Redefine the target population for community sentencing programs to differentiate the population from those targeted by drug courts, mental health courts, etc.
8. Expand Community Sentencing eligibility to include offenders assessed “high” on the LSI, but that meet all other established criteria.
9. Develop a five-year plan that will achieve lower ratios of supervisors to line PPO officers.
10. Review the fee collection process for community supervision programs.
11. Amend CLEET requirements to permit the creation of a special peace officer category, with an accompanying modification of the training curriculum that is more consistent with the duties, responsibilities, and requirements of the probation and parole officer.
12. Enhance current centralized statewide recruitment strategies to better assist facilities that are not able to meet established staffing funding levels.
13. Mandate annual recalculation of the relief factor for each facility.
14. Require persons housed at community corrections units to utilize civilian health insurance plans if available.
15. The department should explore full or limited utilization of 430B pharmaceutical pricing.
16. Expand utilization review to include concurrent and retrospective hospital review of potentially preventable days consistent with recommendations from the Agency for Healthcare Research and Quality
17. Improve the ratio of infirmary beds to inmates to improve hospital utilization and care management of severely disabled inmates.
18. Consolidate technology expenditures under the responsibility of the Information Technology Unit.
19. Rescind the Board of Corrections statutory authority.

Unfunded Needs

Over the course of our review, we have identified several areas that require additional funding to assure effective operation of the department. Major recommendations that require additional resources are summarized below:

EXHIBIT 1-19
Additional Spending Recommendations: \$25 Million

Recommendation	(thousands)	Implementation Issues
Contract for 660 maximum-security beds at the CCA Davis facility	\$ 13,972.0	DOC contract
Budget 48 medical care positions	\$ 3,662.0	DOC recruitment
Budget 50 additional PPO's	\$ 2,599.0	DOC recruitment
Budget 42 additional correctional officers	\$ 1,771.0	DOC recruitment
Assume county jail medical expenses for state inmates	\$ 1,400.0	Statutory changes
Budget 13 mental health positions	\$ 991.8	DOC recruitment
Engineering/architectural facility master plan	\$ 500.0	DOC contract
IT Study	\$ 150.0	DOC contract
STG System Development	\$ 50.0	DOC contract
Total	\$ 25,095.8	

Information Technology

The Department of Corrections lacks an effective system for management, planning, and operation of its information technology (IT) resources. Management of IT functions resides in several different divisions, hampering coordination of services. The department's core offender management information system is unreliable and requires significant upgrade or replacement. Ongoing planning and work on the internal development of a replacement for this system has been unsuccessful, leaving the department in an extremely vulnerable position.

The DOC must quickly evaluate and determine the best alternative for development of a future offender management system to replace OMS. The agency's current offender management application is unsuitable to meet the needs of DOC. It not only lacks functionality and is poorly programmed, but also must exist on fragile, antiquated hardware. The department's efforts to build its own application, COMIT, have yielded poor results and we have significant doubts as to its future success. Because of these issues, the agency is at a very critical point in its ability to effectively manage the offender population. We recommend that the agency fund a thorough review of the current application requirements and identify the optimal path for a future offender application, given the time and funding constraints facing the department. The review should at a minimum, compare the benefits and costs of upgrading OMS, adding more resources to complete COMIT, or adopting a different direction.

Organizational Structure and Governance

Only nine correctional systems in the U.S. have boards overseeing their operations. MGT found that the Board of Corrections' oversight of DOC offers few benefits and requires additional administrative work on the department's part. We recommend that the board be abolished or limited to an advisory role.

We also note that DOC's size, in terms of its budget and scope of operations, is such that it no longer fits in terms of role or mission as a sub-agency to the Department of Public Safety. We recommend that DOC become a cabinet-level agency with a governor-appointed director.

Report Follow-up

This report contains 141 specific recommendations for consideration by the legislature. Upon a determination of which recommendations will be acted upon, a system for follow-up reporting on implementation of recommendations is needed to ensure accountability with legislative intent. The DOC should submit a bi-annual report to the legislature that identifies all actions taken pursuant to the recommendations of this report, their impact, and any additional actions that may be required to address the issues presented here.



2.0 INTRODUCTION

2.0 INTRODUCTION

Introduction

Oklahoma is facing the same quandary as many jurisdictions: how to manage a growing prison population in a safe and humane manner with a limited budget. As House Speaker Lance Cargill stated in July 2007, “we are spending a half-billion a year on an agency; we want to make sure we are following all the best practices nationally.”¹

There is ongoing debate, in Oklahoma as elsewhere, on how to protect the public and to appropriately punish those who refuse to comply with the laws of society. In Oklahoma, as in most other jurisdictions, the growth of the corrections system has had a profound effect on the state’s fiscal resources. The cost of the Oklahoma corrections system has tripled over the last 17 years, and its prison population and incarceration rate are among the highest in the country.

This growth has resulted in an ever more urgent demand for resources, and in particular for more prison beds. Justin Jones, director of the Oklahoma Department of Correction (DOC), has put forth proposals that would expand the agency’s existing capacity by more than 3,800 beds.

And DOC’s capacity woes have engendered problems in other areas of the criminal justice system. Prison-bound offenders are backed up in jails throughout Oklahoma, creating overcrowding at the local level and restricting the sentencing options available to the judiciary. Overcrowding also has affected the state’s probation services. The performance of the Parole Board has been questioned, and the mental health systems are finding it increasingly difficult to provide quality programs and services for the inmates who are mentally ill.

While some favor an expansion of prison facilities, others have called for additional spending on prevention and treatment programs, to slow the growth of the population and the need for more beds. For example, Senator Richard Lerblanc has supported expanded drug and mental health courts, revisions to mandatory minimum sentencing laws and other approaches to stem the growth of the system.²

To clarify some of the issues facing the state, on July 16, 2007, the Oklahoma Legislative Service Bureau contracted with MGT of America, Inc. to conduct a comprehensive performance review of the Oklahoma Department of Corrections and related criminal justice functions. The scope this performance review, as outlined in the contract is as follows:

MGT of America will complete a comprehensive performance review of the Oklahoma Department of Corrections. MGT will conduct a review of the department’s operations with a primary focus on improving efficiency, reducing costs, and planning for the growth of the system’s inmate population in a manner consistent with the public’s safety.

¹ *The Oklahoman*, July 31, 2007. *Audit to Settle Prisons Funding Dispute*. Jennifer Mock.

² *Muskogee Daily Phoenix*, November 12, 2006. *Work for Fewer Prisons*.

In announcing this contract, several members of the legislative leadership expressed their expectations for the study. These comments include the following:

I'm optimistic this will help us stop a harmful cycle of band-aid supplemental spending on prisons. We need the best outside expertise, so that we can look at cost-effective ways of improving DOC operations and better managing future prison populations. We need to find better ways to manage the hundreds of millions of dollars spent on the state's prison system every year. —*Rep. Rex Duncan, R-Sand Springs, chair of the House Public Safety and Judiciary Committee*

This is not a financial audit. It's a performance audit that will provide important information about the day-to-day operations of our corrections system. It will tell us if our staffing is adequate, if our current organizational structure is working and it will tell us if there are inefficiencies that we need to address. —*Senator Kenneth Corn, D-Poteau, co-chairman of the Senate Appropriations Subcommittee on Public Safety*

One of state government's top priorities is to protect the safety of the public, and DOC is on the front line of this effort. This performance audit is different from a financial audit because it will examine policies, organization, and performance—and then make expert recommendations about what is being done well and what can be improved. —*Sen. Mike Johnson, R-Kingfisher, co-chair of the Senate Appropriations Committee.*³

The agreement specified that this review was to be completed as quickly as possible, to permit the legislature to use the information obtained from the review in its upcoming deliberations on the department's 2009 budget request. As result, MGT agreed that the preliminary findings of the review would be reported to the legislature by the end of October 2007 and that the final report would be submitted by December 31, 2007.

To ensure the performance review was comprehensive in scope, MGT and the state of Oklahoma agreed that the following primary tasks would be included in the assessment:

- Task 1.0: Initiate Project and Collect Relevant Data
- Task 2.0: Develop Preliminary Profile of the Oklahoma Department of Corrections
- Task 3.0: Solicit Staff and Stakeholder Input in the DOC Analysis
- Task 4.0: Conduct Diagnostic Review of DOC Management and Administrative Functions, Organizational Structures, and Operations
- Task 5.0: Tailor the MGT Study Guidelines for the Oklahoma Department of Corrections
- Task 6.0: Review DOC Administration
- Task 7.0: Review Institution Security and Operations
- Task 8.0: Review DOC Community Supervision Programs
- Task 9.0: Review DOC Population Management

³ Oklahoma State Legislature, Oklahoma State Capital, Press Release, July 11, 2007.

To complete these tasks and ensure that the performance review was comprehensive and thorough, the MGT project team completed an unprecedented number of site visits of the department's facilities and operations. In addition, the review team conducted face-to-face interviews with more than 500 individuals including departmental employees, administrators, supervisors, sheriffs, judges, district attorneys, public defenders, representatives of professional organizations, and interest groups and interested citizens.

During the course of the review, MGT conducted regular briefings for members and staff of the legislature to advise them of the project's progress; discuss any impediments or problems encountered in the course of completing the performance review; to obtain feedback and direction from the members on the direction and scope of the project; and to summarize preliminary observations and findings.

In addition, these briefings helped to refine a list of core issues that the project team has identified as being most critical in terms of affecting DOC's overall performance, efficiency and costs. As the review proceeded, the following list of core issues emerged and was agreed to by the members. These core issues became the primary focus of the review and were used to frame the issues presented in this report. These core issues are as follows:

- Population & Capacity
 - Analysis of the population projections
 - Impact on existing capacity and need to expand beds
 - Departments expansion plans
 - Public vs. private
- Capacity Management
 - Classification
 - Reception processes and beds
 - Use of jails
 - Community centers and halfway house capacity
- Community Programs
 - Drug court
 - Community sentencing
 - Supervision strategy
 - Parole processes and decision-making
- Institution Operations
 - Security
 - Gang management and violence
 - Staffing
 - Infrastructure
 - Programs
 - Medical and mental health
 - Industries and Agri-Services

- Administration and Support Functions
 - Budget
 - Contract monitoring and management
 - Information technology
 - Internal controls and investigations
 - Organization and governance

This report summarizes the observations, findings and recommendations MGT developed during the course of its performance review. They are directly related to the core issues and the project's stated objectives to improve operational efficiency and reduce costs, while assessing and planning for the growth of the offender population.



3.0 POPULATION & CAPACITY



4.0 CAPACITY MANAGEMENT

4.0 CAPACITY MANAGEMENT

Classification

As part of its review, MGT examined DOC's custody classification system. This system is used to determine an appropriate custody level for each inmate while incarcerated. It is not intended to produce a risk assessment, such as tools used by the Parole Board, but instead to determine the type of security needed to manage the inmate safely.

DOC's system has been validated by previous studies funded by the National Institute of Corrections and conducted by members of the present review team.

Unfortunately, the department's centralized classification unit is plagued by a lack of accurate classification data from the private prisons. Due to questions about the accuracy of the database, MGT completed a detailed analysis of a sample of 698 inmates who were in custody in August 2007. The samples were stratified by gender (467 males and 231 females). For each sampled case, the DOC classification unit audited each case to ensure its accuracy. This analysis was supplemented by interviews with DOC staff and observations of the classification process at both public and private correctional facilities.

MGT's major findings include the following:

The classification system uses initial and reclassification forms that were designed separately for males and females.

As with most classification systems, DOC's system for both male and female prisoners is based on initial and reclassification scoring forms and processes. The first, obviously, relies on the prisoner's attributes at the time of admission, while the latter places greater emphasis on the inmate's conduct while incarcerated. The use of separate forms helps to ensure that females are not misclassified by a system designed for and validated by males.

Items used on the forms are objective and meet national standards.

The factors weighed by DOC are similar to those used by other states. **Exhibits 4-1** through **4-4** provide a detailed statistical portrait of how these factors were applied to the sample population MGT studied. Note that the exhibits provide the share of inmates who had either received no disciplinary conduct reports or only a Class B (minor) report since incarceration.

EXHIBIT 4-1
DOC Male Reclassification Scores, by Item – August 2007

Reclassification Item	Number	Percent Share	Percent Share with No Reports/ Class B
	467		73%
Severity of Current Offense			
	52	11%	73%
Moderate	146	31%	68%
High	60	13%	82%
Highest	209	45%	75%
Serious Offense History			
None or low	407	87%	74%
Moderate	11	2%	73%
High	24	5%	67%
Highest	25	5%	68%
Escape History			
No escapes/attempts	433	93%	74%
Escapes from minimum/community	16	3%	69%
Escapes from medium/escape with injury	18	4%	72%
Number of Active Disciplinary Convictions			
None	348	75%	91%
One	80	17%	31%
Two	23	5%	0%
Three or more	16	3%	0%
Most Serious Disciplinary Conviction			
None/Class B	343	73%	100%
Class A	77	16%	0%
Class X	47	10%	0%
Program Participation			
None, waiting list, enrolled, participating	323	69%	76%
Completed	144	31%	69%
Adjustment			
Level 1	57	12%	9%
Level 2	112	24%	61%
Level 3 and 4	298	64%	91%
Current Age			
25 or younger	64	14%	55%
26-31	86	18%	65%
32-39	125	27%	68%
40-49	120	26%	86%
50 or older	72	15%	89%

*Determined using most serious disciplinary score item.

Source: Oklahoma Department of Corrections.

EXHIBIT 4-2
DOC Female Reclassification Scores, by Item – August 2007

Reclassification Item	Number	Percent Share	Percent Share with No Reports/ Class B
Base	231		84%
Severity of Current Offense			
Low	61	26%	92%
Moderate	93	40%	84%
High	25	11%	68%
Highest	52	23%	83%
Serious Offense History			
None or low	221	96%	84%
Moderate	0	0%	0%
High	0	0%	0%
Highest	10	4%	80%
Escape History			
No escapes/attempts	231	100%	84%
Escapes from minimum/community	0	0%	0%
Escapes from medium/resulting in injury	0	0%	0%
Medical, Mental Health, Substance Abuse			
No severe need	25	11%	92%
One severe	118	51%	84%
Two severe	72	31%	82%
Three severe	16	7%	81%
Number of Active Disciplinary Convictions			
None	194	84%	96%
One	21	9%	29%
Two	9	4%	22%
Three or more	7	3%	0%
Most Serious Disciplinary Conviction			
None/Class B	194	84%	100%
Class A	29	13%	0%
Class X	8	3%	0%
Program Participation			
None, waiting list, enrolled, participating	147	64%	84%
Completed	84	36%	85%
Adjustment			
Level 1	20	9%	30%
Level 2	49	21%	74%
Level 3 and 4	162	70%	94%
Current Age			
20 or younger	5	2%	80%
21-38	129	56%	78%
39 or older	97	42%	93%

*Determined using most serious disciplinary score item.

Source: Oklahoma Department of Corrections.

EXHIBIT 4-3
Score and Final Classification Results, Males – August 2007

Classification Level	N	%	% with No Reports/ Class B
Scored Level			
Minimum	318	68%	89%
Medium	104	22%	36%
Maximum	45	10%	49%
Final Level			
CCC	26	6%	81%
Minimum	208	45%	83%
Medium	214	46%	65%
Maximum	19	4%	47%

Source: Oklahoma Department of Corrections.

EXHIBIT 4-4
Score and Final Classification Results, Females – August 2007

Classification Level	Number	Percent Share	Percent share, No Reports/ Class B
Scored Level			
Minimum	197	85%	93%
Medium	30	13%	30%
Maximum	4	2%	25%
Final Level			
CCC/Other	6	3%	83%
Minimum	170	74%	91%
Medium	51	22%	67%
Maximum	4	2%	25%

Source: Oklahoma Department of Corrections.

In the sample, the overall number of misconducts was relatively stable over time, with some fluctuation in the less serious Class A and B offenses (**Exhibit 4-5**).

EXHIBIT 4-5
Disciplinary Reports by Fiscal Year and Class Level

FY	Class X	Class A	Class B	Total
2005	2,446	7,050	4,990	14,486
2006	2,914	5,361	7,242	15,517
2007	2,953	6,573	5,156	14,682

Source: Oklahoma Department of Corrections.

In general, the share of prisoners with no reports or a Class B offense was quite high (73 percent for males and 84 percent for females). This strongly indicates that the vast majority of the population does not pose a significant management problem. Scored and final custody levels further reinforced this finding. As shown in **Exhibit 4-1**, the majority of male prisoners scored for minimum custody; only 10 percent scored maximum. For the females (**Exhibit 4-2**), the share in the lower custody levels was even higher.

Classification employees can use various “overrides” to change the custody level indicated by the score. These overrides are classified as discretionary or mandatory. Discretionary overrides are utilized when there is a departure from the scored custody level based on the judgment of the classification staff. Mandatory overrides occur when overrides must be employed by staff due to requirements contained within department policy.. The differences between scored and final custody levels (**Exhibits 4-3** and **4-4**) reflect the override process, which allows DOC classification employees to adjust the scored level. For the male population, this process reduced both the minimum and maximum custody populations. A variety of reasons were given for these overrides, but the most common, in both discretionary and mandatory overrides, involved considerations of “time left to serve” (**Exhibit 4-6**).

EXHIBIT 4-6
Reclassification Overrides – August 2007

Override	Males		Females	
	N	%	N	%
Base	467		231	
Discretionary Higher				
None	377	81%	150	65%
Circumstances of offense	4	1%	0	0%
History of violence	4	1%	0	0%
Gang affiliation	1	0%	0	0%
Time left to serve	14	3%	12	5%
Management problem	3	1%	3	1%
Felony detainer	0	0%	1	0%
Other	1	0%	0	0%
Discretionary Lower				
None	7	1%	2	1%
Time left to serve	23	5%	4	2%
Outstanding conduct	1	0%	1	0%
Other	26	6%	5	2%
Mandatory				
None	311	67%	152	66%
Time left to serve	73	16%	19	8%
Life without parole	13	3%	2	1%
INS detainer	6	1%	0	0%
Other	20	4%	0	0%

*Missing cases excluded.

Source: Oklahoma Department of Corrections.

Exhibits 4-3 and 4-4 indicate the system is working appropriately, in that prisoners in higher custody levels tend to have higher rates of serious misconduct. There is relatively little differentiation between medium and maximum scores, but once the overrides are applied a better relationship emerges. This may be because social pressures encourage prisoners to behave according to their assigned rather than their scored custody level.

The data, however, also indicate that DOC makes excessive use of discretionary overrides. This is due largely to changes in custody level made purely to accommodate the bed capacity and custody levels of the individual facilities. In particular, inmates who score as maximum or minimum security often are overridden to medium, in order to match the availability of beds by custody level. This practice jeopardizes the safety and security of the institutions and should be discontinued.

Summary of Recommendations

MGT offers five recommendations for DOC's classification system:

Recommendation 4-1. DOC should lock down maximum-custody inmates only for administrative and disciplinary segregation purposes. DOC should establish a maximum-security general population status or some other classification lower than lockdown status.

Recommendation 4-2. The prisoner's custody level should not be changed simply to match the availability of beds at the facility to which he or she is assigned. The inmates custody level should be based only on the score level or an appropriate override based on known factors.

Recommendation 4-3. The department needs to add capacity for high security inmates. A major outcome of the present classification assessment processes is that there are an insufficient number of high security beds to accommodate the number of male prisoner population requiring that particular classification level. At least 10 percent of the male population should be assigned to a single cell, high-security unit based on disciplinary factors, criminal history, adjustment history, etc. The present maximum security capacity of the DOC is not sufficient to meet this essential security need.

Recommendation 4-4. DOC's Central Classification Unit should audit and evaluate the entire classification system annually, for reliability and validity as well as data quality. MGT's review raised many questions about the accuracy of classification data in the DOC database.

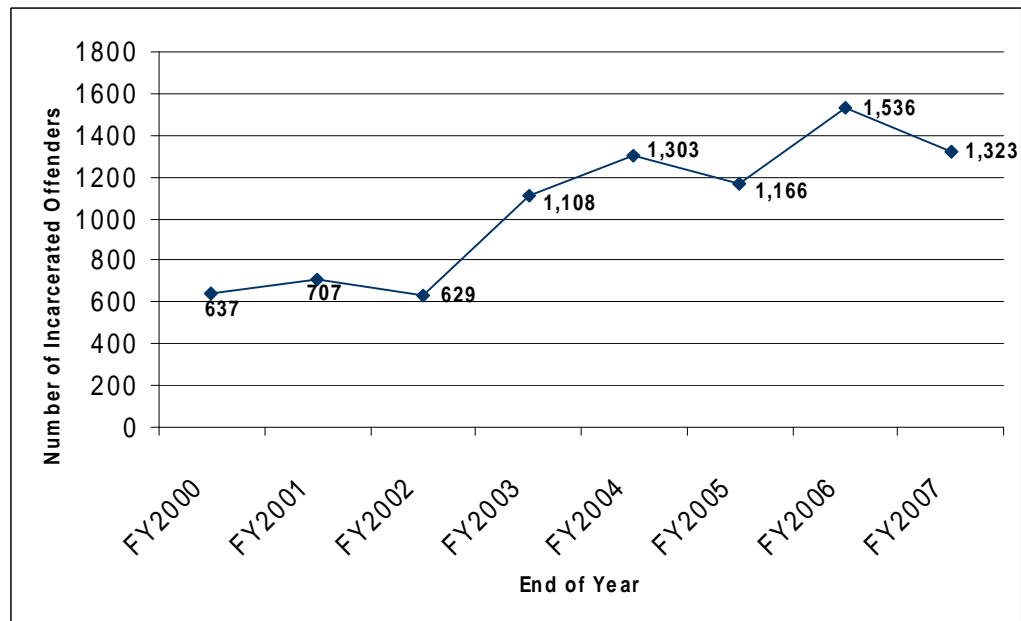
Recommendation 4-5. The use of maximum custody for the female population should be discontinued. Highly disruptive and dangerous females are extremely rare and are best housed in a single high-control unit, under administrative and disciplinary segregation.

DOC Use of County Jail Beds

Title 57, Section 37 of the Oklahoma Statutes states that “Once the judgment and sentence is transmitted to the Department of Corrections, the department will be responsible for the cost of housing the inmate in the county jail from the date that the department receives the transmittal until the date of transfer of the inmate from the county jail.”

On October 29, 2007, county sheriffs were housing 1,323 DOC inmates under this provision. Of these, 1,163 were male and 160 were female. The DOC county jail population has more than doubled since fiscal 2000 (**Exhibit 4-7**).

EXHIBIT 4-7
County Jail Backup Population



Source: Oklahoma Department of Corrections and the Criminal Justice Resource Center.

DOC populations in Oklahoma’s county jails ranged from a high of 166 in Tulsa County to less than five in 23 counties. In summary, as of October 29, 2007:

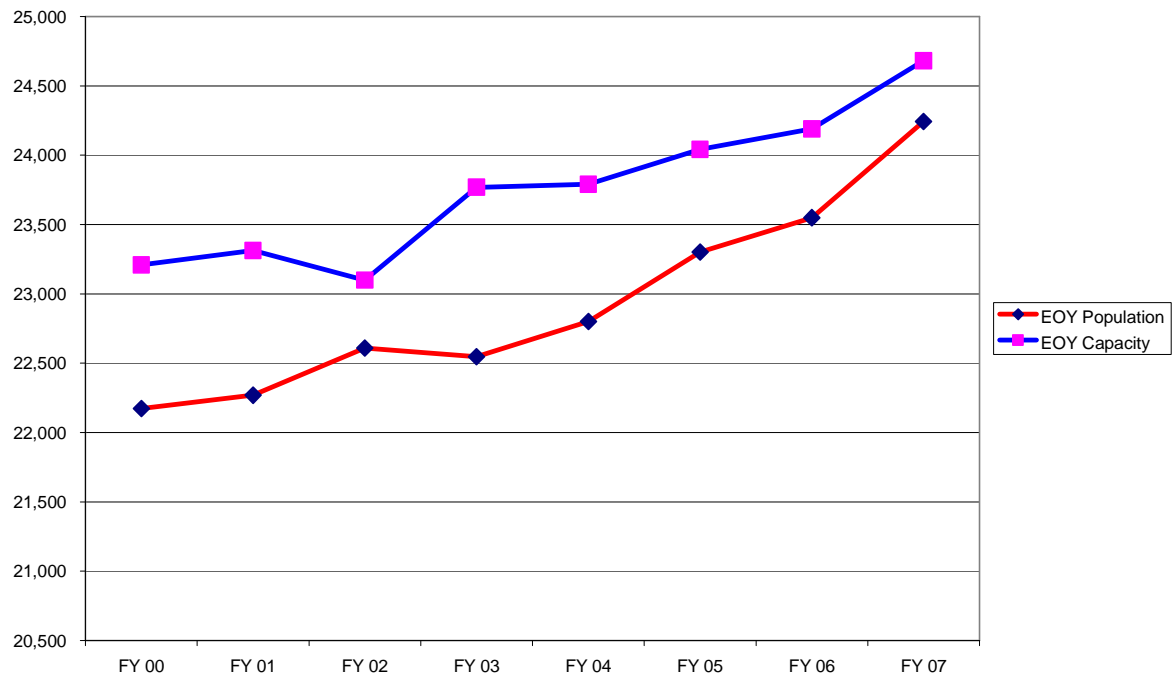
- 23 of the state’s 66 county jails (34 percent) held less than five inmates awaiting transfer.
- 13 of the 66 jails (19.6 percent) held more than 25 inmates awaiting transfer.
- Oklahoma and Tulsa counties accounted for 23 percent of the backlog.
- with an estimated total statewide jail capacity of 11,727 (according to the Department of Health Jail Inspector), DOC’s backlog represented 11 percent of total county jail bed capacity.
- with the 645 county beds under formal contracts with DOC, the department accounted for 16.7 percent of Oklahoma county jail bed capacity.

A May 3, 2007 report by the Oklahoma Sentencing Commission indicates that in 2006, DOC inmates spent an average of 55 days in jail before DOC reception, a substantial increase over the 2005 average of 47 days. Some inmates wait far longer than 55 days, but in many of these cases we found that the delay was voluntary, either on the part of the offender or the county. In other instances, pending legal action on other criminal charges prolongs the jail stay.

The jail backup, nonetheless, is directly related to DOC's capacity issues. As its available capacity diminishes, the system simply can no longer accept newly sentenced offenders on a timely basis. With the present reception center operating at maximum capacity, and internal options to move inmates laterally within DOC restricted due to capacity limitations, the only relief valve available is to delay the intake of new inmates. As a result, the county jail backup has become an *indispensable element* of DOC bed capacity.

The growth in the county jail backup numbers has paralleled the increase both in DOC's capacity and its population (compare **Exhibit 4-7** with **Exhibit 4-8**). As the gap between the DOC capacity and its actual population has narrowed, the DOC's use of jail beds, both back-up and contract, has increased.

EXHIBIT 4-8
DOC End-of-Year Population and Capacity



Source: Oklahoma Department of Corrections and MGT of America.

From DOC's perspective, the jail backup also has financial benefits. The actual amount of reimbursement to jails specified in Section 38 of Title 57 (as amended effective January 1, 2007), sets compensation for jails at the rate of \$27 per day. DOC's fiscal 2009 budget request includes an increase in the per diem to \$30. This is not far below the actual per diems of DOC-operated facilities, but well below any of the other contracted bed options DOC presently uses.

It should be noted that jail per diem cannot be closely compared to the cost of any of DOC's other bed options, since the jail contracts do not include programming requirements and DOC assumes some portion of the cost of inmate medical care. Even so, at \$27 per day, the use of jail beds is a bargain for DOC.

Title 57, Section 37B allows county sheriffs to obtain relief from housing state inmates when the county jail reaches its established capacity. When this situation occurs, the county sheriff must notify the DOC director. Within 72 hours of this notification, DOC must schedule a date for the transportation and reception of the inmates at a facility it designates. This option is most frequently used by Tulsa County.

Oklahoma County has received some relief to the backup through litigation; state inmates can stay in the Oklahoma County jail for no more than 45 days before being accepted by DOC. In the aftermath of this limitation, the Oklahoma County Sheriff and DOC agreed to convert some jail beds to contracted beds reserved for the state.

Despite the short-term advantages that jail backup housing provides to the state, the current situation has a negative effect on many other elements of the Oklahoma criminal justice system:

- The sheer number of prison-bound inmates in county jail may limit the freedom and ability of local judges to commit other offenders to jail.
- DOC's Lexington Reception facility has been completely overwhelmed by the flow of state inmates. Lexington presently operates at its maximum capacity and requires nine working days at minimum to process an offender and complete the required assessments. The *actual* average processing time is 14 days, due to the need for medical tests and mental health examinations.
- DOC's main priority is moving inmates out of reception and replacing them with inmates from the jails. This severely limits DOC's ability to focus on other priorities, such as adjusting inmate populations among facilities. Inmates slated for medium security, for instance, may be held at a maximum-security facility to accommodate the placement of inmates just released from reception.

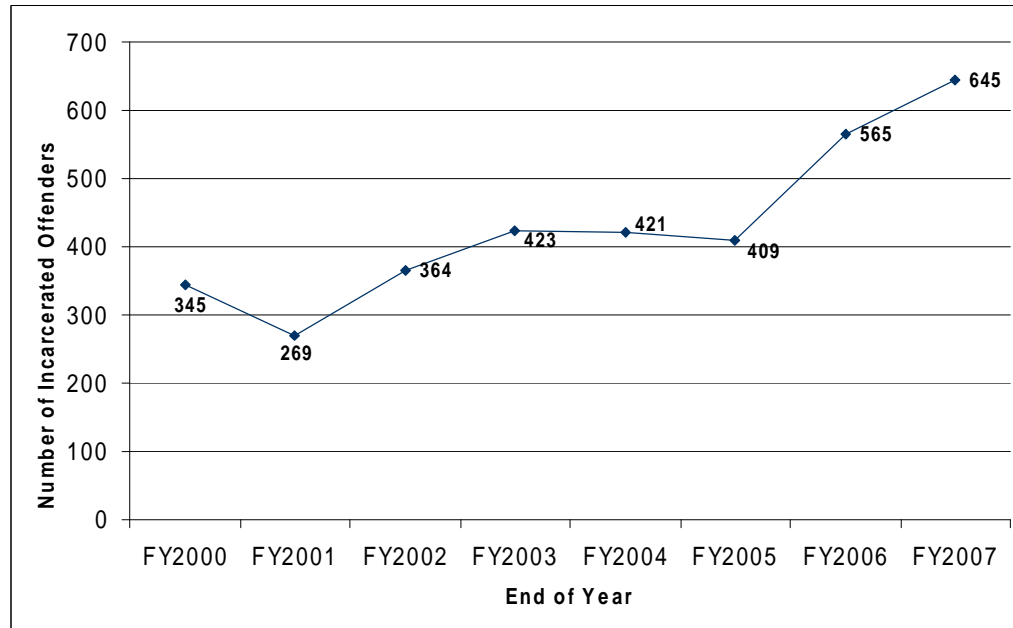
Contracted Jail Beds

In addition to the backup situation, Title 57, Section 561 and Title 74, Sections 1001–1008 of Oklahoma state law authorize DOC to house inmates under contract with the county sheriffs.

Under these statutes, the number of jails beds under contract with DOC has risen from 345 in fiscal 2000 to 645 in July 2007 to **711 as of October 29, 2007**. Nineteen counties have contract beds for DOC inmates, ranging from 145 at Oklahoma County to just seven at Jefferson County.

Exhibit 4-9 shows the rise in DOC's number of contracted county jail beds from fiscal 2000 to 2007.

EXHIBIT 4-9
Contractual Jail Beds – Fiscal 2000 to Fiscal 2007



Source: Oklahoma Department of Corrections.

The fiscal 2008 per diem for contracted jail beds is \$32.50, except for Oklahoma County, which receives \$32.00 (excluding inmate pay). DOC's fiscal 2009 request would increase the per diem to \$35. As with the backup jail beds, the county jail contracts offer DOC its most cost-effective option, even at the proposed fiscal 2009 rate.

Medical Costs for DOC Inmates in County Jail

A major point of contention between DOC and the sheriffs is the set of standards used to determine reimbursements of medical costs for DOC prisoners housed in county jails. Responsibility for these payment varies based on various Oklahoma statutes including:

- Title 57, Section 52; General Responsibility
- Title 22, Section 991a; CSSP – Nights and Weekends
- Title 57, Section 38; Inmates Waiting Reception
- Title 22, Section 988.12; Community Sentencing

DOC attempted to clarify the intent of state law through a notice to sheriffs outlining reimbursement requirements as of November 1, 2006.

The department's analysis and interpretation of the statutes clarified and in some cases restricted reimbursements for state inmates housed in county jails. The November 1, 2006 notice sets the following requirements for payment. If the inmate:

- has a certified judgment and sentence, DOC reimburses all emergencies based on Medicaid rates and fee structures.
- is housed in the jail under the provisions of the Community Sentencing Act, DOC reimburses for all medical expenses required by Title 22.
- is housed under the Community Service Sentencing Program (CSSP) portion of the Community Sentencing Act, DOC reimburses only for emergency treatment, based on actual cost.
- is being housed as an Intermediate Sanctions, DOC reimburses only for emergency treatment, based on Medicaid rates.

This policy places a substantial fiscal burden on the counties and can interfere with the medical care DOC inmates receive, since the policy provides counties with an incentive to defer medical treatment in anticipation of the inmate's transfer to DOC. The inmate may arrive at DOC in worse physical condition and requiring more medical care due to the lack of timely treatment.

To clarify the legislature's original intent and resolve the problems the present statutory requirements create for all parties, DOC has supported legislation that would modify the statutes to require the department to pay for the medical care of all offenders with a certified judgment and sentence.

Summary of Recommendations

DOC's should develop a strategic plan that will establish and maintain a 45-day cap on jail backup detention. To achieve this objective:

Recommendation 4-6. DOC should expand its reception capability (in terms of beds and staff) beyond the additional capacity it will receive when the female reception unit at Mabel Bassett (92 beds) opens.

Recommendation 4-7. The transfer of female reception to Mabel Bassett will yield 39 more male reception beds. Future reception space needs will be difficult to predict until enough beds are available to process all inmates in a routine manner. DOC should review the situation based on a one-year analysis of intake. Reception capacity should be an element of the facility master plan process recommended elsewhere in this report.

Recommendation 4-8. Whenever feasible, DOC should contract with sheriffs for available beds. These provide the department with a dependable source of relatively cheap secure beds for inmates who do not need extensive programming, while assisting the counties with critical funding.

Recommendation 4-9. The legislature should adopt legislation, similar to that proposed in its last session, to clarify and expand DOC's responsibility for the medical expenses of state inmates in county jail. DOC originally estimated that this would cost \$1.4 million annually. MGT has been unable to confirm this estimate, as present payments to jails are not itemized or billed separately.



5.0 COMMUNITY PROGRAMS



***6.0 INSTITUTIONAL OPERATIONS &
SUPPORT SERVICES***



7.0 ADMINISTRATION