

**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

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Speaker of the House  
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The Honorable Glenn Coffee  
Co-President Pro Tempore  
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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***

# 1.0 EXECUTIVE SUMMARY

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.*

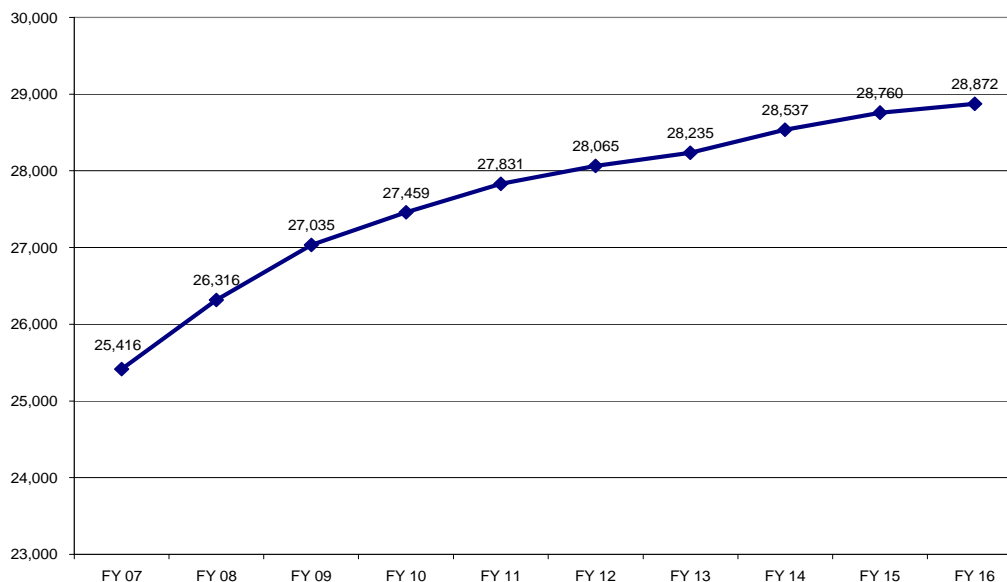
During the course of the review, MGT conducted regular briefings for members and staff of the legislature to advise them of the project's progress; discuss any impediments or problems encountered in the course of completing the review; obtain feedback from the members on the project's direction and scope;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

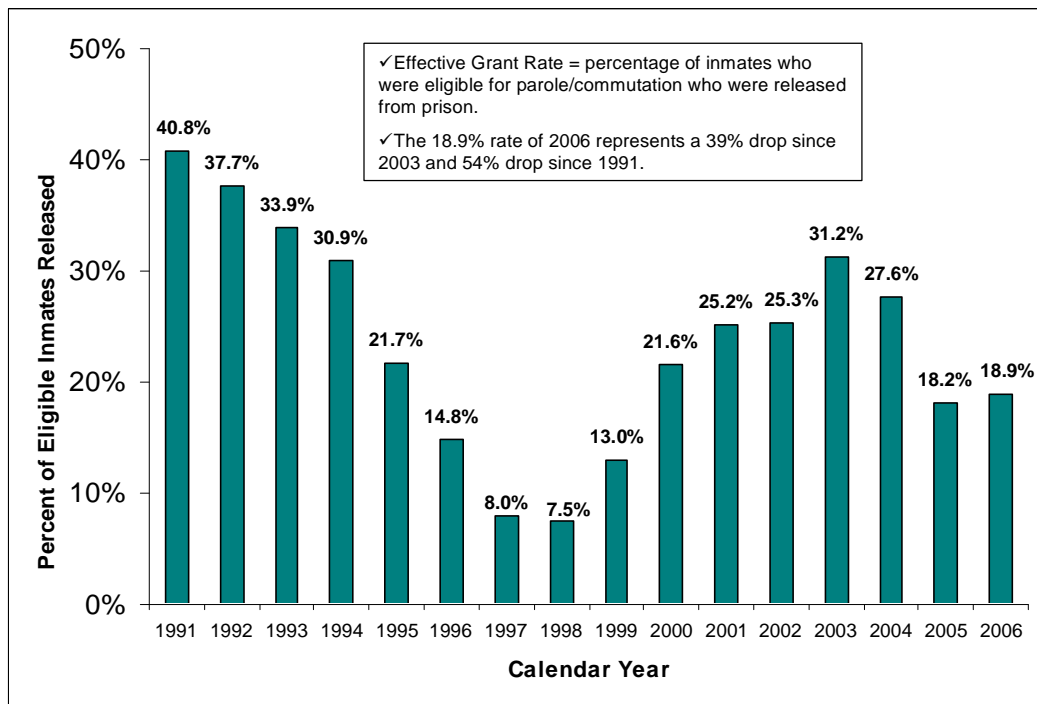
The expected increase of nearly 4,000 inmates over the next ten years is particularly notable given that the current forecast assumes no increases in the numbers of persons sentenced to prison by the courts, and no increases in admissions for probation or parole violations. Contrary to these assumptions 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.

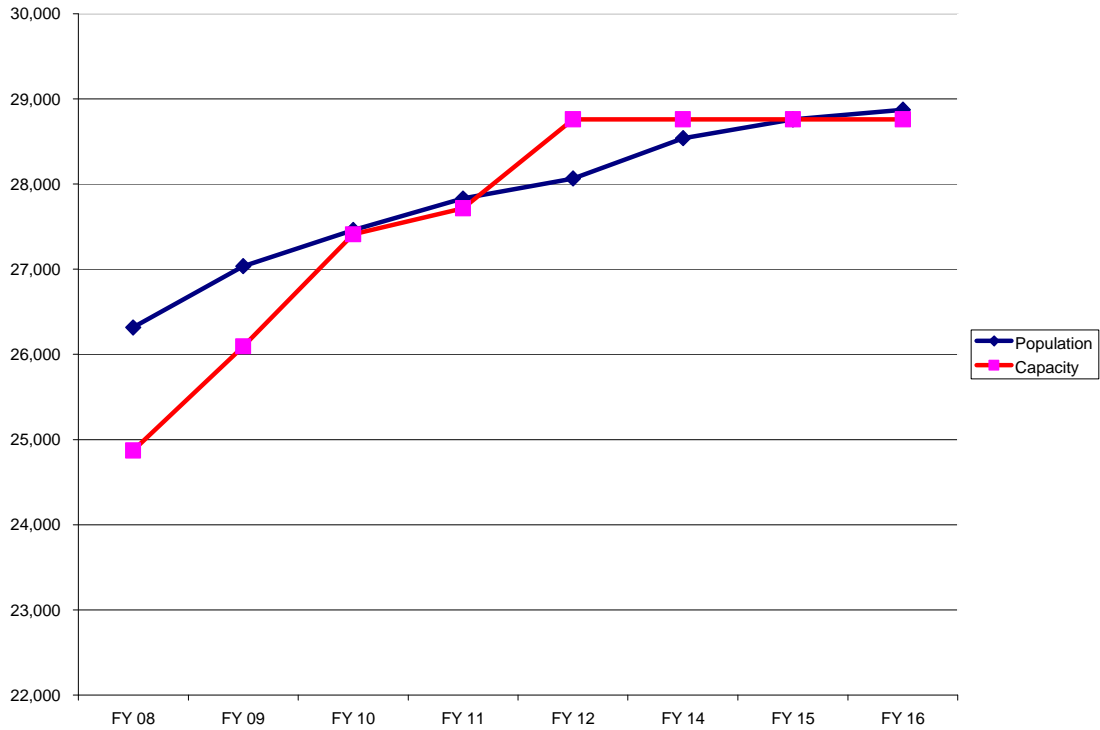
**EXHIBIT 1-3**  
**DOC Fiscal 2009 Capacity Expansion Plan**

Project	Total Beds	Net Beds	FY Open	Secure Beds	Total Capacity	EOY Capacity Shortfall
<b>FY 08 Budget</b>				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)
<b>Proposed FY 09 New Facilities</b>						
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
<b>Total</b>	<b>6,504</b>	<b>5,293</b>		<b>25,042</b>	<b>28,760</b>	<b>695</b>

*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.*

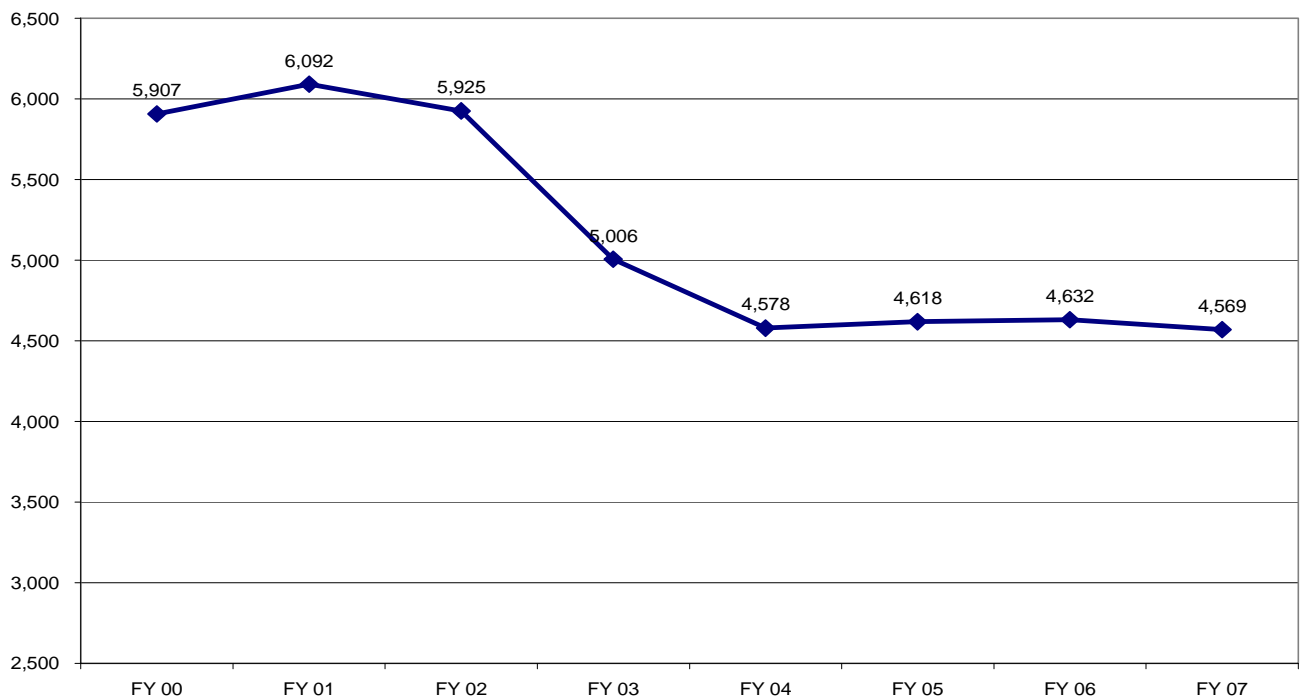
The proposed capacity expansion plan appears warranted and appropriate. To ensure that this and future expansion plans prioritize capacity expansions by cost-effectiveness and operational need, we strongly recommend the department commission a formal engineering and architectural master plan of the department’s 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.

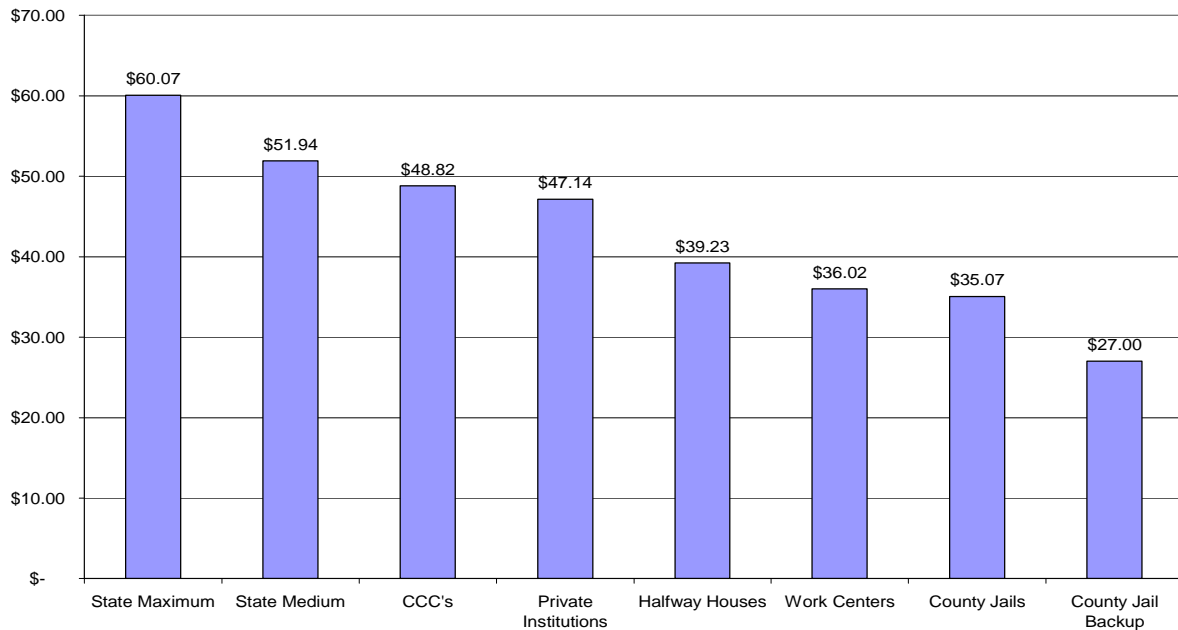
**EXHIBIT 1-5**  
**Private Prison Population, 2000-2007**



*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.

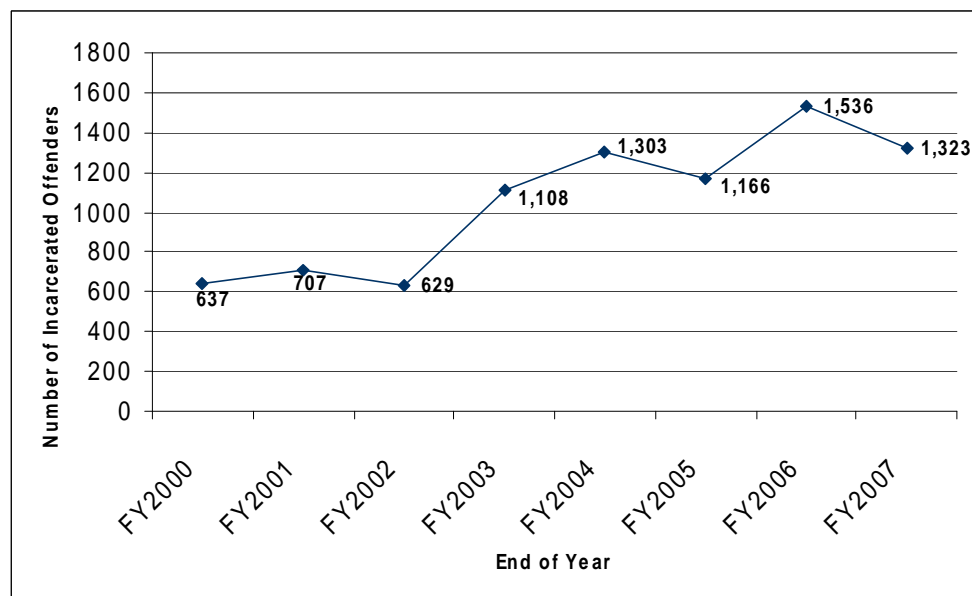
MGT's analysis, however, indicates that DOC makes excessive use of discretionary overrides, which allow classification personnel to make changes to the security level indicated by the point system. All too often, overrides are used to make changes in inmate custody levels solely to match available bedspace. 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	%
<b>Gender</b>		<b>Prior Felony Convictions</b>	
Male	57%	None	37%
Female	43%	One	22%
<b>Race</b>		Two or more	41%
White	67%	<b>Drug Of Choice</b>	
Black	15%	Alcohol	27%
Native American	17%	Cannabis	20%
Other	1%	Methamphetamine	32%
<b>Average Age</b>	33 years	Cocaine	14%
<b>Controlling Offense</b>		Other	7%
Possession of CDS	51%	<b>Primary County</b>	
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%
<b>Prior Arrests</b>		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
<b>Total Admissions</b>	<b>1,900</b>		
% that Fail/Succeed	33%	67%	
Number of Failures	627	1,273	
Time in program/prison	13	21	
ODC Cost Per Month	\$417	\$417	
<b>Drug Court Program Cost</b>	<b>\$3,396,250</b>	<b>\$11,138,750</b>	<b>\$14,535,000</b>
Prison Term	74 mos	0 mos	
% Time Served	39%	0	
Cost Per Year Served	\$16,824	0	
<b>Total Prison Costs</b>	<b>\$25,369,498</b>	<b>0</b>	<b>\$25,369,498</b>
Probation Supervision	13 mos	20 mos	
Probation Costs Per Month	\$60.38	\$60.38	
<b>Total Probation Costs</b>	<b>\$492,157</b>	<b>\$1,537,275</b>	<b>\$2,029,432</b>
<b>Re-imprisonment Costs</b>	<b>\$1,708,922</b>	<b>\$0</b>	<b>\$1,708,922</b>
<b>Total Costs</b>	<b>\$30,966,828</b>	<b>\$12,676,025</b>	<b>\$43,642,852</b>
<b>Costs Per Drug Court Admission</b>			<b>\$22,970</b>

*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
<b>Total Admissions</b>		<b>1,900</b>	
% 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	
<b>Initial Imprisonment Costs</b>	<b>\$13,962,574</b>	<b>\$35,903,762</b>	<b>\$49,866,336</b>
Parole Supervision Time	39	39	
Parole Costs Per Month	\$60.38	\$60.38	
<b>Parole Supervision Costs</b>	<b>\$940,537</b>	<b>\$2,418,523.32</b>	<b>\$3,359,060</b>
<b>Re-incarceration Costs</b>	<b>\$3,909,521</b>	<b>\$0</b>	<b>\$3,909,521</b>
<b>Total Costs</b>	<b>\$18,812,632</b>	<b>\$38,322,285</b>	<b>\$57,134,917</b>
<b>Costs Per Prison Admission</b>			<b>\$30,074</b>

*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.

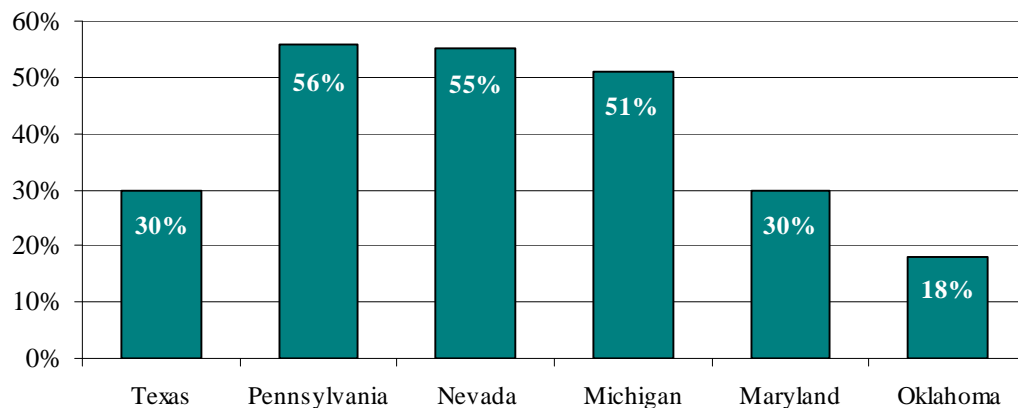
MGT recommends the establishment of target population criteria that clearly differentiate this program from the drug courts. DOC should complete a long-term study of program participant recidivism to ensure that it is reducing prison commitments as intended. We also recommend the elimination of the CSSP 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**

<b>Year</b>	<b>Current Projection 18% Grant Rate</b>	<b>40% Grant Rate</b>	<b>30%Grant Rate</b>
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	<b>342 (85%)</b>	<b>146 (87.95%)</b>	<b>109 (87.2%)</b>	<b>70 (88.6%)</b>	<b>169 (86.2%)</b>

*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.

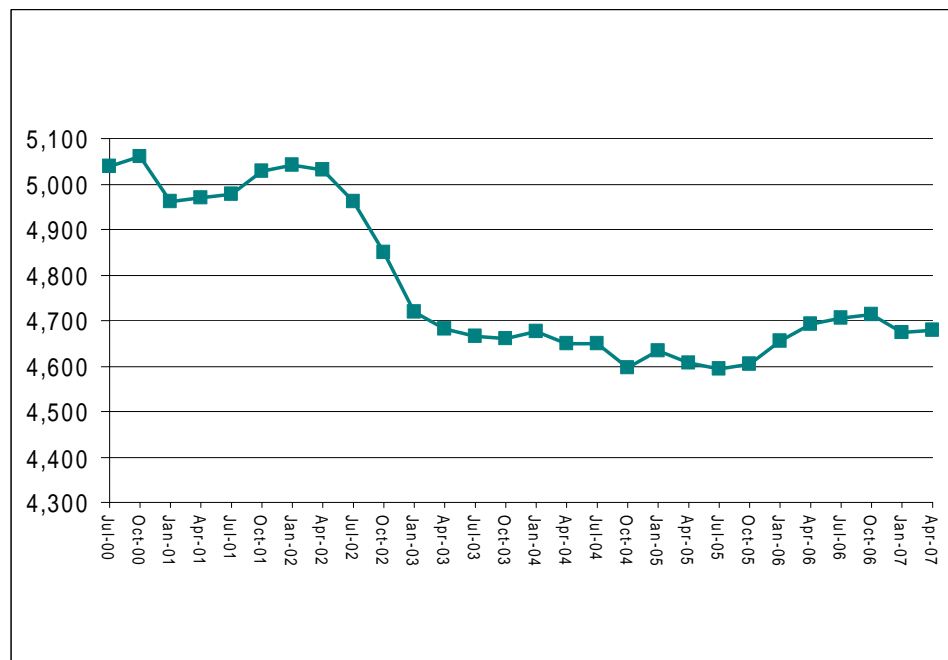
DOC must quickly evaluate and determine the best alternative for replacing OMS. We recommend that DOC fund a thorough review of its current application requirements and identify an optimal path for a future offender application, given the time and funding constraints it faces. This review should compare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

## Budget

Oklahoma ranks 41<sup>st</sup> 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
<b>Total Savings</b>	<b>\$ (54,577.4)</b>	

\*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**

<b>Recommendation</b>
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**

<b>Recommendation</b>	<b>(thousands)</b>	<b>Implementation Issues</b>
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
<b>Total</b>	<b>\$ 25,095.8</b>	

### **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.”<sup>1</sup>

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.<sup>2</sup>

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.*

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

<sup>2</sup> *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.*<sup>3</sup>

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

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<sup>3</sup> 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***

## 3.0 POPULATION & CAPACITY

### Background

The Oklahoma Criminal Justice Resource Center (CJRC), a division of the Oklahoma Legislative Services Bureau, calculates population projections for the Oklahoma Department of Corrections. CJRC provides research and analysis for the Oklahoma Legislature, state criminal justice agencies and other state policymakers.

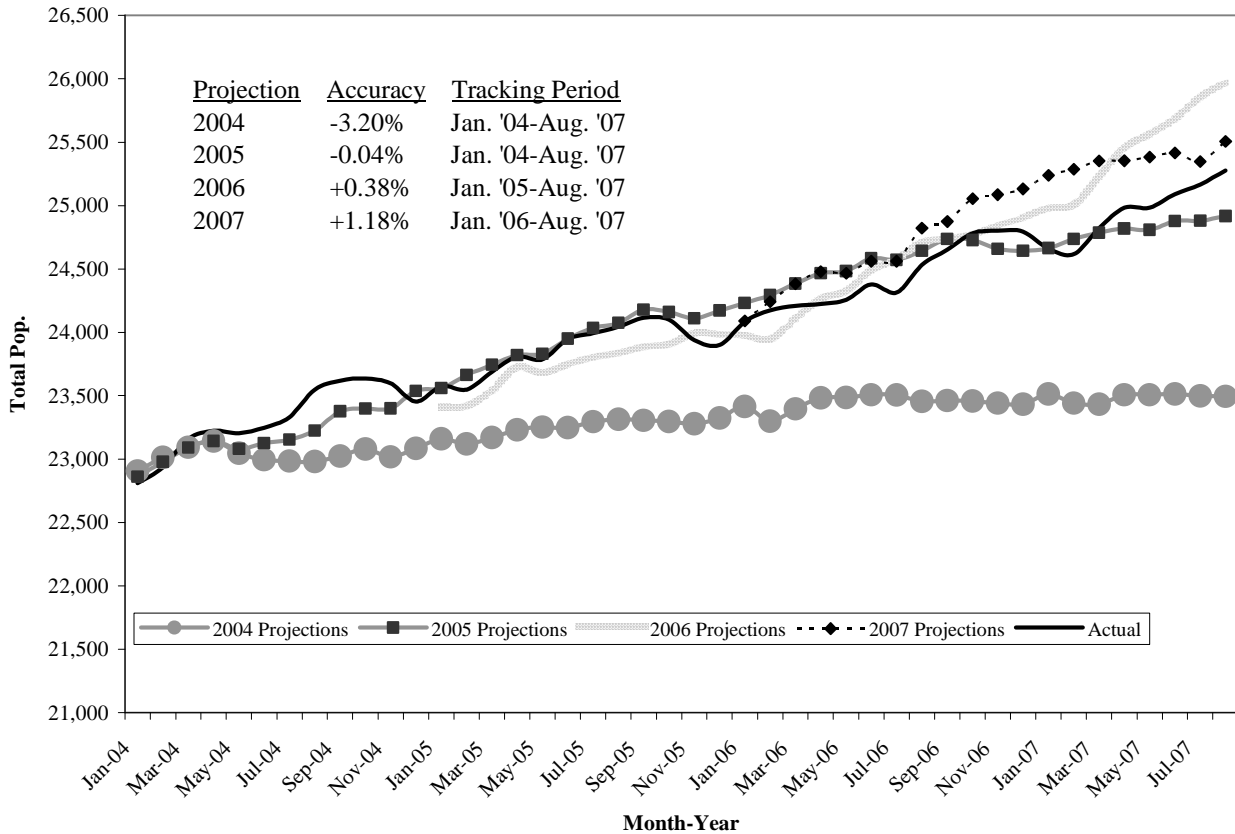
CJRC uses a computer model, Prophet, to analyze and predict the flow of prisoners, probationers and parolees through the prison system. In all, Prophet has served the state well since it was built and installed by the National Council on Crime and Delinquency in 1997. The model was designed to allow its users to assess the impact of sentencing guidelines on the state prison system. Since then, the model has been altered annually to reflect changing conditions in the corrections system. These changes have included the creation of the “85%” time-served groups and limitations on goodtime and parole board eligibility. In addition, assumptions regarding new admissions to prison, parole and community supervision violator returns and parole grant rates are adjusted each year.

William Chown, consultant to CJRC, is solely responsible for producing Prophet projections. He has considerable experience and skill with the software and was formerly employed by DOC in its research unit. As will be noted below, the only issue of concern with this arrangement is that CJRC and the state are completely dependent upon the skills and experience of a single private contractor.

### *Projection Accuracy*

Prophet’s accuracy is tracked after each forecast is issued. The results of the past four years of forecasts are presented in **Exhibit 3-1**, which compares the actual population with the projection issued by CJRC. As the exhibit indicates, recent estimates have been fairly accurate with the exception of the 2004 projection.

**EXHIBIT 3-1**  
**Oklahoma DOC Projections vs. Actual Population**



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

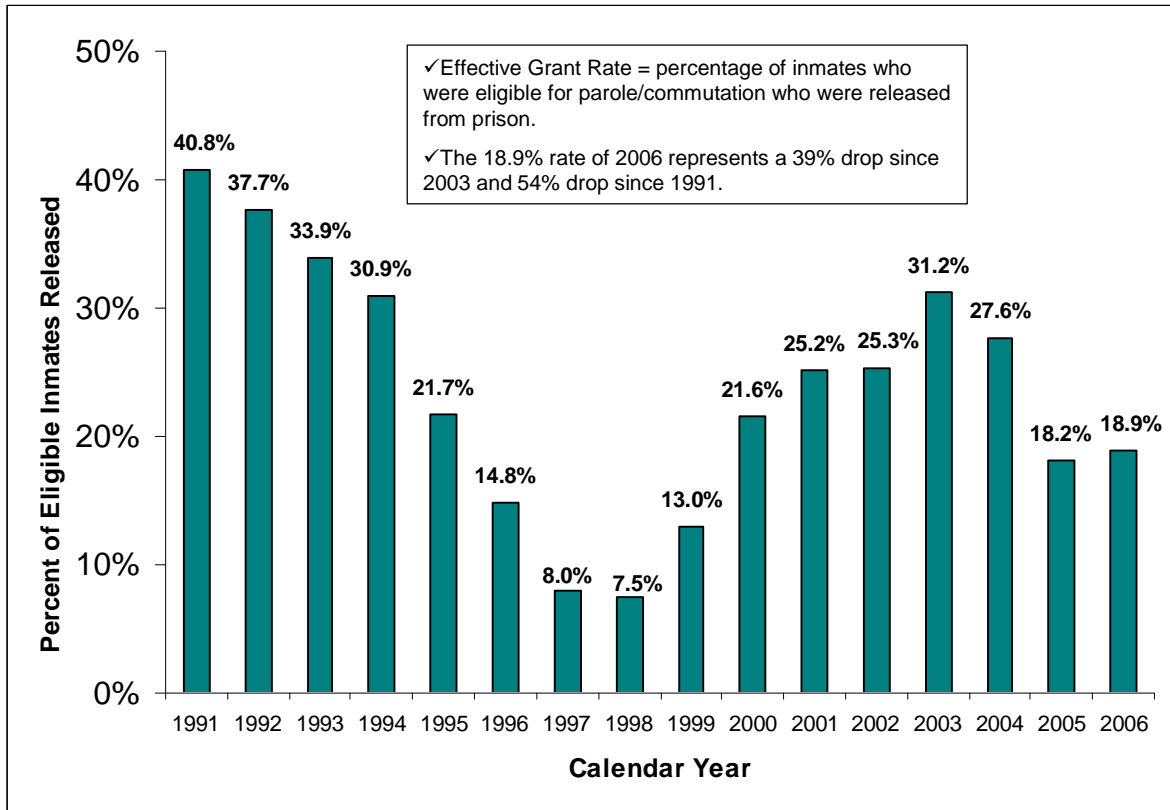
Maintaining this accuracy, however, is becoming more difficult. Three key factors make it difficult to accurately project DOC’s prison population:

- instability in parole board and governor review practices and parole grant rates;
- the inability of DOC or CJRC to accurately count the backup jail population; and
- uncertainties regarding the effects of community sentencing and drug courts on prison admissions.

Each of these elements makes it increasingly difficult to estimate the long-term growth of the DOC population accurately.

*Effective parole grant rates* are defined as the percent of those inmates eligible for parole who are actually released. Since 1991, these rates, including the governor’s review of all parole board recommendations, have ranged from 7.5 percent to nearly 41 percent (**Exhibit 3-2**). Recent effective grant rates of from 18 to 19 percent are quite low compared to other jurisdictions.

**EXHIBIT 3-2**  
**Oklahoma Pardon & Parole Board Effective Grant Rate**



Source: Criminal Justice Resource Center and the Pardon and Parole Board.

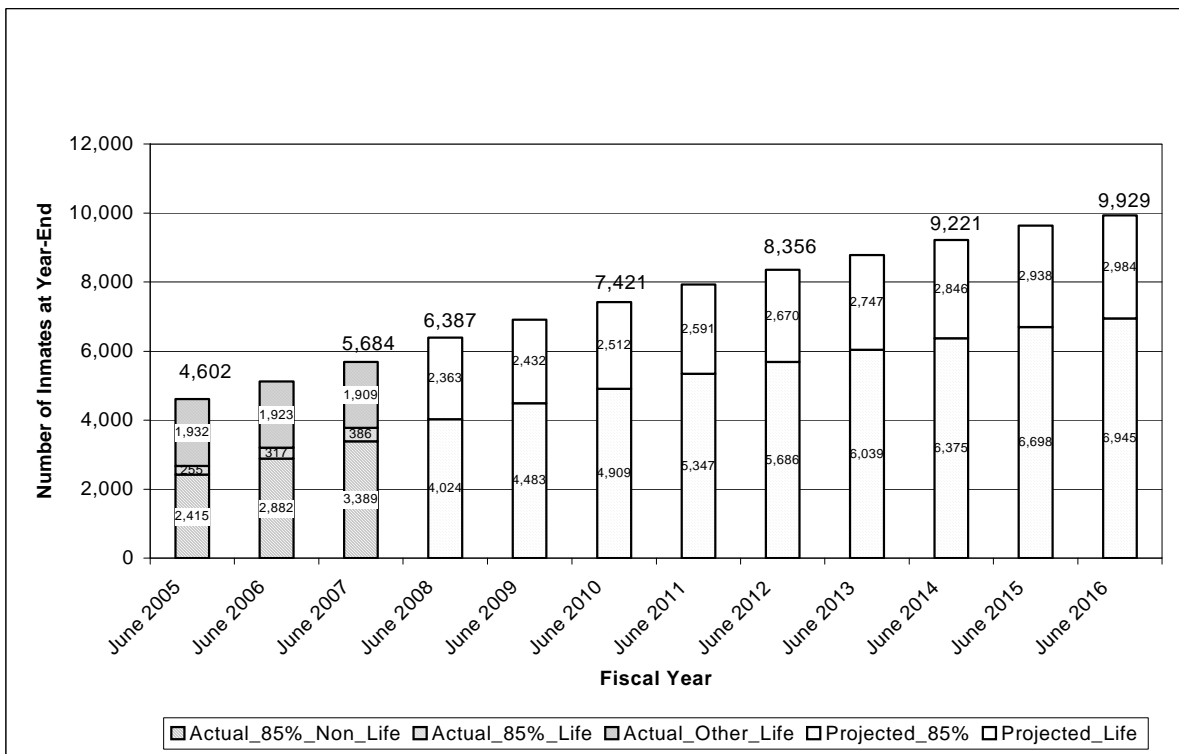
The *jail backup population*—that is, state prisoners in jail and awaiting transfer to DOC—can top 1,300 inmates on any day. DOC does not learn about these prisoners, the nature of their offenses or the lengths of their sentences in a timely manner. Since the demographics and criminal history of these offenders are unknown, they cannot be factored into the forecast model even though they are legally DOC’s responsibility.

Finally, Oklahoma policymakers have expected *community sentencing and drug court reforms* to have a significant impact on prison admissions. As shown elsewhere in this report, and particularly in the drug court evaluation section, the results of these prison diversion programs have been mixed at best.

An additional concern is the fact that the current forecast assumes no net increase in the numbers of persons being sentenced to prison and in admissions of probation and parole violators. This assumption is based on recent admissions patterns. In fiscal 2007, however, DOC *did* experience an increase in admissions. If this trend continues, and the model assumptions are not changed, the prison population may run well above CJRC’s forecast for the next few years.

It should be noted that CJRC does expect the prison population to continue increasing over the next ten years, even though the model assumes no increase in admissions from the courts. Instead, this projected growth reflects the long-term effects of the “85%” sentencing laws, which have created a stacking effect (**Exhibit 3-3**). This phenomenon occurs when offenders in a category continue to be admitted while releases do not match the admission rate for the offender group, thus resulting in these offenders stacking up in the population. If admissions continue to increase, however, actual growth may exceed the projection.

**EXHIBIT 3-3**  
**Oklahoma Prison Population**  
**Actual and Projected Lifers and Inmates Serving 85%**



Source: Oklahoma Criminal Justice Resource Center.

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 over the next decade (see **Exhibit 3-4**).

**EXHIBIT 3-4  
Projected Resident and “At-Risk” Population  
2007-2025**

Year	Resident Population	Males Ages 18-35
2007	3,549,795	441,635
2008	3,563,865	442,589
2009	3,577,766	444,216
2010	3,591,516	445,727
2011	3,605,313	445,626
2012	3,619,273	445,224
2013	3,633,287	444,395
2014	3,647,370	443,514
2015	3,661,694	442,266
2016	3,676,116	440,008
2017	3,690,699	437,955
2018	3,705,437	436,784
2019	3,720,396	436,126
2020	3,735,690	436,753
2021	3,751,443	438,574
2022	3,767,829	440,619
2023	3,784,867	443,459
2024	3,802,592	446,489
2025	3,820,994	449,271
Avg. Annual % Change	0.41%	0.10%

*Source:* [www.census.gov/population/www/projections/popproj.html](http://www.census.gov/population/www/projections/popproj.html).

Furthermore, Oklahoma crime rates have declined over the past decade (as they have in all states) and the volume of arrests has remained flat (see **Exhibit 3-5**).

**EXHIBIT 3-5**  
**Oklahoma Crime Index and Adult Arrests**  
**1996-2006**

Year	Total Crime Index	Violent Crime Index	Property Crime Index	Adult Arrests
1996	5,652.9	597.1	5,055.8	122,815
1997	5,494.6	559.5	4,935.1	126,578
1998	5,003.9	539.4	4,464.5	138,779
1999	4,683.8	508.2	4,175.6	140,064
2000	4,558.6	497.8	4,060.8	140,088
2001	4,594.4	510.9	4,083.5	140,296
2002	4,748.7	504.0	4,244.7	142,707
2003	4,818.7	506.4	4,312.3	141,817
2004	4,742.6	500.5	4,242.1	141,810
2005	4,556.3	509.2	4,047.1	141,776
2006	4,101.4	497.2	3,604.2	138,914

Source: [www.fbi.gov](http://www.fbi.gov).

The other significant variable, as already noted, is the parole grant rate; again, current forecasts are based on relatively low grant rates (**Exhibit 3-6**). While these rates have varied considerably in recent years, and recently have been quite low, the board recently adopted a new set of guidelines that may increase grant recommendations. If they do, and the governor's review of these recommendations does not contradict them, the average length of stay and associated prison populations may decline.

**EXHIBIT 3-6**  
**Population Projection Admission Assumptions**

Year	New Court Commitments	Probation Revocations	Parole Revocations	Total
2006	6,212	2,090	235	8,537
2006	6,178	2,084	264	8,526
2007	6,178	2,142	285	8,605
2008	6,178	2,110	289	8,577
2009	6,178	2,173	237	8,588
2010	6,178	2,000	263	8,441
2011	6,178	2,068	280	8,526
2012	6,178	1,998	283	8,459
2013	6,178	2,071	265	8,514
2014	6,178	2,107	301	8,586
2015	6,178	2,090	287	8,555
2016	6,178	2,162	257	8,597

Source: Criminal Justice Resource Center.

To date the current forecast has been steadily underestimating the actual prison population. As of November, the forecast was over 600 inmates above the actual prisoner population. The reason(s) for this underestimate, which is not large, is not known. But the factors that would produce an underestimate would be lower prison admissions, a higher parole grant rate that would lower the length of stay, or an increase in the jail backlog. Of the three, it would appear that the backlog cases are the most direct reason for the over-projection. Typically the backlog is approximately 1,000 but it has increased to 1,300 in the past few months. If the forecast were adjusted to account for this local jail backlog, the error level would be reduced by approximately 50 percent.

In all, MGT recommends that the current DOC projection not be adjusted at this time. Below, we recommend that the projections be updated every six months; CJRC should issue a new forecast before December 31, 2007 to reflect more current admission trends, jail backlogs and recent release and parole board trends. An updated projection may show a slightly lower 10-year forecast.

The current long-term projection indicates that the DOC prisoner population will rise from about 25,000 today to nearly 29,000 by fiscal 2016. Again, virtually all of this growth is due to longer periods of imprisonment caused by the “85%” sentencing laws and relatively low parole grant rates.

### *Impact of Parole Approval Rates*

To illustrate the effect of parole decision-making on population projections, MGT worked with CJRC staff to develop two simulations in which the board’s approval rate is increased to 30 percent and 40 percent, respectively, with the additional assumption that these rates would be the final effective parole rate.

These rates are quite reasonable for a number of reasons. First, the board’s hearing investigators, who make recommendations to the board on each case, are recommending parole in about 40 percent of the cases reviewed each month. Furthermore, the board itself is recommending parole in about 30 percent of the cases.

If the grant rate were to be increased either to 30 percent or 40 percent, the prison population would begin to decline, thus eliminating the need for additional bed capacity (**Exhibit 3-7**).



**EXHIBIT 3-7**  
**The Impact of Parole Grant Rates On the Total Prison Population**

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

*Source: MGT of America and Criminal Justice Resource Center.*

An increase in the grant rate would produce an associated increase in the parole population. **Exhibit 3-8** estimates the effects on parole admissions of the 30 percent and 40 percent scenarios. Roughly speaking, the higher grant rates would increase parole admissions by about 100 percent and 140 percent respectively. The parole population would increase by the same shares unless there was a decline in the average period of parole supervision.

**EXHIBIT 3-8**  
**Changes in Parole Releases Under Current and Alternative Parole Grant Rates**

FY	Current	30% Grant Rate	40% Grant Rate
2008	1,088	1,936	2,135
2009	1,083	3,525	4,548
2010	1,150	3,376	4,157
2011	1,278	3,067	3,719
2012	1,258	2,994	3,604
2013	1,359	2,940	3,382
2014	1,370	2,855	3,319
2015	1,340	2,819	3,311
2016	1,365	2,788	3,297

*Source: MGT of America and Criminal Justice Resource Center.*

Finally, it should be noted that the parole hearing process has several procedural aspects that can either delay the release of those who have been granted parole, or require certain prisoners to be paroled only as they near the end of their sentences. Clearly, delays can occur in the governor’s review process, despite the 30-day statutory time limit. A large share of prisoners who are granted parole must wait for the governor’s review to be completed, which may delay their actual release for several months.

The other procedural issue concerns the board's policy of not docketing violent offenders who are within 90 days of discharge. These inmates may have very short sentences (with parole and release dates very close to one another) or may have been previously rejected for parole and now are nearing the end of their sentences. In either case, it may be advisable to place both types of individuals on some form of parole supervision, particularly if they pose a high risk to public safety, rather than to defer the case for discharge.

### ***Role of the Criminal Justice Resource Center***

CJRC provides a valuable service to the state legislature and executive branch by providing generally accurate forecasts of correctional populations; reporting on the likely effects of proposed legislation; and monitoring trends in reported crimes, arrests and sentencing. Throughout this report, MGT makes specific recommendations concerning various problems with CJRC projections. We believe that our proposals will improve CJRC's forecasting and fiscal assessments.

We also strongly recommend that CJRC address current deficiencies in its data collection and analysis of reported crime, arrests and sentencing trends. As noted below, data entry for this information is backlogged and, in some cases, is two to three years behind. Improvements in this area would directly enhance CJRC's forecasting capabilities and the accuracy of its analyses.

CJRC's credibility depends directly upon the degree to which it conducts and presents its analyses in an objective and professional manner. We believe it is critical that CJRC's executive director implement these improvements and strive to ensure that CJRC operates—and is viewed—as a non-partisan source of reliable information.

### ***Summary of Recommendations***

Although the Prophet model has proven to be an accurate and useful planning tool, MGT makes several recommendations that could further enhance CJRC's ability to model the correctional population. These recommendations fall into two categories: *systemic* recommendations, which refer to the policies and procedures used in issuing forecasts, and *technical* recommendations, which pertain to the modeling techniques used.

***Recommendation 3-1. Oklahoma should adopt a jurisdiction-based projection that includes the DOC population in local jails.*** Current and past projections have suffered from an inability to assess the number of sentenced state prisoners being housed in local jails while awaiting transfer to state prison. CJRC's projections should reflect the number of persons sentenced to the DOC regardless of their location. To meet this goal, the DOC database must be modified to capture persons sentenced to DOC but held in jails.

***Recommendation 3-2. Enhance CJRC forecasting capabilities and resources.*** Prophet is a complex mathematical tool that combines a large amount of historical data with a set of assumptions to produce an estimate of future population levels. The sheer amount of data that must be entered into model creates a significant potential for data entry errors and misinterpretations that can skew the model and introduce bias. MGT's evaluation of the model uncovered some errors of these types.

One option would be to annually retain an independent organization to assist in the review of the data analysis and model construction and issue the official forecast. In addition, at least two CJRC staff members should be trained in the Prophet software and its use. MGT found some errors and inconsistencies in CJRC staff knowledge of the software, as well as in their understanding of the elements of the model itself. A process that requires an annual review of the simulation protocol and associated training by the independent consultant would help ensure that CJRC staff have a complete understanding of the model. This should help prevent any future data entry errors.

***Recommendation 3-3. Create and develop a new admissions assumption using more sophisticated statistical methods that take demographic, crime, arrest and court sentencing trends into account.*** Although the simulation model is primarily based on historical data from the most recent year, it does require the user to enter projected new court admissions over the forecasted period. The development of this prediction is independent of the simulation model, but it obviously has very serious implications for the resulting forecast; assuming no growth in the number of offenders entering prison will produce a very different forecast than an assumption of 5 percent annual growth. Many sophisticated statistical methods are available to produce admissions assumptions. Using these methods and incorporating more variables would help ensure that the new admissions assumption is accurate and reasonable.

***Recommendation 3-4. 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.*** Again, the assumptions and data built into the simulation model have a profound effect on the resulting forecast. Unreasonable data and assumptions, whether intentional or unintentional, can seriously bias the simulation model and jeopardize the legitimacy of the forecast. A consensus committee would serve as a check and balance over the assumptions and data used, and provide individual expertise in the creation of these assumptions. The committee should include representatives of the legislature, executive branch, fiscal staff, courts, parole board and DOC.

***Recommendation 3-5. Expand the current projection report to provide more information on its assumptions and analysis.*** CJRC's current report should be expanded to provide information on the reasons for forecasted growth, and offer comparisons of key assumptions and data points with the previous year's. More detailed information on these and other changes would help policymakers better understand the dynamics of the estimates and the reasons for any inaccuracies in earlier forecasts.

***Recommendation 3-6. Eliminate the CJRC database's data entry backlog.*** MGT found that some data from the courts, including arrests, case filings and dispositions, had been awaiting entry since 2004. As a result, critical criminal justice data in the database is out of date, impairing CJRC's ability to complete a thorough analysis of criminal justice trends in Oklahoma.

**Recommendation 3-7. Issue projections every six months.** Current volatility within the Oklahoma criminal justice system suggests that its population projections should be performed semi-annually. The major forecast used to plan agency resources should be published annually, with a supplemental and shorter report issued six months later to weigh the accuracy of the annual forecast and to update it based on any unanticipated trends.

**Recommendation 3-8. Upgrade the Prophet simulation software to the more current Wizard Simulation model.** In 2000, the software vendor responsible for Prophet for Windows revised and upgraded it into a new product, Wizard; it has also issued three subsequent upgrades to Wizard. Revisions and additions to the software have included average-age forecasting and classification and have enhanced the application's forecasting capabilities, as well as some changes to the underlying mathematics of the software. Acquisition of the current software should improve CJRC's forecasting capabilities and accuracy.

**Recommendation 3-9. Track admissions and releases in addition to prison population for accuracy on a monthly basis.** An effective simulation model reports on not just the total population but also the pertinent features of that population. This allows the model's users not only to determine whether the forecast is accurate, but also to determine the reasons for inaccuracies, and to examining underlying admission and release trends.

When fully utilizing the simulation model in the production of tracking reports on admissions and releases, the user can answer more than just the simple question of "Is the forecast accurate?" In the event the forecast is not accurate, the model can not only the question of "Why?", but also questions of whether the admission and release trends are accurate can be addressed.

**Recommendation 3-10. Project the prison population by gender using separate male and female models.** The state should maintain separate male and female models so that separate forecasts can be made for each population. At present, CJCR develops an overall projection and then divides it in two based on the current share of females in the total population. This procedure does not allow the forecast to reflect the unique attributes of the female prison population which affect the forecast. These attributes include differences in prior criminal history, history of violence, sentence length, parole rates, etc.

**Recommendation 3-11. Reduce the number of ID groups within the model to improve its performance.** The simulation model is constructed around "ID groups," or groups of like offenders, typically based by offense seriousness and sentence length. For the model's mathematical distributions to produce the most effective results, ID groups should contain at least 50 individuals. At present, CJRC uses several ID groups that fall below this criterion. Reducing the number of ID groups would allow for larger populations in each.

**Recommendation 3-12. Alter the population model to include a “loop-back” feature only for parole violators returning to prison; include probation violators in the new admissions stream.** A “loop-back” is a mechanism within the model that allows for the introduction of offenders into the population outside of the new admissions assumption. CJRC’s model provides a loop-back feature for both parole and probation violators. To establish these loop-back features, CJCR must model both the larger population and the parole and probation populations.

Typically, however, prison population forecasts include a loop-back for parole violators but *not* for probation violators. This is because modeling the probation population is a near-impossible task. The data needed to create a probation forecast often are unreliable and suspect as they normally reside in local databases and the quality control of the data is often lost due to being decentralized in numerous jurisdictions. As a result including them in a prison model will jeopardize its accuracy.

**Recommendation 3-13. Remove extraneous fields and simplify the model.** The model has a number of outdated data fields that were required for outmoded prison policies and laws. Although these data fields do not harm the function of the model, they do make it more cumbersome and harder to comprehend.

**Recommendation 3-14. Improve the methodology used to produce legislative impact assessments.** CJRC prepares legislative impact assessments via a simple spreadsheet with available data. MGT’s review of recently issued assessments found that many impacts were not quantified due to a lack of data. We recommend that further research be performed to provide, at minimum, a “best-case” and “worst-case” scenario for each impact. Potential sources of useful information could include jail records for misdemeanor crimes that become felonies, court records for newly created crime codes and data from other states and jurisdictions who have implemented similar laws. Such information should allow researchers to provide a range of potential impacts on bed space to at least give policymakers an idea of the potential effects.

Furthermore, CJRC should produce legislative impact estimates with the simulation model, rather than a spreadsheet. This would allow for a phase-in of impacts over time and provide policymakers with an idea of bed space impacts and associated costs over the next 10 to 20 years. It also would provide for a simpler transition if the legislation passes and the effect becomes a permanent feature of the baseline model.

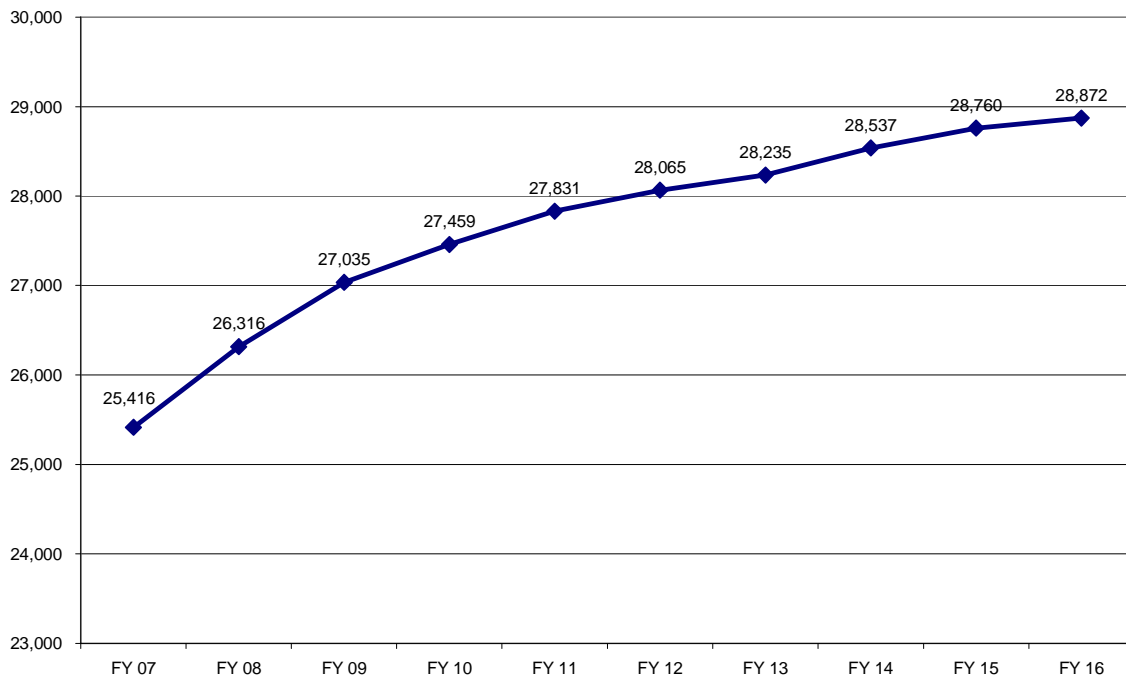
### Capacity Needs Based on Population Projections

MGT compared DOC’s proposed capacity expansion plans with the bed needs reported in CJRC’s existing population projections. Again, these projections assume that present growth assumptions (admission rates, parole rates, etc.) will remain stable over the next few years.

As of October 29, 2007, the department reported a total capacity of 24,845 beds, 18,108 in DOC facilities and 6,737 in contract facilities.

If the prison population grows as projected, DOC either must either expand its present capacity to provide 28,872 beds by fiscal 2016, or implement other program alternatives to slow the projected growth (**Exhibit 3-9**). The population projections also indicate that DOC will need at least 3,220 of these additional beds by fiscal 2012.

**EXHIBIT 3-9**  
**Current Prison Population Projections**



Source: Oklahoma Department of Corrections.

**Exhibit 3-10** summarizes DOC’s current fiscal 2008 capacity expansion plans, as well as capacity expansion projects included in the fiscal 2009 budget request.

**EXHIBIT 3-10**  
**Department Capacity Fiscal 2009 Capacity Expansion Plan**

Project	Total Beds	Net Beds	FY Open	Secure Beds	Total Capacity	EOY Capacity Shortfall
<b>FY 08 Budget</b>				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)
<b>Proposed FY 09 New Facilities</b>						
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
<b>Total</b>	<b>6,504</b>	<b>5,293</b>		<b>25,042</b>	<b>28,760</b>	<b>695</b>

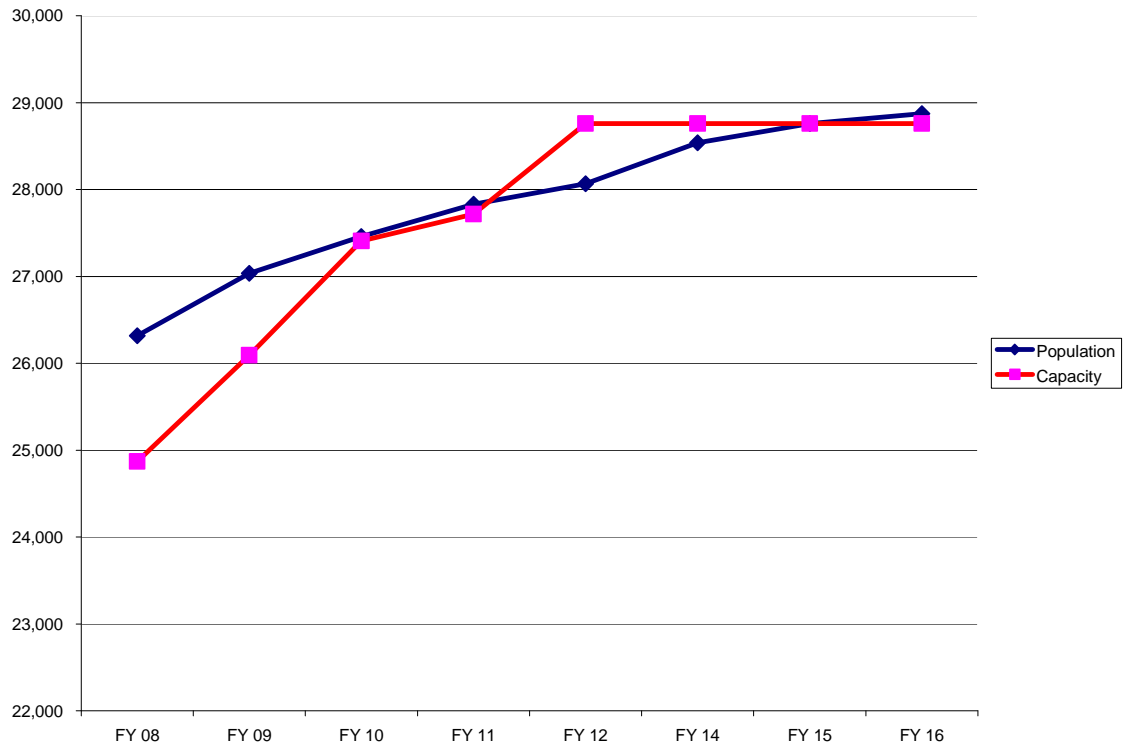
*Source: Oklahoma Department of Corrections Documents.*

In fiscal 2008, DOC plans to bring 394 beds online at community work centers and at the reopened Clara Waters Community Corrections Center. The remaining 700 beds funded in fiscal 2008 represent expansions at existing minimum-security units and will not be available for operation until 2009.

The remainder of the expansion plan is included in the department's current fiscal 2009 budget request. These projects, which include 4,316 new beds, represent the construction of additional housing at existing facilities. Because some of these projects will replace current, deteriorated facilities, however, the net additional increase to the department's capacity resulting from the expansion plan will be 3,275 beds.

**Exhibit 3-11** illustrates the impact of this expansion plan upon the department's overall capacity, and the degree to which these resources will meet projected prison population growth.

**EXHIBIT 3-11**  
**Oklahoma DOC Capacity Plan**



*Source: Oklahoma Department of Corrections and MGT of America.*

Based on current population projections, the department’s requested expansion plans and the assumption that no intervening policy changes will reduce projected bed needs, DOC will have sufficient beds up to 2016. Given the department’s current capacity deficit, these expansions appear to be warranted and appropriate.

The expansion plan, however, does not adequately address the most immediate classification and capacity issue facing the department at this time: a lack of adequate maximum-security beds. The expansion plan includes the construction of 1,568 beds at Oklahoma State Penitentiary (OSP); as noted above, however, the expansions are being accompanied by closures of outdated and deteriorating housing units. The net increase in maximum-security beds at the penitentiary will total 1,044. These beds, moreover, are not expected to be available until sometime in 2012. This is problematic, as DOC’s number of maximum-security inmates far exceeds its number of available maximum-security beds, and this imbalance will only grow in the interim.

As noted in Chapter 6, the level of violence within DOC, combined with increasing gang problems, require enough secure beds to safely manage inmates that require maximum supervision. DOC does not have these beds at present and the expansion plan will not resolve this need until 2012.



DOC has attempted to address its immediate needs by including funds to contract for maximum-security beds at the Davis Correctional Center in its fiscal 2009 budget request. Davis, operated by Correctional Corporation of America (CCA), presently provides medium-security beds and is in the process of building new maximum-security housing. CCA officials said they are building 660 maximum-security beds at Davis, including a 60-bed segregation unit. These beds are expected to be operational in July 2008, four years ahead of the planned maximum-security bed expansion at OSP. MGT reviewed CCA's design and general staffing plans and found that they are consistent with accepted national standards for a maximum-security facility.

MGT attempted to obtain detailed information from CCA to assess the cost-effectiveness of leasing these beds to the DOC. CCA clearly prefers leasing these beds to the DOC but acknowledged that there are other jurisdictions ready and willing to lease the beds if the DOC declines. CCA declined to provide specific costs for the proposed unit, citing only a preliminary estimated per diem for the beds \$60 to \$62.

CCA stated that the cost information we requested is proprietary and could harm any competitive advantage they may have if made public. (A proposed template for analysis of CCA costs can be found as an appendix to this report.) Later in this chapter, we compare the cost-effectiveness of private vs. public development and operation of this facility.

Despite lack of information necessary to complete a detailed comparison of CCA and DOC costs by type and function, CCA's proposal to lease the beds to the DOC does have apparent merit. The estimated per diem cost is comparable, if not less expensive than, that of the department's current maximum-security facilities. This fact, combined with the absolute need for additional capacity, and more specifically maximum-security capacity, makes the CCA option extremely attractive. Accepting it also will give DOC and the legislature time to fully examine and analyze the merits of the department's proposed expansion plans at OSP.

MGT recommends approval of a multi-year contract for this bed expansion. We also make specific recommendations on improved contract terms and monitoring provisions later in this chapter.

The other components of the department's fiscal 2009 expansion plan also appear to have merit and represent a reasonable approach to address the department's bed needs at least until 2016. To ensure that this and future expansion plans are cost-effective and incorporate the best available professional analysis, MGT strongly recommends that DOC commission a formal engineering and architectural master plan for its facility and bed needs. Such a master plan would address the type and location of proposed new capacity as well as the costs and benefits of expanding current facilities versus building new ones. This study should be undertaken *before* the approval of funding for this plan. States facing similar challenges as Oklahoma, such as Iowa, have successfully used short-term correctional system master planning projects to ensure that correctional capital investments meet their needs in a cost-effective manner.

Specifically, the master plan should:

- survey the condition and life expectancy of the department's existing facilities;
- identify critical structural and infrastructure needs for each facility and prioritize them;

- determine the feasibility and advisability of adding additional beds to selected facilities as proposed in the department's expansion plans;
- develop a cost-benefit analysis of the current expansion plan versus the construction of stand-alone facilities;
- determine the feasibility of renovating and upgrading existing facilities as an alternative to new construction; and
- verify the need to spend in excess of \$310 million in the manner proposed by DOC.

The completion of a master plan is essential in view of the magnitude of the long-term investment proposed by DOC. An independent architectural and engineering review of the merits of the proposal would ensure that any investment in additional facilities is cost-efficient and effective.

As noted earlier, DOC's capacity needs can shift suddenly and substantially depending upon changes in criminal justice practices and policies. Such changes could include:

- improvements in the completion rate of drug court participants;
- reductions in the length of sentences served by drug court failures;
- increased parole board approval rates;
- an accelerated phase-in schedule for the proposed new beds;
- using private beds that will be available in July 2008 either as a permanent option or as interim option through 2012; or
- contracting for additional private beds.

DOC should evaluate its options for the further expansion of private prison capacity.

MGT recommends that the department change the way in which it procures private prison capacity; this will be explored in detail below. In summary, MGT suggests that DOC develop a request for proposals (RFP) process that invites private companies to submit competitive bids for the construction and operation of a facility dedicated for the department's use. The state has a number of promising options regarding the lease or purchase of privately developed correctional facilities. Soliciting and evaluating competing proposals would allow DOC to weigh the relative merits of these options, and gain valuable information on their relative costs and benefits.

DOC must increase capacity, and *soon*. Positive developments derived the drug court and any changes in parole rates and community sentencing will be long-term and will not change the course of population growth immediately. But DOC faces significant capacity shortfalls within four years, and many of its facilities are deteriorating. A workable capacity expansion plan is essential to the viability of the state's correctional system.

***Summary of Recommendations***

***Recommendation 3-15. The State of Oklahoma should immediately commission an independent engineering/architectural firm to produce a master plan that considers DOC's proposed expansion plans and develops alternatives as found appropriate.***

***Recommendation 3-16. DOC should enter into formal negotiations with CCA for additional maximum-security beds that will become available in July 2008.***

***Recommendation 3-17. DOC should develop a competitive RFP for the private development and long-term operation of a correctional facility.***

***Recommendation 3-18. DOC should develop a long-term capacity plan that incorporates the results of the master plan and, if feasible, additional private prison facilities.*** The plan should include revised population projections with updated assumptions that reflect additional or modified policies and programs. Upon completion, the plan should be submitted for review by key state policymakers in the executive and legislative branches.

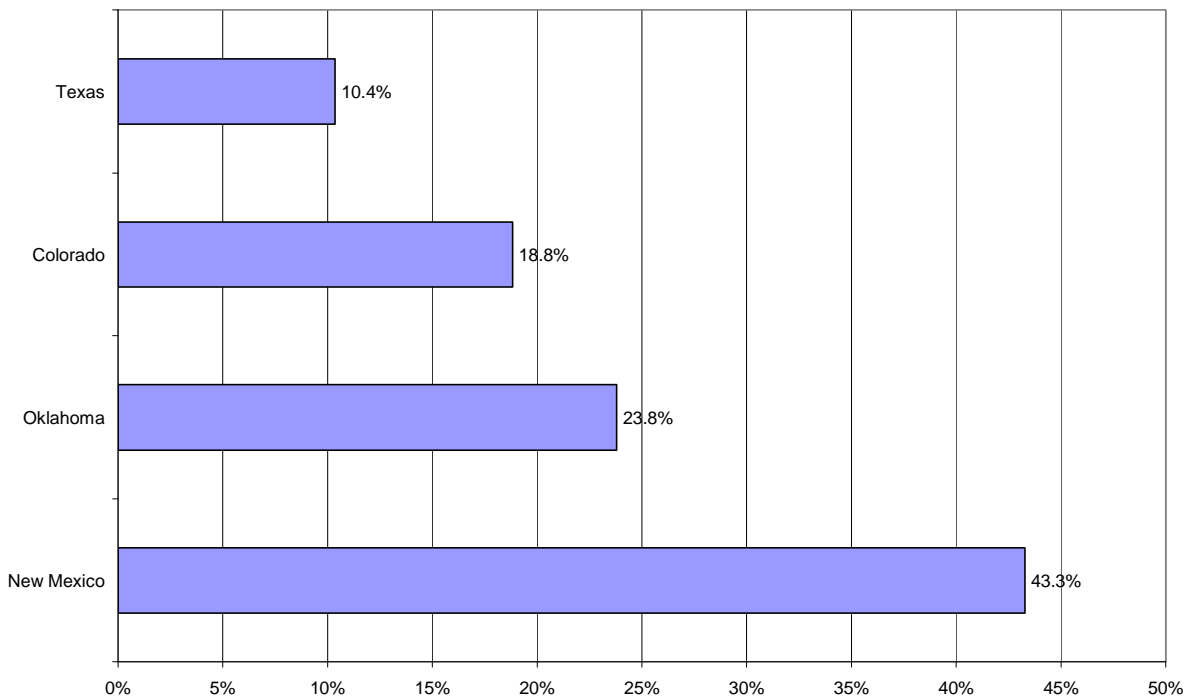
## Use of Private Correctional Facilities

While many studies of private prisons focus on the *cost* of private prison operations, this review also examines private facility operational quality and reliability, as well as state contract monitoring practices and project delivery issues, to assess of the overall utility of additional prison privatization in Oklahoma.

Oklahoma was one of the first states to use private prisons. DOC began contracting for private prison beds in Texas in 1995, and established contracts with private facilities in Oklahoma in 1997. At the end of fiscal 2001, Oklahoma private prisons housed more than 6,000 inmates, or nearly 30 percent of the state’s prison population, at a cost of over \$100 million annually.

Oklahoma’s present reliance upon private prisons is second only to New Mexico among peer correctional systems (**Exhibit 3-12**). Missouri, Nebraska, Arkansas and Kansas do not use private prisons at all.

**EXHIBIT 3-12**  
**Share of Inmates in Private Facilities, 2007**

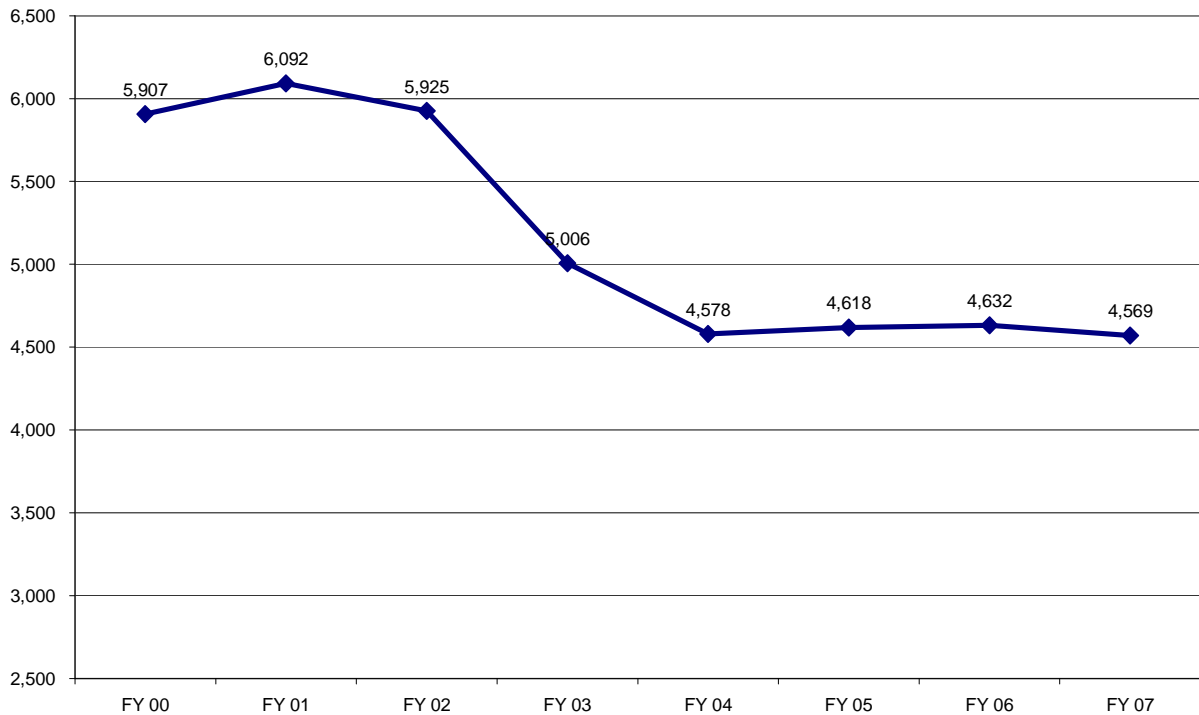


*Source: American Corrections Association and MGT of America.*

Oklahoma’s use of private prisons has dropped by 26 percent since fiscal 2002, however (**Exhibit 3-13**). 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.

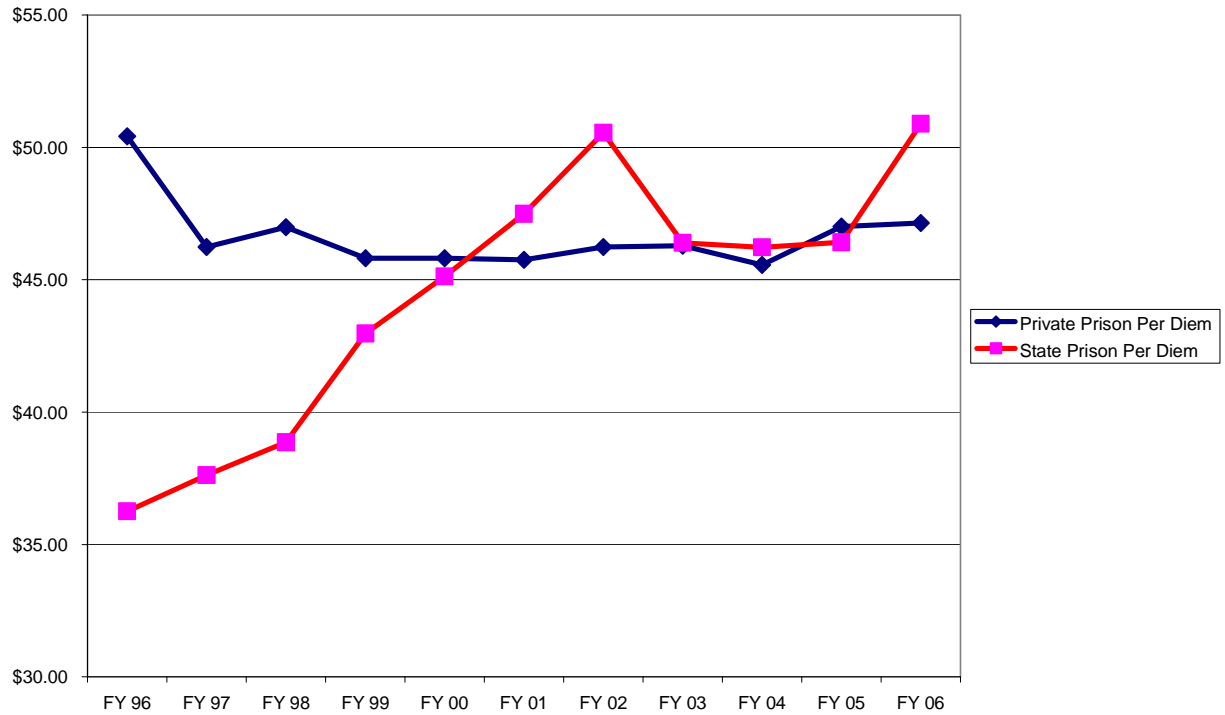
**EXHIBIT 3-13  
Private Prison Population**



*Source: Oklahoma Department of Corrections.*

The termination of the Cornell contract was prompted by DOC's refusal to substantially raise the per diem contract rates it paid its vendor. During the 10-year period ending in 2006, Oklahoma's private prison contractors received just two per diem rate increases totaling 7 percent. By contrast, the per diem rate for state-operated facilities, while initially much lower than the private per diem, rose substantially from fiscal 1996 to 2002 (**Exhibit 3-14**). While government facility per diem rates have remained unchanged over the last five years, they still exceeded private prison rates by 8 percent as of fiscal 2006.

**EXHIBIT 3-14**  
**Private vs. State Prison Per Diems**



Source: Oklahoma Department of Corrections and MGT of America.

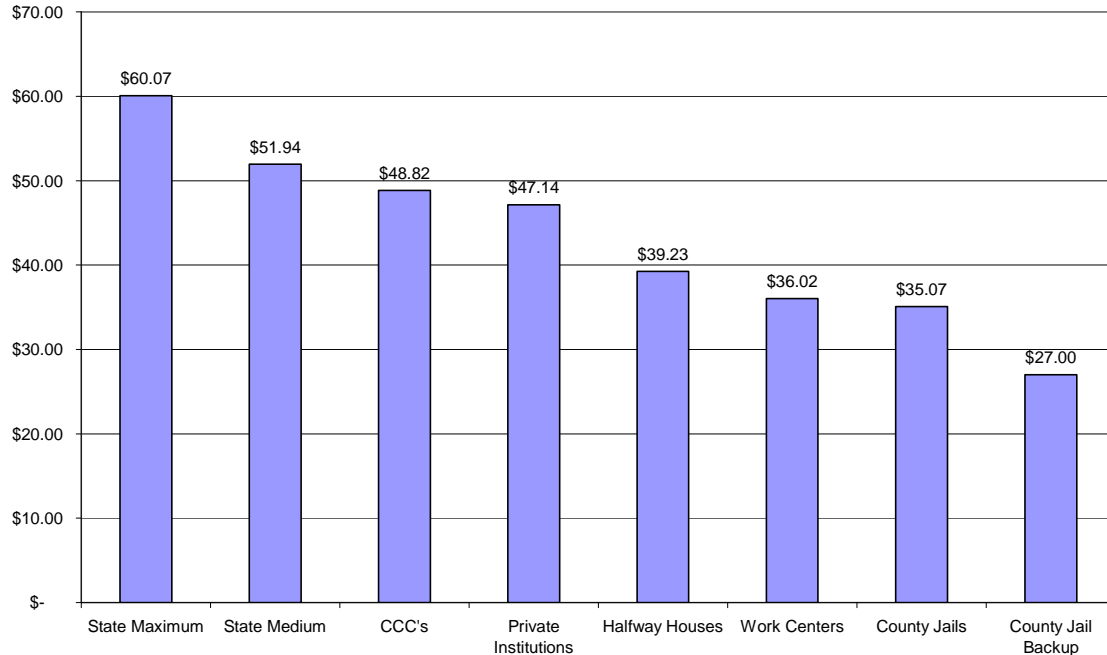
While Oklahoma has realized savings by refusing to raise private prison contract rates, it faces increasingly strong pressure to reverse its position. Oklahoma appears to be paying much less than current existing market rates for its private beds. By comparison, New Mexico and Florida pay average per diem rates of \$55.26 and \$54.13 for their contract facilities, compared to the \$47.14 average per diem DOC paid in fiscal 2006. Given increasing demand for private prison beds in other states, including California, market price pressures can be expected to push vendor rates further upward. If the state does not respond to this market, it faces the danger of losing its remaining contract beds, as happened with the Cornell contract.

Private operators face increasing labor and medical costs to assure acceptable program quality. Cost increases passed along to the department in the form of higher per diem rates are virtually certain.

**Cost Analysis**

As described in the budget chapter of this report, DOC operates very efficiently, both in its private facilities and its state-operated institutions. Examining per diem costs by type of facility, however, indicates that the private prisons are much more cost-efficient (**Exhibit 3-15**). In fiscal 2006, DOC's private prisons were its most inexpensive secure facilities, at a per-diem cost of \$47.14 versus \$51.94 for the most directly comparable state-managed, medium-security institutions.

**EXHIBIT 3-15**  
**Per Diem Cost by Type of Facility, Fiscal 2006**



*Source: MGT of America.*

It should be noted, however, that DOC's state-managed facilities are not readily comparable to the state's private prisons for a number of reasons, including inmate population characteristics, facility age, size, physical plant design and layout. Department institutions tend to be antiquated or poorly designed (in some cases converted from obsolete human services institutions), and require higher staffing levels to compensate for severe security deficiencies inherent in their physical plant. The state's private facilities are relatively new institutions designed to facilitate the efficient use of staff resources and enhance security.

To address this problem, MGT's analysis examines the cost-efficiency of new, privately operated facilities versus state operation of the same new facilities. This approach represents a modified version of the methodology developed by the federal Office of Management and Budget (OMB) as described in OMB Circular A-76. It compares the expected cost of contractor-provided services with the expected cost of comparable government-provided services. In other words, it weighs whether it is cheaper to "make" or "buy" the service in question.

To answer this question, MGT's analysis compares two distinct cost measures:

- expenditures that the state expects to avoid through privatization (such as staff compensation or food costs); and
- payments the state expects to make to satisfy its contractual obligations.

The resulting analysis should demonstrate the overall level of expenditures avoided or incurred due to prison privatization. The primary advantage of this approach is that it does not require detailed contractor cost data; the only contractor information required is the overall per diem rate charged.

To test the relative cost-effectiveness of private and public-managed prisons in Oklahoma, we applied the modified OMB methodology to the department's request for funding for new maximum-security beds. Note that this analysis does not assess the *advisability* of contracting for the Davis beds; we address that issue in the chapter on the department's capacity plan. We simply use the Davis beds here as the basis for a hypothetical comparison of private versus public operation of the same facility.

The fiscal 2009 budget request asks for just under \$14 million to fund 660 new maximum-security beds at CCA's Davis Correctional Center next year. The budget assumes a per diem rate of \$58; CCA executives, however, informally indicated that their required per diem for these new beds could be between \$60 and \$62 per day. Thus, we assume a \$58 to \$62 per diem rate range.

Identifying the true costs to the state for this proposed contract, however, also requires the consideration of indirect costs associated with contract. These indirect costs include:

- direct administrative costs attributable to DOC's private prison contracting unit.
- medical costs for offenders housed in contract facilities that are the responsibility of the department (the department is responsible for cumulative medical claims in excess of \$70,000 for each offender housed in private prisons); and
- overall departmental administrative costs, prorated by the number of offenders housed in private prisons.

Based on actual fiscal 2006 expenditure data, costs in these categories totaled \$4.17 per offender housed in private prisons. Applying an inflation rate derived from the Consumer Price Index for southern states in fiscal 2007 increases these costs by 2 percent. Applying the same 2 percent inflation assumption to fiscal 2008 results in a projected fiscal 2009 indirect cost allocation of \$4.34 per inmate in private prisons. Adding this to the projected contract rates for the Davis expansion results in an overall per diem range of \$62.34 to \$66.34 for private maximum-security beds, and an overall cost of \$15-\$16 million (**Exhibit 3-16**).



**EXHIBIT 3-16**  
**Private Prison Cost and Per Diem for a New 660-Bed Maximum-Security Unit**

Proposed Davis Maximum Security Unit	Beds	Fiscal 2009 Estimated Contract Rate	Fiscal 2009 Private Prison Indirect Costs	Fiscal 2009 Projected Per Diem	Projected Annual Cost (\$000)
DOC Fiscal 2009 Rate Assumption	660	\$58.00	\$4.34	\$62.34	\$15,016.9
CCA Projected Per Diem	660	\$62.00	\$4.34	\$66.34	\$15,980.5

*Source: MGT of America.*

To compare the private versus public cost of operating these 660 maximum-security beds, we must establish a per diem cost for public management of the unit. MGT based its estimate on data developed by DOC on for its fiscal 2008 budget request. The key assumptions in this estimate address staffing, other operating costs and debt service that DOC would incur in operating the unit.

**Staffing**

DOC estimates that a 1,044-bed net expansion of maximum-security beds at Oklahoma State Penitentiary would require 269 staff. This equates to 0.26 staff per maximum-security bed. Applying this ratio to the 660 beds under development at Davis produces a staffing requirement of 170 FTEs. Based on fiscal 2006 expenditure data, we project the annual cost of this staffing at \$7.9 million (**Exhibit 3-17**).

**EXHIBIT 3-17**  
**DOC Staffing Costs: New 660 Bed Maximum-Security Unit**

DOC maximum-security staff per bed	0.26
# of new maximum security beds	660
DOC projected maximum-security staffing	170.1
Fiscal 2006 average salary	\$ 31,150.80
Salary cost	\$ 5,297,426.00
Longevity (accrual) bonus	\$ 21,189.71
Benefits	\$ 2,552,930.35
<b>Projected staffing costs</b>	<b>\$ 7,871,546.33</b>

*Source: Oklahoma Department of Corrections and MGT of America.*

**Other Operating Expenses**

The department identified the cost for other operating expenditures (travel, food, fuel, equipment, medical supplies, etc.) for a new facility as \$3,402.67 per bed, based on fiscal 2006 expenditures. Applying this average cost to a 660-bed maximum-security unit results in estimated annual expenditures of \$2,245,762.20.

**Debt Service**

DOC’s fiscal 2008 request for funding for a new maximum-security institution in assumed construction costs of \$82,576.53 per bed. For the purposes of our analysis, this assumption results in estimated construction costs of \$54,500,509.80 for 660 maximum-security beds. Using the department’s assumptions for interest rates on a 25-year bond issue to cover this cost produces annual debt service payments of \$3,702,099.69.

**Indirect Costs**

The department’s calculation of indirect costs for maximum-security facilities includes expenditures for the prorated cost of DOC central administration. Based on actual fiscal 22006 expenditure data, these costs would total \$1,315,314 annually for a 660-bed unit.

**Inflation**

Applying an inflation rate derived from the Consumer Price Index for southern states in fiscal 2007 increases the fiscal 2006 costs described above by 2 percent. Applying the same 2 percent inflation assumption in fiscal 2008 produces projected fiscal 2009 per diem costs of \$65.36. This rate is directly comparable to the range of fiscal 2009 per diems for the proposed new Davis units calculated earlier. **Exhibit 3-18** summarizes the calculation of per diem for department operation of a 660-bed maximum-security unit.

**EXHIBIT 3-18  
DOC Operating Cost and Per Diem,  
New 660-Bed Maximum Security Unit**

Projected staffing costs	\$ 7,871,546	\$ 32.68
Other operating expenses	\$ 2,245,762	\$ 9.32
Annual debt service	\$ 3,702,100	\$ 15.37
Annual indirect cost	\$ 1,315,314	\$ 5.46
Total cost	\$ 15,134,722	\$ 62.83
Fiscal 2007 CPI @ 2 percent	\$ 15,437,417	\$ 64.08
Fiscal 2008 CPI @ 2 percent	\$ 15,746,165	\$ 65.36
<b>DOC cost &amp; per diem</b>	<b>\$ 15,746,165</b>	<b>\$ 65.36</b>

Source: Oklahoma Department of Corrections and MGT of America.

Note that the projected operating costs of both private and public operation of a 660-bed maximum-security unit are quite similar. The lowest-cost alternative was private operation at the contract rate assumed in the DOC’s fiscal 2009 budget request. This \$58 private per diem corresponds to a total per diem cost of \$62.34 after factoring in associated indirect costs. Based on actual fiscal 2006 expenditure data, the projected per diem for government operation of the same 660-bed maximum-security unit would total \$65.36, about 4.8 percent above the assumed private cost.

The key factor in the comparison, however, is the private contractor rate used. The informal CCA rate quote of \$62 per day results in a total per diem cost 1.5 percent above the projected cost of DOC operation. Our analysis shows that the “break-even” point—the rate at which the cost of private operation of the proposed 660-bed unit equals DOC’s cost—is \$61.03. Contract rates above this level, then, are *not* cost-effective for the state (**Exhibit 3-19**).

**EXHIBIT 3-19**  
**Operating Per Diem**  
**Private vs. Public Operations for a New 660-Bed Maximum-Security Unit**

Operating Per Diems for a 660-Bed Maximum-Security Unit			
	Direct Costs/ Contract Rate	Indirect Costs	Total Per Diem
Private Operation: DOC Fiscal 2009 Budget Assumption	\$58.00	\$4.34	\$62.34
Private Operation: CCA Estimated Rate	\$62.00	\$4.34	\$66.34
Government/DOC Operation	\$59.68	\$5.68	\$65.36
<b>Private Operation Break-Even Point</b>	<b>\$ 61.03</b>	<b>\$4.34</b>	<b>\$65.36</b>

*Source: MGT of America.*

***Privatization: Other Factors***

Cost is only one of many factors that require evaluation to thoroughly assess privatization as a strategy for additional system capacity. The relatively narrow difference between the costs of private versus public development and operation identified in our analysis underscores the fact that an informed decision on future privatization requires consideration of *all* key factors. The following section summarizes some of these factors.

***Timing***

Given DOC’s immediate need for additional capacity, the private sector’s ability to develop and open new facilities quickly is a critical factor arguing for additional privatization.

As pointed out in the capacity chapter, current and projected levels of prison system crowding make the availability of 660 new beds at CCA's Davis facility extremely attractive. DOC literally has *no other option* that would provide this number of maximum-security prison beds in fiscal 2009. As a result, we strongly recommend that the department's request for funding for this contract be funded and approved.

The long lead times involved in DOC's efforts to develop proposals for new correctional facilities, obtain funding, establish sites, design facilities and complete construction compares very poorly with the comparatively rapid process for developing private correctional facilities. Taking into account all the stages in the process, MGT estimates that DOC development of a major new correctional facility requires a minimum of three years. As the department lacks a great deal of experience in managing prison development and construction, even three years may be insufficient.

By contrast, the leading private corrections companies, CCA and GEO, have more experience in prison siting, design and construction than all but the largest correctional systems. This experience, combined with streamlined management decision-making, ready access to funding and the use of proven prototype designs all make private development significantly faster than government processes.

Some correctional systems take advantage of this speed by establishing bifurcated contracts with private prison companies. One contract is for the development and construction of a correctional facility that is subsequently lease/purchased back to the state; the other contract addresses private operation of the facility on the state's behalf. This allows correctional department to take advantage of the private sector's ability to develop facilities quickly, while mitigating any perceived risk from private operation.

### ***Managing Risk***

The proper level of privatization in a prison system has been the subject of a great deal of debate in the corrections industry. Some states have expressed concern that excessive reliance upon private contractors diminishes control of prison system funding and management.

To the extent that a system heavily depends upon private contractors and lacks credible alternatives for bedspace, management of contractors can become difficult. A case in point is DOC's experience with Cornell; the department's inability to come to terms with the contractor's demands lead to the loss of critical bedspace. Fortunately, at the time the displaced inmates could be housed at other department facilities. The loss of that number of beds today would create a crisis.

As noted earlier, with 17 percent of its prison capacity in private facilities, Oklahoma has reduced its reliance on private operators in recent years, although the state remains one of the nation's major users of private correctional facilities. Many corrections professionals argue that allocating over 1/3 of a system's bedspace to private contractors may threaten a state's ability to effectively control correctional system operations, policies, and funding. MGT found no evidence that the current level of privatization has diminished DOC's autonomy or its management authority over its private contractors. That said, we examine contract monitoring and management issues later in

this chapter. Reinforced systems for control and effective management of contractors are required allow the department to move ahead with additional privatization without undue risk.

Another strategy to manage the risk inherent in reliance upon privatization is diversification. This can take the form of relationships with multiple providers. More importantly, we recommend that DOC continue to pursue development of state-owned facilities in conjunction with future privatization initiatives. State facilities can be pursued either through conventional bond construction financing or through potential private-sector lease/purchase development.

Competition is the strongest tool DOC can use to enforce contractor compliance with state management. The availability of alternative state or contract beds can act as a powerful incentive for contractor responsiveness. To the extent that DOC increases its use of privatization, we strongly recommend the use of an RFP process to solicit competitive long-term proposals for private facilities. Such a process would significantly increase the department's leverage in securing advantageous contract terms and facilities that meet its needs.

### ***Operational Performance***

Attaining high levels of operational performance through privatization requires:

1. contract terms and requirements that establish clear, well-defined duties and responsibilities consistent with the state's expectations;
2. an effective system for monitoring contractor operations and compliance with contract terms; and
3. critical analyses of the reasons underlying good or bad contractor performance, and a willingness to apply such analysis to improve operations.

Effective management systems do not tolerate long-term poor contractor performance. Either the system identifies, corrects and follows up on contractor operating issues, or the contractor's failure to address these issues results in termination of the contract. Similarly, the department should take note of particularly successful contractor practices and apply these lessons internally and to other contractors' operations.

Contractor management of staff turnover is a good example of the need for effective management of operations across different private facilities. High turnover at private facilities can be an indicator of managerial deficiencies; furthermore, it inevitably leads to a less-experienced staff that can in turn contribute to performance problems.

**Exhibit 3-20** shows turnover rates for DOC's contractor facilities in calendar 2006.

**EXHIBIT 3-20**  
**DOC Contractor Staff Turnover, 2006**

Facility	Turnover Rate
Cimarron Correctional Facility	61%
Davis Correctional Facility	40%
Great Plains Correctional Facility	58%
Lawton Correctional Facility	95%

*Source: Oklahoma Department of Corrections.*

Note the wide disparity in turnover at the different facilities, ranging from 40 percent at Davis to 95 percent at Lawton. While the Lawton level of turnover is clearly unacceptable and likely to affect facility performance, DOC also should consider how Davis manages turnover more effectively. To the extent that Davis' success is replicable, contract managers should identify its successful policies and practices and require their application at Lawton.

***Contract Management***

Management of private correctional bedspace is the responsibility of DOC's Private Prison Division, which manages the private prisons and contract jails, and Community Corrections Private Facilities Monitoring, which is responsible for halfway houses. The Private Prisons Division reports to the associate director of Field Operations, while the halfway house contracts are managed by a three-person unit reporting to the deputy director of Community Corrections. Because these units operate independently, MGT reviewed contract management at each separately.

***Private Prison Contracts***

DOC reviews private prison contracts internally before submitting them for formal approval by the Board of Corrections, Department of Central Services and State Attorney General. MGT reviewed DOC's contracts with both CCA and GEO. The contracts are essentially identical except for the compensation terms.

*Term of Agreement:* all contracts cover a five-year period, with an initial one-year period and four one-year renewal options.

The CCA contracts originally were for Cimarron, a 500-cell (960-bed) adult male medium-security facility in Cushing, and Davis, a 500-cell (960-bed) adult male medium-security facility in Holdenville. The Cimarron facility has since increased capacity to 960 medium- and 72 minimum-security inmates, while the Davis facility has increased to 960 medium- and 50 minimum-security inmates. The GEO contract is for a medium-security facility at Lawton with a current capacity of 2,526. All of the contracts provide that the number of beds under contract may be expanded by mutual consent of the parties, with the pricing to be negotiated.

*Option to Purchase:* Both the CCA and GEO contracts give the state the option to purchase the facility at “fair market value.”

*Termination for Convenience:* The GEO and CCA contracts permit either party to cancel the contract for “convenience.” This is unusual; the more common industry practice is to require a contractor to show cause for termination of a contract. Cornell most recently exercised this clause in canceling its contract with the department in 2007. “Termination for convenience” does, however, give the department useful leverage in dealing with contractors, in that it provides an effective, if blunt, answer for poor performance or non-responsiveness.

*Inmate Housing:* All contracts give the vendor the option to rent beds to other jurisdictions if Oklahoma does not use any portion of the beds for a continuous period of 30 days. Oklahoma can reserve these beds, but after 15 more days, will have to pay for the beds whether they use them or not.

*Medical Co-Payment Plan:* All contracts provide that money received in connection with any medical co-payment plan shall be reported monthly, and will be retained by the contractor for defraying medical expenses or for placement in the Inmate Welfare Fund.

*Inmate Commissary:* All contracts allow commissary items to be priced to cover the cost of inventory, taxes, commissary personnel and commissary utilities. The GEO contract specifies that the facility commission cannot exceed 12 percent, but the CCA contract does not. In all contracts, any surplus funds remaining after expenses and commissions must go to the Inmate Welfare fund.

*Discipline and Grievances:* All contracts allow the vendor to establish disciplinary and grievance procedures consistent with ACA guidelines, but reserve the final appeal of grievances to the state. Any time computations involved must be approved by the contract monitor.

*Use of Force, Notification:* All contracts require adherence to departmental policy and require the vendor to loan tapes documenting use of force to the department, but forbid the copying of videotapes.

*Inmate Activity:* All contracts require a minimum of 80 percent of eligible inmates to be “productively occupied” outside of their living quarters for at least 30 hours per week, excluding meal times, count times and routine institutional functions, in work, educational, vocational or rehabilitative programs.

*Drug Testing:* All contracts require at least 5 percent of inmates to be drug-tested each month.

*Inmate Programs:* All contracts use the LSI and ASUS assessment tools to assess appropriate classification placement.

*Compensation:* in the *Cimarron Correctional Facility* fiscal 2008 renewal, DOC agrees to pay a base per diem rate of \$46.70 plus 60 cents for additional medical services, for a total of \$47.30 per inmate. This rate reflects a fiscal 2006 per diem increase of 88 cents and a fiscal 2007 per diem increase of \$2.23. The contractor agrees to a per diem reduction of 42 cents per inmate in months in which the monthly average daily population is at least 1,011 inmates. Furthermore, H.B. 1105 added an additional 5 percent per diem increase, or \$2.34 per inmate per day, effective

July 1, 2007. This is a performance-based increase, contingent on the contractor maintaining a satisfactory performance evaluation. If the contractor fails to perform satisfactorily or fails to cure any deficiency, the per diem returns to the prior level.

For the *Davis Facility*, the FY 2008 per diem is \$46.06 plus 60 cents for additional medical services, for a total of \$46.66; a per diem reduction of 42 cents applies if the average daily population for the month is at least 990 inmates. DOC has asked the contractor to maintain 240 beds in one unit as a chemical dependency therapeutic unit. This increases the per diem payment by 40 cents per month for any inmates in this unit.

For the *GEO Lawton Facility*, the fiscal 2008 renewal sets per diem at \$43.57, with a reduction of 40 cents if the monthly average daily population is at least 2,475 (out of a 2,526 maximum). The original contract provided for a 306-bed chemical dependency therapeutic unit at a cost of 42 cents per inmate-day, spread over the entire population. The contractor also agreed to provide a 306-bed protective custody unit at a cost to the department of 56 cents per inmate-day, again spread over the entire population.

*Contract Monitor:* All contracts state that the contract monitor has the right to audit the contractor and charge them for such annual and statutory audits. The CCA contracts cap this cost at \$7,000 per facility per year; no such cap appears in the GEO contract. This clause appears to have been used in the past as an informal sanction or penalty to assist in enforcing compliance with contract terms.

*Breach & Remedies:* All contracts use a Table of Liquidated Damages, a standard approach found in many private prison contracts. The contracts also give vendors 45 days to cure any documented breach of contract. This too is a fairly standard clause.

### ***Community Corrections Contracts***

The *Bridgeway* contract is for 99 or fewer inmates; the *Riverside* contract is for 150. The contracts have many similarities. Both provide for adherence to DOC policies and cleanliness, inmate misconduct and grievance procedures. The contractor, as in the private prisons, configures the sentence time calculation in accordance with departmental policy. Both contracts require the re-classification of the inmates upon receipt of disciplinary action.

*Staffing:* The *Bridgeway* contract requires one employee for each 50 clients throughout the 24-hour day. The *Riverside* contract requires one employee for every 60 clients between the hours of 8:00 a.m. and 9:00 p.m. and one for every 100 clients between the hours of 9:00 p.m. and 8:00 a.m. Both contracts note: "Case management staff is not considered security for the purpose of this section. Staffing patterns and a current list of all employees and positions will be made available upon request to the Contract Administrator." Most such contracts specify a staffing pattern and hold the vendor accountable for complying with the plan.

*Inmate Management:* The contracts require the department to provide notice to the contractor before conducting any searches or shakedowns of the facility:



The host district, with the approval of the deputy director, will conduct searches/shakedown of the contract facility. The DOC shall give twenty-four (24) hours notice to the authorized facility designee prior to any organized shakedown. The host district shall ensure the only areas are searched are those which house DOC clients.

Most states reserve the right to conduct inspections or searches of contract facilities unannounced, at any time.

Use of Force and Escape clauses seem reasonable and require the contractor to adhere to DOC policies.

Visitation standards also require adherence to DOC policy. The Bridgeway contract permits an extra two-hour family visit during the week; the Riverside contract is silent on this matter.

Classification and case management are governed by DOC policy and all case managers are to be trained by DOC.

Both contractors are required to assist clients in obtaining requisite documentation such as identification cards, social security cards, etc. DOC is to be reimbursed for such document costs.

*Drug Testing:* The Bridgeway contract requires testing for at least 25 percent of the population monthly while the Riverside agreement requires 10 percent monthly.

*Contract Compliance:* Both contracts require that the “Contract Administrator will audit the facility annually and any other time as deemed necessary to maintain contract workplace.... Contractor will provide the Contract Administrator with monthly reports for compliance and data gathering.”

*Payment for Services:* Bridgeway’s per diem is \$31.75. Riverside’s contract, as amended, provides \$35.71. Both contracts provided a performance-based, 2 percent per diem increase in the amount of 64 cents per client-day for fiscal 2006. The Riverside contract also provided a performance-based per diem increase of 5 percent, or \$1.62 per inmate day, for 2007; this too was based on satisfactory performance.

*Breach:* Under both contracts, the penalty for breach and final failure to cure (after several 30-day periods and by mutual agreement) is one of the following:

- withholding of per diem as liquidated damages;
- reduce the inmate count; or
- contract termination.

Nether contract offers specific penalties for failure to find work for inmates or attain targeted outcomes.

Unlike the private prison contracts, there is a significant degree of variability in the contract language for the halfway houses. Reportedly, some of the vendors were very active in negotiating contract terms, while others simply accepted DOC’s proposed contract language.

### ***Contract Monitoring***

Contract monitoring should review all aspects of the private correctional facilities to document compliance with the contract terms. The monitoring system should assess performance, identify areas in need of improvement and suggest appropriate actions.

Contract terms, however, cannot cover every conceivable aspect of correctional facility operations. Performance can still be substandard in a facility that is in formal conformance with policy or contract terms. Monitoring systems must have sufficient flexibility to address issues that may not be addressed in contract language, but still have a significant bearing on contractor performance.

DOC has a highly developed and sophisticated system of contract monitoring for both private prisons and community facilities. The department's long involvement with privatization has produced substantial internal expertise in the management of these contracts.

Each week, monitors inspect institutional hygiene, security and staffing to assure contract compliance, and meet with wardens to discuss the resolution of any problems. They also conduct detailed security inspection audits on a quarterly basis, and review all Serious Incident Reports.

When contract monitors identify a contract violation at a private prison, DOC employs the following protocol:

- The monitor meets with the warden to resolve the problem.
- If the problem is not resolved, the monitor sends a written report to the contract administrator.
- The contract administrator contacts the appropriate corporate contact to obtain compliance.
- If the situation still is not resolved, the contract administrator initiates the liquidated damage process with a formal letter to the corporation, giving them a time period to cure the contract violation.
- The contract administrator also checks with DOC's legal division regarding the contract provisions.
- The contract administrator contacts the associate director of Field Operations and the DOC Director to discuss the issue.
- The problem is submitted to the Executive Committee, which makes a determination regarding the assessment of liquidated damages.

The enforcement of liquidated damages provisions, however, is extremely rare and time-consuming. DOC's process is somewhat cumbersome in that it requires multiple levels of consideration by executive staff. The amount of time associated with this process is a definite disincentive to the use of liquidated damages as a contract management tool.

Instead, it appears that DOC administrators have used more informal sanctions in response to contract breaches. These measures have included additional contract audits (which are the financial responsibility of the vendor) and adjustments in a facility's population level. As system crowding worsens, however, the flexibility to reduce population in response to problems diminishes significantly.

The failure to use liquidated damages effectively is a serious problem with DOC's contract management process. It has eroded the credibility of the contract monitoring system, and ultimately could impair DOC's capacity to hold contractors accountable. A request to invoke liquidated damages should simply require a review by one associate director, with final approval by the director.

Contract monitoring for the halfway house and community program is also hampered somewhat by the lack of standardization among the contracts. Customized contracts for each vendor make consistent monitoring problematic. While the contract terms need not be identical, there should be core issues and standards common to all of these contracts, to provide a foundation for improved monitoring.

MGT also questions the utility of maintaining separate units to manage the private prison contracts and halfway house contracts. While specific contract terms may differ between the two programs, the work processes of contract monitoring are very similar. The halfway house program, in particular, could benefit from additional staff resources made available through a consolidation of the two units. Given the fact that contract monitoring is a purchasing function, we recommend that both units be consolidated under the associate director of Administrative Services.

### ***Summary of Recommendations***

DOC has made very effective use of private correctional capacity in managing its growing population. Contract rates are extremely competitive, and play an important role in holding down department costs. Our analysis indicates that the difference in cost between state and private operation of correctional facilities is relatively narrow, once differences in facilities, missions and operations are taken into consideration. Contract terms and monitoring systems are well-designed. Problems in contract management appear largely in the area of enforcement, where DOC's process for enforcing sanctions is an impediment to effective contract management. MGT makes the following recommendations:

***Recommendation 3-19. Pursue additional privatization opportunities to obtain additional correctional system capacity quickly.*** DOC should contract with CCA for the new 660-bed maximum-security unit at Davis to address its immediate maximum-security bed needs.

***Recommendation 3-20. Develop a RFP process to encourage competition for the development of additional private capacity.*** To the extent the department invests in more private prison capacity, a formal RFP process that establishes the parameters for the type of facility required will better meet the needs of the department, while maximizing vendor competition.

**Recommendation 3-21. Divide future private prison contracts into separate agreements for building leases and facility operation, provided that such arrangements are financially advantageous.** Such arrangements substantially reduce the state's risk in privatization.

**Recommendation 3-22. Consolidate management of private prison and halfway house contracts into a single unit reporting to the associate director of Administrative Services.** This will enhance consistency in management across of all of the private facility contracts.

**Recommendation 3-23. Continue to refine standardized criteria for monitoring private prisons.** Monitoring criteria should be revised periodically to address operational quality issues that develop over time and department priorities. Regular change in monitoring instruments and criteria help keep monitors effective and attuned to emerging contract issues.

**Recommendation 3-24. Establish core criteria for monitoring community programs and jails that address common issues such as security, hygiene and classification, while allowing for individual criteria that address concerns specific to a facility contract.** Contractors should be treated uniformly and held accountable against the same standards. Current community center and jail contract monitoring is much less developed and effective than the private prison contract monitoring system.

**Recommendation 3-25. Streamline the process for assessing liquidated damages to ensure that it provides a credible incentive for performance.** Effective enforcement of contract provisions requires timely response to serious issues. A request to invoke liquidated damages should require review only by the associate director of Administrative Services and a final approval by the director to expedite the process.

**Recommendation 3-26. Standardize community correctional center contract provisions.** Contracts should feature standard provisions, requirements, and terms to assure that all contractors are accountable for operating consistently and meet the same contract requirements.

**Recommendation 3-27. Contracts should include language authorizing department review and inspection of contractor operations at any time.** Most states reserve the right to conduct inspections or searches of contract facilities unannounced, at any time. Such inspections are a vital element of any program to effectively monitor vendor compliance with contract terms.

**Recommendation 3-28. Department contracts should not allow vendors to terminate contracts for convenience.** Vendors should be held to contracts unless they can show cause for contract termination. This is necessary to protect the interests of the department.



## ***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
	<b>467</b>		<b>73%</b>
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
<b>Base</b>	<b>231</b>		<b>84%</b>
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
<b>Scored Level</b>			
Minimum	318	68%	89%
Medium	104	22%	36%
Maximum	45	10%	49%
<b>Final Level</b>			
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
<b>Scored Level</b>			
Minimum	197	85%	93%
Medium	30	13%	30%
Maximum	4	2%	25%
<b>Final Level</b>			
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	%
<b>Base</b>	<b>467</b>		<b>231</b>	
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.

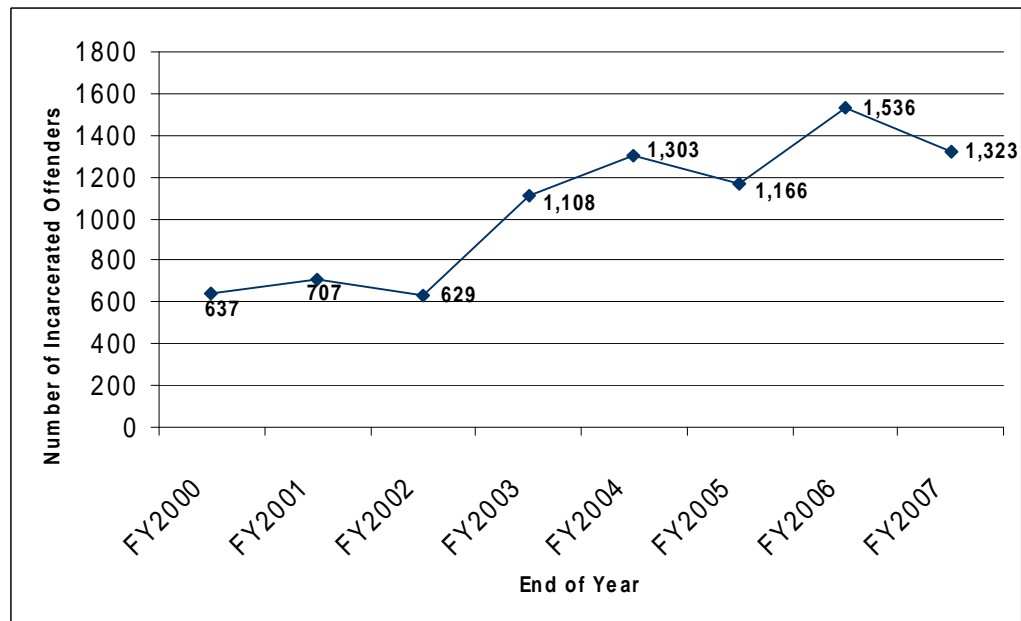
***Recommendation 4-5. The use of maximum custody for the female population should be discontinued.*** Highly disruptive and dangerous females are extremely rare and are best housed in a single high-control unit, under administrative and disciplinary segregation.

## 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:

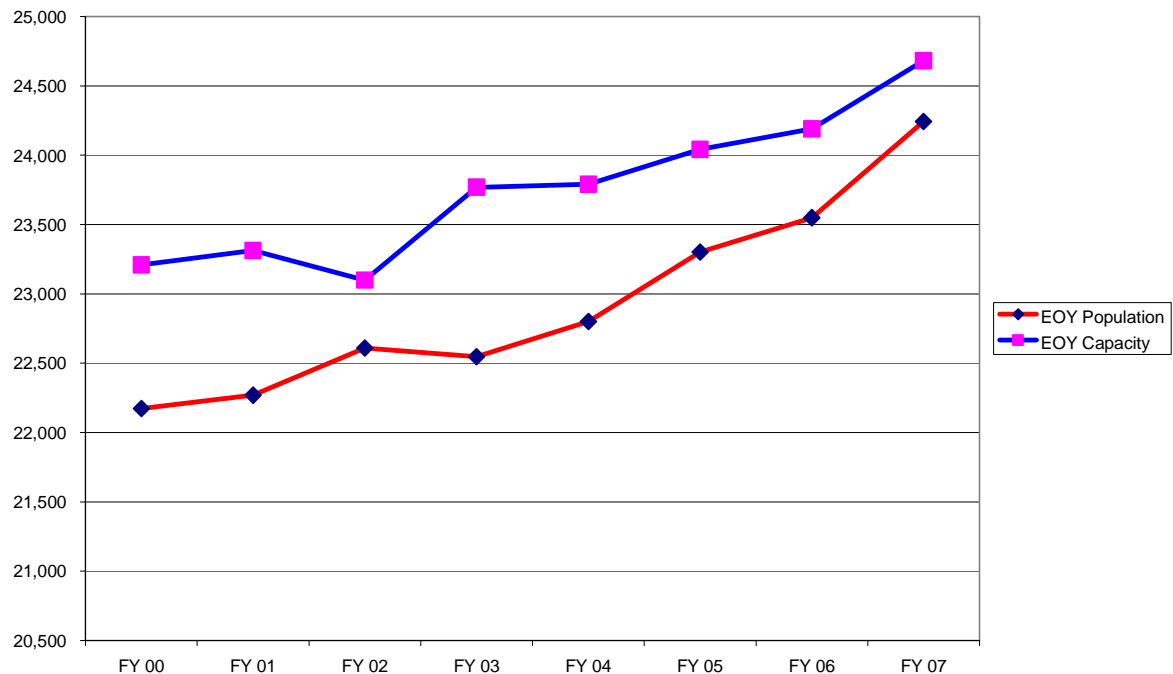
- 23 of the state’s 66 county jails (34 percent) held less than five inmates awaiting transfer.
- 13 of the 66 jails (19.6 percent) held more than 25 inmates awaiting transfer.
- Oklahoma and Tulsa counties accounted for 23 percent of the backlog.
- with an estimated total statewide jail capacity of 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.

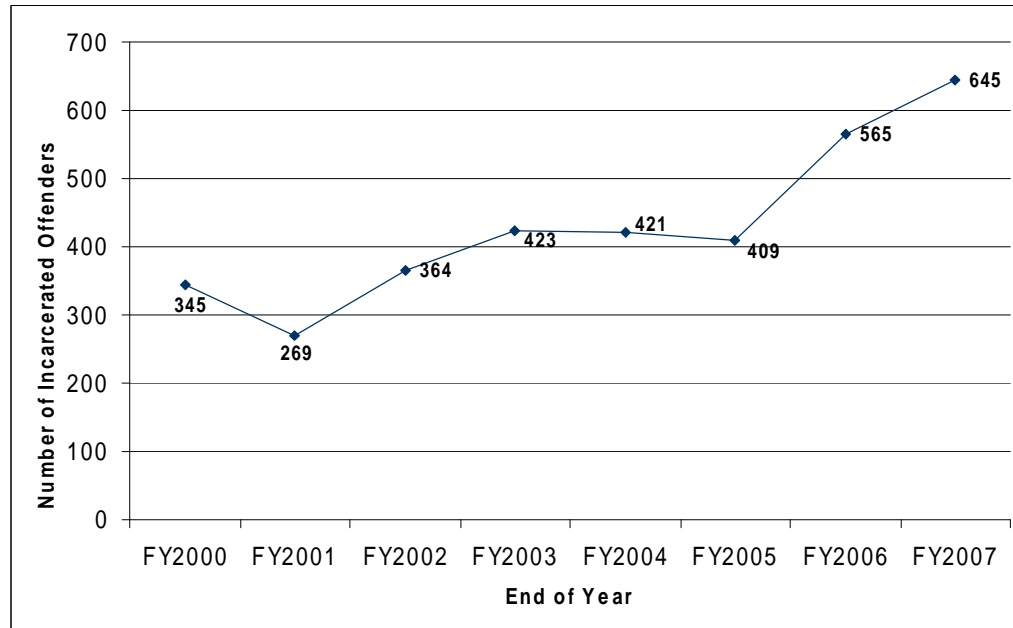
### ***Contracted Jail Beds***

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***

## 5.0 COMMUNITY PROGRAMS

### Oklahoma Drug Courts

#### *Background*

MGT's review of the Oklahoma Drug Court (ODC) system was based primarily on data provided by Oklahoma's Department of Mental Health and Substance Abuse Services (MHSAS), which funds the ODC system. These data concerned offenders admitted to and released from ODC since fiscal 2002.

Due to privacy concerns, MHSAS did not allow MGT to review the case files, but instead provided us with its own analysis of the pertinent data. While the drug court staff was extremely helpful and cooperative, any subsequent study of this program should be allowed to analyze the files directly, to expedite the process and ensure an independent assessment.

The review team received valuable data from the Oklahoma Criminal Justice Resource Center (CJRC), which maintains data files on DOC prisoners, and also considered data from other U.S. drug court systems. The team conducted on-site observations at the Oklahoma, Tulsa and Payne county drug courts, and reviewed practices at 10 other courts around the state through interviews with employees of DOC, the drug courts, law enforcement and district attorney's offices. These locations represented all six DOC probation and parole districts.

According information provided by MHSAS and the Oklahoma Criminal Justice Resource Center,<sup>1</sup>

Drug Court is a district court supervised substance abuse treatment program that offers nonviolent, felony offenders an opportunity to return to the community as productive members of society instead of being incarcerated in prison.

Drug Court is made up of a team that includes a district court judge, district attorney, defense counsel, coordinator, substance abuse treatment provider, and law enforcement...

An individual enters Drug Court by pleading guilty to a specific charge and specific punishment—prison time. Reception to prison is delayed pending a contractual agreement between the Drug Court and offender, who agrees to program rules and sanctions. In exchange for successful completion of the treatment program, the court usually dismisses the original charge. However, for repeated noncompliance with the program, an individual is swiftly terminated from the program and sent directly to prison.

Like all drug court systems, ODC is designed to divert some offenders from prison. Oklahoma's system, however, has two features that that set it apart from its counterparts in other states.

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<sup>1</sup> Oklahoma Criminal Justice Resource Center, Oklahoma Statistical Analysis Center. *Analysis of Oklahoma Drug Courts: Fiscal Years 2002-2003*. By NNcy Warren, Lorrie Byrum, Kristy Spiczka, Bill Chown, and Carol Furr. Oklahoma City, Oklahoma, January 2004, page 1. <http://www.ocjrc.net/pubFiles/Drug%20Court/DCreport0203.pdf>

First, the program’s stated intent is to accept only persons who, had the drug courts not existed, would have received a significant prison term. Most other U.S. drug courts do not explicitly target prison-bound defendants.

Second, offenders who fail to complete the drug court program *must* serve a lengthy prison term (**Exhibit 5-1**). About 92 percent of persons admitted to the ODC program have pled guilty to an offense carrying a prison term. This requirement is intended to give offenders a powerful incentive to succeed, and to encourage full compliance the program’s rules.

ODC’s structure and requirements make it clear that if the drug courts do not produce high success rates among this population, they will not be cost-effective and instead may increase the department’s costs.

Oklahoma initiated its drug court system in 2002. At the time of MGT’s review, 47 counties were participating in ODC, and nearly 7,300 persons had been admitted to the program (**Exhibit 5-1**). In fiscal 2007, the program had a funded capacity of about 4,000 and admitted nearly 2,000 offenders; two years before, its funded capacity was 1,500.

**EXHIBIT 5-1**  
**Profile of the Oklahoma Drug Courts**  
**Fiscal 2002-2007**

Attribute	Number
Counties Participating	47
Number of Drug Courts	36
Admissions FY 2002-2007	7,254
Admissions FY 2007	1,960
Capacity FY 2007	4,026
Releases FY 2002-2007	3,504
% Successful	58%
Overall Length of Stay in Program	17 months
Successful Terminations	20 months
Unsuccessful terminations	13 months
Delayed Imposed Sentence	
Prison	92%
Suspended Prison Sentence	2%
Split Sentence	3%
Other	3%

*Source: Oklahoma Department of Mental Health and Substance Abuse Services.*

Because some participants stay in the drug court program for as long as two years, many enrollees have not yet left the program. MHSAS reports that, as of October 2007, 3,504 inmates had left ODC; about 58 percent of these successfully completed the terms of the program. An earlier review of the program, ending in fiscal 2004, showed a higher success rate of 67 percent. But recent offenders admitted to the drug court program have had a higher number of prior arrests and convictions than their predecessors, so the average success rate is unknown and probably will remain so a year or two.

MGT's analysis of the 3,504 reported program terminations indicates that these inmates spent an average of 17 months in the program. Those who completed the program successfully—receiving a dismissal of their charges spent an average of 20 months in the program, while those who did not averaged about 13 months.

The 58 percent success rate reported by MHSAS was lower than those reported by the National Drug Court Institute (67 to 71 percent) of their analysis of drug courts nationally, but the earlier 67 percent rate for those who completed the program before 2004 fell within the average national range. Any comparisons of this nature, at any rate, are somewhat suspect due to differences in local populations.

### *Screening and Intervention*

Based on the review team's direct observations and interviews conducted throughout the state, MGT produced the following general description of the screening and intervention process. It was clear that there are variations in this procedure among the various counties, but this description is typical for the majority of drug courts reviewed.

*Identification and Application:* Potential participants usually apply for admission through their attorneys early in the court process. Individuals can be referred to the drug court program at any point in the process, however, if treatment seems an appropriate response. The drug court coordinator completes basic background and application documents that profile the offender and the charges he or she faces. This information then is forwarded to the district attorney for review.

*Eligibility and Admission:* To be eligible for the drug court program, the defendant must be charged with a nonviolent felony offense, with a higher priority placed on prison-bound defendants. (MHSAS has penalized counties that admit too many first offenders through reductions in their drug court grants.)<sup>2</sup>

According to ODC personnel, the drug courts rarely reject applicants approved by a district attorney, but DAs sometimes reject applicants a drug court team wants to include. The criteria for inclusion or exclusion, beyond legal eligibility, vary by county and by district attorney.

Once approved by the district attorney, individuals are immediately assessed to determine their treatment needs and other program and service priorities. In Tulsa and Oklahoma City, these assessments are performed by independent contractual assessment agencies, allowing for swift response and objective judgments of appropriate treatment.

Once approved for the program, the offender must plead guilty to a specific charge and agree to a deferred or delayed prison sentence. In fiscal 2006, the average length of time between application and admission to the drug court program was 39 days.<sup>3</sup>

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<sup>2</sup> Wright, David, Ph.D. Director of Research, Oklahoma Criminal Justice Resource Center. Interview, Oklahoma City, Oklahoma, August 30, 2007.

<sup>3</sup> Oklahoma Department of Corrections, Tulsa County District Community Corrections, Probation and Parole. MHSAS Annual Report 2006, page 2.

*Drug Court Team:* The drug court team includes the district judge, a drug court coordinator, an assistant district attorney, a public defender, law enforcement personnel and one or more treatment providers. In smaller county programs, the drug court coordinator may also be the treatment provider and/or a private provider of community supervision. Probation programs partner with some but not all drug courts. In some courts, the police are partners and may serve as the community supervision agent.

MHSAS drug court funding supports the drug court coordinator and the treatment provider(s). All other partners' participation is funded by their own agency budgets. This funding approach has greatly affected DOC caseloads in that this program has increased the number of offenders that the DOC staff is required to supervise, without the support of additional funding. As noted elsewhere in this chapter, the legislature has authorized the hiring of 50 additional probation and parole officers (PPOs) to improve caseloads, but departmental appropriations levels have not been increased to fund these positions. The legislative expectation is that the department would fill these positions through available resources generated by savings created by turnover, vacancies, unexpended funds from other lines, etc. The funding of these positions totals \$2,599,000.

It is important to note that the level of effort and intensity of supervision associated with the drug court is very high, far exceeding not only that normally provided for offenders of this type, but to offenders with much higher risk levels as well.

For example, in Oklahoma City, about 400 offenders participate in the program at any time. Court team members are involved in the staffing and monitoring of the offender case for as many as three full days each week, in addition to their other responsibilities. The number of weekly contacts that drug court and DOC probation staff or other supervision providers have with the offenders far exceeds that for any other offender population in Oklahoma.

*Program:* The drug court team reviews each case, meets each participant and orients him or her in the program. The participant must begin counseling within 48 hours of admission, submit to urinalysis six to eight times per month, attend group and individual treatment sessions and attend three Alcoholic Anonymous meetings a week.

There are five major phases to Oklahoma's drug court program (with some local variations):

- Phase I lasts for about six weeks; it requires weekly court appearances and is intended to stabilize the participant and make them accustomed with drug court routines and expectations.
- Phase II is about two months long and focuses on employment and educational activities. The participant reports to court every two weeks during this phase.
- Phase III is generally the longest, lasting for about six months, and focusing on changing behaviors, relationships and thinking patterns.
- Phase IV lasts for about four months and focuses on maintaining the changes begun in Phase III.
- Phase V, or Aftercare, reduces the intensity of monitoring and reporting as the individual advances to graduation.

*Incentives and Sanctions:* In a best-case scenario, a cooperative drug court client could finish the program in about 13.5 months. Most participants, however, face challenges along the way that require court intervention. Common problems include positive, missed or adulterated drug tests and missed treatment sessions.<sup>4</sup>

Instead of revoking the participant's probation, the courts make use of a series of graduated sanctions, including judicial admonishment, jail time, community service, increased attendance at self-help meetings and more frequent drug testing. The courts also offer rewards and incentives for good behavior, such as praise from the judge, gift certificates, candy, applause and looser reporting requirements.

*Local Variations:* The two counties with the largest drug courts, Tulsa and Oklahoma, use DOC probation officers as part of the drug court team. Not all counties use probation officers, however; in some counties, the drug court coordinator makes home visits and performs other supervision duties. MGT asked some counties that do not include probation officers in the ODC program why they do not; some couldn't explain why, other than "that's how it's always been." Some believe that probation workers do not want to be involved; still others believe that this alternative supervision approach better serves the needs both of public safety and the participants.

Another significant variation from general practice involves Rogers County, which uses a brief stay in prison as one of its sanctions for noncompliance. The Rogers County judge sends poorly performing participants to prison for stays of between four and 12 months, and then brings them back to court for a judicial review. If the offender has behaved well in prison, the judge will vacate the prison sentence and return them to the drug court program. This sanction usually is applied to eight to 10 individuals annually out of an average of 120 participants in the program at any given time.<sup>5</sup>

Another variation that certainly should be standardized statewide is the use of the drug court program as an intermediate sanction for probation violations on other charges. Most violations of probation appeared to involve failed drug tests. ODC participation is used extensively as a sanction in Oklahoma and Pittsburg counties, and is used elsewhere to a lesser degree. The use of this option produces participants that were in fact likely to be prison-bound, as the program's priorities prefer.

*Absconders:* Absconders remain listed as enrolled in ODC until they are returned to court on a warrant for a final disposition. Depending on the circumstances, the drug court team may decide to reinstate the participant in the program.

According to MHSAS, only 4 percent of drug court participants are "absent" at any given time. Data from the DOC probation office, however, shows a considerably higher absconder rate—24 percent—for Oklahoma County.<sup>6</sup> Other county programs MGT spoke with did not know their absconder rates. When asked how they deal with absconders, the drug courts generally said that, barring the commission of a new and serious offense, most were readmitted to the program and allowed to resume participation, with some limited sanction applied.

<sup>4</sup> Tulsa County, MHSAS Annual Report, 2006, page 2.

<sup>5</sup> Condren, Sheila A., Associate District Judge, 12th Judicial District, Rogers County, Oklahoma. Telephone interview, September 17, 2007.

<sup>6</sup> Oklahoma Department of Corrections, Central District Community Corrections. Annual Report 2005-2006, page 6-7.

### *Profile and Analysis of Drug Court Admissions*

As noted earlier, MHSAS provided MGT with an analysis of drug court admissions and releases. As shown in **Exhibit 5-2**, persons who have been admitted to and discharged from drug court since 2002 were primarily white (67 percent) and male (57 percent). The significant number of females admitted to the program, however (43 percent), raises immediate questions regarding the extent to which ODC truly is diverting prison-bound offenders, since females represent less than 10 percent of all Oklahoma prison admissions.

The primary drugs being abused by ODC participants are methamphetamine, alcohol and marijuana. Tulsa and Oklahoma counties are the largest contributors to the program.

**EXHIBIT 5-2**  
**Characteristics of Persons Admitted to and Completing Drug Court**  
**Fiscal 2002 to 2007**

Attribute	%	Attribute	%
<b>Gender</b>		<b>Prior Felony Convictions</b>	
Male	57%	None	37%
Female	43%	One	22%
<b>Race</b>		Two or more	41%
White	67%	<b>Drug Of Choice</b>	
Black	15%	Alcohol	27%
Native American	17%	Cannabis	20%
Other	1%	Methamphetamine	32%
<b>Average Age</b>	33 years	Cocaine	14%
<b>Controlling Offense</b>		Other	7%
Possession of CDS	51%	<b>Primary County</b>	
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%
<b>Prior Arrests</b>		Wagoner	5%
None	22%	Rogers	4%
One	18%	Seminole	4%
Two or more	60%		

*Source: Oklahoma Department of Mental Health and Substance Abuse Services.*

The most common charges offenders faced at the time of screening for ODC were possession of a controlled substance (51 percent) and DUI (21 percent). Seventy-eight percent of those admitted to the program had prior arrests; 63 percent had prior felony convictions. The share of program participants with prior felony convictions has increased steadily since 2002 (**Exhibit 5-3**).

**EXHIBIT 5-3**  
**Percent of Drug Court Admissions with a Prior Felony Conviction**

Fiscal Year	No Priors	1+ Priors
2002	46.4%	53.6%
2003	41.3%	58.7%
2004	28.8%	71.2%
2005	29.5%	70.5%
2006	28.6%	71.4%
2007	26.9%	73.1%

*Source: Oklahoma Department of Mental Health and Substance Abuse Services.*

These data provide strong evidence that ODC is actually diverting some persons from prison. **Exhibit 5-2** also shows, however, that a significant share of ODC participants had no prior arrests before entering the program (22 percent for fiscal 2002 through 2007) or prior convictions (37 percent over the same time period). Forty-one percent of those admitted had two or more prior felony convictions; it would be reasonable to assume that these people are likely candidates for prison. On the other hand, participants with no prior felony convictions are unlikely to represent true prison-bound offenders. MGT will use the proportions in **Exhibit 5-2** to calculate the program's costs and benefits of the program.

The data also reflect considerable variation among counties (**Exhibit 5-4**). In some counties, all or most of those admitted to ODC had at least one prior felony conviction (Caddo, Carter/Love, Oklahoma, Payne and Washington) while others had no participants with prior felony convictions (Comanche and Cotton) or very few (Okfuskee, Creek and Okmulgee). In general, then, some courts are clearly succeeding in targeting prison-bound persons, while others are not.



**EXHIBIT 5-4**  
**No Prior Felony Conviction by County,**  
**Fiscal 2007**

<b>Court</b>	<b>No Priors</b>	<b>% of Total</b>
Beckham County	3	14%
Bryan County	17	37%
Caddo County	0	0%
Carter/Love Counties	0	0%
Cherokee County	19	45%
Cleveland County	20	43%
Comanche/Cotton Counties	18	100%
Craig County	4	31%
Creek County	66	71%
Delaware County	7	30%
Garfield County	17	55%
Garvin/McClain Counties	2	9%
Grady County	0	0%
Hughes County	9	60%
Jackson/Greer/Harmon/Kiowa/Tillman Counties	18	55%
Johnston/Marshall/Murray Counties	11	33%
Kay County	4	31%
LeFlore/Haskell/Latimer Counties	7	15%
Lincoln County	0	0%
Logan County	3	10%
Mayes County	4	29%
McCurtain County	29	60%
McIntosh County	5	50%
Muskogee County	1	3%
Okfuskee County	16	73%
Oklahoma County	2	1%
Okmulgee County	10	67%
Ottawa County	14	42%
Payne County	2	7%
Pittsburg County	19	38%
Pontotoc County	18	18%
Pottawatomie County	9	43%
Rogers County	20	37%
Seminole County	25	45%
Sequoyah County	6	13%
Stephens/Jefferson Counties	6	25%
Tulsa Drug	43	15%
Tulsa DUI	30	45%
Wagoner County	21	33%
Washington County	1	3%
Washita/Custer Counties	13	52%
Statewide	519	27%

*Source: Oklahoma Department of Mental Health and Substance Abuse Services.*

**Success Factors**

As noted above, 58 percent of participants who have passed through the drug courts did so successfully. Upon completion, their original charges are dismissed and they have no recorded felony conviction. Persons who fail to complete the program, however, must serve their deferred prison terms, which can be lengthy.

How do program successes and failures differ? It is clear that those who succeed have improved their lives significantly. Successful graduates show an 86 percent decrease in unemployment, a 33 percent decrease in the lack of a high school diploma, a 76 percent increase in income and a 21 percent increase in participants who had children living with them.

But the main factor distinguishing successful from unsuccessful cases is employment. While 29 percent of the successful cases were unemployed at the time of completion, 46 percent of the unsuccessful cases were unemployed.

Those who fail the program are most likely to be terminated for noncompliance with the program’s rules rather than a new crime (**Exhibit 5-5**). Those dropped from the program in fiscal 2007 had an average of 4.6 violations, with the primary reasons being positive drug tests or tardiness.

**EXHIBIT 5-5  
Reasons for Terminations in Fiscal 2007**

Termination Reason	%
Total	
New Crime	34%
Program Failure	61%
AWOL	5%
Detailed Reasons for Program Failure	
Average number of violations	4.6 per person
Positive Drug Test	25%
Late for Drug Test	17%
Missed or Late for Treatment	15%

*Source: Oklahoma Department of Mental Health and Substance Abuse Services.*

Absconders are not counted in terminations, as the case remains open until the individual is returned to court on a warrant for a final disposition. As noted above, depending on the circumstances the drug court team may decide to reinstate the participant in the program.

**Effect on Prison Admissions**

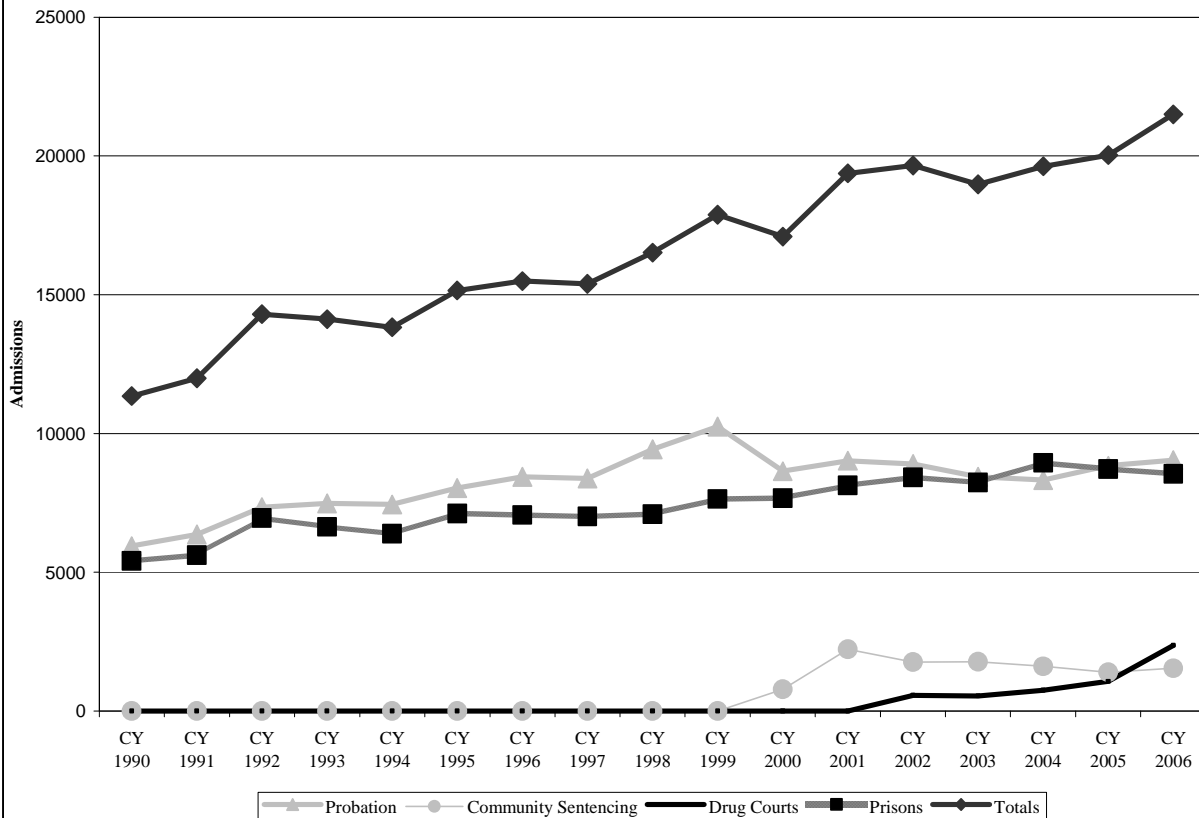
One of the major objectives of the ODC program is to divert offenders from prison. Any evaluation of the program, then, must ask whether participants would otherwise have served prison terms.

We cannot definitively establish what share of participants represents prison diversions. We can, however, examine prison admissions from before and after the 2002 initiation of the program to see if any significant shifts have occurred.

**Exhibit 5-6** summarizes admission trends for the four major dispositions Oklahoma provides for persons convicted of felony crimes—probation, prison, community sentencing and the drug courts. (It is important to include community sentencing because it also provides an alternative to prison, and predates the ODC initiative.)

The exhibit shows that the number of persons admitted to prison has not decreased since 1995. The only positive sign has been relative stability in prison admissions from 2004 to 2006. As will be noted later in this report, however, the first six months of 2007 saw a new surge in prison admissions.

**EXHIBIT 5-6**  
**Admissions to Probation, Prison, Community Sentencing and Drug Courts**  
**1990-2006**

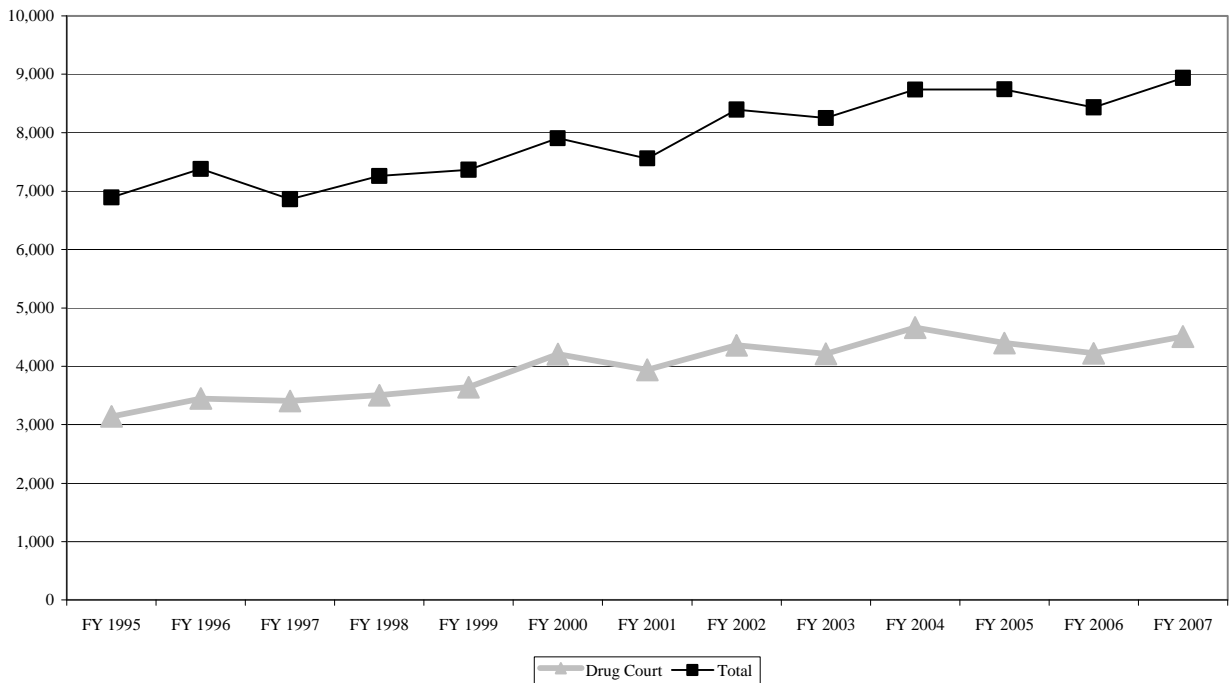


Source: Criminal Justice Resource Center.

Note also that the advent of community sentencing had little if any impact on prison admissions, but seems to have reduced the number of persons placed on probation. Generally, the number of probation admissions declined slightly as community sentences increased.

MGT also examined trends in the most common specific crimes committed by people entering ODC (**Exhibit 5-7**). Prison admissions for these five core “drug court crimes”—burglary II, DUI, drug possession, distributing controlled substances and drug trafficking—have shown no significant or sustained reduction or stabilization since the program began.

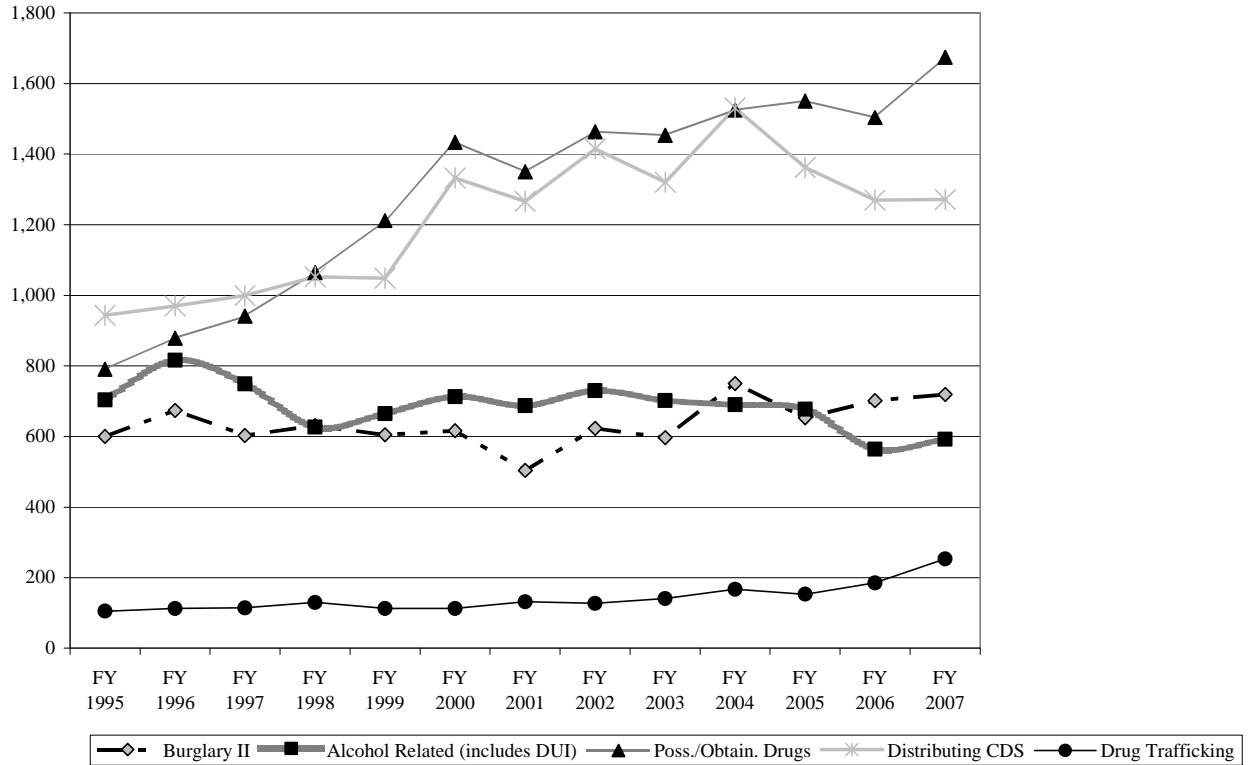
**EXHIBIT 5-7**  
**Prison Admissions by Drug Court and Other Offenses, Fiscal 1995-2007**



*Source: Criminal Justice Resource Center and MGT of America.*

**Exhibit 5-8** examines admissions for each of the major drug court crime categories and shows significant reductions in prison admissions only for the crimes of DUI and distribution of a controlled substance.

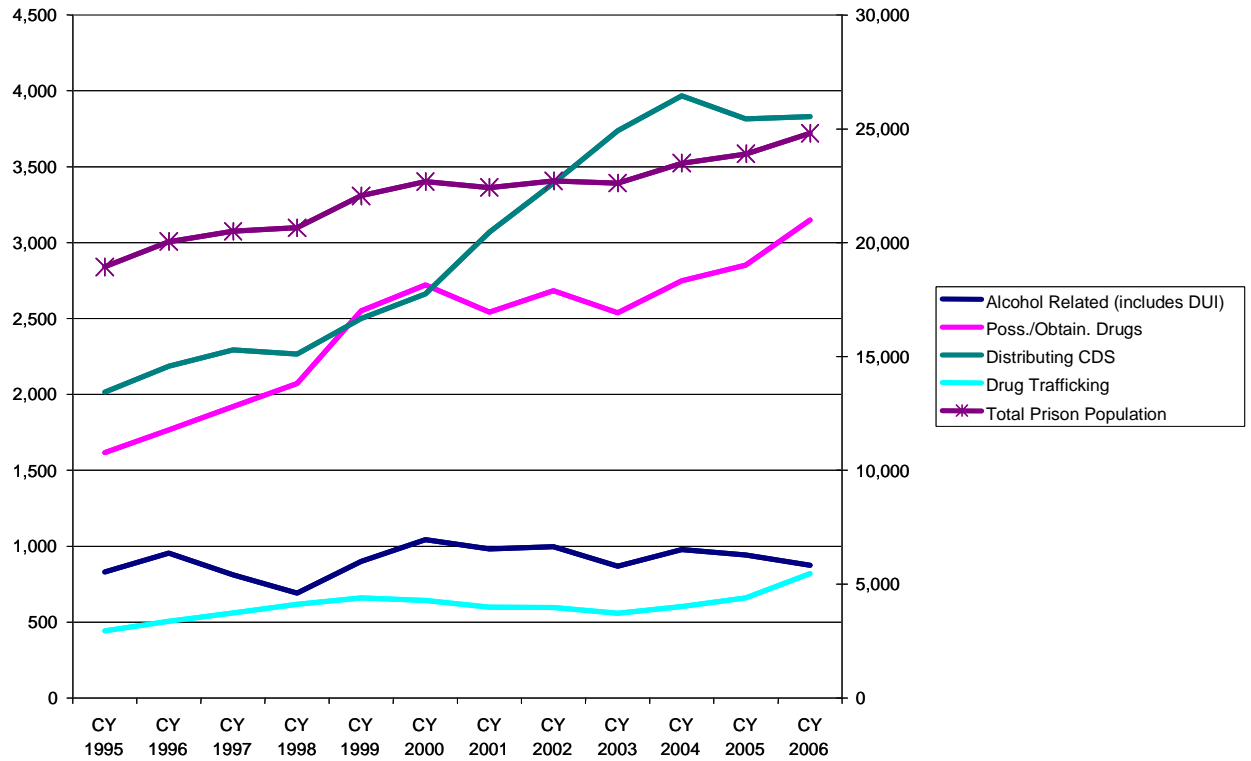
**EXHIBIT 5-8**  
**Prison Admissions by Drug Court and Other Offenses Fiscal 1995 to 2007**



Source: Criminal Justice Resource Center and MGT of America.

**Exhibit 5-9** examines changes in the prison population of persons convicted for the drug court crime categories in relation to the overall prison population. There is no significant change in the rate of increase in the total population. Again, the population attributable to the offenses of distributing controlled substances and DUI have declined in the last few years, but these declines were neutralized by increases in the other crime categories.

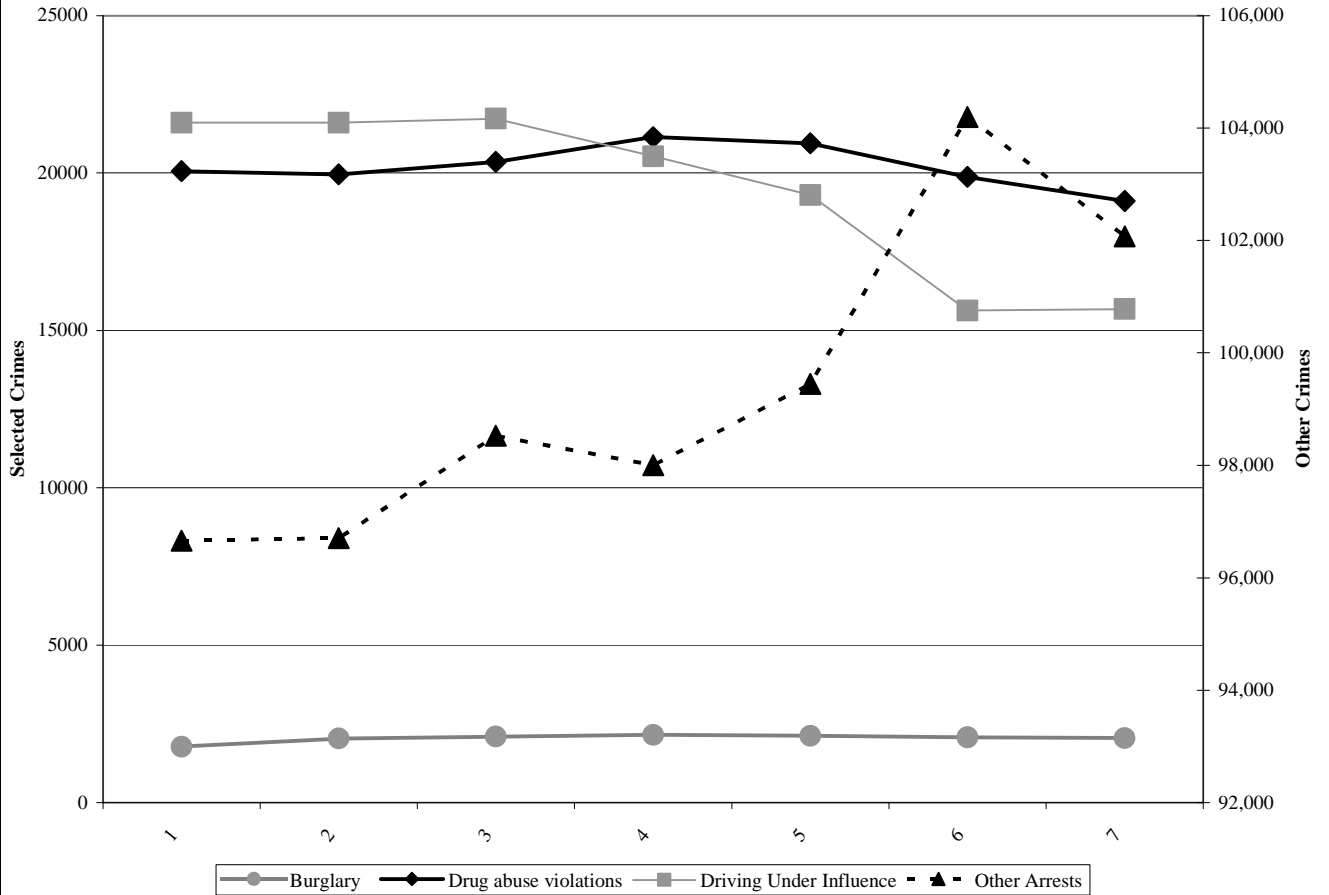
**EXHIBIT 5-9**  
**Prison Populations, 1995-2006**



Source: Criminal Justice Resource Center and MGT of America.

MGT also examined the number of arrests made for these crimes, under the theory that a surge in law enforcement activities targeting these crimes may be producing a surge in persons being processed by the courts. **Exhibit 5-10**, however, shows that arrests for drugs and DUI have declined since 2002. Arrests for all other crimes increased sharply until 2005, when a similar decline occurred. In all, then, it does not appear that any surge in arrests for ODC-related crimes occurred that would suggest that prison admissions would be even higher in ODC's absence.

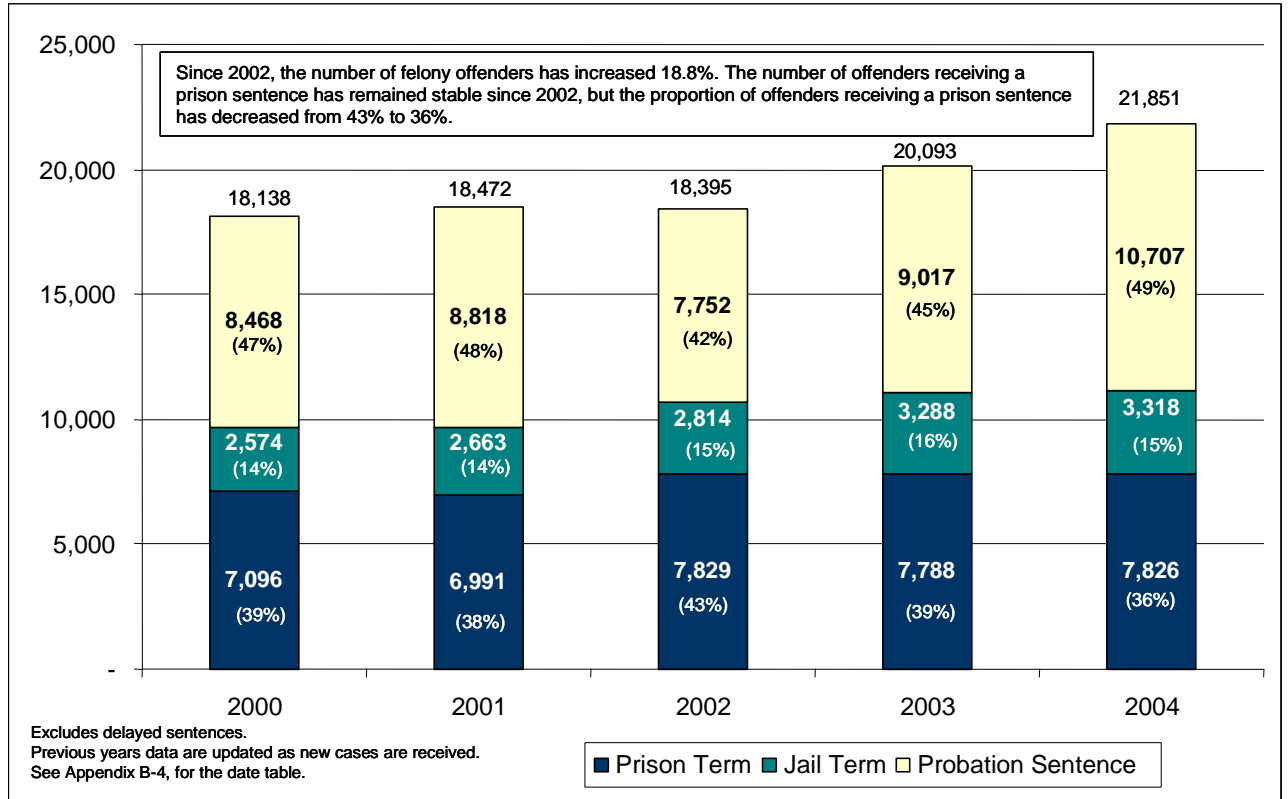
**EXHIBIT 5-10**  
**Total Arrests, Calendar 2000 – 2006**



Sources: Criminal Justice Resource Center and MGT of America.

CJRC, as a support arm of the Oklahoma Sentencing Commission, reports each year on the number and types of court dispositions by year and offense group. The most recent report covers the years of 2000 through 2004. CJRC reports fairly sharp increases in overall criminal dispositions in 2003 and 2004 (**Exhibit 5-11**). Probation dispositions increased the most, and seem to have risen at the same pace as new admissions for the drug court crimes. Since drug court cases involve delayed sentencing, however, participants are not formally convicted and thus are not part of the CJRC database. Some thousands of dispositions are pending. If an ODC participant fails the program, they are likely to receive a prison term, but if they succeed, they will not show up as a conviction in the database.

**EXHIBIT 5-11**  
**All Convictions by Sentence Type 2000-2004**

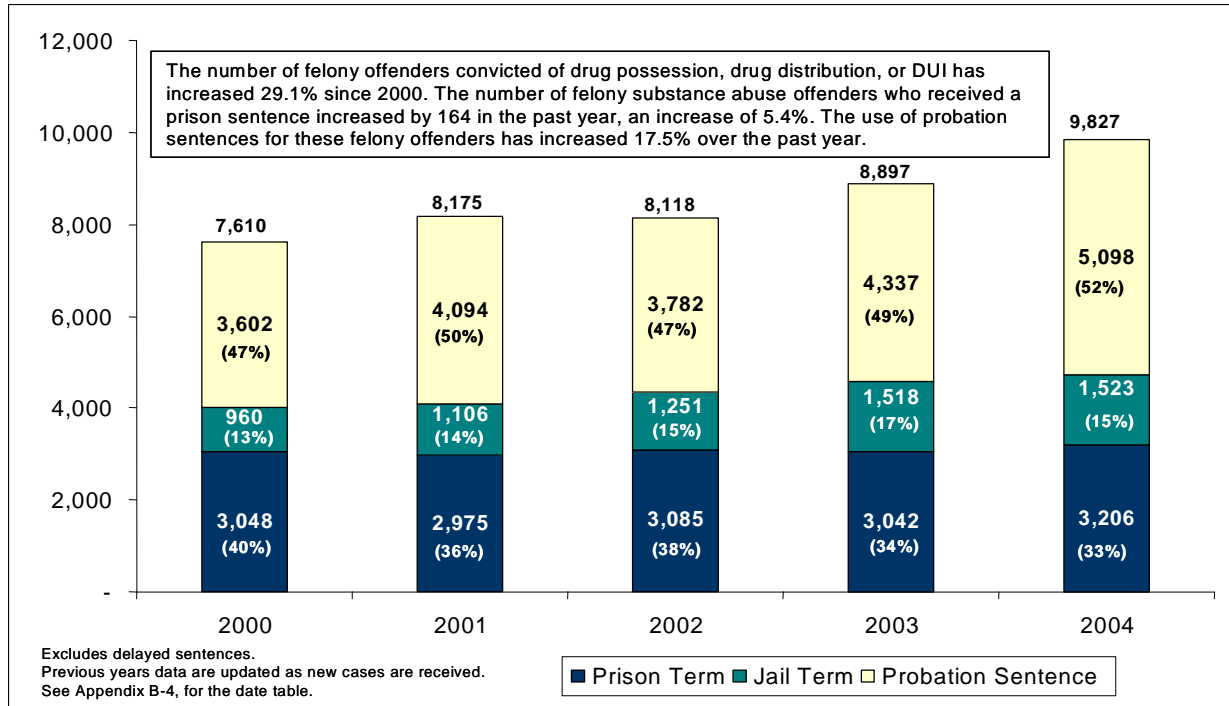


*Source: Criminal Justice Resource Center.*

In comparison, **Exhibit 5-12**, indicates that the number of felony offenders convicted of drug possession, drug distribution, or DUI has increased 29.1 percent since 2000. At the same time the number of offenders convicted of these offenses who received a prison sentence has increased 15.4 percent.



**EXHIBIT 5-12**  
**Drug Possession/Drug Distribution/DUI Convictions by Sentence Type,**  
**2000-2004**



*Source: Criminal Justice Resource Center.*

***Savings Produced by Drug Courts***

Drug courts can generate savings—or more accurately, reduce state expenditures—by diverting persons from incarceration. Additional savings result if persons completing the drug court program have lower recidivism rates.

MHSAS has estimated, based on an assumption of 4,026 persons admitted to the drug court program annually, that ODC will divert the expenditure by the state of about \$263 million over four years.<sup>7</sup> The estimate utilized a cost model that tracked a sample of drug court admissions over a four-year period, and the following key assumptions:

- all drug court admissions would have been incarcerated with an average sentence of 64 months, and served 39 percent of their sentences (25 months) in a DOC facility if the drug court program had not existed; and
- they assume that only a very small share of participants would fail the program. Failures would have been re-incarcerated with an average sentence of 77 months, and would have served 39 percent of that term (or 30 months).

<sup>7</sup> Oklahoma Department of Mental Health and Substance Abuse Services. *Drug Court Charts*. Oklahoma City, Oklahoma, August 2007, page 1.

MGT found that MHSAS' estimate of savings is excessively high and requires adjustment for the following reasons.

- *Averted Versus Actual Cost Savings:* as noted above, neither prison admissions nor the total prison population have declined since the drug courts were initiated in 2002. Of the offenses targeted by the drug courts, admissions for DUI and distribution of controlled substances declined, but admissions for burglary II, drug possession and drug trafficking rose. In all, prison admissions for these crimes have risen by 6 percent since 2002, matching the percent increase in total prison admissions.

Similarly, and more importantly, the number of prisoners housed in state prison for these crimes has increased by almost 1,000, reflecting a growth rate of 11 percent, higher than the 9 percent overall growth rate for the prison population.

In summary, ODC has not reduced prison admissions or the prison population for the drug offenses it targets. For both measures, the growth rate for these crimes either paced or exceeded that for other crimes.

- *Drug Court Failures:* a second problem with the MHSAS savings estimate is its assumption that the vast majority of participants would complete the program and would not recidivate. But this assumption is easily proven invalid.

MHSAS drug court discharge data indicated that from 37 to 41 percent of those admitted to the drug court are terminated from the program. Even more problematic is the projection of substantial prison terms for program failures (30 months of incarceration to be followed by a period of parole supervision).

- *Admissions with No Prior Arrests or Convictions:* As noted above, even though there has been a considerable increase in the share of persons admitted to ODC that have prior felony convictions, a sizeable number remain that do not have a previous criminal record. This is no doubt the result of different philosophies among the district attorneys concerning who should be admitted. MHSAS' model, however, assumes that *all* of these offenders would have received prison sentences in the absence of drug court.

### ***MGT Revised Model***

Because of these issues, MGT constructed an alternative model and savings estimate. Such a model attempts to estimate the total system costs associated with each admission. Naturally, we cannot fully track and thus analyze drug court admissions since the program has been operational for only a relatively short period of time. Typical analysis of this type requires a cohort of admission and releases over a 3 -4 period. But it *is* possible to begin seeing how the drug courts may be affecting criminal justice costs, in the short term and into the future. More importantly, the analysis will show the relevant benchmarks the drug courts must meet to be cost-effective.

### Key Assumptions and Parameters

Any simulation must be based on a number of key assumptions. In this case, a key MGT assumption concerns the extent to which participants have been diverted from the prison system. As suggested by the data on prison admissions and daily prison population in **Exhibits 5-7 and 5-9**, it is not clear that the drug courts actually divert a large proportion of people from prison, even though the plea agreement requires a prison sentence. For this reason MGT employs two assumptions: one that assumes 75 percent of participants are diverted from prison diversion and another that assumes only a 25 percent diversion. We feel the 75 percent assumption is the most optimistic assumption one could make, given the prison admission trends noted above.

For success rates, MGT uses both the previously reported 58 percent and 67 percent success rates to show their relative effects on costs. We also assume about 1,900 drug court admissions per year, reflecting the program's current and expected intake capacity for the next few years.

**Exhibit 5-13** estimates the cost of the ODC program, based on a 58 percent success rate. The estimate takes into account the long-term costs of persons who serve lengthy prison terms after failing treatment. The total cost for each year's worth of admissions (1,900) is estimated at about \$50.4 million. ODC program costs represented only \$14 million of that amount. This estimate is far higher than the MHSAS estimate due to the extremely high costs for program failures (\$35 million). Program failure costs include the initial cost of imprisonment for program failures (\$32.3 million) plus subsequent probation and imprisonment costs, following the release of these offenders from their initial term of incarceration.

**EXHIBIT 5-13**  
**Costs of Oklahoma Drug Courts: 58 Percent Success Rate**

Cost Factor	Failure	Success	Total Costs
<b>Total Admissions</b>	<b>1,900</b>		
% that Fail/Succeed	42%	58%	
Number of Failures	798	1,102	
Time in program	13 mos	21 mos	
ODC Cost Per Month	\$417	\$417	
<b>ODC Program Cost</b>	<b>\$4,322,500</b>	<b>\$9,642,500</b>	<b>\$13,965,000</b>
Average Prison Term	74 mos	0	
% Time Served	39%	0	
Cost Per Year Served	\$16,824	0	
<b>Total Prison Costs</b>	<b>\$32,288,453</b>	<b>0</b>	<b>\$32,288,453</b>
Probation Supervision Time	13 mos	20 mos	
Probation Costs Per Month	\$60.38	\$60.38	
<b>Total Probation Costs</b>	<b>\$626,382</b>	<b>\$1,330,775</b>	<b>\$1,957,157</b>
<b>Re-imprisonment Costs</b>	<b>\$2,174,991</b>	<b>\$0</b>	<b>\$2,174,991</b>
<b>Total Costs</b>	<b>\$39,412,326</b>	<b>\$10,973,275</b>	<b>\$50,385,601</b>
<b>Costs Per Admission</b>			<b>\$26,519</b>

Source: MGT of America.

**Exhibit 5-14** provides the same analysis but assumes a higher success rate of 67 percent, based on persons who entered and completed the program from 2001 to 2004. As the success rate increases, ODC costs drop significantly, from \$50.4 million (\$26,519 per participant) to \$43.6 million (\$22,970 per participant).

**EXHIBIT 5-14**  
**Costs of Oklahoma Drug Courts: 67 Percent Success Rate**

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

*Source: MGT of America.*

**Exhibits 5-15** and **5-16** show cost models based on the two different assumptions for the number of diverted prison admissions (75 percent and 25 percent). **Exhibit 5-15** assumes that ODC diverts 75 percent of the 1,900 offenders from prison and that 58 percent of those complete the program. In this scenario, had these offenders instead been sent to prison, the state would have incurred \$57.1 million, as shown in **Exhibit 5-15** vs. the \$50.4 million in cost associated with sending the same cohort of offenders through the ODC program, as shown in **Exhibit 5-13**, is cost-effective (\$49.9 million versus \$57.1 million per 1,900 offenders).

**EXHIBIT 5-15**  
**Avoided Prison Costs with 75 Percent Diversion**

Cost Factor	Failure	Success	Total Costs
<b>Total Admissions</b>		<b>1,900</b>	
% 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	
<b>Initial Imprisonment Costs</b>	<b>\$13,962,574</b>	<b>\$35,903,762</b>	<b>\$49,866,336</b>
Parole Supervision Time	39	39	
Parole Costs Per Month	\$60.38	\$60.38	
<b>Parole Supervision Costs</b>	<b>\$940,537</b>	<b>\$2,418,523.32</b>	<b>\$3,359,060</b>
<b>Re-incarceration Costs</b>	<b>\$3,909,521</b>	<b>\$0</b>	<b>\$3,909,521</b>
<b>Total Costs</b>	<b>\$18,812,632</b>	<b>\$38,322,285</b>	<b>\$57,134,917</b>
<b>Costs Per Prison Admission</b>			<b>\$30,074</b>

*Source: MGT of America.*

As **Exhibit 5-16** shows, as the number of offenders diverted from prison falls to 25 percent, averted prison costs fall to \$19 million. This level of spending is far below the \$50.4 million of the ODC program, assuming a 58 percent success rate becomes ineffective in avoiding prison costs (\$19 million versus \$49.9 million). Thus, to ensure ODC is cost-effective, DOC must ensure that the diversion rate is 75 percent; the failure rate is no more than 40 percent; and the costs of ODC program failures in terms of long prison stays are reduced.

**EXHIBIT 5-16**  
**Averted Prison Costs with 25 Percent Diversion**

Cost Factor	Failure	Success	Total Costs
<b>Total Admissions</b>		<b>1,900</b>	
% Prison Bound		25%	
Number Admitted		475	
% Recidivating	28%	72%	
Number Recidivated	133	342	
Initial Prison Sentence	64	64	
% Time Served	39%	39%	
Costs Per Year Served	\$16,824	\$16,824	
<b>Initial Imprisonment Costs</b>	<b>\$4,654,191</b>	<b>\$11,967,921</b>	<b>\$16,622,112</b>
Parole Supervision Time	39	39	
Parole Costs Per Month	\$60.38	\$60.38	
<b>Parole Supervision Costs</b>	<b>\$313,512</b>	<b>\$806,174</b>	<b>\$1,119,687</b>
<b>Recidivist Costs</b>	<b>\$1,303,174</b>	<b>0</b>	<b>\$1,303,174</b>
<b>Total Costs</b>	<b>\$6,270,877</b>	<b>\$12,774,095</b>	<b>\$19,044,972</b>
<b>Costs Per Prison Admission</b>			<b>\$10,024</b>

Source: MGT of America.

### **Key Observations**

The following section identifies some key observations regarding the status of drug courts at this time.

- Oklahoma's drug courts are at least as effective as similar programs around the country, with a success rate of approximately 60 percent, which compares favorably with 27 to 66 percent rates nationwide.<sup>8</sup>
- The use of independent contracted assessors in the largest counties helps guarantee objectivity, quality and consistency in intake and treatment decisions.
- District attorneys largely control ODC intake. While a committee makes program recommendations, the prosecutor holds the ultimate authority to decide whether to delay sentencing.
- Nearly 75 percent of ODC admissions currently have at least one prior felony conviction and many more have two or more. This suggests that the ODCs are targeting offenders most likely to be prison-bound.<sup>9</sup>

<sup>8</sup> U.S. Government Accountability Office. *Adult Drug Courts, Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes*. Washington, D.C., February 2005, Overview, page 1.

<sup>9</sup>Oklahoma Department of Mental Health and Substance Abuse Services. *Drug Court Charts*. Oklahoma City, Oklahoma, August 2007, page 4.

- Neither the number of prison admissions nor the daily prison population have declined, even though the ODCs were intended to have this effect.
- Program participants' deferred prison sentences are quite long—longer than prison sentences given for similar offenses committed by offenders who do not participate in ODC.
- Community sentencing and ODC target the same persons; many drug court participants would have been sentenced to probation had the program not existed. This explains, in part, the decline in probation admissions and population.
- The total cost of ODC is significantly higher than the MHSAS' estimate due to the high failure rate (42 percent) and the high cost associated with lengthy prison terms for program failures.
- Most program failures are for multiple violations of program rules rather than new criminal charges.

### ***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. This process, if adopted, would insure that any the necessary funds are appropriated to MHSAS for this program on an annual basis.

### ***Summary of Recommendations***

Oklahoma's drug courts have a high degree of support and credibility. They are well conceived and reflect results that are as good as the national average, and may exceed it in certain instances. In general, alternatives to incarceration have demonstrated positive impacts on recidivism. The next generation of drug courts across the nation is increasing its use of research and locally available data to make better decisions about who should participate and how much support and supervision they should receive. 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.

At present, the evidence suggests that ODC is not diverting a large number of prison-bound individuals to community treatment and supervision. Furthermore, high failure rates suggest that the ODCs are not producing significant savings. This does not mean that drug courts are not worth the investment, but rather that important changes are needed to make them more cost-effective.

***Recommendation 5-1. DOC and other independent researchers should be given access to the MHSAS database for evaluation purposes.*** At present, no other state agency has access to the MHSAS database. DOC should have complete data on probationers who are also assigned to a drug court. Any future, independent assessments, moreover, should be conducted by allowing researchers to access the data files independently.

***Recommendation 5-2. MHSAS in conjunction with the DOC should perform a risk assessment to determine the most effective level of treatment and supervision for drug court participants.*** According to research by Festinger and Marlowe, drug courts are most effective with clients who are more criminally involved and have prior offense and arrest histories.<sup>10</sup> Some data suggest that ODCs, predictably, have better outcomes with first offenders. For example, in Tulsa County, the largest program in the state, 30 percent of participants are first offenders, as are 40 percent of successful graduates.<sup>11</sup> Interestingly, many people reported that in more rural counties, an even larger portion of participants are first offenders.

Since drug courts in Oklahoma are intended to provide an alternative to prison, and since data indicate they are slightly less effective with that population than with first offenders, further analysis of the needs of prison-bound offenders and the nature of the services they need to be provided in order to succeed should be conducted.

***Recommendation 5-3. Prison sentences for those who fail the program should more closely mirror sentences given to other persons with similar criminal histories.*** There is no legal reason to give harsher punishments to prisoners who have tried to change their lives and failed than to persons who did not even *try* to change. In the current situation, an individual who agrees to participate in a drug court program receives a deferred prison sentence that often far exceeds those given to persons who go directly to prison. While

<sup>10</sup>Festinger, David. Treatment Research Institute at the University of Pennsylvania. How Do Drug Courts Work and for Whom? Presentation at Congress on Problems in Drug Dependence, Quebec City, Quebec. June 2007.

<sup>11</sup> Tulsa County MHSAS Annual Report, 2006, page 2.



this disparity may provide a powerful incentive to succeed in the program, it seems to be an unfair consequence of trying and failing.

MGT recommends that drug court participants who fail the program should receive prison sentences like those given to other offenders with similar criminal histories. This could be accomplished by capping sentences in general, or by using other data in sentencing decisions. MGT also recommends that the legislature consider capping these prison sentences at five years.

***Recommendation 5-4. DOC should conduct research to identify the type of offender and offense most appropriate for community sentencing or drug courts.*** At present, both community sentencing and drug courts target the same moderate-level, prison-bound offenders.<sup>12</sup> There is no objective criteria for determining which program is most appropriate for an offender. The lack of standardized criteria for participation prevents the courts from making the best use of the various interventions available. MHSAS and DOC should jointly develop protocols for handling various types of offenders and appropriate levels of intervention.

***Recommendation 5-5. DOC should use analyses of treatment outcomes to create an assessment process to address offenders' clinical and rehabilitative needs.*** Current research indicates that drug courts have the greatest impact on certain types of offenders. For instance, Festinger and Marlowe report that the intensive supervision and intervention provided by drug courts is more effective with higher-risk participants who have antisocial personality disorder or prior substance abuse histories than with probationers without such conditions.<sup>13</sup> The criminal justice system's intake, eligibility and treatment matching processes should incorporate this knowledge in legal and clinical decisions made to match participants with appropriate interventions; such studies also should inform future enhancements to and expansions of treatment options.

***Recommendation 5-6. The legislature should modify the statute to allow greater use of judicial review to balance the influence of district attorneys in ODC admissions.*** Given the team orientation of drug court members, and their joint responsibility for decision-making for all aspects of the program, it is appropriate to allow them to seek other means for admission to ODC that do not require a district attorney's approval. The best way to ensure another path for admission is greater use of judicial review, specifically by allowing DOC staff to refer cases back to the sentencing judge after a short period of imprisonment.

***Recommendation 5-7. All drug court participants should have at least one prior felony conviction.*** This would help to ensure that the drug courts are in fact diverting persons from prison. It may be beneficial from a public policy standpoint to admit first time offenders to this particular program, but the budgetary premise associated with the program is that it is designed and intended to reduce prison commitments. That particular objective cannot be achieved if participants to the programs were not prison bound offenders in the first place.

<sup>12</sup> Oklahoma Department of Corrections, Community Sentencing Division. Partnerships in Corrections, Community Sentencing Act Annual Report 2006. Oklahoma City, Oklahoma, page 5.

<sup>13</sup> Festinger, David. Presentation at Congress on Problems in Drug Dependence, Quebec City, Quebec. June 2007.

***Recommendation 5-8. Improve the tracking and reporting of absconders from the ODC program as maintained by MHSAS and the DOC.*** Other than Oklahoma County, counties were not able to report their rate of absconders. It appears that, unless they commit a new and serious offense, most are readmitted to the program, with some sanction for their actions.

***Recommendation 5-9. In order to ensure only the necessary level of funding be appropriated to MHSAS for this program, 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. This process, if adopted, would insure that only the necessary level of funding will be appropriated to MHSAS for this program on an annual basis.

## Community Sentencing

### *Background*

The Community Sentencing Act (Title 22, Section 988 of Oklahoma’s Criminal Procedures) was designed to provide a community sanction including deferred or suspended sentences for eligible felony offenders.

Offenders eligible for the program are those who have been convicted or who have pled guilty to a felony offense, and are found to be in the moderate range of risk as determined by the Level of Service Inventory assessment. Those convicted or pleading guilty to “85%” felonies are excluded from participation.

As of November 1, 2007, Oklahoma had 3,056 offenders on active community sentencing status. Offenders receiving a community sentence in fiscal 2006 included:

- Drug offenders 54%
- DUI 13%
- Property 21%
- Assault 6%
- Other offenses 6%

Note that 67 percent of these persons (drug and DUI offenders) also fall in the basic target population for the drug court program.

Funding for the sentencing alternatives authorized under the Community Sentencing Act, including treatment programs, is provided within DOC’s budget and passed through grants to local community sentencing councils. As stated in Title 22, the program is a partnership between state and local governments in which the local councils plan and facilitate the implementation of local sentencing options in lieu of prison. This concept has proven extremely effective in other jurisdictions.

Program funding for fiscal 2008 is \$10 million, with \$1.2 million for the Community Service Sentencing Program (CSSP), which reimburses counties for the housing of the targeted offenders in jail, and \$8.8 million for the DOC Community Sentencing Division’s programs and grants which provide funding for treatment and intervention programs for the targeted population. In fiscal 2007, by contrast, total funding was \$11.5 million with \$8.9 million for administration and grants and an additional \$2.6 million for CSSP.

The fiscal 2007 CSSP reimbursement for jail use by community sentencing that had been invoiced by the participating counties as of November 6, 2007, was \$1,350,360. This figure does not include the cost of health care services for this population. State law stipulates that DOC will reimburse counties for all emergency health care costs for inmates housed under the CSSP. This may increase the net cost to the state of the program.

A total of 43 counties participate in this program, with Texas and Pittsburg counties representing 19 percent of all reimbursements. On the low end, 14 counties received reimbursements of less than \$5,000 in fiscal 2007, and four of those received less than \$1,000.

The \$1,350,000 would cover a total of 67,500 bed days representing a diverted population of 185 prisoners, assuming the cost of emergency health care was negligible. If one assumes that all the offenders sentenced under the provisions of this program were diverted from prison, the program would be a bargain to the state. As described below, however, under the present participation criteria, it is impossible to determine how many persons sentenced under the Community Sentencing Act would have been committed to prison if the program did not exist.

Under the CSSP option of the community sentencing program, counties receive reimbursements of \$20 per day from DOC for each offender who is sentenced to county jail in lieu of prison. Title 22 permits reimbursement for first- or second-time nonviolent offenders who would normally be incarcerated in a state institution. In reviewing the statutory authority and practices associated with this aspect of the program, it is unclear how offenders sentenced to jail under this act can be differentiated from those who would normally be sentenced to the county jail. Furthermore, it is unclear how the state can receive any assurance that those sentenced and paid for under this portion of the act are in fact those who would be normally sentenced to a state institution.

DOC reports indicate that in fiscal 2006, 1,463 offenders were sentenced under the provisions of the Community Sentencing Act. These offenders had the following distribution of prior convictions:

- 55 percent had no prior convictions;
- 21 percent had one prior conviction;
- 11 percent had two prior convictions; and
- 13 percent had three prior convictions.

The vast majority of the offenders with no prior convictions, as well as many of those with one prior conviction, probably would not have received a prison sentence in most Oklahoma jurisdictions, given current sentencing patterns. To ensure that state expenditures for this program achieve the fundamental purpose of prison diversion, it is essential that the program's eligibility standards be redefined in the act.

One option that the legislature should consider is to modify the grant funding formula of the program to primarily, but not solely focus on reducing the prison commitment levels at the county level. Some states who have adopted community corrections acts, have instituted practices that require participating counties to provide historical analysis of their prison commitment populations and to identify the means that they are going use with their grant dollars to reduce the prison commitment rate for selected populations or offense categories. On an annual basis, the counties, through the coordinating councils would review how they have decreased prison commitments for the targeted population, and request additional funding based on this analysis. This would ensure that at some of the grant funding would be directly tied to the main objective of the program, a reduction in prison commitments of non-violent, low risk offenders.

The following services are provided for eligible offenders depending on need, as determined by the sentencing court:

- community service;
- substance abuse treatment;
- probation supervision;
- education and literacy programs;
- employment and job skills development; and
- county jail or other restrictive housing.

Offenders ordered to serve a community sentence that includes community supervision are required to pay a supervision fee not to exceed \$40 per month.

DOC has reported significant positive results from the program. Documents reviewed indicated that of 10,335 offenders participating in the program since its inception, only 21 percent failed and were subsequently sentenced to prison. In formal recidivism studies of offenders who completed the program before July 2003, only 12 percent had been recommitted to DOC as of June 2006. These time periods account for those who have been out of the program for a period of three years, the typical time period used to measure recidivism. The figures do not account for those who may have been committed to other jurisdictions including jail, but still represent a significant number compared to other recidivism studies.

The unanswered question here, however, is whether the offenders targeted by this program would have succeeded at a similar rate without participating in it, particularly given the high number of them without extensive prior histories of criminal behavior. DOC should conduct research in this area, including examination of a comparison group of non-participants with similar demographics and criminal histories.

The Community Sentencing Act specifies that DOC's Community Sentencing Division is to administer the statewide community sentencing system. The division administers the provisions of the act, reviews and authorizes grant funding for the programs, assesses local program criteria and serves as the statewide clearinghouse and facilitator for the program.

DOC reports that administrative costs accounted for about 4 percent of total program expenditures in fiscal 2006. This is relatively low, given the level of total funding and expenditures. Even so, unless program participation grows and the eligibility criteria are to increase participation, it is difficult to justify Community Sentencing as a separate division within DOC.

DOC should consider merging the division and its staff and responsibilities with its Community Services Division, and recreating its structure on a similar basis organizational level and reporting structure as the present parole and probation districts. Some savings would arise from the elimination of duplicated administrative functions, but few if any staff savings would be gained, since the program's administration must be sustained.

Title 22, Section 988.14 required the creation of the Community Sentencing Division within DOC. At minimum, the legislature should eliminate this provision and leave the flexibility of making this decision on the organization structure with the Director of the DOC.

**Summary of Recommendations**

***Recommendation 5-10. The legislature should redefine the target population for community sentencing to explicitly differentiate the population from those targeted by drug courts, mental health courts, etc.***

***Recommendation 5-11. DOC should complete a long-term study of community sentencing program participants and the program's recidivism rates to ensure that it is reducing prison commitments in a manner contemplated by the provisions of the act.***

***Recommendation 5-12. The legislature should consider expanding the program eligibility that is contained in the statute to include those who are assessed as high risk on the LSI, but meet all other established criteria.***

***Recommendation 5-13. The legislature should eliminate funding for the county jail reimbursement portion of the program, absent some clear redefinition of eligibility that differentiates the population covered by this provision from those who would normally be sentenced to jail.***

***Recommendation 5-14. The legislature should eliminate the restriction that those offenders convicted of "85%" offenses be automatically excluded from participation in the program.*** It is consistent that certain categories of "85%" offenses are eligible, and have been placed, on probation status but are not eligible for participation in the community sentencing programs.

***Recommendation 5-15. The legislature should eliminate the provision in the authorizing statute that requires the program to be administered by a separate division within DOC.*** This would permit DOC's director to reorganize these functions if warranted, based on available funding and program participation.

## Oklahoma Parole Board

### *Background*

Article VI, Section 332 of the Oklahoma Constitution authorizes the Pardon and Parole Board, a five-member, part-time body charged with making recommendations to the governor on applications for the release from prison of convicted adult felons. The members of the board are appointed, three by the governor, one by the chief justice of the State Supreme Court, and one by the presiding judge of the Court of Criminal Appeals. Board members are removable only for cause in a manner provided by law.

The review of offenders for parole in Oklahoma is a complex process that involves two separate agencies, the Department of Corrections and the Pardon and Parole Board, and the governor, who has final review and approval on any releases. The board reviews information prepared by DOC and additional information developed and prepared by the board's hearing examiners and other support staff. With this information, the board makes recommendations for prison releases via various parole programs, commutations and pardons, as prescribed by the provisions of Title 57, Section 332.

Oklahoma's governor has the authority—unique among U.S. governors—to make the final decision on any release. Title 57, Section 332 outlines the power of the governor in these matters:

The Governor shall have power to grant, after conviction, reprieves, commutations, paroles and pardons for all offenses, except cases of impeachment, upon such conditions and such restrictions and limitations as may be deemed proper by the Governor, subject, however, to the regulations prescribed by law and the provisions of Section 10 of Article VI of the Oklahoma Constitution.

Title 57, Section 332.2 further prescribes that:

The Pardon and Parole Board, which shall meet only on the call of the Chairman, is authorized, if and when an application made to the Governor for a reprieve, commutation, parole, pardon, or other act of clemency is certified thereto by the Governor, to examine into the merits of said application and make recommendations to the Governor in relation thereto, said recommendation being advisory to the Governor and not binding thereon.

Our survey of other state jurisdictions confirmed that Oklahoma is the *only* state whose governor is directly responsible for the routine approval of *all* parole releases from the state correctional system.

Title 57, Section 332.16 stipulates the time permitted under the statute for the governor to act on the board's parole recommendations: "No recommendation to the governor for parole shall remain under consideration and in the possession of that office for a time longer than thirty (30) days."

**The Parole Process**

The Pardon and Parole Board employs a full-time support staff, including hearing examiners, to administer its daily operations. Staff investigators compile reports on each of parole candidate for the board and the governor to use in making their decisions.

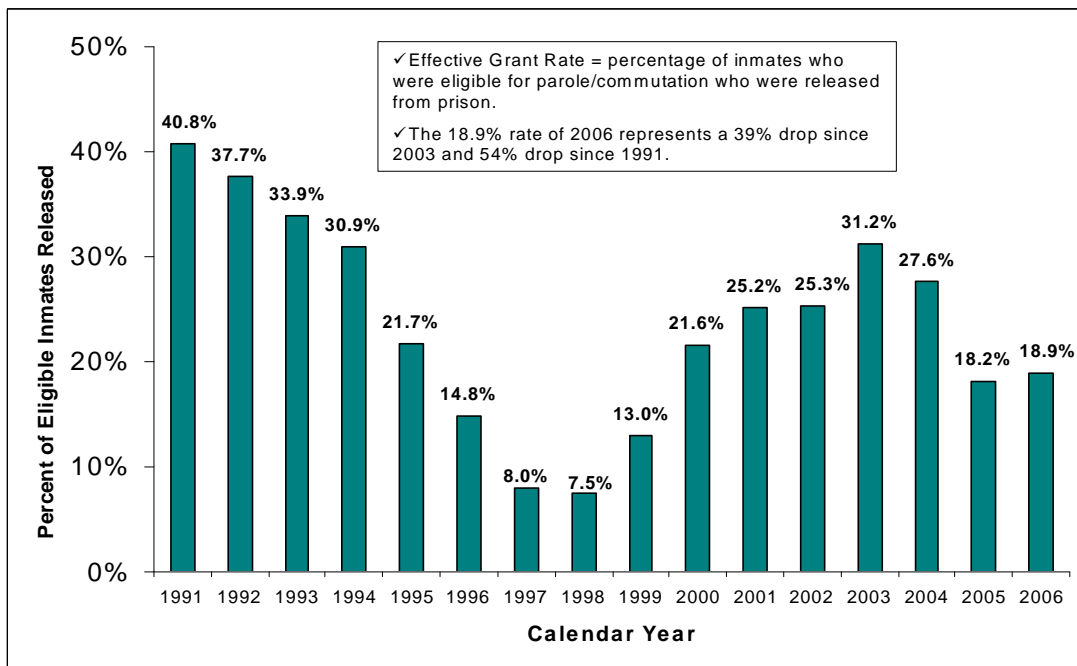
Board staff report that their recommendations and accompanying documents are not submitted to the governor’s office until they, and DOC’s parole processing unit, have finished their reviews. According to board employees, these initial reviews usually take about 60 to 90 days. After this period, the case file goes to the governor’s office.

The entire process, then can require anywhere from 60 to 120 days, and in many instances takes longer, depending on the circumstances of the recommendation and whether the board has mandated stipulations (program or treatment requirements) that must be completed prior to release..

**Approval Rates**

Significant fluctuations in parole approval rates are common (**Exhibit 5-17**). Over the last 16 years, effective grant rates, after the governor’s review, have ranged from 41 to 7.5 percent.

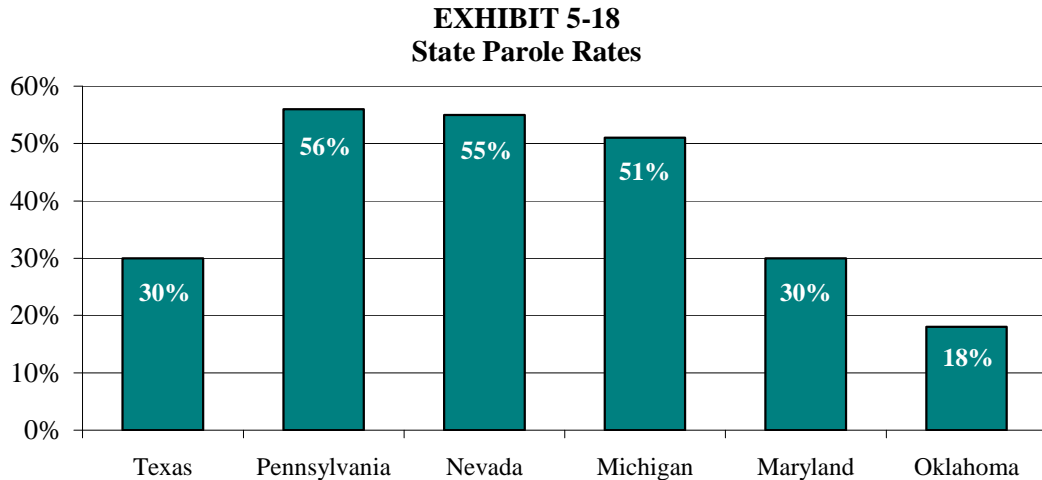
**EXHIBIT 5-17**  
**Effective Grant Rates**



Source: Criminal Justice Resource Center.



The effective approval rate employed in the current population forecast is set at 18 percent, which is quite low compared with those in other jurisdictions (**Exhibit 5-18**).



*Source: MGT of America.*

Although factors such as differences in eligibility, good-time laws and statutory restrictions on parole for certain crimes can render these types of comparisons inexact, they do provide some indication of the relative approval rates of various state parole boards. It seems safe to say that the involvement of Oklahoma's governor contributes significantly to the state's relatively low approval rates. On the other hand, the approval recommendations of the Oklahoma board prior to the governor's final decision *also* are far below the approval rates of many other states (see below).

In April 2007, the board implemented risk assessment guidelines to improve its decision-making. The risk assessment guidelines place each offender into one of three categories: low, moderate or high risk, based on a recidivism study conducted by Dr. James Austin and funded by the National Institute of Corrections. **Exhibit 5-19** summarizes the results of the risk assessment and parole board recommendations since implementation of the risk assessment guidelines in April 2007. With the implementation of these guidelines it is expected that the review process will be improved and the offenders with a high potential to re-offend will be clearly identified.

As a result of this implementation several major trends have been identified and should be emphasized.

First, while investigators recommend individuals for parole to the board in about 45 percent of the cases they review, the board recommends parole at a consistently lower rate (about 30 to 35 percent).

In terms of risk level, about 75 percent of the cases heard are considered to be at low to moderate risk of recidivism. This indicates that a significant proportion of the eligible parole population is an acceptable risk for parole.

Finally, both the investigators and the board clearly are following the results of the risk assessment; the highest grant rates are associated with the lowest-risk group while the lowest grant rates are associated with the highest-risk group.

**EXHIBIT 5-19**  
**Oklahoma Pardon and Parole Board**  
**Year-to-Date Parole Recommendations by Risk Assessment**  
**April–October 2007**

	April	May	June	July	August	September	October
<b>Total Regular Parole Cases Considered</b>	<b>496</b>	<b>507</b>	<b>524</b>	<b>540</b>	<b>528</b>	<b>563</b>	<b>468</b>
Investigators Recommend Parole	218 (44%)	229 (45%)	240 (46%)	253 (47%)	232 (44%)	256 (45%)	205 (44%)
Board Recommends Parole	153 (31%)	174 (34%)	183 (35%)	188 (35%)	170 (32%)	198 (29%)	153 (33%)
<b>Low-Risk Cases</b>	<b>140 (28%)</b>	<b>115 (23%)</b>	<b>127 (24%)</b>	<b>138 (26%)</b>	<b>160 (30%)</b>	<b>164 (29%)</b>	<b>121 (26%)</b>
Investigators Recommend Parole	91 (65%)	71 (62%)	78 (61%)	94 (68%)	90 (56%)	104 (63%)	79 (65%)
Board Recommends Parole	65 (46%)	50 (44%)	55 (43%)	63 (46%)	59 (37%)	76 (46%)	60 (50%)
<b>Low Moderate Risk Cases</b>	<b>207 (42%)</b>	<b>250 (49%)</b>	<b>241 (46%)</b>	<b>250 (46%)</b>	<b>240 (45%)</b>	<b>252 (45%)</b>	<b>214 (46%)</b>
Investigators Recommend Parole	94 (45%)	121 (48%)	123 (51%)	116 (46%)	115 (48%)	118 (47%)	94 (44%)
Board Recommends Parole	63 (30%)	101 (40%)	91 (38%)	88 (35%)	85 (35%)	92 (37%)	61 (29%)
<b>Moderate High Risk Cases</b>	<b>149 (30%)</b>	<b>142 (28%)</b>	<b>156 (30%)</b>	<b>152 (28%)</b>	<b>128 (24%)</b>	<b>147 (26%)</b>	<b>133 (28%)</b>
Investigators Recommend Parole	33 (22%)	37 (26%)	39 (25%)	43 (28%)	27 (21%)	34 (23%)	32 (24%)
Board Recommends Parole	25 (17%)	23 (16%)	37 (24%)	37 (24%)	26 (20%)	30 (20%)	32 (24%)

*Source: Oklahoma Pardon and Parole Board and MGT of America.*

While parole rates have varied considerably over time, and recently have been quite low, the adoption of the risk guidelines ultimately may increase the recommended grant rates. If the grant rates do increase, and the governor's review of these decisions does not reverse them, average lengths of stay and associated prison populations may decline.

To illustrate the effects of parole decision-making on prison population growth, MGT prepared two simulations in conjunction with CJRC, illustrating the effects of increases in the board’s rate to 30 percent and 40 percent, respectively. These rates are quite reasonable: the board’s hearing investigators recommend parole in about 45 percent of all cases in all risk categories, while the board itself recommends parole in 30 to 35 percent of these cases. If the effective grant rate were increased to 30 percent or 40 percent, the prison population would cease to grow and actually decline, significantly reducing the need for additional bed capacity.

An increase in the grant rate also would produce an associated increase in the parole population as more inmates are released to parole. **Exhibit 5-20** shows the simulated effects on parole admissions of the 30 percent and 40 percent assumptions. Roughly speaking, the higher grant rates would increase parole admissions by about 100 percent and 140 percent, respectively. The parole population would increase by the same amount unless there was an associated decline in the period of parole supervision.

**EXHIBIT 5-20**  
**Impact on Prison Population:**  
**Current and Alternative Parole Grant Rates**

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 Research Center.*

**EXHIBIT 5-21**  
**Impact on Parole Population:**  
**Changes in Parole Releases Under Current and Alternative Parole Grant Rates**

FY	Current	40% Grant Rate	30% Grant Rate
2008	1,088	2,135	1,936
2009	1,083	4,548	3,525
2010	1,150	4,157	3,376
2011	1,278	3,719	3,067
2012	1,258	3,604	2,994
2013	1,359	3,382	2,940
2014	1,370	3,319	2,855
2015	1,340	3,311	2,819
2016	1,365	3,297	2,788

*Source: MGT of America and Criminal Justice Research Center.*

Making grant rates more consistent with the risk assessment and recommendations of the hearing investigators and/or parole board would have a considerable effect on DOC's bed needs. Such grant rates, however, would also require more probation and parole officers to supervise significantly larger populations. For example, doubling the parole population under the 30 percent grant rate would require an estimated 60 additional PPOs to manage the additional population (based on caseload averages of 75 parolees).

Finally, it should be noted that the parole hearing process has some aspects that can either delay the release of prisoners who have been granted parole or require certain prisoners to be paroled as they near the end of their sentences.

A large share of the prisoners who are granted parole must wait for the governor's review to be completed, which in practice can delay the parole for several months despite the statutory requirement that cases be acted upon in 30 days.

Also, board policy is to not hear the cases of certain inmates who are within three to six months of their prison release dates. These are inmates who have very short sentences (with parole and release dates very close to one another) or who have been previously rejected for parole and are now nearing the end of their sentences. In either case, it still may be advisable to place these individuals on some form of parole supervision, if they pose a significant risk to public safety.

### ***Summary of Recommendations***

***Recommendation 5-16.*** *The legislature should initiate action remove statutory and constitutional provisions requiring the governor to review and approve all paroles.* MGT recommends that the governor's review be limited only to the most violent cases, including murder and sexual assaults.

***Recommendation 5-17.*** *The members of the Pardon and Parole Board should be made full-time appointees, so that they can dedicate the necessary time to review and act upon the cases reviewed.* This would be particularly desirable if their recommendations

become the final decision. This combined with the ongoing use and evaluation of the newly instituted parole risk assessment instrument would significantly improve the capabilities of the board to render thoughtful and sound decisions that are in the best interest of the public they serve.

***Recommendation 5-18. The governor and the board should comply with all statutory time limits for review and consideration of recommendations for parole.***

## Division of Community Corrections

### *Background*

DOC's Division of Community Corrections is responsible for the supervision and oversight of the department's correctional centers and halfway houses, and for monitoring offenders placed under the custody of the division's parole and probation officers.

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 Corrections also provides direct supervision for offenders sentenced to specialized supervision programs such as drug court placements, mental health courts and sex offender management teams. It is responsible for the oversight and daily operations of seven community correction centers, 15 work centers and nine halfway houses.

To carry out these duties, DOC employed 337 probation and parole officers as of September 30, 2007. Reports dated October 31, 2007 indicate that the Division of Community Corrections had an authorized staffing level of 996 positions and a budgeted staffing level of 816.72 positions for fiscal 2008. The actual staffing level as of October 31, 2007 was 888.75, or 89.2 percent of the authorized level. This compares to a staffing level of 79 percent of the authorized level for DOC as a whole. Within the division, the probation and parole officer staffing complement was 305, 84 percent of the authorized level of 363.

The division is organized into seven districts—six probation and parole districts containing 72 office locations across the state and a seventh district that only administers and supervises residential programs in Oklahoma County. This unusual arrangement was established due to the number of residential facilities and community beds concentrated in that county.

### *Evidence-Based Supervision Practices*

In 2005, Community Corrections began implementing a series of "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.

DOC has adopted EBP as the guiding principle in its supervision, management and treatment of offenders. EBP allows the division to redirect resources toward programs and services that have a proven track record of reducing recidivism rates.

To monitor the impact of the EBP, DOC has established and is tracking specific, measurable outcomes concerning the completion of probation and parole. Most of these measures indicate that the impact has been positive. For example, DOC data document an increase in the number of

community offenders who maintain employment, which other national studies have demonstrated to be a key indicator of success.

The data also indicate that the unemployment rates of those on probation and parole have declined, and that those who have completed supervision since implementation have returned to prison at lower rates than comparable groups who completed supervision before the implementation of EBP (**Exhibit 5-22**).

**EXHIBIT 5-22**  
**Recent Changes in Unemployment and Successful Completion Rates**

Unemployment Rate*	
2006	22.50%
2007	18.9

\*All Probation and Parole.

Success Rates	
2005	80.32%
2007*	84.93

\* Jan. – June 2007.

*Source: MGT of America and Oklahoma Department of Corrections.*

In interviews and focus-group meetings, probation and parole officers reported that EBP is designed to allow officers some discretion in allocating available resources based on a risk assessment. This is intended to help them identify offenders who need more intense supervision and more frequent contacts, based on their measured risk.

PPOs interviewed by the review team all acknowledged being trained in EBP principles and approaches, and stated that EBP has had a positive impact on caseloads and offenders.

During summer 2007, a consultant from the National Institute of Corrections (NIC) conducted a review of DOC's implementation of EBP, at the department's request. In August 2007, NIC issued a preliminary report containing specific recommendations to improve the effectiveness of the division's approach. These included the following:

- reduce supervision time spent on low-risk offenders.
- change practices involving intake and screening in urban areas to take advantage of economies of scale.
- consider developing centralized intake functions in all urban areas.
- consider using LSI proxy tools which is a validated and reliable shortened version used for initial screenings to speed the identification of low-risk offenders.
- free up line supervisors' workload so that they can focus on enhancing supervision by having more time to supervise and provide over-sight of the PPO's.

Not all of the PPO staff expressed support for the present supervision philosophy and its emphasis on EBP principles. A minority of those MGT interviewed outlined two basic concerns with the approach as it has been implemented.

First, they noted that the availability of resources, including staffing and treatment options, which are essential to EBP have not kept pace with the growth of the offender population. This has resulted in increasingly unmanageable caseloads and prevents officers from making enough meaningful contacts with some offenders.

Furthermore, some officers believe the law enforcement aspect of the supervision approach has been diminished by the adoption of EBP. They said that deemphasizing these aspects of the PPOs' responsibilities is not in the best interest of public safety.

### ***Caseload Size and Composition***

Community Corrections uses a wide range of specialized supervision categories to manage offenders. For example, seven of the Southwest District's 40 officers are assigned to drug court and sex offender caseloads. Many of these specialized caseloads are used only in large jurisdictions (the Central and Tulsa districts). Others are present in some form in other districts as well. Specialized caseloads include:

- *Administrative Management Caseload:* Lower-risk absconders, inactive parolees (usually after three years of supervision parolees who are no longer supervised) and those placed on administrative supervision (remain on active status with limited over-sight) judges can be handled by administrative assistants instead of probation and parole officers, freeing the latter to handle other cases. Caseloads for administrative assistants range from 300 to 400, and higher in some cases. Community Corrections can move probationers and parolees to administrative supervision status unilaterally, without judicial or parole board approval, and can reinstate them to active supervision at any time if their behavior warrants such a move.
- *Drug Court:* The division attempts to maintain caseloads at an average of 55 for these cases, but they sometimes go as high as 60. As noted above, funding for these programs is funneled to courts from the Department of Mental Health and Substance Abuse Services.

The probation officer and the drug court team have weekly contacts with participants. A case management staffing, which is review of the status of the offender in all aspects of his/her supervision, is also conducted by the drug court team with clients who are "messing up" and subjected to progressive sanctions.

- *DUI Court:* As an outgrowth of the drug court, some jurisdictions have created DUI courts as a separate program. The Central District in Oklahoma County recently established a DUI court; Tulsa County has one as well. Other jurisdictions incorporate DUI cases in the existing drug court structure. DUI courts receive funding through MHSAS, and probation and parole officers supervise the majority of offenders. In some jurisdictions, private operators, and not the DOC PPO staff, provide supervision. DUI court supervision is similar to that for regular drug court cases.



- *Mental Health Court:* About 25 offenders are enrolled in Oklahoma County's mental health court program. Tulsa County has initiated a similar program. These programs employ the same model as the drug courts. Offenders who are diagnosed with mental illness after they enter the criminal justice system are eligible, although they are excluded for any type of violent offense or for sex offenses. As with the drug courts, a special judge is assigned to this court. The exclusion of violent offenders limits enrollment of the mentally ill as this is a portion of the population who could benefit from participation if they do not represent a serious risk to the public.
- *Diversion Caseload:* This program is for chronic technical violators—offenders who have not committed additional criminal offenses, but are failing to comply with the standards and conditions of supervision. Oklahoma County has assigned four officers to this program, with average caseloads of about 50. Officers working this caseload form a “containment” team to determine the most appropriate intervention strategy for each offender, whether it be mental health treatment, substance abuse treatment, increased contact, etc. The Oklahoma County PPOs have funding available to place this population in county jail for short periods of time as a sanction. Oklahoma County's diversion caseload program began in June 2007 and currently has 120 offenders assigned to it.
- *Parole Caseload:* Oklahoma parole caseloads average 85 per officer. The state requires a three-year automatic review of these cases for possible placement on the administrative management caseload, unless otherwise stipulated by the parole board.
- *Sex Offenders:* A grant from the U.S. Department of Justice's Center for Sex Offender Management (CSOM) helped DOC develop a team containment model for sex offenders and provide training in the assessment and management of sex offenders for all officers who specialize in this population. These specialized caseloads are capped at 55 and senior officers are assigned to them. Required minimum contacts with sex offenders are less than those required for drug court cases. Since very few sex offenders are on global positioning satellite (GPS) monitoring (see below), the minimum number of contacts required appears to be out of line with the nature of the danger to public safety this population presents.
- *Female Offender Caseload:* The Central District has one program with one officer supervising 95 female offenders. Traditional probation has not worked for many women, according to the agency's female offender task force. This caseload program works on a family justice model, which is designed to involve all members of the family unit in the support and treatment aspects of supervision. The officer completes orientation for new offenders once each week at the community corrections centers. The program often uses faith-based and other non-traditional family support programs designed especially for women. Since most of the funding for treatment and other interventions is focused on other populations (drug court, mental health court, etc.), DOC reaches out to nonprofit and family support groups to provide services for this group.

- *Young Offender—Vocational:* DOC partners with Carteret and Workforce Oklahoma to provide specialized programs for its young offender population. This program originated from a Carteret federal grant for 18 to 22-year-old males. DOC staff reported that this is a problematic population. They have changed the target age to 18 to 29, in hopes of achieving better success with an older population. The program stresses training in construction-related trades.
- *GPS Caseload:* Offenders in this caseload are monitored with global positioning technology after successfully completing time in halfway houses, community corrections centers and/or work centers. Offenders coming out of prison into halfway houses must have a minimum of 1,440 days left on their sentences to be eligible. They can become eligible for electronic monitoring, which allows them to move out of the facility after 60 days of community placement, although generally they have about 300 to 500 days left. They receive reentry and treatment services while in the caseload; to be included, they must have a job and a place to live. At any given time, about 400 offenders are being monitored through GPS. Oklahoma County had 86 (25 women and 61 men) as of the end of July 2007. PPO officer caseloads for this population are capped at 35.

DOC uses key elements of the EBP approach in supervising both general and specialized caseloads. One of these approaches involves concentrating resources on offenders who represent the greatest risk of new offenses and who most jeopardize the safety of the public.

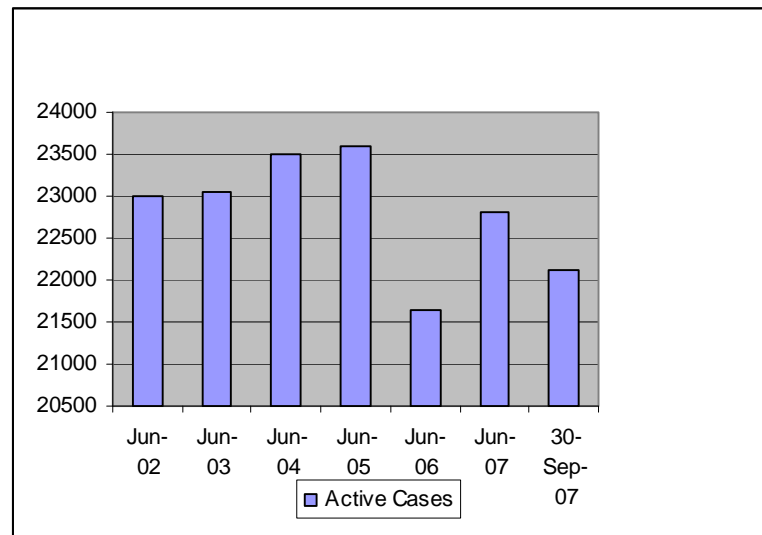
Community Corrections uses the Level of Service Inventory–Revised (LSI-R) as its primary assessment tool for gauging the overall risk an offender presents, and for identifying his or her program needs. The LSI-R assists PPO staff in identifying needs related to the offender’s criminal behavior and provides the basis for the assigned supervision approach and program requirements. The LSI-R assesses each offender as being at high, medium or low risk of engaging in further criminal behavior.

After a PPO supervises and observes an offender for up to 180 days, and if the LSI-R determines that he or she has no criminogenic needs (factors that are contributing to the offenders ongoing involvement in criminal behavior), the offender is reviewed for placement on administrative probation status or moved to inactive status. Cases on administrative status remain active but are not supervised,, while those on inactive status are removed from any level of supervision or monitoring by the DOC. The offender simply submits reports on his or her status through the mail to comply with the conditions of probation. An example of someone on an administrative caseload could be, for instance, a 25-year old offender sentenced for larceny of merchandise who is in college with a strong family support system; an LSI that found no substance abuse or mental health issues; and an assessment and case review that determined that there were no criminogenic needs.

Such cases may go to unsupervised probation and be discharged directly from that status upon completion of the sentence. If there are indicators after 180 days that the offender should continue to be supervised and should not be moved to an administrative caseload, the PPO is required to submit a recommendation to the supervisor to that effect.

One of the benefits of this process is that it allows the department to direct its resources to those who represent the greatest risk. Fewer resources are directed to those who represent a low risk. The result has been a continuing movement of low-risk offenders to administrative caseloads, increasing the availability of PPOs to focus on those who are high or moderate risks. The impact of this policy decision can be seen in the number of offenders on active status (**Exhibit 5-23**). Reports indicate that as of September 30, 2007, 27,415 offenders were on probation status in Oklahoma; 22,113 were on “active” status. The difference in the number on probation versus active status represents the number of offenders assigned to administrative supervision. The number of DOC probationers on active status has fallen from a high of 23,607 in 2005.

**EXHIBIT 5-23**  
**Active Probation Cases, June 2002 – September 2007**



*Source: Oklahoma Department of Corrections.*

Although not all of this reduction can be directly attributed to EBP, the program has had a significant impact. Certainly, the use of private supervision providers for those on probation contributed to the reduction. As the number on active status has fallen, there has been an accompanying drop in average caseloads, from a high of 95.6 per PPO in 2003 to a 75.6 in June 2007.

A more recent calculation indicates that as of September 30, 2007, the average caseload had fallen further, to 73 cases per PPO. This is a significant reduction that permits officers to focus their time and resources on higher-risk offenders. In focus groups, probation and parole officers repeatedly stated that caseload averages have reduced as a result of EBP and that this reduction improves their ability to manage their caseloads on a daily basis.

A number of PPOs expressed their feeling that DOC’s policy of eliminating or reducing supervision for offenders who meet various criteria and are assessed as “low risk” is not in the public’s best interest. According to these officers, low-risk offenders are placed on administrative status after three to six months, even if they remain on court-ordered supervision, in clear violation of the court’s orders.

MGT's interviews and research indicated that courts in several areas of the state have ordered alternative probation supervision, usually managed by private probation companies, to circumvent this practice. In addition, district attorneys have created special caseloads managed and supervised by their own staff members. One DA said that this policy is needed to ensure a period of supervision consistent with the court's orders. Interviewees also said that several judges have ordered DOC not to release low-risk offenders from supervision in contradiction of their rulings.

These situations, however, clearly represented a minority of those we reviewed. MGT's concern is focused on the supervision provided by these alternative providers, and whether it meets the needs of the court and public safety. Oklahoma needs statewide standards to govern the supervision of offenders placed in such supervision.

The risk of any premature movement of offenders to administrative caseloads is a legitimate concern. Obviously, DOC must monitor its supervision process as carefully as possible, to ensure that it is effective and safe. The fact remains, however, that DOC's resources simply do not allow it to intensely supervise every offender placed under its jurisdiction.

Given its limited resources, DOC's supervision policies and practices must be based on thoughtful, research-based decisions. EBP uses nationally accepted risk instruments to determine the level of supervision appropriate for each offender. Given the constraints and population pressures DOC faces, its policy of moving low-risk offenders to administrative status is a logical approach to ensuring that the highest-risk persons are supervised properly.

### *Caseload Variations*

Despite statewide improvements in caseloads, problem areas remain within individual districts. For example, Tulsa District has significant caseload problems; its PPOs manage an average 83 clients each, for specialized and general caseloads combined. For general caseloads alone, the average in September 2007 was 109 per PPO. MGT found similar results in the Central District, which includes Oklahoma County. In the Central District, the average caseload was 79 and the average general caseload was 101 (**Exhibit 5-24**).

**EXHIBIT 5-24**  
**Probation and Parole Caseloads**

District	Caseloads as of Sept. 2007			General Case*
	Cases	PPOs	Avg. Case	
Northeast	3153	50	63	NA
Southwest	3138	40	78	85
Tulsa	3323	40	83	109
Northwest	3469	52	66	NA
Southeast	3396	47	72	NA
Central	5634	71	79	101

*Source: Oklahoma Department of Corrections.*

*\*These Districts do not utilize specialized caseloads to the extent that it is identifiable and measurable for these purposes.*

Several factors are spurring high caseloads in the Tulsa and Central districts. Both have higher-than-average PPO vacancy and turnover rates. And because officers assigned to specialized cases (drug court, sex offenders, mental health court, etc.) work under standards requiring relatively low caseloads, PPOs assigned to general cases usually bear the brunt of any additional work prompted by officer vacancies. Hiring and training a new PPO generally requires at least six months.

MGT also found that Tulsa team supervisors review their officers' caseloads less often than supervisors in other districts (such as the Southeast and Northeast District, for example), and therefore they are not identifying cases for administrative and advanced termination as quickly. The result is a larger pool of active cases that must be distributed among available officers. We observed some inconsistency in the application of standards for caseload review from district to district. These practices should be reviewed and standardized where possible to ensure consistent application statewide.

Finally, the rapid increase in drug court cases in both Tulsa and the Central District over the last three years has resulted in reassignments of officers from regular caseloads to the drug courts. Recent case assignment charts indicate that there are eight drug court officers in the Central District and five in Tulsa. The concentration of drug court cases in these two districts has significantly affected the size and composition of regular caseloads.

Although the legislature authorized 50 additional PPO positions two years ago, it has not yet funded these positions. As of November 1, 2007, DOC reported that it had filled 10 of the 50 authorized positions by redistributing funds internally. These 10 positions have been used to expand drug court supervision and to expand diversion caseloads in Oklahoma County.

### ***Supervisor-to-PPO Ratios***

DOC employs one supervisor to about 8.5 probation and parole officers. Administrators and supervisors strongly recommended reducing this ratio, due to the additional duties and expectations placed on supervisors since the implementation of EBP. These include significantly greater case review responsibilities and the direct monitoring and training of line staff. In addition, supervisors must mentor their staff members in EBP case management techniques.

Staff at every level agreed that supervisors' responsibilities have increased significantly, but the department has not removed or significantly altered any other responsibilities to facilitate their ability to train and mentor employees.

The ratio of 1:8.5 is high. National best practices for systems utilizing EBP practices are in the 1:6 to 1:7 range.

### ***Sex Offender Programs***

DOC has received funding from CSOM to develop a "team containment" model for sex offenders, and to train PPOs working these cases in assessing and managing sex offenders. The containment model employs approaches that include intensive supervision, contracted treatment providers, polygraph examinations and participation by victim advocates. These specialized caseloads are capped at 55, and only senior officers work these cases.

The overwhelming majority of sex offenders serve some probation time, since split sentences combining prison with probation time are common.

All of the officers working these caseloads who were interviewed by MGT are well-trained in the Containment Team model, and seemed enthusiastic about being their assignments. Since CSOM’s three-year grant ended recently, DOC will need to ensure that new officers assigned to these caseloads are as well-trained as their predecessors.

Resources for sex offender treatment appeared to be available in all areas we visited, with exception of the Pawhuska Office in a rural area of the Northeast District. Providers from Tulsa travel to the Northeast District on a weekly basis to provide offenders with group therapy. Similar arrangements exist in other areas of the state to ensure that all offenders receive this service.

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,” and abscond from supervision.

DOC uses electronic monitoring with sex offenders only when ordered by the court and only in a few sex offender categories. State law (22 O.S. 991a), 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 impose GPS monitoring

***Community Correctional Centers, Work Centers, Halfway Houses***

In Oklahoma, community corrections include community corrections centers (CCCs), community contract facilities (halfway houses) and community work centers (CWCs). Eligibility for placement in one of these facilities depends upon the inmate’s time until release; the nature of the offense; criminal and adjustment history; and classification and custody level (**Exhibit 5-25**).

**EXHIBIT 5-25  
DOC Community Center Eligibility Standards**

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 Policy.*

DOC policy OP-060104 provides further restrictions for program admission based on offense category, earned credit level, criminal history and the nature of the offense. As of July 26, 2007, 3,938 inmates were in community correctional facilities (corrections centers, work centers, halfway houses or GPS monitoring). DOC's halfway house population rose by 45 percent between 2000 and July 6, 2006, from 868 to 1,275. The population as of July 26, 2007 was 1,320.

To ensure that it makes the best possible use of these resources, DOC conducted an internal review of all potentially eligible inmates in September 2007. The department identified 1,426 potentially eligible inmates, based on days remaining to release, and reviewed them further. DOC's review produced the following results:

- ineligible due to the nature of the crime, sentence, misconduct record, escape history, etc: 1,024;
- eligible but not recommended due to medical holds (outstanding medical conditions that require treatment), current participation in a required program, etc: 263;
- Cases that have been submitted and are in process of review for possible approval by the DOC: 133; and
- eligible and qualified: 6.

MGT reviewed the process DOC used to screen and review these inmates and concurs with its criteria and selection process. MGT audited the case reviews by pulling supporting documentation on 10 percent of the cases reviewed (146 cases) and concurred with the department's decision in each case. A review of the spreadsheet summarizing all cases found two additional cases (of the 1,426) that were pending review and had been overlooked by staff; neither person was found to be eligible during the subsequent review.

The community center criteria outlined in DOC policy OP-060104 is much more liberal than those used in other states, however. Oklahoma is three times more likely to place an offender in a community setting eight years (96 months) before release than other states. Many states restrict community placement to the last 18 to 24 months before release, while others have even more restrictive criteria. For instance, note the following criteria:

- Alabama—12 months before release for males, 18 months for female offenders.
- Arkansas—12 months before release, with the approval of parole board.
- Georgia—12 months before release.
- Kentucky—18 months prior to parole eligibility.
- Maryland—those with sentences of up to three years are eligible at reception; others are eligible six months before release.
- Missouri—45 days before release.
- New York—24 months before release.
- Federal Bureau of Prisons—final 10 percent of term, not to exceed six months prior to release.

### ***GPS Surveillance Program***

DOC uses a GPS surveillance program to assist in the reintegration of inmates into the community. DOC policy OP-061001 establishes eligibility criteria for community placement under GPS supervision. Briefly, the inmate must have no more 970 days remaining (depending on earned credit) and must have been assigned to a halfway house for a minimum of 90 days. As of July 26, 2007, Oklahoma had 396 inmates on GPS supervision.

MGT found that the present eligibility criteria and related rules are appropriate and need no modification except as noted above, in reference to the sex offender population. The 970-day time to release criteria is at the high end of similar programs operating in the U.S. and should not be extended further.

### ***Supervision Fees and Waivers***

Oklahoma state law (Title 22, Chapter 16, Section 991d) requires DOC to collect a \$40 monthly supervision fee for each offender placed in community supervision unless the imposition of the fee would impose an unnecessary hardship. The statute further states that these fees must be deposited in DOC's Revolving Fund. For each fiscal year, 50 percent of all of these fees must be transferred to the General Revenue Fund until such transfers total \$3 million (**Exhibit 5-26**).

**EXHIBIT 5-26  
Restitution and Fees, Fiscal 2001-2007**

<b>Fiscal Year</b>	<b>Restitution</b>	<b>Prob and Parole Fee/Support</b>
FY 2001	\$1,824,429	\$5,859,713
FY 2002	\$1,811,641	\$6,001,631
FY 2003	\$1,669,088	\$6,223,099
FY 2004	\$1,639,158	\$5,912,515
FY 2005	\$1,774,698	\$5,540,850
FY 2006	\$1,675,177	\$5,096,069
FY 2007*	\$438,085	\$966,543

\* Through September 30, 2007.

*Source: Oklahoma Department of Corrections.*

DOC policy OP-160701, "Collection of Probation/Parole Fees, Restitution, and Program Support Fees," outlines the procedures to be used to collect these fees, as well as the process for waiving them. Section IIIA of this regulation states that "Supervision fees are mandated by statute...and...if sentencing documents do not specifically waive the fee, it will be collected." Section VII outlines a process for waiving or reducing the fee; supervision fees may be reduced or waived for a 90-day period if a legitimate hardship can be verified.

DOC's district supervisors can waive the supervision fee for a variety of reasons. For example, fees for a sex offender may be waived so the money collected can be used for polygraph and treatment.



Since many offenders are discharged if their LSI scores are low and there are no criminogenic needs to be addressed, they may or may not be required to pay supervision fees before discharge. Since the fees that are collected go into the General Fund, DOC has no real motivation for collecting them. MGT found that some DOC offices are far more aggressive than others in collecting the fees. Fees collected by PPOs are forwarded to DOC's Central Office for processing. In a few areas, the county clerk receives and forwards these funds.

In practice, fees are waived for reasons other than hardship. In interviews, probation officers routinely said 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 and appears to have been adopted without modifying the department's operating procedures.

### ***Staff Training***

Oklahoma state law (Title 57, Section 515) provides that all probation and parole officers "shall be deemed peace officers and shall possess the powers granted by law to peace officers," and that PPOs must meet all of the training and other 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).

After reviewing the requirements and time commitments required to complete certification, MGT questions whether the PPO job responsibilities really require completion of the full and complete certified peace officer curriculum. At present, DOC probation and parole officers must complete 375 hours of training to be certified as peace officers, as well as an additional 30 hours of specialized training that applies only to DOC staff, for a total of 405 hours. Additional pre-service and orientation training lifts the total to 721.5 hours.

As of January 1, 2008, furthermore, DOC is adding an additional 130 training hours for certification, bringing the total to *851.5 hours*. The additional hours include training in areas that are of questionable value for PPOs, such as training in field sobriety testing (32 hours), radar/lydar (24 hours) and crime scene investigation (40 hours).

The net effect is that as of January 1, 2008, *40.7 percent* of a PPO's available work hours in his or her first year of employment are devoted to training.

The impact of these training requirements becomes obvious in reviewing individual experiences. One officer MGT interviewed was hired in December 2006. She was assigned to an office for the first two weeks; participated in CLEET training for the next 14 weeks; and then completed two weeks of DOC training. Eight months after being hired, this PPO had completed 16 weeks of training, still had two additional weeks of "new employee" DOC training before her, and said she had only limited authorization to complete LSI-R assessments.

The officers and supervisors interviewed generally agreed that peace officer status is advantageous, and supported CLEET certification. Many, however, doubted that some specific curriculum requirements in the training program were relevant or helpful, and said that some were totally unrelated to their job responsibilities, such as training in vehicular pursuit and crime scene identification and preservation.

### *Intake Processes; Centralized PSI Unit*

The state's two largest urban districts, Central (Oklahoma County) and Tulsa, have specialized units for intake. The intake units, located near the courts, process offenders into the probation program. These units offer better efficiency and consistency in processing reports and completing the intake process, and let PPOs focus on the needs of their caseloads. This is particularly useful given Oklahoma's generally high caseloads.

The Oklahoma County intake center includes both court and intake services. Offenders processed by the intake office include those sentenced in the county to probation; all persons leaving prison on parole; and any transfers to Oklahoma County that are to be supervised locally. Record officers stationed in the intake office initiate the formal offender record. Court services provide support to individual judges as requested. The intake offices also serve as clearinghouses for intake into prison, complete preliminary documents and record data on DOC's offender management system.

The unit has seven funded positions, including a supervisor, two records employees, two court services employees and two administrative assistants who process intake and pre-sentence investigation (PSI) report referrals. It processed 455 offenders in April 2007 and 367 in July 2007.

The administrative assistants complete a five-page information sheet on each offender, as well as a personal history sheet. Due to the limitations of DOC's offender management system and the Oklahoma court network, the data collected usually must be obtained and transmitted manually. They also initiate the "field file," a master record file that follows each offender throughout his or her period of supervision or custody.

Intake officers assign all pre-sentence investigation reports to district officers. The district attorney and/or a public defender can request a PSI on any offender; in practice, about 75 percent of offenders require a report. District probation and parole officers must complete these reports in addition to their other duties. This is the practice in all other districts and sub-offices except for the Tulsa District, which has created a special unit to complete pre-sentence investigations.

Most urban areas MGT has studied have specialized PSI units, and certainly, the Central District could benefit from one. It would improve the investigations' quality and efficiency reviews while giving PPOs additional time to work their assigned caseloads.

The one disadvantage of a centralized PSI unit is that it reduces the PPOs' opportunity to study the offenders in their charge and their specific needs. In most rural areas of Oklahoma we visited, PPOs completed the PSIs on sex offenders who would be subsequently assigned to their caseloads. This allowed the officers to begin learning about the offender from the beginning of their supervision. In Oklahoma County, however, all officers are assigned PSIs randomly. They are assigned cases that normally they are subsequently assigned to supervise on a regular basis. In any case, preparing PSIs can be a very time-consuming process (most officers can complete only two to four each month).

### ***Contract Monitoring***

Community Corrections contracts with and provides compliance monitoring for the nine halfway house programs DOC uses. This monitoring occurs separately from the contract monitoring functions performed by the Field Operations Division for private prison and jail contracts.

As noted elsewhere in this report, these two separate contract monitoring functions represent duplicated effort. While the contractual requirements for the halfway houses and the private prison beds are different, the approach and processes used to monitor these agreement are similar, if not identical.

### ***Summary of Recommendations***

***Recommendation 5-19. The Oklahoma County District should be abolished, and its functions reassigned to the administration of the Central District.*** MGT found no compelling reason to maintain this district as a separate entity.

***Recommendation 5-20. DOC's implementation of EBP is consistent with national trends and standards. The department should continue to refine and improve its approach as it develops additional data on its offender population.*** MGT endorses the findings and recommendations of the recently completed National Institute of Corrections assessment.

***Recommendation 5-21. DOC should expand its monitoring of the performance and recidivism rates of offenders placed on administrative and inactive status and report its findings to the legislature annually.***

***Recommendation 5-22. The Oklahoma legislature should develop statewide standards for the supervision of offenders placed with private supervision providers.***

***Recommendation 5-23. DOC should develop a five-year plan to achieve lower ratios of supervisors to line officers.***

***Recommendation 5-24. DOC should offer the legislature alternative solutions to problems related to housing sex offenders caused by restrictions on their placement.***

***Recommendation 5-25. The legislature should amend state law (Title 22, Section 991a) to encourage broader use of GPS in sex offender cases.*** MGT recommends using a fixed period for this monitoring that is not tied directly to the lifetime registration period of registration, to encourage its use by the judiciary, particularly during the first two years of supervision.

***Recommendation 5-26. DOC should assess programs that restrict inmates from community placement, and determine whether they can be provided cost-effectively in a community setting, either by contractors or departmental employees.*** Of a sample of 1,426 cases reviewed for community placement, 319 were restricted from community placement due to active participation in various programs (Career Tech, Regimented Treatment Program, Keys to Life, etc.) or a scheduled start date for entry into a program.

**Recommendation 5-27.** *DOC should establish a process for screening DOC inmates in county jails for their suitability for community placement, and when possible accelerate their transfer to Lexington to verify this eligibility.* DOC does not routinely assess these prisoners. It can be assumed that some of them would meet the eligibility criteria, but no formal review of these cases has been conducted.

**Recommendation 5-28.** *The damaged Clara Waters Community Correction Center in Oklahoma County is being rebuilt and will include a program component for technical violators of community programs. DOC should consider expanding this program to include other offerings that could expedite community center placements.* These could include Regimented Treatment and other required program offerings that presently preclude placement in the community until completion. This recommendation may require an expansion of bed capacity at the center, but should open up other DOC beds, producing a net increase in capacity.

**Recommendation 5-29.** *DOC should review its fee collection process to improve consistency and equity in its standards for waiving the fees.* While the reasons MGT was given for fee waivers are consistent with EBP principles, there is no statewide standard or direction on this matter.

**Recommendation 5-30.** *The legislature should modify the CLEET requirements to create a special peace officer category for parole and probation officers, with an accompanying modification of the training curriculum to make it more consistent with their duties and responsibilities.* CLEET should eliminate the training elements that have no relevance to their duties, and where possible substitute relevant training that would enhance and improve their performance.

**Recommendation 5-31.** *DOC should establish a special unit to complete pre-sentence investigation reports for offenders sentenced in Oklahoma County.*

**Recommendation 5-32.** *DOC should review the workloads of the Oklahoma County and Tulsa intake units and recommend specific funding increases to the legislature.* MGT found that the staff presently allocated to these units cannot cope with their workloads. In Oklahoma County, our review showed a need for at least four additional employees. A more thorough workload review could recommend other efficiencies.

**Recommendation 5-33.** *DOC should finish development of the new COMIT information system as soon as possible, and incorporate the automation of the intake units into the process.* The existing intake process is inefficient, costly and duplicative of other, related functions. An improved automation system to replace the existing OMS should result in considerable staff savings, improve efficiency and eliminate errors created by excessive workloads.

**Recommendation 5-34.** *DOC should consolidate its contract monitoring functions in a single unit outside the scope of authority of the Division of Community Corrections.*



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

## 6.0 INSTITUTIONAL OPERATIONS & SUPPORT SERVICES

### *Introduction*

MGT's review of DOC's institutional operations was intended to:

- develop a full understanding of DOC's institutional operations;
- identify the strengths, weaknesses and issues associated with current operations, programs, support functions and security systems; and
- assess overall institutional performance, efficiency and usage of staff resources.

To achieve the objectives, the MGT project team visited a number of DOC institutions, including:

Oklahoma State Reformatory	Oklahoma State Penitentiary
Lexington Assessment and Reception	Jackie Brannon
Joe Harp	Mabel Bassett
Jess Dunn	Eddie Warrior
James Crabtree	Bill Johnson
John Lilly	Lawton (GEO)
Davis (CCA)	

These facilities represent 76 percent of DOC's total secure facility capacity.

Our on-site reviews included direct observations; interviews with administrative, supervisory and line staff; a staffing analysis; and a review of available data and documents related to he institutional operations.

MGT identified several core issues that should be addressed to ensure that the facilities operate in a safe and secure manner, while meeting the needs of their inmates.

### **Staffing**

Staffing can account for more than 75 percent of an institution's annual budget. The assessment of personnel requirements and the allocation of staff, then, is an essential task.

Each DOC correctional facility has an authorized staffing level that has been approved by members of the agency's executive staff. These staffing levels are based on analyses performed by Institution Division staff, in collaboration with facility employees, which identify the personnel needed to consistently meet each facility's responsibilities and maintain a safe and secure prison environment.

In determining appropriate staffing required to operate a facility, the division must identify the posts that must be filled; the days and time when they need to be filled; and the average actual hours each employee must work to complete required tasks and provide adequate supervision.

Obviously, actual hours worked differ from these schedules, however, since some employees throughout the year will be unable to fill a post on a scheduled work day due to training, sick leave, vacation or other time off. This leads to the concept commonly called the *relief factor*, which identifies the number of full-time equivalent staff members (FTEs) actually needed to fill a single approved post over a given time period. DOC has established a seven-day relief factor of 1.79; in other words, the department assumes that it needs 1.79 FTEs to fill one post daily during a seven-day week. Most security posts require a relief factor to meet facility responsibilities, although non-security positions and select security posts normally do not.

DOC's current relief factor has not been updated since 2004. Most systems complete formal updates to the relief factor annually, since an inaccurate relief factor can lead to under- or overstaffing.

In addition to the relief factor, DOC has established classification levels that identify different security posts as either "fixed," "pull" or "shutdown" posts.

- *Fixed posts* are those that *must* be filled on each shift. In the case of a staff shortage, additional employees must be assigned to fill a fixed post, through overtime expenditures or the closure of shutdown posts (see below).
- *Pull posts* may be left vacant for up to six hours on a shift, if the facility's operating needs and staff availability so dictate.
- *Shutdown posts* are posts that should be staffed unless staff shortages, unusual circumstances or emergencies dictate otherwise. A shutdown post closed for more than 72 consecutive hours in any 28-day cycle must be documented on the appropriate daily shift roster, with an indication of why the post was closed.

Each post serves its role in meeting facility responsibilities. When an insufficient number of employees is available on a shift, managers can fill posts either by paying available staff overtime (time and one-half) or by leaving pull posts vacant for a time and closing shutdown posts. Again, fixed posts generally cannot be closed.

This staffing process has been complicated by the fact that DOC's approved funding plans for its facilities will not cover the cost of its approved staffing plan. DOC reports that it has enough funding available to staff its institutions at a rate of 82 percent of the authorized staffing level. Even with this level of funding, most facilities are meeting their responsibilities and maintaining safe and secure institutions by filling posts through overtime, absorbing responsibilities through staff assigned to other posts or consistently closing pull and shutdown posts deemed nonessential.

The inevitable result of inadequate staffing, however, is low employee morale. Staff at several facilities including the Oklahoma State Reformatory, Oklahoma State Penitentiary, Jackie Brannon Correctional Center, James Crabtree Correctional Center and Lexington Assessment and Reception Center expressed considerable dissatisfaction with the number of staff available to meet their responsibilities.

Some of the Institutions Division's staff vacancies, though, are not due to funding restrictions, but to a limited pool of qualified individuals available to fill vacant, funded positions. Recruitment efforts are a high priority of the division. Oklahoma State Penitentiary, Oklahoma State

Reformatory, Lexington, Jackie Brannon, and James Crabtree all have found it difficult to locate qualified job candidates.

Factors contributing to the limited pool of qualified candidates include:

- initial pay rates that are lower than competitive employers;
- numerous employment options in the oil industry, railroads and private prisons;
- rotating work schedules that disrupt home and family routines;
- an extremely time-consuming hiring process that often results in eligible candidates finding alternative employment during the waiting period; and
- mandatory overtime work in most facilities

MGT's review of the master and daily rosters at several facilities indicated that they were deploying available staff effectively in critical posts. Employees were assigned proportionately among the shifts and regularly scheduled days off were balanced appropriately. The chief of Security at all facilities demonstrated sufficient knowledge and expertise in roster management to ensure efficient use of existing staff.

While DOC reports that it funds Institutions Division staffing at a rate of 82 percent of the authorized staffing levels, the actual average percentage of filled correctional positions from January through September 2007 was 78 percent, due to factors such as high employee turnover and difficulties in employee recruiting.

Most DOC facilities have been able to meet their responsibilities with current funding by vacating posts, eliminating staff breaks, asking employees to absorb additional responsibilities and/or using overtime. At some facilities, however, such adjustments have not been sufficient. Five institutions in particular have experienced difficulties in consistently meeting their responsibilities.

These include the Oklahoma State Penitentiary (OSP) and Oklahoma State Reformatory (OSR), which house inmates classified in the higher-risk custody levels of maximum and medium. The remaining three facilities are correctional centers that need additional staff, but not as critically as OSP and OSR (**Exhibit 6-1**).



**EXHIBIT 6-1  
DOC Institutions with Significant Staffing Shortages  
As of August 31, 2007**

<b>Institution</b>	<b>Authorized COs</b>	<b>Funded ( 82%)</b>	<b>Positions Filled</b>	<b>% of Funded Positions Filled</b>	<b>% of Authorized Positions Filled</b>
Oklahoma State Penitentiary	402	330	292	88.5	73%
Oklahoma State Reformatory	166	136	101	74.3	61%
Lexington Reception Center	196	161	133	82.6	68%
Jackie Brannon	79	65	62	95.4	78%
James Crabtree	125	102	81	79.4	65%

*Source: Oklahoma Department of Corrections and MGT of America.*

*Oklahoma State Penitentiary:* OSP is the state’s only male maximum-security facility. Individuals housed there include inmates sentenced to death, maximum-security mental health inmates, disruptive inmates, maximum-security infirmary patients and other high-risk inmates. The diversity and risk level of this population, OSP’s physical plant and safety issues are all factors affecting the need for appropriate staffing.

As noted in **Exhibit 6-1**, OSP was operating at 88.5 percent of its funded level and only 73 percent of the authorized level on August 31, 2007. This does not provide enough corrections officers to provide adequate staff coverage in key areas. The impact of staff vacancies was most evident in assignments for Housing Units A and C, Central Control, Gang Intelligence, Compound and the relief posts.

Human resource staff said that the facility has a comprehensive recruitment plan that includes the use of temporary positions to reduce the lengthy waiting period imposed by the hiring process. The temporary employees can then be converted to full-time regular employees with benefits at the discretion of the institution. They also noted, however, that other employment opportunities with higher initial pay were available in the immediate area, limiting the pool of eligible candidates.

One factor that hampers department recruiting efforts is the current state requirement that an individual must be 21 years of age to apply for a correctional officer position. Most states have established minimum age levels of 18 or 19.

The following table summarizes a review of age criteria for correctional officer positions.

State	Minimum Age
Texas	18
New Mexico	18
Colorado	High School Diploma (HSD)
Kansas	18
Missouri	21
Arkansas	HSD
Alabama	19
Nebraska	18
Florida	19
Georgia	18
California	21
Idaho	HSD
Illinois	18

Officials in states with lower minimum ages indicate they have not experienced problems in officer quality resulting from their lower age requirements. To the extent that a state has a good training program for its correctional officers, and an effective staff supervision/command system, there do not appear to be significant issues associated with a lower minimum age. Moreover, only a select number of positions within each prison require CLEET certification, so a lower minimum hiring age for correctional officers would not affect current statutory requirements for CLEET certification. Lowering the minimum age for employment as a correctional officer may be an effective option to increase the department's pool of potential employees.

In addition to security, other major departments at the facility have experienced substantial vacancies, including the business office, maintenance, medical, food service and case management. Medical staff reported that nurse positions are very difficult to fill due to competitive employment opportunities with higher pay scales.

The staffing complement of 73 percent of authorized staffing has had a direct impact on OSP's operational efficiency. Key effects include:

- poor staff morale;
- inadequate security supervision in housing units;
- inconsistent observation of security surveillance equipment;
- inability to complete required security responsibilities including cell searches, and inmate and staff shakedowns;
- high overtime expenditures;
- increased inmate idleness; and
- high staff turnover.

*Oklahoma State Reformatory:* OSR is a male medium-security facility that was operating at 74.3 percent of its funded level and just 61 percent of the authorized level on August 31, 2007. This does not allow for enough staff to cover the housing units, the medical unit, gang intelligence or the yard area adequately, or to deploy enough relief staff to provide appropriate coverage of critical posts. OSR had 65 vacant relief posts on August 31.

OSR's staff shortages, like OSP's, are due in part to an inadequate number of qualified job applicants. Administrative and line staff reported that they face significant competition from employment opportunities in the local oil fields, where the starting pay is several dollars per hour more. Furthermore, even if an individual is interested in a career in corrections, a private prison located within 30 miles of OSR offers higher starting pay. Staff also reported that two inmate homicides at the reformatory during fiscal 2006 discouraged some potential applicants.

OSR had a 25.7 percent vacancy rate in security positions. The most obvious effect of these vacancies is insufficient staffing in housing units, central control, gang intelligence and the yard area. Collateral responsibilities including cell searches, inmate pat-downs, surveillance monitoring and intelligence gathering are not completed on any consistent basis. Posts not staffed on a regular basis include the second security officer for each general population housing unit, a medical unit officer, a second yard officer on the first shift and the second officer in Central Control.

Based on a review of a selected sample of overtime reports, at least five security officers must work overtime every day to fill essential posts.

*Lexington Assessment & Reception Center (LARC):* DOC's assessment and reception center operated at 82.6 percent of the funded level and 68 percent of the authorized level on August 31. Staff shortages there are primarily due to staff transfers and employees leaving the department. During the first seven months of 2007, 13 security officers transferred out of the facility and six others quit. In addition, staff reported at least six officers must be pulled from their posts daily to meet inmate transportation responsibilities.

*James Crabtree Correctional Center (JCCC):* JCCC operated at 79.4 percent of its funded staffing level and 68 percent of the authorized level as of August 31. Critical posts left vacant include posts assigned to Housing Unit Six, transportation and the yard.

JCCC has a comprehensive recruitment program that includes marketing efforts throughout the area. Documentation provided reflects a recruitment plan that was as impressive as any in the state. Even so, employment options in the oil industry, railroads and at the Bill Johnson Correctional Center limit the pool of eligible candidates.

All but one of JCCC's 43 vacant security positions were security officer positions. JCCC copes with the vacancies by closing pulled posts and shorting the number of staff available to fill required relief posts. Staff shortages throughout the facility limit its ability to fill required posts and conduct routine property searches, area shakedowns, inmate drug testing and internal investigations.

JCCC also had critical vacancies in non-security positions including correctional counselor, correctional activities officer and clerical support. Staff reported that the correctional counselor positions are being phased out and the existing vacancies will not be filled.

*Jackie Brannon Correctional Center (JBCC):* JBCC operated at 95.4 percent of the funded level and 78 percent of the authorized staffing level on August 31. JBCC is a minimum-security facility located in McAlester adjacent to OSP. As with the other institutions, JBCC administrative and line staff said that low pay and competing employment opportunities in the area hurt recruitment efforts. Starting pay rate for employees working the oil fields is several dollars per hour more than the starting pay for a correctional officer, although the benefits reportedly are not as good as those offered by the state.

JBCC uses overtime to fill the minimum number of required posts. Even so, staffing assigned to housing units B and C is clearly inadequate, as is the utility staffing assigned to assist with visitation and ground supervision. A review of overtime reports indicated that an average of one security staff member must work overtime to fill a vacant fixed post each day.

### ***Summary of Recommendations***

#### ***Recommendation 6-1. DOC should ensure consistent staffing of the following additional posts at OSP:***

- *Housing Unit A Officer.* Each shift should have one additional officer assigned to the unit. This would result in three additional seven-day posts.
- *Housing Unit C Officer.* Each shift should have one additional officer assigned to the unit. This would result in three additional seven-day posts.
- *Compound/Movement Control.* DOC should create compound posts that would provide movement control and immediate security support within the facility. These positions were previously identified in the 2002 post chart. The recommended posts should include one on the 10:00 p.m. – 6:00 a.m. shift, two (2) on the 6:00 a.m. – 2:00 p.m. shift and two (2) on the 2:00 p.m. – 10:00 p.m. shift. Each post should be considered a seven-day relief post.
- *Gang Intelligence Officer.* DOC should create a gang intelligence officer post to focus on gathering intelligence information on inmates posing security threats.

***Recommendation 6-2. DOC should reconsider its present policy of funding all facilities equally at 82 percent of the authorized staffing level.*** The use of a uniform 82 percent funding level for each facility ignores difference in their missions, populations and operational requirements, policies and practices.

Based on our facilities review, MGT proposes the following staffing roster and funding levels (**Exhibit 6-2**):

**EXHIBIT 6-2**  
**Recommended Funding Levels for Understaffed Institutions**

	OSP	OSR	JCCC	JBCC	LARC
Authorized	402	166	125	79	196
Funded	330	136	102.5	65	161
Filled	292	101	81	62	133
Additional Staff Required	11.51*	9.93 *	6.91*	4.86*	7.68*
Recommended Minimum Funding Level	<b>342 (85%)</b>	<b>146 (87.95%)</b>	<b>109 (87.2%)</b>	<b>70 (88.6%)</b>	<b>169 (86.2%)</b>

\*Rounded to nearest whole number.

Source: MGT of America.

**Recommendation 6-3. DOC should enhance its current statewide recruitment and retention strategies to better assist facilities that cannot meet established staffing funding levels.** Although there are efforts throughout the state to improve recruitment and retention, the efforts in this area should be more centrally coordinated and the approaches proven to be effective emulated state-wide. The goal of this process should be to expand the number of qualified candidates willing to consider employment at the facility.

**Recommendation 6.4. The DOC should lower the minimum age for correctional officer employment to 19.** This level is consistent or higher than requirements established in most states, and would increase the department’s pool of eligible staff.

**Recommendation 6-5. DOC should implement a systemwide policy that halts staff transfers whenever an institution is operating at 5 percent below the funded staffing level.**

**Recommendation 6-6. DOC should evaluate its hiring process to find ways to expedite it, so that job applicants are not lost to lengthy delays.** OSP hires staff as temporary employees while they complete the necessary pre-employment background checks. DOC should build on this initiative to recruit new employees more aggressively.

**Recommendation 6-7. DOC should calculate the relief factor for each facility annually.** As noted above, the present relief factor was last calculated in 2004, and is used throughout the entire department. MGT’s experience is that relief factors should be varied among institutions and even geographic regions to produce the best accuracy. DOC should calculate a unique relief factor for each of its units. This would significantly enhance its accuracy in projecting its staffing needs.

## Staff Retention

As we have seen, recruitment is one critical issue affecting correctional staffing; retaining those employees once hired is another. The Oklahoma State Penitentiary, Oklahoma State Reformatory and the privately operated Lawton Correctional Center have significant problems with staff retention.

*Oklahoma State Penitentiary:* A review of staff retention rates indicated that 72 staff members left OSP during fiscal 2007, or 18.1 percent of the facility's total staff (**Exhibit 6-3**). Of these, 58 were security personnel. Other employment opportunities, retirements and the annual required shift rotation for security staff were the primary reasons cited for these departures.

**EXHIBIT 6-3**  
**Oklahoma State Penitentiary**  
**Employee Retention Statistics**  
**Fiscal 2005-2007**

Fiscal Year	Number Hired	Hired During the Year and Currently Employed	Retention Rate
2007	68	47	69.1
2006	68	38	55.9
2005	62	35	56.5

*Source: Oklahoma Department of Corrections.*

As **Exhibit 6-3** indicates, more than 30 percent of the staff hired at OSP during fiscal 2007 left within their first year of employment.

*Oklahoma State Reformatory:* Administrative and line staff at OSR told MGT that more lucrative employment opportunities with local oil field companies is the largest factor hurting staff retention at their facility, and as noted above, a private prison within 30 miles of OSR hires frequently and pays more.

During the first seven months of calendar 2007, OSR hired 14 new security hires and lost 11. In fiscal 2006, 31 security officers left the facility.

*Lawton Correctional Center:* Lawton is a privately operated facility with an aggressive and professional recruitment process that continually screens and hires applicants. During the first six months of 2007, Lawton hired 206 new employees, for an average of 34 new hires per month. During 2006, the center hired 384 new employees, for an average of 32 per month. Even so, the facility has been plagued by extremely high turnover in recent months (**Exhibit 6-4**).

**EXHIBIT 6-4  
Lawton Correctional Center  
Staff Hires and Terminations  
January–June 2007**

2007	New Hires	Terminations
January	53	29
February	31	19
March	17	27
April	39	27
May	37	28
June	29	33
Total	206	163

*Source: Lawton Correctional Center.*

The most common reasons reported for staff terminations included alternative employment, job abandonment and personal reasons. Lawton is Oklahoma’s third-largest city and offers a number of employment opportunities, including a Goodyear plant and the Fort Sill military base. Staff reported that some employees often hire on at the Lawton Correctional Center with the intent of staying only until they find another job with better pay and benefits and a lower-stress work environment.

Lawton security staff told MGT that overtime work is regularly available. Management provided a report indicating security employees worked an average of 27.7 hours of overtime each month from May to July 2007. This compared to an average of 19.6 hours of overtime during the same three months in 2006. Overtime for security staff usually involves filling fixed posts.

***Summary of Recommendations***

***Recommendation 6-8. DOC should require its facilities to conduct exit interviews for staff terminating employment to clearly identify and document their reasons.*** DOC then should develop action plans to address trends identified through these exit interviews.

***Recommendation 6-9. DOC should reconsider its practice of rotating work schedules (the required rotation to a different work shift) annually to determine its impact on employee recruitment and retention.*** Security officers said that shift rotation is one of the primary reasons for low morale and high staff turnover.

## **Physical Plant and Infrastructure**

DOC operates a number of facilities that were not originally built to house adult offenders. Six of its facilities were not originally built as prisons. One was originally designed to be a regional hospital. Another once served as a satellite facility to OSP and was later converted into a hospital and then into a training camp before becoming a correctional center. All of these facilities had significantly different missions when originally constructed and contain structures that are more than 75 years old.

DOC's Institutions Division develops an annual capital outlay request and capital improvement plan to identify its physical plant and infrastructure needs. This list is prioritized for possible funding consideration. Consistent state underfunding for such capital expenditures has limited the value of this tool, but it is relevant in that it documents the division's needs. In fiscal 2007, the division made more than 200 capital outlay requests with an overall estimated cost of more than \$490 million. The type of requests contained in the document range from roofing repairs to new housing units.

During the course of MGT's site visits, the review team found evidence of serious deterioration in DOC facilities. Although the team members are not engineers or architects, each has significant experience in operating and managing correctional facilities and understands the impact of a deteriorating physical plant on safety and security. The situation at some facilities places the health and safety of staff and inmates at risk. As such, DOC should develop and fund an aggressive remedial plan that prioritizes repairs of the most critical issues.

MGT's observations and concerns include the following:

***Joseph Harp Correctional Center:*** This facility currently has 19 projects on the Long-Range Capital Planning Commission list totaling \$6,378,785. This is a list that prioritizes the department's capital needs. The center's maintenance supervisor expressed frustration regarding the lack of funding for repairs as well as routine maintenance. One target of his frustration is the first project listed on the Capital Planning document: roof repairs. According to the supervisor, this item has been on the list for *ten years* without any action or funding.

Two additional areas of concern are the boilers and the waster water treatment plant. Staff report that neither is sufficient to adequately support the center's current population.

***Jess Dunn Correctional Center:*** MGT observed two critical problems at Jess Dunn. The first is a critical shortage of emergency electrical generator capacity. The center has only two generators, and one is a very old piece of equipment that supports only the boiler and some interior lighting. This generator must be started each time there is a power failure. The other, newer generator supports only the Specialized Housing Unit and Central Control. Exterior lights, including those along the institutional perimeter fence, and the facility kitchen have no backup generator power.

The second critical concern involves the age of the facility's electrical system, and its capacity to carry the load currently demanded of it. Parts of the system still use antiquated, screw-in fuse boxes. Staff said that the system is operating at the very limit of its load-carrying capacity.



***Eddie Warrior Correctional Center:*** Eddie Warrior is seriously deficient in emergency electrical generator capacity. The only two available generators support the medical area, the Special Housing Unit and the kitchen. Lighting for the institutional perimeter is not supported.

***Lexington Assessment & Reception Center:*** As with Joseph Harp, this 30-year old facility has had little or no funding allocated for capital improvements. Roof leaks in particular are causing problems in all areas of the institution. The LARC administration has produced a list of capital improvement needs that totals \$11,411,000. Critical items include roof repair/replacement, boiler repair/replacement, HVAC and refrigeration equipment repair, new perimeter lighting and water well repair.

***Jackie Brannon Correctional Center:*** The Jackie Brannon C Unit is a three-story unit, built in 1938, which was originally used as a community hospital. In 1978, the hospital became into the McAlester Community Treatment Center; in 1993 this center was merged into the correctional center. The C Unit has an operating capacity of 284 inmates, housed in multiple-occupancy rooms on the second and third floors. The first floor consists of a secure control center, administrative and staff offices, inmate records and program space.

Inmates residing in the unit generally are assigned to the Prisoner Publics Works Program or the Substance Abuse Treatment Program. A portion of the building previously used for parole and probation offices is vacant and not being used due to its lack of an adequate sprinkler system.

The institution has requested funding to repair the unit's roof. This request has been submitted for consideration for the last eight consecutive years. In addition, the unit's electrical wiring is reportedly 70 years old; its sprinkler system is incomplete; and its asbestos abatement costs have been estimated at \$188,000.

C Unit is located in a remote location of the complex:

- 0.75 miles from the medical unit;
- 0.8 miles from the visiting room;
- 0.5 miles from the food service building; and
- 0.4 miles from the chapel and education buildings.

Inmates residing there usually walk to and from the service buildings. During inclement weather and after dark, the inmates are transported via a tractor trolley. The unit's location impedes the efficiency of service delivery and security supervision.

***Oklahoma State Reformatory:*** OSR's physical plant includes a diverse collection of correctional architecture representing a century of structural designs. The facility's support and sanitation systems appear to have received adequate maintenance, as evidenced by its manicured grounds and generally well-maintained buildings. An appropriate number of inmates appeared to be assigned to support responsibilities.

OSR's original housing units, East and West, are no longer used and have been condemned. Despite this, they still stand and MGT was told that there are no apparent plans to demolish these buildings.

The medical unit is located inside the reformatory walls, near the administration building. The unit offers space for exam rooms, office space, record storage, a waiting area, a triage area, dental and x-ray facilities and limited storage space for medications. Three surveillance cameras are strategically positioned within the building; a video monitor located in the health care administrator's office displays a view provided by one of the security cameras.

The medical unit's space is extremely limited, given the number of inmates treated there. Waiting room space extends into a common hallway in the unit, which prevents the control of inmate movement, normally a requirement in a medium-security prison.

OSR has an open recreation yard in the middle of the main facility. Inmate access to the yard rotates on a pre-approved, scheduled basis. The recreation yard is separated from Housing Units A through D by security fencing and gates that surround each of the four housing units. Most activity in the yard is visible to staff assigned to the yard and perimeter towers. The location of the medical unit, chapel and laundry, however, restricts staff visibility to some areas of the yard. Additional recreation space is available in the gymnasium and in areas adjacent to each housing unit.

**Oklahoma State Penitentiary:** Construction of OSP began in 1908. The West Cellhouse and Administration Building were the first buildings completed. As the prison's population grew, East House, F House and the "New" cellhouse were added. In time, three of the four original cell units were closed; F House, built in 1937, is the only original unit still being used. The East and West cellhouses remain standing but have been unoccupied since 1984. The G Unit, built in 1949, is still being used as well.

OSR's remaining housing units were created by converting existing support space (I Unit and the Minimum Security Unit) or were built within the past 30 years.

OSP's physical plant is unique in a number of ways, including:

- overall age;
- the wide variety of housing unit designs;
- the existence of a rodeo arena inside the facility's walls; and
- its use of converted space for housing.

OSR administration has placed a high priority on maintaining the facility properly despite its age and limited funding. Still, the facility's overall condition, design and staffing complement call its continued effectiveness into question.

Projects recommended for funding in fiscal 2007 included \$320,000 for roof repairs and \$110,000 for renovations to comply with the provisions of the American Disability Act. In addition, OSR submitted a request for a water tower to provide a backup water supply in case of an emergency, at an estimated cost of \$547,000.

In all, \$3.1 million of capital outlay requests for major repairs appear to be a result of the aging of the penitentiary (**Exhibit 6-5**).

**EXHIBIT 6-5  
Oklahoma State Penitentiary  
Capital Outlay Requests, Fiscal 2008**

<b>Type</b>	<b>Total Project</b>
Roofing Repairs	\$320,000
Light Replacement, A,C & F	\$160,000
ADA Renovation	\$121,000
Food Warehouse	\$1,925,000
High Mast Lights and Generator	\$427,000
Remodel New Administration Building	\$185,000
<b>Total</b>	<b>\$3,138,000</b>

*Source: Oklahoma Department of Corrections.*

Limited funding and maintenance staff have prevented the facility from performing preventive maintenance or completing the sort of minor repairs that eventually evolve into major problems.

Traditionally, DOC has addressed shortages of maximum-security bed space at Oklahoma State Penitentiary by expanding its perimeter and opening new housing units. The East and West cellhouses and the “New” cellhouse that was severely damaged during an inmate disturbance in 1973 were replaced with the A, C, D, E, and H Units. OSP’s newest housing unit opened in 1991.

**James Crabtree Correctional Center:** Although JCCC is designated as a medium-security facility, its physical plant is more consistent with that of a minimum-security facility. The only physical security measure consistent with medium security is the perimeter fence, fence detection system and new 42-bed segregated housing unit. The room door-locking mechanisms in Housing Unit 6 have been removed due to consistent malfunctions, and all other general population areas are open dormitories. In essence, the facility’s interior should be considered minimum security and its perimeter medium security.

MGT found a number of problems with JCCC’s physical plant:

- the facility was not originally designed to be an adult correctional center.
- about 32.6 percent of its inmates are housed in buildings constructed more than 70 years ago.
- JCCC is designated as a medium-security facility, and yet has no general population cells or rooms with operating door locks, normally a required component of such a facility.
- the facility’s only physical design elements that are consistent with nationally recognized medium-security standards and practices are the reinforced perimeter fence and a new 42-bed segregated housing unit.
- JCCC’s minimum-security unit is a converted storage building. Its bed layout has been adjusted to avoid numerous leaks in the roof.
- half of the center’s buildings require roof repairs.

In addition, JCCC's kitchen is more than 80 years old, and needs a new boiler. Its size and production capability is inadequate for the number of inmates it must feed, and its equipment is antiquated. Furthermore, the physical design of the kitchen and dining area creates security problems as well as health and safety issues. Long inmate waiting lines to enter the dining room extend outside of the building; limited preparation and storage space affect the quality and efficiency of food preparation; and blind spots in the facility raise safety and security concerns.

A review of capital outlay requests at James Crabtree reflect a number of items that have been requested annually since 1999, including roofing repairs, a new kitchen, door replacements and security upgrades.

Roof repairs and construction of a kitchen and dining area *must* occur in the immediate future if DOC is to maintain health and safety standards.

### ***Summary of Recommendations***

MGT's review of capital outlay requests and its visual inspections found a number of physical plant problems that have been identified repeatedly for years as requiring repair, replacement or upgrades. The most common capital needs at the institutions surveyed were roof repairs and electrical system upgrades. Other areas that require attention are wastewater treatment plants, boilers, kitchen and dining room facilities and emergency generators.

To ensure that these projects are prioritized based on departmental needs and staff and inmate health and safety, MGT *strongly* recommends that DOC include a review of its capital needs in the master plan project recommended in Chapter 3 of this report. An assessment of each institution's critical needs and infrastructure should be completed to determine the long-term costs and benefits of continued operation of older facilities versus replacement. Only a comprehensive analysis by experienced criminal justice architects and engineers can yield this information.

Among other items:

***Recommendation 6-10. DOC should identify alternative options other than continuing to add additional units at OSP, and give serious consideration to closing its existing housing units.*** Any further expansion will only place more strain on an aging infrastructure that is operating well beyond its designed capacity.

***Recommendation 6-11. DOC should consider replacing OSR's C Unit with a new living unit on property available near Unit B.*** The current location affects the facility's efficiency and security supervision.

***Recommendation 6-12. DOC should consider creating a separate maximum-security general population facility to meet its space needs.*** In summer 1973, OSP's inmate population at OSP was 2,200; as of August 13, 2007, it was 1,237. Thus the number of maximum-security beds has fallen by more than 56 percent in the past 34 years. In view of the reported number of inmate classification overrides from maximum to medium security, and the reduction in the number of available maximum-security beds, DOC should consider additional maximum-security beds as a high priority.

***Recommendation 6-13. Abandoned buildings at OSP should be demolished, provided historical preservation issues are not violated.*** DOC should focus on immediately removing the East and West cellhouses, as they present safety, security and health risks to staff and inmates.

***Recommendation 6-14. DOC should continue its efforts to provide a consistent physical security approach that addresses JCCC's designated security level of the facility.***

***Recommendation 6-15. DOC should prioritize JCCC's capital request of \$3,151,463 to construct a new kitchen and dining hall.***

## **Security Equipment**

Any penal institution must provide its security staff with emergency equipment. An adequate amount of security equipment (weapons, riot shields, riot batons, restraints, radios, gas munitions, protective vests, etc.) is the best safeguard for staff safety when they enter into dangerous situations harm. And the equipment must be kept in optimum working condition.

MGT surveyed security equipment at each institution and found that deficiencies that have been identified are being addressed. The overall amount and condition of DOC's essential security equipment is acceptable.

In focus groups held at each facility, line staff were generally happy with their security equipment. The most common complaint heard concerned was the condition of their radios, both the handheld models and the radios installed in security vehicles. MGT's examination of the handheld radios validated these complaints; at several locations, they were not in optimum working condition. Staff members complained of short battery life, limited range and poor reception.

Staff at the Oklahoma State Penitentiary staff reported that their two-way security radios are limited in supply. They reported that staff members often bring their own two-way radios are into the institution to supplement the existing communication system. These commercial security radios, however, do not have a scrambling channel that protects communications from being overheard by persons outside the facility.

OSP's warden indicated that the penitentiary recently was approved to purchase additional security radios. As a result, the use of private two-way radios should be reduced.

### ***Summary of Recommendation***

***Recommendation 6-16*** *ODC should develop a strategic plan to upgrade its radio systems.* This effort should begin = with a survey of all correctional facilities to determine the radio equipment available at each facility; its condition and capabilities; and the future needs of each facility based on its mission and capacity. Future budget requests and purchases should be based on this plan. The use of commercial grade radios should be eliminated.

## **Private Prison Operations**

State law gives DOC's director responsibility for monitoring of private prisons and jails in Oklahoma. DOC's Private Prisons, Jails and Safety Administration Unit provides direct daily oversight of these private facilities under the direction of the Division of Field Operations. DOC policy OP-030401 specifies policies and procedures for private prison monitoring.

The general responsibilities of the Private Prisons, Jails and Safety Administration Unit include procurement, proposal development and contract monitoring. At least one contract monitor is assigned to each private prison and is responsible for monitoring its compliance with state standards. Private Prisons, Jails and Safety Administration is administered by a qualified correctional professional with experience in both public and private corrections.

*Davis Correctional Facility:* The Corrections Corporation of America's (CCA's) Davis Correctional Facility (DCF) is a privately owned and operated correctional facility that has provided secure housing for inmates sentenced to DOC since 1996. DCF has four units that house 960 medium-custody offenders and one unit that houses 50 minimum-custody inmates. The four medium-custody housing units each hold 240 inmates in 120 double cells. The minimum-custody housing unit has 50 double-bunk beds in an open-bay dormitory. DCF also maintains a 40-bed segregated housing unit and four infirmary beds.

DCF's primary mission is to house medium- and minimum-custody male offenders. The facility appears appropriate for these custody levels. Programming at the facility includes multi-level academic educational opportunities, vocational technology training, a cognitive restructuring program, religious programming, a canine training program, a substance abuse training program and library services.

DCF had an average vacancy rate of 9.2 percent in fiscal 2006. It employed a total of 218 employees in that year, of which 82 were hired during the year and 83 left.

DCF contracts with the department at an average rate of \$49 per day per offender. The current contract expires in June 2008. It mandates that CCA must pay the first \$70,000 for each medical event. After that, DOC and CCA split the remaining costs 70 percent /30 percent, respectively.

The facility has broken ground on a new 660-bed addition that will be located next to the existing facility. Six hundred of those beds will house medium- or maximum-custody offenders. The remaining 60 beds are for segregated housing. All of the beds in the new addition are designed for double occupancy.

*Lawton Correctional Center:* The Geo Group's Lawton Correctional Center first opened in July 1998, and in August 2006 added two 304-bed housing units, bringing its total operating capacity to 2,526. The center is Oklahoma's largest correctional center, public or private. Inmates are housed in double-occupancy cells.

The facility was designed to meet the standards of the Commission on Accreditation of the American Correctional Association (ACA), and received re-accreditation status from the ACA in December 2006. Its physical plant appears appropriate for the custody level of the inmates assigned to it. Most inmates assigned to the Lawton Correctional Facility are medium- or minimum-security general population inmates. The facility also provides housing for up to 304

medium-security protective custody inmates. On the date of MGT's site visit, 2,508 inmates were residing at the facility.

In all, Lawton has nine inmate housing units, an administration building, a support building and an employee training center, which is located outside the secure perimeter. Six of the nine housing units are identical in design and each has a secure, elevated control center surrounded by five two-level pods providing double-occupancy cells. The two new units are identical and contain a secure elevated control center surrounded by three two-level pods. The remaining housing unit is an 82-bed linear design unit with a secure control center located at one end. This unit currently houses inmates in segregation status, with pending disciplinary hearings or refusing a housing or cell assignment. The expansion completed in August 2006 also added a gymnasium and a satellite dining area.

Lawton's primary mission is to house medium-custody male inmates. Its programming includes a wide variety of services including multilevel educational opportunities, both academic and vocational; a cognitive behavior program; correctional industries; religious programming; and library services. Staff reported that more than 80 percent of eligible inmates were actively involved in programs and/or work assignments.

The facility has an authorized staffing level of 474.5 employees, based on a staffing analysis conducted by staff from the office of Field Operations. Current staffing, at 431, reflects a 9 percent vacancy rate.

During fiscal 2006, serious incidents reported at the institution occurred at a rate of 0.56 per 100 inmates, compared to 0.21 per 100 inmates for state-operated facilities. Thus the Lawton Correctional Center had a serious incident report average about 2.5 times higher than that for state-operated facilities, and higher than the levels experienced by the other private prisons. Two inmate homicides have occurred at the facility in the past two years.

*Cimarron Correctional Facility:* DOC's third contract prison, CCA's Cimarron Correctional Facility, is a 970-bed male facility housing medium- and minimum-security inmates. This facility is being expanded, with 660 medium-security beds to be added by June 2008. The facility has a number of program opportunities involving education, therapy, religion and recreation. In addition, it operates a behavior modification program.

Cimarron had a 6 percent employee vacancy during fiscal 2006, with a total of 107 employees hired and 127 terminated during the year. Cimarron currently has 219 employees, of which 16 are health services employees.

### ***Operational Assessment***

The use of privatized prisons has proven to be a valuable asset for Oklahoma, providing housing and program opportunities to more than 4,500 inmates at any given time. The correctional facilities are newer, well-maintained facilities; each was designed to meet ACA standards and have maintained their accreditation. Their physical plants and designs are some of the best in the state.



According to the Private Prisons, Jails and Safety administrator, all three prisons have functioned well and are responsive to deficiencies when they occur. Inmates housed at all three facilities are engaged in a variety of programming.

Private Prisons, Jails and Safety Administration staff indicated that there are some notable differences in the way private prisons operate compared public facilities.

The first difference is the level of staff turnover (**Exhibit 6-6**).

**EXHIBIT 6-6  
Fiscal 2006 Staffing Turnover, Public vs. Private Prisons**

	Total Staff	New Hires	Terminations	Capacity
Public				
- OSR	196	32	37	1,041
- James Crabtree	165	16	19	886
Private				
- Cimarron	219	107	127	966
- Davis	218	82	83	1,000

*Source: Department of Corrections and MGT of America.*

**Exhibit 6-6** identifies the total number of staff, number of new hires, terminations and inmate population for four facilities, tow public and two private, during fiscal 2006. The facilities selected were similar in population, total staffing and security level.

The number of new hires for the two private prisons averaged 94.5 during the year, compared to 24 for the two public prisons. The private prisons averaged almost four times the number of new hires compared to the public facilities. The number of terminations also was drastically different; the two private prisons averaged 105 terminations during fiscal 2006, compared to an average of 28 for the public prisons.

Turnover rates have a direct impact on facility operations. Working in a correctional facility is a highly stressful job that requires time for new employees to adjust and learn operational procedures. The time required to learn all facets of the job often extends beyond the formal training period.

An experienced line staff, properly trained, plays a valuable role. Experienced staff members can spend more time enforcing policy and resolving issues. Through time on the job, seasoned staff gain valuable experience in defusing various situations. Although the number of staff available in a prison is important, experience is perhaps more important; relying on inexperienced line staff to manage medium-security inmates inevitably will lead to a higher number of incidents.

Today's correctional environment requires correctional officers to possess exceptional communication skills. A significant part of their role of is to enforce policy and maintain order through effective communication with inmates and other staff members; the better the communication skills, the fewer serious incidents will occur. Developing these verbal skills in a

stressful and challenging environment is a difficult task. Training programs should assist new staff in developing and refining this essential skill.

In its direct observations, the review team saw varying levels of communication between staff and inmates. MGT saw that communications between inmates and staff at the private facilities were significantly less frequent and effective than those observed at the public facilities. Staff interviewed who have worked both at private and public facilities verified these impressions. Issues that would routinely be resolved through ongoing communication in a public facility may not always be resolved as well in the private prisons.

The two private facilities, combined, averaged a 42 percent retention rate during fiscal 2006, compared to 13.3 percent at the two public facilities. The reliance on a high number of inexperienced employees may have a direct impact on the number of serious incidents occurring at the facility.

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 (**Exhibit 6-7**).

**EXHIBIT 6-7  
Serious Incident Report Comparison**

Serious Incident Reports per 100 Inmates	FY 2005	FY 2006
Private Prisons	.37	.42
Public Prisons	.23	.21

*Source: MGT of America.*

The more frequently that serious incidents occur at a facility, the higher the demand for segregation beds. On November 13, 2007, five public facilities and one private facility operating segregation units were at capacity. Some of the institutions reviewed required additional segregation space while others did not.

At the time of our review, the Oklahoma State Reformatory's 42-bed segregated housing unit was full and had a waiting list of seven inmates. Staff reported that inmates committing the least severe offenses and inmates refusing housing assignments are placed on the waiting list when needed. On November 13, 2007, OSR had four vacant segregation beds. The Oklahoma State Reformatory had the highest number of assaults on staff per 100 inmates during fiscal 2006 for a publicly operated facility.

MGT's observations and staff interviews also indicate that the number of segregation beds available at Lawton Correctional Facility is insufficient. At Lawton, 7.2 percent of available beds are designated for segregated housing, the highest percentage in any facility other than Oklahoma State Penitentiary. Staff members reported that, due to its population size and type, its number of misconduct reports and the waiting period to transfer inmates from Lawton, its segregation unit is usually full. During fiscal 2006, the unit used alternative sanctions other than segregation for less-severe and first-time offenses, to control the demand for segregated housing. Staff reported that inmates often remain in the Segregated Housing Unit awaiting transfer for more than 120 days, delays that have a direct impact on the availability of segregation beds at the facility.

### ***Prison Gangs***

Prison gangs were formally recognized as security threats as early as the 1970s in California. Since that time, prison gangs have become highly organized criminal organizations that are present in all prison systems across the country. Ample evidence suggests that these gangs are operating criminal enterprises outside of the prison walls in all major metropolitan areas in the U.S. Loose-knit groups of offenders who banded together to protect each other inside prison have become very sophisticated criminal operations, both inside and outside the prison boundaries.

Prison gangs, or “security threat groups” as they are called in corrections jargon, initially were formed by members of a particular ethnic group or race to control criminal activities within a prison, such as drug trafficking, extortion, violence and prostitution. Such criminal activities definitely pose a threat to the security and safety of other inmates and staff and are disruptive to orderly management.

These gangs often use brutality to discourage other offenders and even staff members who interfere with their activities. Their organization is very hierarchical, with a military command structure. Most prison gangs will only accept new members who pledge an oath to the gang and agree to a “blood in—blood out” covenant. This means that a prospective member will shed blood at the prison gang’s direction to prove their allegiance, and will have their blood shed should they turn against the gang. Prison gangs enforce this covenant rigidly to send a clear message to member that defecting is not an option without serious consequences.

Numerous prison systems have formally recognized the existence of security threat groups (STGs) and have developed strategies for their management. One commonly employed strategy makes gang membership a serious disciplinary violation, to discourage prospective recruits from joining. Another strategy crucial to the successful management of this population is the identification of each gang and its members. Once these identifications are made, correctional system administrators must closely monitor gang members to curtail or eliminate their disruptive behaviors.

In 1993, in recognition of the threat that inmate gangs represented to corrections environments, the U.S. Justice Department authorized and funded the National Major Gang Task Force (NMGTF). NMGTF provides leadership and information for the criminal justice system and other stakeholders to minimize the effects of security threat groups, gangs and terrorists in jails, prisons and communities. This group networks, trains and has established information-sharing standards with all stakeholders.

ODC, however, has a policy of not formally recognizing gangs or individuals affiliated with them. As a result, it has no preventive measures or statewide, coordinated intelligence in place to address their impact on daily operations. During fiscal 2006, six inmate homicides in DOC were the direct result of gang influence.

ODC staff confirmed that gangs have a negative influence on the daily operations. Every segregation unit has inmates housed as a result of refusing a housing assignment, and most of these refusals are the result of gang activity.

Although DOC does not have a gang intelligence unit, it has developed a proposed gang intelligence policy that is being reviewed internally, and recently appointed a gang intelligence officer in the Central Office Internal Affairs Unit.

Current approaches to gangs, then, vary by facility. For instance:

- the chief of security at Joe Harp Correctional Center keeps a list of suspected gang members and their gang affiliations on an erasable board in the security office. He does his best to track the activities of offenders he believes are gang members, but admits this is difficult without a gang intelligence officer to collect reliable information.
- At Lexington Assessment & Reception Center, security administrators acknowledge that they have gangs, the most active being Hispanic in origin. They are mostly involved in introducing tobacco, drugs and cell phones into the facility. LARC's chief of security said that at least one recent inmate assault on another inmate at LARC was directly attributable to gang involvement.
- The staff at the Jess Dunn Correctional Center has developed an ad hoc software program to track gang members at its facility. The staff who developed this software have other full-time assignments, but volunteered their services for the project. They fill out confirmation forms on gang members at JDCC and notify shift officers when intelligence reveals that gang activities are imminent. They cannot, however, share their data electronic with other DOC facilities. They do try to call the receiving facility when a confirmed gang member is transferred, and want to devote more time to intelligence.
- Females committed to the DOC generally are not prone to becoming gang members. Still, officials at the Eddie Warrior Correctional Center monitor mail and phone calls to identify any female offenders who might be involved with a gang.
- The warden, deputy wardens, and chief of security at GEO's Lawton Correctional Center expressed frustration with the lack of any departmental approach to managing gangs above the facility level. The facility has a dedicated security threat group (STG) sergeant and a systemic approach to monitoring inmates suspected of gang activity. In the absence of such an effort, it is difficult to track the various characteristics of prison gangs—associations, correspondence, visits, tattoos, contraband, etc.

A large percentage of inmates housed at Lawton appear to have gang affiliations. Within the past two years, two inmate homicides directly related to gang activity have occurred at the facility. Staff said that the presence of gangs has a definite impact on daily operations, citing assaults, inmate incidents, contraband and housing placements in both protective custody and segregation.

Lawton has responded by assigning a correctional sergeant to gang intelligence. This officer gathers gang intelligence information from staff members, law enforcement and the inmates, and maintains a personal record

of information collected, but has no access to any networked intelligence system. Lawton primarily gathers intelligence information in response to incidents, obtaining very little advance information.

- Managers at the Oklahoma State Reformatory also acknowledged gang activity at their facility, but have done little to develop an effective response. The facility does not have a dedicated security threat group officer or a systematic approach to monitoring gang activity. During the past year, OSR has had two deaths and one serious inmate assault related to gangs.
- CCA's Davis Correctional Facility has a full-time officer tracking gang members, confirming membership and collecting gang intelligence. This position is approved by DOC and is listed as required staffing in the operating contract. Davis has 226 confirmed gang members and 24 suspected members. The STG officer uses CCA software to track gang activities and members. The program has all the fields needed to completely capture the pertinent information on each gang member. It also includes a photograph of each gang member and photos of all gang tattoos on each member's body.

According to the STG officer, most of the offenders report their gang affiliation when they arrive at the facility. He also said that he receives no formal communication with DOC on STG matters, although he gathers some information by combing through unit manager notes in each newly arrived inmate's file.

- OSP has no management plan for dealing with gangs. The administration recognizes the presence of gang members at its facility and their involvement with contraband. But OSP has not dedicated any security personnel to gather and manage gang intelligence. Employees said that DOC investigators gather some data and disseminate information as needed to institutional personnel.

Considering that OSP is the state's only male maximum-security facility, and manages a large number of inmates in administrative segregation, disciplinary segregation and protective custody, an effective intelligence gathering system could be hugely beneficial for its mission. It does not have one.

According to the National Major Gang Task Force, more than two-thirds of all state corrections agencies have a recognized gang intelligence unit. DOC reportedly is taking initial steps including the development of a proposed operational policy and the appointment of a gang intelligence officer under the leadership of the Internal Affairs Division.

***Summary of Recommendation***

***Recommendation 6-17. DOC should formally recognize the existence of gangs in its facilities by developing a central gang intelligence unit to identify, assess and coordinate information related to gang members or activities.*** DOC should develop a comprehensive gang intelligence system, including dedicated staffing and training, an electronic data system and both intra- and interagency coordination, to track and manage potential security threats. This system would provide the department with the names and profiles of offenders affiliated with each recognized security threat group, their housing, assignment and criminal history. These data would be available to approved DOC staff. The department should seek assistance from national associations and the National Institute of Corrections in developing its system.

## **Program Services**

Programmed activities within a prison system are very important to curb inmate idleness and to provide inmates with job training, educational opportunities and rehabilitation services, and to obtain useful institutional labor. MGT surveyed program activities at each DOC facility it reviewed and was impressed by the number and variety of programs DOC offers.

Educational opportunities included literacy education, adult basic education, a General Equivalency Degree, college courses and Career Tech. Career Tech provides vocational training at most DOC facilities. Other activities included cognitive behavior restructuring programs, substance abuse education and therapy, sex offender therapy, religious services and life skills and re-entry programs.

Work activities within DOC include Agri-Services, Oklahoma Correctional Industries and employment in traditional support areas within each institution such as laundry, food service and maintenance.

### ***Summary of Recommendations***

***Recommendation 6-18. DOC should continue to annually assess its existing array of programming to determine whether each is cost-effective and achieving its desired results. Those programs that are not efficient and effective should be eliminated.*** For instance, DOC should work with the state employment office to see what jobs are in the highest demand and tailor its training to meet those needs. We reviewed documents concerning department evaluations of selected programs, but saw no evidence of comprehensive evaluations.

***Recommendation 6-19. DOC should ensure that each institution has the resources, including adequate space and staff, to maximize the availability of programming opportunities.*** For example, the Eddie Warrior and Jim Hamilton center need more programming space, while Jess Dunn and Eddie Warrior need more staff to make their program offerings effective. Both institutions have a shortage of teachers in their educational programs that limits the number of offenders enrolled in these classes.

## **Classification**

Chapter 4 of this report provides a detailed analysis of the reliability and validity of the classification system DOC uses to place and house its inmates. This section assesses how the system works from an operational viewpoint.

The Oklahoma DOC, like most state correctional departments, has developed a classification system to evaluate the security risks posed by individual inmates and assign them to appropriate institutional placements. The system assigns numerical values to risk factors such as the nature of the offense, length of sentence, escape and disciplinary history, age, etc. A higher total score corresponds to a more restrictive custody level.

The DOC uses the unit management model, which assigns a unit manager and case managers to each housing unit. Staffing varies somewhat among housing units, with each case manager responsible for a caseload whose size is largely determined by the number of inmates housed in the unit. The case managers track each inmate's program and work activities, file misconduct reports and assist in searches, escorts and other security-related jobs. The unit manager and a case managers screen each newly admitted inmate on the date of their arrival.

A facility classification committee validates the custody level assigned to each inmate by the Lexington Assessment and Reception Center by examining the field file and any other information available, and assigns minimum, medium or maximum classifications based on an objective point scale that DOC has use for several years.

As noted in Chapter 4, classification personnel can override system scores when, in their judgment, the custody level indicated is inappropriate. These overrides can move an inmate into either a more-restrictive or less-restrictive custody assignment. Classification managers monitor the use of overrides level to ensure their appropriateness. An override rate exceeding 10 to 15 percent may indicate either that overrides are being used inappropriately, or that the classification system itself may not accurate.

In reviewing the validity of overrides at each facility, we found that DOC classification staff tend to use overrides from maximum to medium more frequently than typical classification protocols would allow. (Chapter 4 presents a more detailed analysis of this issue.) These overrides are usually justified in the file by the statement "suitable for medium custody" without any additional information. Many DOC classification employees shared our concern that these overrides are simply a response to the system's ongoing shortage of maximum-security beds.

The unit records office assigns inmate housing according to the custody designation. Inmates are routinely assigned to cells randomly some specific reason precludes it; for instance, if it appears the inmate cannot live with peaceably with a member of a particular race. Within ten days of the arrival, inmates undergo a thorough facility orientation and can apply for jobs, which are assigned based on demand and availability.

An initial review of an inmate's classification takes place immediately upon their arrival at the facility. This constitutes an audit of all classification actions taken on the inmate to that time, including computation of credits earned and lost toward reduction of his or her time to serve. Classification staff subsequently reviews the inmate every 120 days, and performs an annual review if the inmate remains at the facility that long. Between these reviews, classification staff



updates the hard-copy record and the Offender Management System (OMS), the data system that tracks inmate histories, to reflect program and work assignments, misconduct and changes in credit earning level. In addition, they enter age changes as a factor in scoring for custody levels. OMS does not automatically recalculate these scores on the inmate's birthday, as do most similar systems in the U.S.

The case managers prepare a "transfer packet" on each inmate as they become eligible for transfer to another institution. These packets routinely exceed 20 pages, and duplicate information available in OMS. The packets are sent to the warden and, if approved, are then forwarded to DOC's Population Management Office at Lexington for final review. If approved there, the institution receives authority to make the transfer.

Classification case managers must work extensively with OMS, and expressed a great deal of frustration with the system. They must spend significant time making entries into OMS and correcting data already in the system. Their lack of confidence in the accuracy of the system, and its complexity, result in a tremendous amount of manual work that could be performed much more efficiently on a properly designed and maintained automated system, operated by trained employees.

As a result of OMS' deficiencies, facility case managers often feel overwhelmed by their workload and are convinced their caseloads are too large. In reality, these caseloads that are not out of line with those of other state correctional departments, but difficulties with OMS greatly complicate their task.

### ***Summary of Recommendations***

***Recommendation 6-20. DOC should develop or purchase a data system that automatically recalculates inmate assessment scores as variables are entered.*** This would save case managers a tremendous amount of time since they would no longer have to compute these scores manually each month. In addition, they must spend a significant amount of their time tracking minimum eligibility dates for inmates in their caseloads, both manually and through the current automated system, since the inmate's age, program completions and other variables cause these dates to change. This part of the process is not automated and results in considerable inefficiencies and a very high potential for errors.

***Recommendation 6-21. DOC should develop or purchase an effective automated system to assist case managers and population management officers.*** The case managers must spend at least an hour preparing a transfer packet for each inmate on their caseload who transfers to another facility for any reason. These transfer packets contain several documents maintained in the field file and/or on OMS. All transfer requests flow through the Population Office at Lexington Reception and Assessment Center. Without the information contained in the transfer packets, the population management officers would have insufficient information for their decisions.

***Recommendation 6-22. DOC should take immediate steps to address the overuse of classification overrides in its facilities for population management.*** This phenomenon is particularly evident in connection with maximum-custody bed space, the primary cause of overrides throughout the system.. Future expansions in department bed capacity must take into account the custody makeup and security needs of its population.

## Violence Levels

DOC tracks data on assaults and other violence in its facilities with medical reports, serious incident reports filed by security officers and information provided by the private contractors. DOC operational policy OP060125, section 4 , under the Acts Constituting Rule Violations clearly identifies different types of battery as either Class X or A rule violations.

**Exhibit 6-8** identifies the number of serious incidents and assaults on staff reported for each institution in 2006.

**EXHIBIT 6-8**  
**Serious Incidents and Assaults on Staff Reported For Each Institution**

Facility	Fiscal 2006		Serious Incidents
	Assaults on Staff	Inmate Homicides	
Bill Johnson	-	-	2
Dick Connor	1	2	31
Eddie Warrior	3	-	12
Howard McLeod	-	-	4
Jackie Brannon	1	-	6
James Crabtree	-	-	3
Jess Dunn	2	-	16
Jim E. Hamilton	-	-	21
John Lilley	2	-	9
Joseph Harp	-	-	26
Lexington	3	-	68
Mabel Bassett	8	-	56
Mack Alford	2	-	16
Northeastern Oklahoma	1	-	10
Oklahoma State Penitentiary	4	-	45
Oklahoma State Reformatory	3	2	19
William S. Key	1	-	12
Davis Correctional Center	5	1	28
Cimarron Correctional Center	3	-	43
Lawton Correctional Center	39	1	127
<b>Total</b>	<b>78</b>	<b>6</b>	<b>554</b>

*Source: Oklahoma Department of Corrections.*

The facilities with the highest number of assaults on staff during fiscal 2006 were the Lawton Correctional Center, Mabel Bassett and Davis Correctional Facility. Lawton is the largest facility in the state, housing a thousand more inmates than any other facility. Mabel Bassett is a female facility that provides housing for all security levels and Davis is a privately operated medium-security facility.

Based on DOC data, the average number of serious incidents per 100 inmates in fiscal 2006 was 0.42 for the private prisons and 0.21 for the public facilities; in other words, there were twice as many serious incidents per 100 inmates in private prisons than in public prisons. The facility with the highest reported number of serious incidents, however, was the Lawton Correctional Center.

DOC had six reported inmate homicides in fiscal 2006, all of them in medium-security facilities. The state tied with California, who has a prisoner population seven times larger than Oklahoma's, for the highest number of reported inmate homicides in that year, according to the Association of State Correctional Administrators (ASCA).

For comparison purposes **Exhibit 6-9** examines the data collected from the states by the Association of State Correctional Administrators (ASCA) for systems with average daily populations (ADPs) within 10 percent of DOC's that reported an inmate homicide during the period. July 1, 2006 – May 1, 2007. Oklahoma's homicide record far exceeded those of similarly sized systems.

**EXHIBIT 6-9  
Reported Inmate Homicides**

July 1, 2006 – May 1, 2007		
State	ADP	Number of Inmate Homicides
Alabama	24,170	0
Indiana	24,068	0
Maryland	23,000	3
Mississippi	21,146	0
South Carolina	23,313	2
Wisconsin	22,723	0
Oklahoma	24,126	6

*Source: Association of State Correctional Administrators.*

Six inmate homicides occurring in a state correctional agency during fiscal 2006 is an extremely high level of serious violence, even in comparison with state systems housing more than 100,000 inmates.

According to Internal Affairs Unit investigators and facility management staff, most inmate homicides in Oklahoma appear to be directly related to gang influence. As noted above, DOC has no centralized gang intelligence system.

Several factors may be influencing the amount of violence and number of serious incidents in DOC facilities. The factors include:

- The lack of a centralized gang intelligence unit;
- limited staffing in the facilities; and
- overcrowded conditions in most facilities, resulting in a high number of inmates being housed in facilities inconsistent with their scored classification level.

Each of these areas must be addressed to reduce violence.

***Summary of Recommendations***

***Recommendation 6-23.*** *As recommended above, DOC should establish a centralized intelligence unit with support personnel assigned to each major facility to gather intelligence information on the inmate population.* This would help DOC reduce or eliminate major incidents in its facilities and employ strategies and initiatives based on a thorough assessment of current security risks.

***Recommendation 6-24.*** *DOC should deploy sufficient security staff at each facility to ensure that collateral responsibilities such as cell searches and inmate shakedowns are completed regularly and consistently.*

***Recommendation 6-25.*** *DOC should increase its number of male beds to ensure that inmates are housed at appropriate security levels and at occupancy rates consistent with best operational practices.*

***Recommendation 6-26.*** *DOC should ensure that assaults on inmates are defined consistently and reported by all facilities.* Our review of DOC data indicated that there is inconsistency between divisions on how this data element is measured. For example, the number of assaults on inmates reported by medical staff is not consistent with the number of assaults reported by security.

***Recommendation 6-27.*** *DOC should track assaults on inmates separately instead of combining them with other incidents.* At present, assaults on inmates are folded into a “serious incidents” category. This data collection methodology does not permit a full review and analysis of what is occurring in the department in the area of violence.

## **Inmate Transfer Backlogs**

Again, all adult offenders admitted to DOC are received at the Lexington Assessment & Receiving Center. LARC has an operating capacity of 379 male reception beds and 39 female beds.

LARC receives between 40 and 60 inmates each day, Tuesday through Friday. Male inmates remain in the intake unit for an average of nine days and females for an average of five days. The actual length of stay depends upon the number and gender of inmates received each day. As inmates enter LARC, others must be transferred out; on a typical day, 40 to 60 inmates enter intake, 20 to 30 inmates are transferred to other facilities and another 20 to 30 are moved internally within LARC.

Each week, Lexington staff identifies the number of inmates scheduled for intake and reception and determines the number of inmates that should be transferred out of the facility. Staff assigned to the population office determine initial facility assignments and review all transfer packets received from each facility. These reviews include transfer requests for all levels of placement. Transfers from LARC receive priority over intra-institutional transfer requests due to the limited bed space available at the center and its constant daily intake.

The most dynamic variable involved in determining transfers is the 72-hour “Invoke” rule. Oklahoma state law requires DOC to receive inmates from each county within 72 hours of whenever the county reaches its rated capacity. As of August 29, 2007, LARC had received 5,792 inmates during the calendar year, about 12 percent of them the result of the 72-hour rule.

The DOC had exceeded 97 percent of its rated capacity as of November 5, 2007. Operating above this level makes it difficult for the population office to provide appropriate housing, either for newly assigned inmates or those requiring internal transfers. When segregated housing is excluded, including administrative, protective custody, death row, disciplinary and medical beds, bed space becomes extremely limited. As a result, as noted earlier, a high percentage of classification overrides are approved to ensure that inmates qualify for housing wherever bed space is available.

This practice mixes populations of various risk levels, and when it results in moving high-custody offenders to lower custody levels, it will eventually lead to violent incidents. The practice, then, puts inmates and staff in unsafe situations unnecessarily.

**Exhibit 6-10** identifies the number of inmates awaiting transfer as of September 3, 2007.

**EXHIBIT 6-10**  
**Inmates Waiting for Transfer, September 3, 2007\***

	Male	Female
<b>Maximum</b> security inmates waiting <b>medium</b> security:	<b>127</b>	
<i>NOTE: Of the 127 males awaiting medium placement, 25 are requesting Lawton CF Protective Custody placement.</i>		
<b>Medium</b> security ( <i>private prison</i> ) inmates waiting <b>minimum</b> security placement:	<b>83</b>	
<b>Medium</b> security ( <i>county jail</i> ) inmates waiting <b>minimum</b> security placement:	<b>56</b>	
<b>Medium</b> security ( <i>public</i> ) inmates waiting <b>minimum</b> security placement:	<b>138</b>	<b>9</b>
<b>Sub-total</b>	<b>404</b>	<b>9</b>
<b>Minimum</b> security inmates waiting <b>community corrections center</b> placement:	<b>94</b>	<b>53</b>
<b>Minimum</b> security inmates waiting <b>work center</b> placement:	<b>39</b>	<b>27</b>
<b>Community corrections</b> inmates waiting <b>halfway house</b> placement:	<b>124</b>	<b>0</b>
<b>Community corrections</b> inmates waiting <b>GPS</b> placement:	<b>0</b>	<b>0</b>
<b>Sub-total</b>	<b>257</b>	<b>80</b>
<b>Total Inmates pending transfer</b>	<b>661</b>	<b>89</b>

Approved reported transfer packets as of this date.

*Source: Oklahoma Department of Corrections.*

The largest group of inmates with approved transfer packets is waiting for transfer to minimum-security placement. At the time of MGT's review, 277 male inmates were waiting for bed space in minimum security; 127 for medium placements; and 124 for halfway house placements. In all, 661 male inmates were awaiting transfer to a different security level, as were 89 females. The limited availability of beds and priority given to LARC transfer inmates creates a constant backlog. Department staff report waiting periods of from 90 days to two years.

***Summary of Recommendation***

***Recommendation 6-28. DOC should secure enough funding to expand the number of beds available at the various security levels to meet the department's needs and reduce extensive waiting periods.***

## Use of Facility Space

MGT teams visited 11 of DOC's 17 correctional institutions as well as two private prisons. MGT assessed the use of existing space to determine whether current space is being used appropriately and if sufficient space is available for the department's needs. The review involved documentation, interviews and direct inspections.

**Exhibit 6-11** illustrates DOC's rated capacity and inmate population as of November 5, 2007, as well as the housing provided to all inmates except for those assigned to the jail program, GPS monitoring or PPCS, housed in outside hospitals or housed at the time of review in out of state facilities.

**EXHIBIT 6-11**  
**Capacity and Population by Facility Type and Gender**  
**As of November 5, 2007**

DOC	Capacity	Count	Available	Percent of Capacity
Institutions	20,628	20,069*	347	97.3
- Male	18,662	18,271	179	97.9
- Female	1,966	1,798	168	91.45
Community Correctional Centers	2,285	2,238	47	97.94
- Male	1,925	1,888	37	98.08
- Female	360	350	10	97.22
Halfway House	1,433	1,312	121	91.56
- Male	1,239	1,170	69	94.51
- Female	194	142	52	73.20
<b>Total</b>	<b>24,346</b>	<b>23,619</b>	<b>515</b>	<b>97.01</b>

*Source: Oklahoma Department of Corrections.*

The largest share of available beds was in female halfway houses, which had a 26.8 percent vacancy rate. The smallest percentage of available beds was at male community correctional centers, where fewer than 2 percent of beds were available. No type had bed space available for more than 180 inmates.

The institution capacities shown in **Exhibit 6-11** do not include 42 infirmary beds or four TB beds, but do count all segregation beds. Five male institutions have prototype units that were designed specifically by the department to house this particular population. These segregation units were built in the past three years and are not counted in the capacity recorded on the DOC daily count sheet but are included here in our analysis.

If all segregation beds are removed from the capacity count, DOC was operating at *103 percent* of capacity for males housed in institutions on November 5.



***Segregation Beds***

DOC does not appear to have an agencywide shortage of segregation beds, but there are shortfalls at specific institutions (**Exhibit 6-12**).

**EXHIBIT 6-12  
Segregation Beds**

	Capacity	Count	% of Overall Capacity
Institutions	955	549	4.6
- Male	911	513	4.9
- Female	44	36	2.2
Community Correctional Centers	47	37	2.1
- Male	27	21	1.4
- Female	20	16	5.6

*Source: Oklahoma Department of Corrections.*

Two of the institutions visited reported persistent problems with a lack of segregation beds. The Oklahoma State Reformatory uses a waiting list to place inmates in segregation, since the segregation unit is generally filled to capacity. Facility staff reported that transfers out of the unit take as long as 120 days. About 4.1 percent of OSR’s beds are allocated for segregation.

At the Lawton Correctional Center, inmates are released early from segregation or given alternative sanctions other than segregation placement to keep beds open. At present, 182 beds at Lawton are designated for segregation housing. Lawton management attempted to expand the number of segregation beds by converting one pod, Housing Unit 8A with 100 beds, to administrative segregation. DOC would not approve this decision, however, and the pod was converted back to general population usage. Administrative segregation inmates previously housed in the pod at the time were transferred to other facilities. While the pod was used to house administrative segregation inmates, Lawton was dedicating 11.1 percent of its total beds to segregated housing; afterward, the percent share fell back to 7.2 percent. The Lawton staff remains supportive of the expanded use of beds for segregation.

On November 5, 2007, five out of the 16 state-operated institutions with segregation units were at capacity. The correctional centers at capacity included Mack Alford, William S. Key, Joseph Harp, Bill Johnson, and Northeastern Oklahoma. Three institutions have fewer than two percent of their beds designated for segregation.

All the facilities except for the Jackie Brannon Correctional Center have segregated housing units. Inmates from Jackie Brannon requiring segregation are housed in a segregated housing unit at Oklahoma State Penitentiary. Forty-two percent of the system’s institutional segregation beds are located at OSP and Lawton. The remaining 58 percent are located in the other 18 facilities. Lawton, the largest facility in the state, has 182 dedicated segregation beds; OSP has 247 segregation beds.

Shortages of segregated beds may be due to operational practices, the number of misconducts or the length of time required to transfer inmates out of the facility. The Joseph Harp, William S. Key, and Northeastern correctional centers all have less than 2 percent of their cells dedicated to segregation. With a combined capacity of 2,928, they have a total of 42 segregation beds or 1.4 percent of all beds available for segregation placement.

All facilities are experiencing the backlog of transfers to alternative facilities. Transfers that affect segregation housing at most facilities are those to a higher level of security. Staff report that transfers to higher custody may take more than 120 days; transfers to reduced security may take up to two years.

### *Housing Appropriateness*

Most of the prison facilities MGT surveyed, both public and private, appear to meet security requirements for the type and custody of offender they house. As noted above and in Chapter 4, however, we found that an unusually high share of offenders who scored as maximum custody were overridden by staff to a lower security level, simply to match the security status of available beds.

The DOC administrator for Classification and Population reports that 6.8 percent of male inmates and 2.7 percent of female inmates are in maximum custody. These percentages are well below national averages. We attribute this low percentage to DOC's use of classification overrides to manage bed space.

This practice, particularly when it involves moving high-custody offenders to lower-custody levels, will eventually result in serious incidents such as assaults on staff, inmates or other disturbances. It puts inmates and staff in dangerous and unsafe situations unnecessarily.

Oklahoma State Penitentiary, Lawton, James Crabtree and Dick Connor house the highest number of inmates who are inappropriate for the facility's security level.

The James Crabtree Correctional Center is a medium-security facility with an operating capacity of 886, providing housing for inmates over the age of 35. All but 85 of these inmates are medium security; the rest are minimum-security inmates. The facility was originally established in 1904 and has served as a county high school, junior college, orphanage and a training school for male juveniles. In July 1982, the facility was transferred to DOC.

The center's physical plant is consistent with a minimum-security facility. Room door-locking mechanisms in Housing Unit Six were removed due to consistent malfunctions. All other general-population areas are open dormitories. The center has no general-population rooms or cells that can be secured. In case of a disturbance, there is no way to isolate the medium-security inmate population. The only security measure consistent with medium security is the facility perimeter, a double fence with reinforced razor ribbon on the top and bottom. Staff reported more than 100 inmates housed at the facility were originally classified as maximum-custody inmates.

Oklahoma State Penitentiary provides dormitory-style housing for 90 medium-security inmates in the basement of a program building. Inmates housed in the dormitory perform institutional support duties at the facility. The physical space used and number of inmates housed in the

dormitory are inconsistent with best practices. Interviews with these inmates indicated that they may wait up to two years after their transfer has been approved for placement at a medium-security facility.

The Lawton Correctional Center's physical plant is one of the best in the state. Staff reported that on June 7, 2007, 16.3 percent of the population had been initially classified as maximum security but overridden to medium security. On July 3, 2007, out of 350 inmates that scored as maximum security, 327 had been overridden to medium security—about 13.2 percent of the inmate population. The following factors strongly suggest that a significant number of Lawton inmates should be housed at a facility with higher security:

- 13 to 16 percent classification overrides from maximum custody to medium custody;
- 39 assaults on staff during fiscal 2006;
- two inmate homicides in the past two years;
- 127 serious incident reports during fiscal 2006;
- 182 segregation beds at or near capacity at all times; and
- a high number of gang-affiliated inmates.

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. Internal Affairs staff said that all three homicides were separate incidents directly related to gang influence. Thirty state correctional agencies had one or no inmate homicides over the same time period according to a U.S. Department of Justice report.

### ***Summary of Recommendations***

***Recommendation 6-29. DOC should expand the number of beds available to house male offenders in correctional facilities and community correctional centers.*** These expansions should be designed to allow inmate housing at appropriate security levels.

***Recommendation 6-30. DOC should move medium-security inmates from any setting that does not have operational locking systems in its living areas.***

***Recommendation 6-31. DOC should ensure that every correctional institution dedicates a minimum of 4 percent of its available bed space to segregated housing.***

***Recommendation 6-32. DOC administration should immediately examine all classification overrides to validate the criteria employed.*** Whenever an override is invalid, the offender's classification should be changed to reflect the actual risk and custody level.

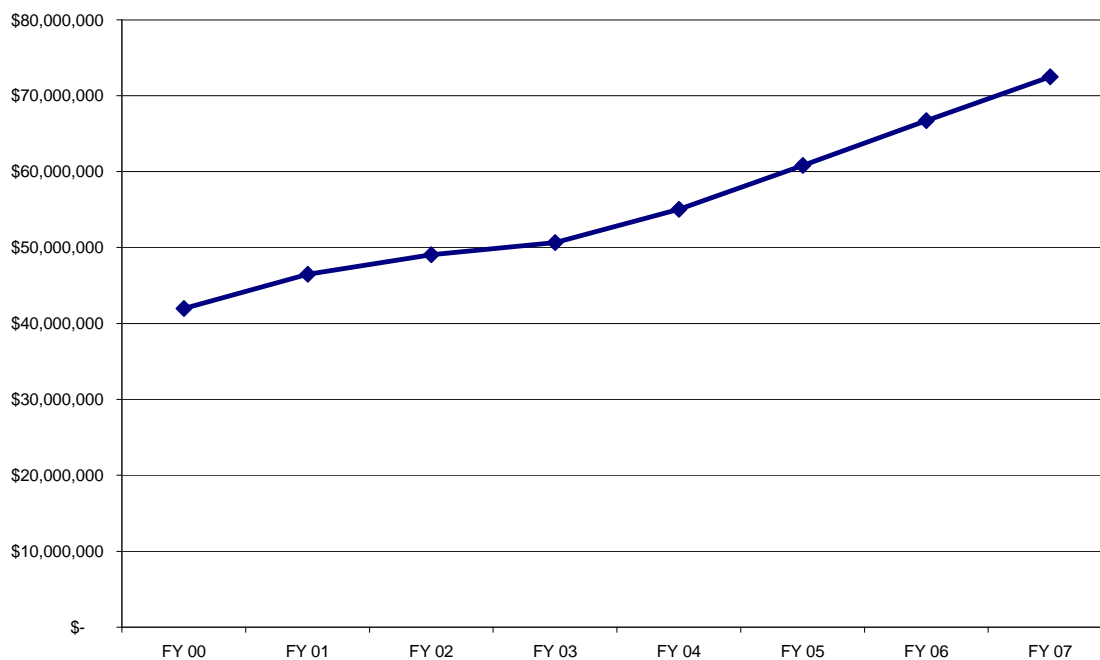
***Recommendation 6-33. Transfer the inmates housed in the basement of the old program building at OSP and convert the area into a program or storage area.***

## Health Care Programs

DOC health care programs include medical, mental health and dental services provided at each institution, as well as contracted care delivered in the community as needed. Our review focused on the overall effectiveness of service delivery as well as cost.

Health care programs were the last component of the department to emerge from federal court supervision in the late 1990s. To meet federal mandates for service, the department increased spending on health care and attempted to increase health care staffing in the facilities (**Exhibit 6-13**).

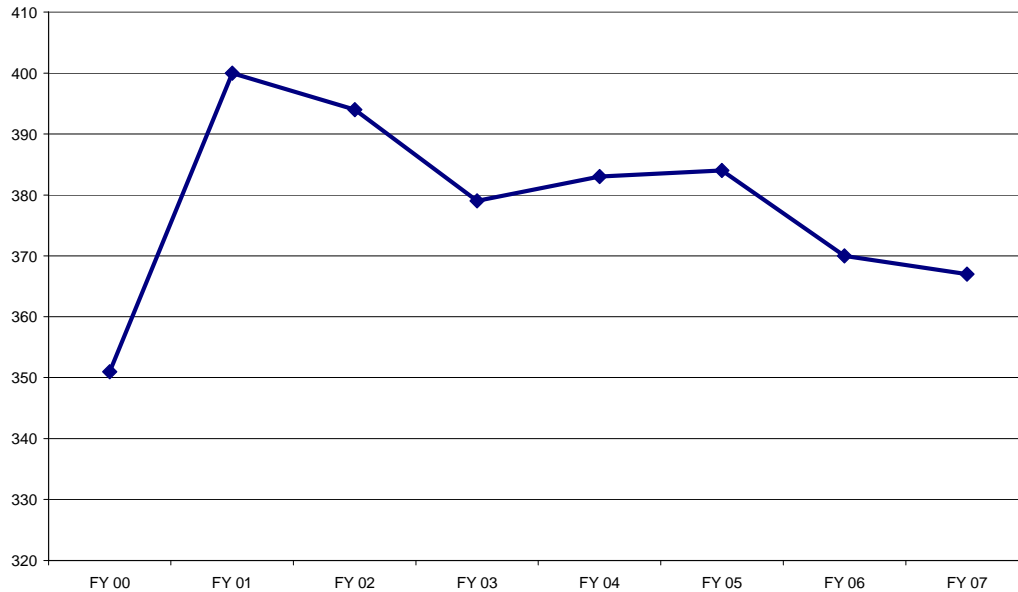
**EXHIBIT 6-13**  
**Medical Spending**



*Source: Oklahoma Department of Corrections.*

From fiscal 2000 to 2007, annual department spending on health care rose from nearly \$40 million to more than \$72 million, a 72 percent increase. Efforts to improve service quality, increases in the inmate population, and medical cost inflation were the primary factors driving this growth. Despite attempts to increase medical staffing, though, medical FTE levels have fallen since fiscal 2001.

**EXHIBIT 6-14  
Medical Staffing**



*Source: Oklahoma Department of Corrections.*

Increased spending, of course, is not necessarily a valid measure of program quality. Spending patterns require review alongside the services provided. Unfortunately, little information is available for comparing prison medical care costs across states.

A number of factors impact prison spending. Prisons have a constitutional requirement to provide medical care. All inmates *must* receive minimal comprehensive care, while only select persons are eligible for Medicaid coverage, significantly reducing the number of covered lives. This universality of coverage is a significant difference. In addition, the environment for care is significantly different. Due to security rules, and in part due to safety issues, nurses distribute most medication in correctional facilities even when the same persons would have taken the medication on their own as civilians. Such personnel costs account for a significant portion of the correctional medical budget.

In addition, inmates do not have access to “drug stores” from which they can self-medicate for minor problems with drugs generally considered safe for the general population. When inmates need over-the-counter drugs, they generally have to see a nurse raising the cost of care further. Similarly, civilians with diabetes in the community monitor their blood glucose with portable machines and adjust their insulin accordingly, while in prisons, a nurse performs this function.

Compared to other correctional departments, DOC’s medical care costs appear very low. At the time of the 1997 study, Oklahoma had the fourth-lowest per capita cost of all prison medical programs. In 1997, Oklahoma spent \$3.52 per capita per diem, while the national average cost was \$7.15. The total Oklahoma DOC medical budget for 1997, as reported in Corrections Yearbook was \$24,330,969.

In 2006, operating expenditures for the medical programs were \$32,672,173 and personnel expenditures were about \$15,283,551. Personnel expenditures provided to MGT, however, did not include benefits including workman's compensation or insurances. If benefits are included at 40 percent, these personnel costs rise to \$21,396,971; total costs are \$54,069,144; and the per capita per diem costs based on a population of 20,000 inmates would be \$7.41, about double the 1997 funding. This rate of increase in DOC's funding, about 8 percent annually over the decade, is lower than the rate for general medical cost increases in the U.S., which was estimated by the Kaiser Foundation at 9.8 percent annually from 1970 until 2005.<sup>1</sup> The most significant fact however, is that current per capita funding in Oklahoma is only slightly higher than the national average prison funding for medical care in 1998.

### ***Quality and Efficiency***

As noted above, the 2006 per diem of \$7.41 for prison medical care in Oklahoma was about the same as the national mean expenditures of state prison medical programs for 1997. One critical issue that has never been studied nationwide, however, is *quality* of health care delivered compared to expenditures—in other words, is a low cost of care a result of efficiencies, or inadequate care? The mere fact that Oklahoma spends \$7.41 per inmate per day on health care does *not* tell us anything about health outcomes. For this reason, health outcome metrics should be included in medical program monitoring.

The most readily available, if crude, metric for quality is mortality. This is not, in our opinion, the best measure of quality, however, because civilian mortality statistics vary across states and regions, and populations of prisons systems may not be evenly matched for disease prevalence, acuity levels, age or gender. However poor this proxy for quality may be, though it is at least a measure of sorts.

The U.S. Department of Justice requires prisons to report mortality and has published a summary of mortality statistics for the years 2001-2004.<sup>2</sup> In that document, Oklahoma ranked 31<sup>st</sup> of 50 states in mortality per 100,000 inmates, with an annual mortality rate of 234 per 100,000 inmates. For 2006, total mortality was 85 for a population of about 24,400 inmates. Four of these deaths were executions. If those four are removed from the analysis, the annualized crude mortality rate was 332 per 100,000, indicating a *42 percent rise* in the mortality rate from the 2001-2004 average.

While these numbers say nothing definitive about health care quality, they do underline the point that measures of quality should be included in budgetary evaluations to ensure that a reasonable standard of care is being provided.

### ***Savings Measures***

To avoid affecting the quality of care, savings initiatives should focus on reducing waste. Waste is any unnecessary test, process, delay, transportation, inventory, movement or defective outcome.<sup>3</sup> Focusing on waste helps health care professionals reduce costs while maintaining or

<sup>1</sup> Health Care Costs: A Primer; The Henry J Kaiser Family Foundation, August 2007.

<sup>2</sup> Medical Causes of Death in State Prisons, 2001-2004; Bureau of Justice Statistics: Data Brief.

<sup>3</sup> Bush R, Reducing Waste in U.S. Health Care Systems; JAMA, vol 297, No. 8, Feb. 28, 2007.

improving quality. The current medical program leadership has already accomplished several waste reduction efforts that have produced savings. Such efforts should be integrated into operations of all health care units.

The program's accomplishments in this area over the past years have been significant. Contracting out pharmacy services with the initiation of formulary management has produced estimated savings of \$1 million out of fiscal 2006 expenditures of \$8 million (a 13 percent savings) has occurred with no apparent change in quality.

Furthermore, the Medical/Unison utilization system permits physicians on site at the prison to query a specialist over an Internet-based "curbside consult" system, which reduces transportation to specialists and gives local prison physicians specialty advice for a wide variety of clinical problems.

Finally, the legislature significantly reduced DOC's hospital rates by applying Medicaid rates to reimbursement for non-network hospital use. It does run the risk of discouraging hospitals from treating inmates because of low reimbursement rates, but this has not occurred to date, according to DOC medical leadership.

Several other potential areas for cost reductions include reviewing community corrections, 430B pharmacy pricing, disease management programs and utilization review.

### ***430B Pharmaceutical Pricing***

Manufacturer discounts for pharmaceuticals similar to those received by Medicaid programs are available to certain qualified health care providers. This rule is detailed in Section 340B of the Public Health Services Act.<sup>4</sup> Prison providers typically do not qualify under these rules, but if a federally qualified practitioner provides the care, medication costs can be discounted to 340B pricing. Oklahoma should explore the potential for obtaining such discounts.

Typically, agencies look at this as an all-or-none discount. Instead, the department could consider carving out areas of care with the highest pharmaceutical costs to run as 340B programs. These include psychotropics, HIV and hepatitis C medications. If providers in these treatment areas are federally qualified practitioners, special pricing may be obtained. For HIV and hepatitis C, using telemedicine to have practitioners at federally qualified centers prescribe medication is a distinct possibility. A federally qualified group of practitioners also could provide mental health care. DOC uses "telepsychiatry" for about 700 visits a month by about 4,000 persons on psychotropic medication. Since these patients are already under psychiatric care, and because it is extremely difficult to recruit psychiatrists to the prison program, a federally qualified group of practitioners should be considered as potential contractors.

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<sup>4</sup> The PHS 340B Drug Pricing Program: Results of a Survey of Eligible Entities; *Final Report*, Mathematica Policy Research, Inc. August 30, 2004 as found at <ftp://ftp.hrsa.gov/bphc/pdf/opa/340Bsurveyrpt.pdf>.

### ***Disease Management Programs***

Managed care programs have embraced disease management programs to reduce hospital and outpatient medical care costs. The concept involves experts using proven work processes, equipment and tools to manage inmate care, resulting in a lower overall cost of providing care and reduction in hospitalization and other unwanted outcomes. DOC has some elements of a disease management program, but the effort has not been adequately supported to date. Several components of DOC's program are deficient and hamper its ability to obtain the full benefit of such a program.

One of the primary deficiencies MGT identified was a lack of reasonably organized medical records. We found records with notes and reports filed in wrong sections or misfiled chronologically, which could inhibit the quality of service.

DOC has discussed introducing electronic medical records, which offer the advantages of legibility; simultaneous multiple-user access; the elimination of filing problems; more comprehensive documentation by clinicians, thus potentially reducing liability; easier utilization management reviews and quality improvement reviews; and a reduction of errors, such as transcription errors by nurses when physicians order medications.

Electronic medical records would, however, require careful training for all new users, as staff turnover occurs; ongoing hardware and software support; and a potentially significant initial expenditure.

Ultimately, any decision to implement an electronic medical record would require a very carefully constructed request for proposals. The selection process should require evaluators to visit places where the proposed products are being used, to ensure that the product is efficient and user-friendly. Selections made in the absence of such site visits have resulted in customer dissatisfaction.

It should also be noted that some immediate change in the paper record process is necessary, as the records we examined were disorganized and did not support efficient clinical care. These problems are compounded because the private prison facilities use a separate medical record format that increases the probability of failed communication.

### ***Utilization Review***

DOC's hospital utilization review is conducted by Fiserv Health Harrington, which manages a provider network and reviews bills based on whether a provider is in or out of the network and adjusts the invoice accordingly. To assess the effectiveness of this service, MGT requested a sample of 300 claims and associated medical records---100 in-patient hospital claims, 100 outpatient hospital claims, and 100 physician claims. The vendor initially submitted 100 claims, with a subsequent submission 48 claims, for a total audit sample of 148 claims. The purpose of the review was to determine the accuracy of claims submitted by healthcare providers and DOC's ability to accurately process and pay these claims. The sample was run through a system in compliance with the Correct Coding Initiative (CCI) developed by the American Medical Association (AMA) to promote correct coding methodologies.



Our review found that 36 of the 148 claims provided by the vendor contained errors that should have been denied for payment or returned to the healthcare provider for correction. These errors included:

- 7 duplicate claims;
- 5 coding denials;
- 3 potential denials; and
- 21 line item coding exceptions.

Exhibit 6-15 summarizes the total dollar value of the errors identified in MGT’s review.

**EXHIBIT 6-15  
Errors Found in Medical Claim Sample**

Duplicate Claims	\$	101,876.00
Coding Denials	\$	10,678.11
Potential Denials	\$	66,118.55
Line Item Exceptions	\$	14,992.53
Total Payment/Coding Errors	\$	193,665.19

*Source: MGT of America.*

MGT also reviewed rates paid to network providers. We used an alternative Oklahoma contract provider network used by the private prison operators and the Federal Bureau of Prisons to conduct a comparison of charges on the first batch of 100 claims DOC provided. The alternative network bases payment upon a Diagnostic Related Group (DRG) methodology, as opposed to the department’s current network, which pays claims based on a percentage of usual charges. Although this network does not cover the entire state, it demonstrates the potential for savings that could be achieved from the department’s current network.

By running these claims against the existing network in Oklahoma, we found the following results:

- total provider charges on the 100 claims were \$1,884,221.
- DOC paid anywhere from 100 percent to 70 percent of charges. Assuming 70 percent of charges for all claims, Oklahoma DOC would have paid \$1,318,954, for a savings of \$565,266.
- Using the alternative provider network identified for this exercise, DOC would have paid \$700,057 on the claims, resulting in a savings of \$1,184,164.

Combining these network savings with the payment errors identified in the audit produces a total potential savings of \$1,377,829.19 on the 148 claims submitted for our review. While the savings identified from this sample should not necessarily be extrapolated onto DOC’s entire medical claims budget without more detailed analysis, the results do suggest that the department should

seek to improve the accuracy of its claims payments system, and consider using alternative provider networks to achieve greater savings. Attempts to review the results of this audit with the vendor prior to the release of this report were not successful. The department should attempt to validate these audit results through more detailed analysis of its claims processing systems.

In a related issue, neither the department nor Fiserv currently conducts meaningful utilization reviews directed toward preventing unnecessary hospitalization. The Agency for Healthcare Research and Quality provides a set of indicators that can be used to monitor hospitalizations for potentially unnecessary admissions. These indicators require hospitalizations to be listed by diagnosis; DOC could easily track these. Such reviews would be useful in identifying preventable outpatient management problems that result in hospitalization. The indicators can be found at the Agency for Healthcare Research and Quality Web site.

Finally, prescription drug costs have come to represent a substantial portion of operating costs in DOC prison medical programs. DOC has outsourced pharmacy services to Diamond Pharmacy Services, and a formulary is in place. Reports are provided that permit analysis and utilization review on the part of Central Office staff. These efforts have resulted in significant savings over the past year.

### ***Quality Improvement Program***

DOC's Office of Health Services maintains a quality improvement program overseen by the medical director. The office has four quality assurance nurses, each of whom is responsible for reviewing care at a subset of facilities and performing studies in relation to those facilities. Within the last year, the studies have included outcome studies considering such measures as whether diabetics' disease is in good control, as evidenced by a recent hemoglobin A1C of less than 7 percent. The officers also has reviewed asthma care, considering whether asthmatics are receiving unscheduled nebulization treatment and how often asthmatics they are sent off-site on an emergency basis. These are excellent items to review. In addition, process measures were examined, including management oversight of intrasystem transfers. Other items reviewed included the frequency of quarterly suicide prevention meetings; whether orders to the infirmary were always written; and whether patients for whom tuberculosis is a concern are housed in appropriate negative pressure rooms.

The quality assurance nurses also review potential movements of patients from inpatient beds at both the Oklahoma University Hospital and at the Lindsay Hospital, a 22-bed acute care hospital offering DOC less costly beds. They also review the availability of beds in DOC infirmaries.

Physicians and nurses hold monthly meetings to review the use of off-site services. In addition, the state medical director conducts a prospective review of off-site referrals via software called Medical Unison, which requires physicians to order off-site consults electronically; these are e-mailed to the state medical director for review. In some instances, the director can forward the requested information to a specialist and obtain a consultation electronically without having to send the patient off-site. This appears to an efficient way of providing these services.

For some services, preset criteria are in place that must be met before an order can be placed. This includes services such as a sleep study performed to identify patients who may need C-PAP equipment to aid their sleep.

DOC also provides a review of all inmate deaths by the Oklahoma Foundation for Medical Quality. This organization provides a review by both a nurse and a physician. Any problems they identify are listed as “potential” or “significant.” When problems are identified as Level 4 (egregious), a clinician may be terminated. For Level 3 problems, additional training may be required. The most common causes of death are end-stage liver disease, heart disease and cancer, and this is consistent with what is found in most other departments of corrections.

### ***Leadership***

DOC’s Office of Health Services has a strong leadership team including the state medical director and the Health Services administrator, along with the chief dental officer, chief of Mental Health Services and chief psychologist. Each member of the current leadership team has substantial experience and excellent qualifications, and appears to be quite knowledgeable about the current array of services, including strengths and weaknesses, and how improvements might be made.

### ***Staffing***

At present, DOC has 299 filled medical care staff positions out of 364 budgeted positions. The vacant positions, however, almost certainly will not be filled, as the positions are budgeted at 83 percent of authorized staffing. This results in an effective staffing level of 299 positions for about 20,000 inmates.

DOC’s staffing in proportion to its number of inmates has decreased over the past decade. In a 1999 National Commission on Correctional Health Care study of 28 state prison systems, Oklahoma was tied for the second lowest ratio of staff to inmates.<sup>5</sup> The ratio in this 1999 study was one staff for every 63 inmates. The current 299 filled medical positions represent a ratio of one staff for every 67 inmates. This ratio is quite high and places undue stress on the staff. Department data indicate a 39 percent turnover rate among medical care staff, due in part to the difficulties of working in a correctional environment and also due to compensation issues.

Some changes have occurred since staff of the National Commission on Correctional Health Care provided a technical assistance review nearly four years ago. These changes include providing the medical director with authority over personnel (other than the private prison health care personnel). The Office of Health Services now can directly hire civil service employees in certain categories, creating a far more efficient process and reducing the number of promising job candidates lost due to delays in hiring. Access to background checks for potential staff also has been expedited, thus facilitating hiring.

But salaries in several key areas, including nurses, physicians and psychiatrists, are not competitive. While documentation from the Oklahoma State Personnel Office indicates that department nurse salary levels are at market, the fact is that the demand for nurses is highly dynamic and varies greatly in different parts of the state. In response, the department has increased its shift differential pay for nurses and has instituted a \$5,000 signing bonus for new nurse hires. Current demand for nurses is *very* competitive. Psychiatry positions are particularly

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<sup>5</sup> Correctional Health Care: Guidelines for the Management of an Adequate Delivery System, BJ Anno, December 2001; National Commission on Correctional Health Care.

hard to fill due to low salaries. Salaries of important clinical staff should be periodically revised to ensure DOC's ability to recruit and retain necessary staff.

Both Mental Health Services and Medical Services have developed staffing plans that call for more staffing.<sup>6,7</sup> The Medical Services Division estimates its staffing needs at 429.5, 130 or 43 percent above existing staffing. The Mental Health Division estimates its staffing needs at 38 additional staff or 57 percent more than the current staff of 67. While our audit was not extensive enough to determine the exact staffing needs of all facilities, the situation at the Harp facility in particular demonstrated staffing problems serious enough to warrant a closer review.

### *Infirmiry Units*

Infirmiry units offer protected housing to disabled and infirm inmates and allow medical staff to provide certain types of care (intravenous antibiotic therapy, specialized dressing changes, etc.) that typically reduce hospitalization rates. Oklahoma has not had an increase in infirmiry beds since 1978. Since we do not have data on the Oklahoma prison population during that time, a comparison to current times was not possible.

The court-appointed receiver for the California prison medical programs recently commissioned a study of the long-term care needs of prison inmates that suffer from cognitive disorders (dementia, Alzheimer's, etc.); major disabilities requiring some assistance with daily living; or other dependencies resulting from a medical disorder..<sup>8</sup>

Excluding persons who might be capable of being housed in general population, the number of California low and high acuity beds was approximately 4.6 per thousand beds. Applying this ratio to Oklahoma, would produce an expected need of about 91 infirmiry beds throughout the system. Oklahoma has 42, less than half of that number. The lack of infirmiry care typically results in longer hospitalizations or increased morbidity, neither of which has been studied carefully in the Oklahoma system.

The J Unit at Harp was established in early 2007 to house severely disabled inmates. This unit, however, opened with only half of its requested staff, and even the requested staff was, in our opinion, not inadequate to manage the patients housed there. Inmates provide daily living care to severely brain-damaged inmates who need assistance with toiletry or daily living needs including feeding. The nursing staff is inadequate and morale is poor.

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<sup>6</sup> Oklahoma Department of Correction Mental Health Services Strategic Management Plan FY08-FY13.

<sup>7</sup> Oklahoma Department of Corrections-Medical Services Division; Benchmark Staffing.

<sup>8</sup> Chronic and Long-term Care in California Prisons: Needs Assessments. Final Report, August 31, 2007, ABT Associates.

### ***Mental Health***

DOC is committed to improve mental health services to inmates to:

- move inmates with mental health conditions into the community;
- remove difficult-to-manage inmates from the general population into intermediate mental health care units, where they can receive treatment and management; and
- provide cognitive-behavioral treatment for those with serious mental illness.

To accomplish these goals presents several major challenges, including inadequate staffing and space.

### ***Private Prisons***

The structure of the private prisons' medical programs was determined by contract, and the Office of Health Services has had limited involvement in drafting those specifications. Staffing specification, in particular, should conform to Office of Health Services standards. Health service programs in the contracted facilities are not required to use DOC forms in their records, and they do not always follow DOC health care policies. The Office of Health Services cannot monitor those programs in the same way it monitors its own. The office cannot, for instance, follow up on inmate grievances regarding health care. In essence, there may be two standards of care within DOC—one for inmates in state-run facilities, and the other for those housed in the private prisons.

### ***Summary of Recommendations***

***Recommendation 6-34. DOC should use clinical measures to evaluate the adequacy of its healthcare budget, such as mortality, potentially preventable hospitalizations and sentinel morbid events!***

***Recommendation 6-35. DOC should consider using 430B pharmaceutical pricing to lower pharmaceutical costs.***

***Recommendation 6-36. DOC should validate the results of the claims audit conducted in this review, and if confirmed, take action to improve the accuracy and efficiency of the claims payment process.***

***Recommendation 6-37. DOC should assess the feasibility of utilizing alternative provider networks to achieve greater levels of savings on health care.***

***Recommendation 6-38. DOC should augment its disease management programs by providing physicians with greater nursing support and establishing an electronic medical record.*** In the meantime, the existing paper record system needs immediate improvement.

*Recommendation 6-39. DOC should expand its use of utilization review to include concurrent and retrospective reviews of potentially preventable hospital days, as recommended by the Agency for Healthcare Research and Quality.*

*Recommendation 6-40. DOC should increase filled positions in both the medical and mental health program to 100 percent of authorized positions.*

*Recommendation 6-41. DOC should increase its number of infirmary beds to improve hospital utilization and care management for severely disabled inmates.*

*Recommendation 6-42. DOC should negotiate with private prison vendors to give the Office of Health Services oversight over health care programs in the private prisons, and to standardize forms and the implementation of DOC policies.*

## **Oklahoma Correctional Industries**

Oklahoma Correctional Industries (OCI) employs inmates to produce an extensive line of products and services that are sold to government and nonprofit organizations as well as government employees. OCI's mission is to provide marketable job skills and job training to the offenders it employs.

As a distinct entity within the Oklahoma Department of Corrections, OCI is financially self-sufficient and receives no taxpayer funding. All of its expenses are paid for with the revenues it receives from the products and services it sells. OCI has 19 business operations at ten prisons in the state. Many are considered traditional correctional industry programs, such as:

- office furniture manufacturing;
- metal fabrication;
- garment manufacturing;
- printing;
- records conversion/digitalization;
- sign manufacturing;
- cleaning/janitorial supply production; and
- mattress manufacturing.

In addition to these industries, OCI also employs inmates in joint partnerships with two private businesses:

- **Business-to-Business Telemarketing:** In partnership with DMI, Incorporated, inmates develop telemarketing skills at the Joseph Harp Correctional Center.
- **Packaging/Distribution:** In partnership with the Jacobs Trading Company, inmates package and redistribute returned and overstock merchandise at the Eddie Warrior Correctional Center.

OCI also has a unique Modular Housing Construction program that designs, builds and installs modular homes. Since this program began, OCI has sold more than 175 homes.

### ***Comparisons with Other States***

According to the National Correctional Industry Association's 2005 Directory, all 50 states operate some form of correctional industry program. While these correctional industries vary in size, products produced and programs offered, they generally have the same mission focus, to provide offenders with the opportunity to develop useful skills that can help them succeed upon release.

Some key indicators comparing OCI performance with other states include:

- *participation*: In 2005, Oklahoma had the 18<sup>th</sup> largest state prison population and employed more than 1,000 inmates in its industry programs, placing it 19<sup>th</sup> among states. OCI employed 4.7 percent of the prison population, slightly more than the national average of 4.1 percent.
- *revenue*: OCI's 2005 revenue of \$16.2 million ranked it 26th among states. Recent sales growth, however, is likely to improve its standing.
- *diversification*: Many states depend heavily on the corrections agency as their major customer. This ties their success to something they cannot control, the corrections budget. For this reason, a diversified customer base is important. OCI is very diversified, with only 20 percent of its sales due to DOC in 2005. Other state correctional industries averaged 33 percent of sales to their corrections agency.

OCI's sales are low, however, compared to programs in states with similar prison populations (20,000 to 26,000 offenders). OCI had the second-lowest sales among this group in fiscal 2005 (**Exhibit 6-16**). It also employed the least civilian staff among this group.

**EXHIBIT 6-16  
Comparisons to States with Similar Prison Populations**

	<u>State Prison Population</u>	<u>Sales</u>	<u>% Sales from DOC</u>	<u>Total Inmates Employed</u>	<u>% Employed in Industries</u>	<u># of Industries</u>	<u># of Staff</u>
<b><i>Similar Size States</i></b>							
Alabama	25,418	\$15,774,000	42.0%	2,155	8.5%	22	98
Oklahoma	23,008	\$16,200,000	19.9%	1,092	4.7%	21	89
Wisconsin	21,850	\$23,394,898	N/A	673	3.1%	26	136
South Carolina	23,072	\$25,014,625	11.7%	1,077	4.7%	36	108
Maryland	23,215	\$35,682,223	19.0%	1,392	6.0%	30	159
Colorado	20,317	\$36,026,120	23.0%	1,281	6.3%	58	137
Indiana	22,392	\$43,800,000	36.0%	1,115	5.0%	35	172
<b>Average - All States</b>	<b>25,110</b>	<b>\$24,161,769</b>	<b>33.2%</b>	<b>1,045</b>	<b>4.2%</b>	<b>24</b>	<b>95</b>

*Source: MGT of America.*

OCI's organizational structure, however, makes it difficult to draw firm conclusions from these comparisons. In particular, most state correctional industries have agricultural or food processing operations; in Oklahoma, a separate Agri-Services Unit handles these operations, and its data are not listed in the National Correctional Industry Association report. Agri-Services' external sales have been about \$8 million per year. If this figure were added to OCI's 2005 sales, the total would almost meet the 50-state average of \$24 million and its rank in revenues would rise to 21<sup>st</sup> among all states.



MGT met with OCI staff and visited field operations. MGT found OCI to be a well-organized and disciplined unit that has strong, forward-thinking central leadership and a qualified staff in its field operations.

OCI has prepared a detailed long-range business plan that examines its competitiveness, establishes financial, productivity and employment goals and identifies the needs of its specific operations. OCI takes advantage of niche business opportunities when these are deemed profitable and beneficial to the inmates. Because of these qualities, OCI sales are growing significantly. Sales rose by more than 21 percent, from \$15.7 million in fiscal 2006 to \$19.2 million in fiscal 2007. Profit more than tripled, to \$1.4 million in fiscal 2007, resulting in a healthy profit margin of 7.4 percent.

### ***Plant Storage Space***

MGT found that many of OCI's production plants are cramped and lack adequate storage space for raw materials and finished goods. This lack of space significantly restricts OCI's production and growth prospects. A central warehouse would improve OCI's operations in several ways:

- *increase in purchasing power*—increased storage space would allow OCI to purchase raw materials in larger quantities at a reduced price.
- *larger production space*—floor space available for production would be expanded, since the majority of raw materials and finished goods could be stored offsite.
- *improved ability to compete*—OCI is often unable to compete on projects that require quick completion, due to limited its storage space and the state's procurement process. A central warehouse would negate this disadvantage, since OCI would have the space it needs to purchase and store raw materials in advance of production needs, thereby allowing it to respond more quickly to bids.
- *stock finished goods inventory*—OCI could produce commonly purchased items to fill stock inventories at the central warehouse. This could decrease costs by allowing for an efficient “assembly line” approach, and allow OCI to provide immediate delivery of these items, encouraging increased sales.

OCI administration is aware of their need for storage space, and identified it in their fiscal 2007 to 2012 business plan.

### ***Recidivism Reviews***

If OCI is effective, its participants should be less likely to return to prison. OCI is working with Oklahoma University to research and develop recidivism rates for inmates who have participated in its programs. This information then should be compared to overall DOC recidivism rates to determine OCI's effectiveness.

***Summary of Recommendations***

***Recommendation 6-43. OCI should consider building or purchasing a central warehouse to store raw materials and finished goods.***

A central warehouse would free up space at existing shops and ultimately increase their capacity and usefulness. OCI should conduct a cost-benefit evaluation that:

- identifies the products it will store in a central warehouse;
- determines current and future square footage needed to accommodate these products;
- identifies all capital and operating costs associated with a central warehouse; and
- projects the benefits and sales growth that would result from both added production space at existing sites and a new central warehouse.

***Recommendation 6-44. OCI should develop annual offender recidivism statistics for inmates involved in its programs.*** These data then can be compared to overall department recidivism rates to determine the OCI programs' effectiveness.

## Management of Female Offenders

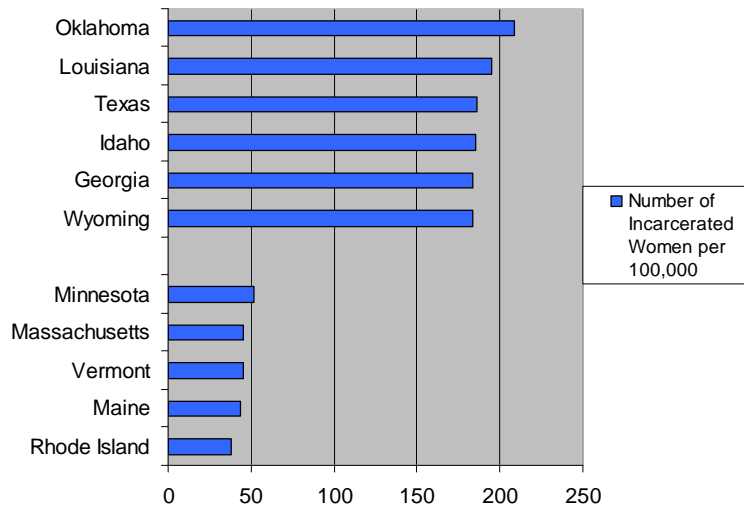
In a July 2007 research fact sheet report, “The Nation’s Most Punitive States for Women,” the National Council on Crime and Delinquency (NCCD) found enormous disparities among states in the way female offenders are treated.<sup>9</sup> Using the latest available data from prisons, jails, probation, and parole for adult and juvenile women, NCCD reported that “disparate incarceration, probation and parole rates do not correspond to differences in state arrest rates,” but instead are due largely to differing state policies and practices. The council concluded that the most punitive states do not have lower female crime rates.

The report also noted that the U.S. imprisons more women and girls than any other nation. And the proportion of incarcerated women to men is rising. The report confirmed a fact that policymakers in Oklahoma already know: the state has the nation’s highest incarceration rate for women.

NCCD also reported that, based on 2005 state prison and jail incarceration rates, the most punitive states for women were Oklahoma, Louisiana, Texas, Idaho, Georgia and Wyoming. The states with the lowest rates of incarceration were Rhode Island, Maine, Vermont, Massachusetts, Minnesota and New Hampshire. Almost a third of all female prisoners in the U.S. were held in three California, Texas and Florida.

MGT was unable to conclusively establish specific reasons for Oklahoma’s high incarceration rate. It is our belief that it is the result of a combination of issues:

**Incarceration of Female Offenders**



*Source: National Council on Crime and Delinquency.*

<sup>9</sup> The Nations Most Punitive States for Women, July 2007. The National Council on Crime and Delinquency, Christopher Hartney.

- it appears that many local jurisdictions have a shortage of jail beds for the short-term incarceration of female offenders. This results in commitments to prison rather than jail.
- the high percentage of DOC female inmates with mental health needs indicates that many were placed there to obtain treatment services that may not be available at the local level for individuals with criminal histories.
- the Oklahoma criminal justice simply does not demonstrate the degree of leniency and, in a sense, preferential treatment toward female offenders that other jurisdictions do. Many states use incarceration only as a last resort for female offenders; this does not appear to be the case in Oklahoma.
- the female prisoners' high rate of drug involvement accompanying other criminal behavior results in a higher incarceration rate
- Oklahoma's extensive use of delayed sentencing options may increase the female incarceration rate.

Women make up 10.2 percent of DOC's population. This far exceeds the national average, which ranges between 4 and 7 percent.

Women are housed in several facilities. Our reviewed focused particular attention on the Mabel Bassett facility, which holds the higher-risk female offenders. At the time of MGT's site visit, Mabel Bassett had the following population demographics:

- The facility housed 969 women.
  - 40 percent were African American
  - 15 percent were Hispanic
  - 39 percent were Caucasian
  - 6 percent were characterized as "other"
- Classification levels of the current population:
  - 28 = maximum security
  - 690 = medium security
  - 250 = minimum security

As noted in our chapter on the current classification process, the system appears to overclassify women, particularly in the maximum category. In most systems, when properly classified, the largest percentage of women prisoners are classified as minimum security.

### ***General Site Visit Observations***

- The institution was clean and quiet. The mental health unit was quiet and even the segregation unit was quiet; prisoners asked about the visitor without yelling.
- Grounds were well-kept and we observed prisoners taking care of walks, gardens and grounds.

- Housing units are divided into pods, with a central control tower staffed by one officer. An additional officer makes rounds in all of the pods.
- Inmates have access to an intercom in each room to alert the officer in the tower of emergencies or other needs.
- Each pod had a new office area built in the middle of the pod which gave no sight access to one area of cells. There are mirrors and a camera in this area to improve supervision.
- The library, especially the law library, seemed to be well-supplied. Three prisoner law clerks assist fellow inmates. They have had eight hours of training by Central Office legal personnel.
- The medical area is small and staffing is a problem. Nursing shortages are due to a shortage of candidates; area hospitals offer signing bonuses. At the time of our visit four out of ten LPN positions were vacant, as were four out of eight RN positions.
- Staff interviewed appeared to know their responsibilities and made no complaints about overwork or harassment, although most reported that they could use additional staff.

### *Staffing*

We noted that Bassett is authorized for 219 FTEs. At present, however, just 133 correctional officers work at the facility. Our analysis indicates:

- 210 correctional officers are needed to operate the facility in a way consistent with professional standards and department policies.
- an additional two maintenance workers and three food service workers are needed as well.

The majority of staff members at Mabel Bassett are male, but we observed a significant number of female officers assigned to the housing unit bubble areas and the Control Center. Given the limited number of female staff, it would be better if the institution assigned as many female staff members as possible to direct supervision of the housing units.

### *Training*

The Mabel Bassett deputy warden supervises the training manager, who also reports to the Central Office training manager. The following difficulties with the training program noted at Bassett should be reviewed by DOC as potential problems that exist throughout DOC:

- the lack of a facility training budget. Instead, each facility is asked to submit a “wish list.”
- Training records reviewed indicated that the number and types of employees who are trained by the institutional training manager (ITM) varies among facilities.

- Facilities have a varying level of equipment yet the ITMs are expected to deliver the same training.
- Bassett has no dedicated space for training. Instead, an area shared with roll call is used for training, which makes it difficult to secure the equipment used in training.
- staff often cannot attend training because they have been assigned to pull double shifts.”
- the Central Office training manager requires large amounts of paperwork from ITMs, yet they is no dedicated support staff to assist them. As such, the ITM is expected to conduct training while also completing all clerical duties necessary to comply with the paperwork requirements.

### ***Reception/Intake***

At present, Lexington Correctional Center is the Assessment and Reception Center for all females entering the system. If a woman is determined eligible for placement at Bassett, she is typically transferred there within five to seven days.

Bassett is undergoing remodeling to accommodate a new reception center for women offenders. Once the renovation is completed, Bassett will receive and process all female new commitments and parole violators.

DOC’s classification director is currently located at the Lexington facility and all the classification unit managers report to this position. When the reception center moves to Bassett, all unit managers will continue to report to the classification director, but custody staff at Bassett will report through their chains of command to the warden.

Our assessment indicates that dual management and supervision of the reception function is problematic. Several factors support this conclusion. The scope of the classification director’s responsibilities is very broad and stretches her ability to manage all the functions under her responsibility. This, combined with the physical distance between Lexington and Bassett, and the inherent and obvious differences in the assessment and management of female offenders, suggest that an alternate management structure may be advisable. DOC should review this issue to ensure that local facility supervision of the unit is maximized.

### ***Mental Health Services***

DOC documents indicated that 72 percent of women at Bassett have some mental health diagnosis and receive mental health services. This percentage is very high for a population of this size and demographics. It does, however, confirm information provided by the Department of Mental Health and Substance Abuse Services that females have an extremely high rate of mental illness in Oklahoma. This issue is addressed in a more thorough manner in the medical section above.

### ***Systems Mapping***

The National Institute of Corrections (NIC) has developed a new initiative related to systems mapping. NIC consultant Becky Nye is working with the staff at Bassett to develop a systems map that will trace the movements and actions of the female offenders through the criminal justice system. Once this is finalized, it will identify how women move through the system. This may produce information useful for refining services delivered to women prisoners.

### ***Delayed Sentencing***

Courts may delay sentencing of prisoners for a period of up to 120 days. During this time, the women who are committed under this provision are housed at Bassett. At the conclusion of the 120 days, the court may opt to release the woman to the community under some type of supervision, or sentence her to a specific term in prison.

This process is somewhat confusing. It appears that the courts use delayed sentencing in the same way that the old “scared straight” program was used. Our understanding is that the anticipated goal of delayed sentencing is to affect the offender’s future behavior; in effect, it is a 120-day “time-out” sentence.

Prisoners incarcerated under delayed sentencing reside in minimum-security housing as part of the general population, and have no restrictions as to their movement or programming involvement. Actually, it would be impossible for a woman to be enrolled in any type of positive programming within a 120 day stay, due to the waiting lists. It appears that prisoners under delayed sentencing spend 120 days in their housing unit with little if any involvement in programming or treatment.

Further review of the use of delayed sentencing for women offenders appears to be warranted. The cost to process prisoners and house them for 120 days may negate any benefits accrued from the delayed sentence.

### ***Faith-Based Programming***

MGT reviewed the unit housing prisoners involved in the Faith Based Program. The atmosphere in this unit was vibrant and all women were actively engaged in group programming. The unit staff seemed enthusiastic and was obviously committed to the program.

### ***PREA Policy***

MGT reviewed DOC’s draft Federal Prison Rape Elimination Act (PREA) policy, and noted that while the 16-page policy attempts to address critical issues related to sexual violence in prison, it fails to provide direction to staff in terms of specific actions and activities. The policy fails to identify what actions are required in cases of suspected sexual abuse, for instance, leaving staff action open to interpretation. Since all may have differing interpretations of appropriateness, the policy falls well short of providing clear direction to staff.

Department employees have developed a number of specific proposals to improve the policy. These include:

- initiate and publicize a toll-free number inmates can use to report sexual violence;
- establish specific programs for youthful and first-time offenders;
- improve planning for victims and perpetrators of sexual violence who are being released on parole;
- refine the re-entry programming so that the process begins at intake;
- develop and display posters in the facilities which impart the message, “Prison Rape Makes You a Sex Offender”; and
- establish procedures calling for the notification of spouses that an inmate committed a rape.

### ***Summary of Recommendations***

***Recommendation 6-45. DOC should assess the number of jail beds and local sentencing options available for women to determine these options need expansion.*** MGT was unable to come to a definitive conclusion on whether the lack of local incarceration beds is contributing to the high incarceration rate for women. CJRC should complete a comprehensive study of this issue to determine if the state could initiate any actions to encourage the use of local options for female offenders.

***Recommendation 6-46. DOC should consider separating supervisory responsibilities for female assessment and reception functions from the Lexington operation.*** Due to the factors mentioned above, we believe that the level of supervision provided in the proposed organizational structure for the Bassett assessment and reception center will be inadequate.

***Recommendation 6-47. DOC should finalize the proposed PREA policy and ensure that it includes specific provisions for expectations and actions.*** The use of terms such as “as appropriate and when appropriate” does *not* provide the specificity needed to address the critical issues of prison sexual assault. Descriptions of expectations and actions required should be specific and outlined in detail. The policy also should also incorporate the improvements

***Recommendation 6-48. DOC should monitor the use of delayed sentencing to ensure that it is not being used simply as an alternative to local incarceration.*** MGT believes that this mechanism was intended to provide a period of incarceration during which DOC could observe the offender and assess her programming needs. It does not appear that delayed sentencing is being used for this purpose at present.



***Recommendation 6-49. DOC and MHSAS should continue to collaborate in identifying improved ways to address the mental health needs of female offenders.*** The high incidence of mental illness within this population must continue to be a high priority for both agencies. MHSAS has demonstrated a willingness to commit additional resources to meeting these needs, both at the institutional level and in the community. These efforts should continue. Providing as many of these services at the local level will improve their cost-effectiveness.



## ***7.0 ADMINISTRATION***

# 7.0 ADMINISTRATION

## Budget

One of the primary goals of MGT's study is an objective assessment of DOC's budgetary resource requirements. DOC's budgetary needs have been a contentious issue for at least eight years. Ongoing disputes over funding have resulted in the relatively unique practice of intentionally underfunding the department in the appropriations process, and making up the remainder with supplemental appropriations late in the fiscal year. This practice developed due to a number of factors, but it is fundamentally a function of unresolved and significant questions regarding the department's budget needs and management practices. These questions include:

- What developments and trends are driving the department's budgetary needs?
- Does DOC manage its available resources in an efficient manner?
- How do DOC spending levels and patterns compare with other correctional systems?
- What level and allocation of resources does the current system require to function in an effective manner?
- Do current department management systems support adequate levels of accountability and transparency in the budgeting process?

This analysis addresses these questions and attempts to develop a foundation of information required for a productive deliberation on the department's budget.

DOC spent a total of \$517.8 million in fiscal 2007, nearly 92 percent of it appropriated funds. The department expects to spend \$535.3 million in fiscal 2008, assuming approval of its supplemental appropriations request. With the supplemental spending, the 2008 total will represent a 1.5 percent increase.

**EXHIBIT 7-1  
DOC Funding, 2006-2009  
(Dollar Amounts in Thousands)**

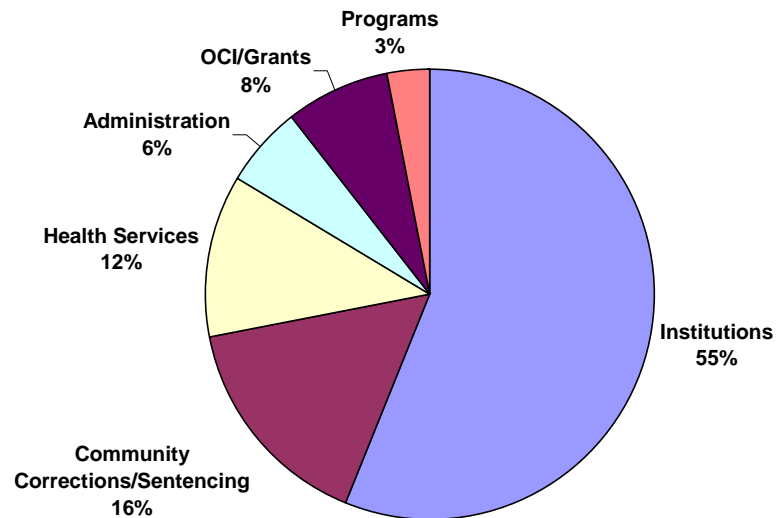
	Fiscal 2006 Spending	Fiscal 2007 Spending	Fiscal 2008 w/Suppl.	# Change	% Change	Fiscal 2009 Request
Appropriated Funds	\$ 403,432	\$ 475,207	\$ 482,620	\$ 7,413	1.5%	\$ 572,994
Other Resources	\$ 67,979	\$ 42,561	\$ 52,643	\$ 10,082	19.2%	\$ 51,506
Total Budget	\$ 471,411	\$ 517,768	\$ 535,263	\$ 17,495	3.3%	\$ 624,500
FTEs	4739.8	4,833.5	4,833.5	155.5	3.2%	4,989.0

*Source: Oklahoma Department of Corrections.*

### Spending Patterns

From a program viewpoint, more than 83 percent of DOC's budget goes directly to institutional operations, inmate health services, and community supervision (**Exhibit 7-2**).

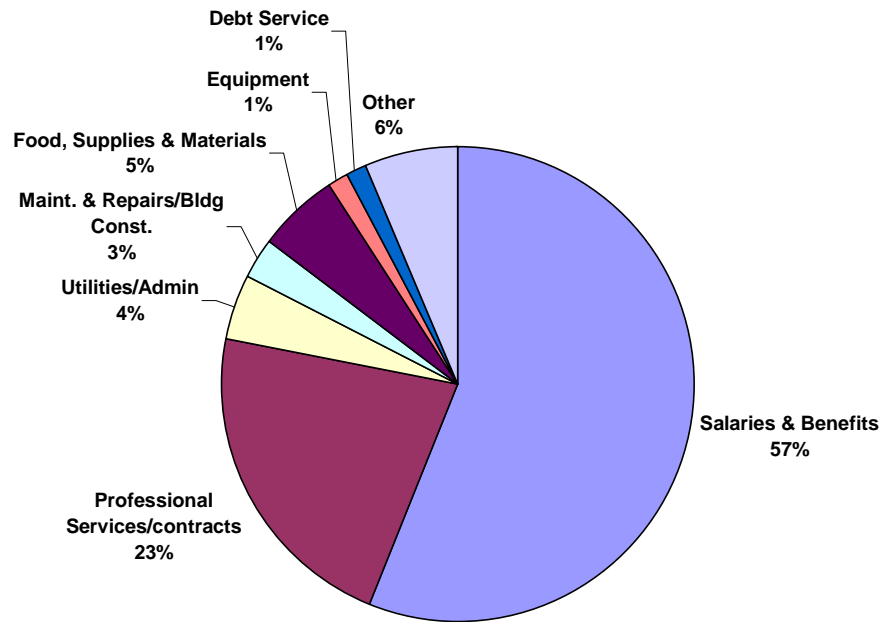
**EXHIBIT 7-2**  
**DOC Budget by Program**



*Source: Oklahoma Department of Corrections.*

The majority of DOC's spending, 57 percent, goes to staff salaries and benefits (**Exhibit 7-3**). The next-largest category is professional services and contracts, which includes all of the private correctional facility contracts as well as service contracts with doctors, hospitals and pharmaceutical providers. In all, staff costs and contracts comprise 80 percent of the department's budget. This is a somewhat higher level of contract spending than typically seen in correctional agencies, and is largely attributable to the magnitude of private prison contracting in Oklahoma.

**EXHIBIT 7-3**  
**DOC Budget by Account**

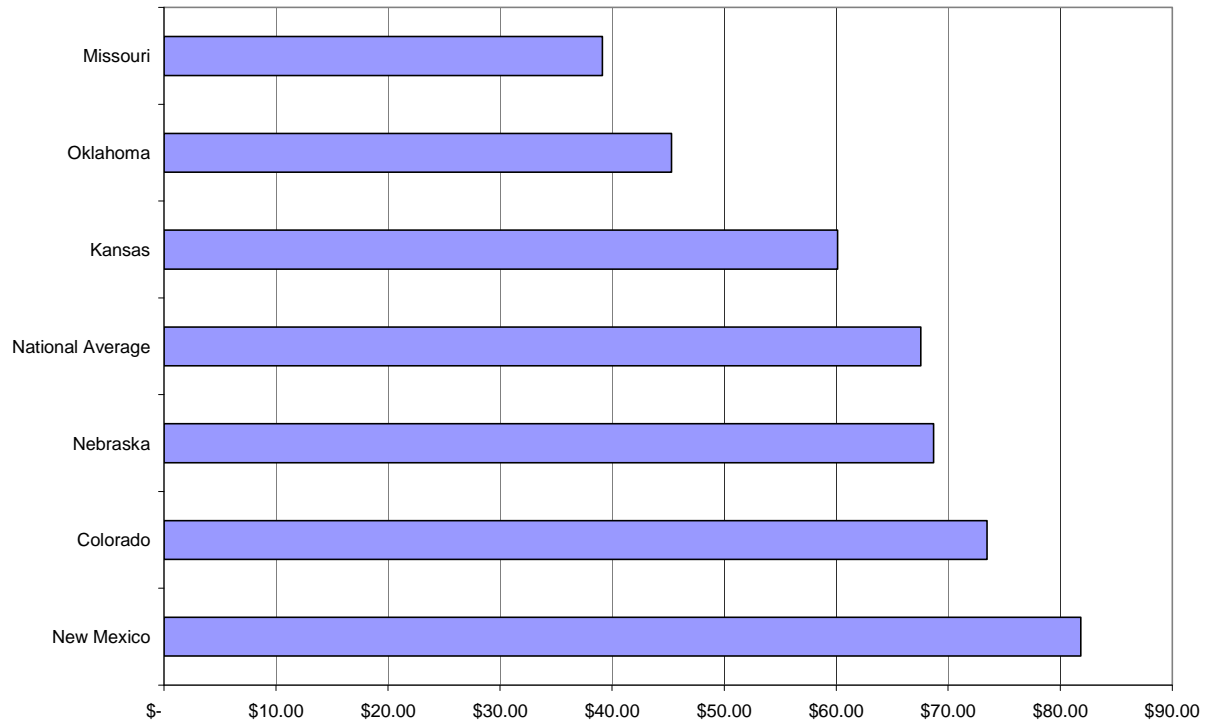


Source: Oklahoma Department of Corrections.

**Comparisons with Other States**

Based on data collected by the American Correctional Association for 2005, Oklahoma ranks 41<sup>st</sup> among the states in per diem expenditures, making it one of the least-expensive correctional systems in the nation (**Exhibit 7-4**). The department's costs are about 33 percent below the national average per diem costs for correctional systems, and are substantially lower than comparable neighboring states except for Missouri.

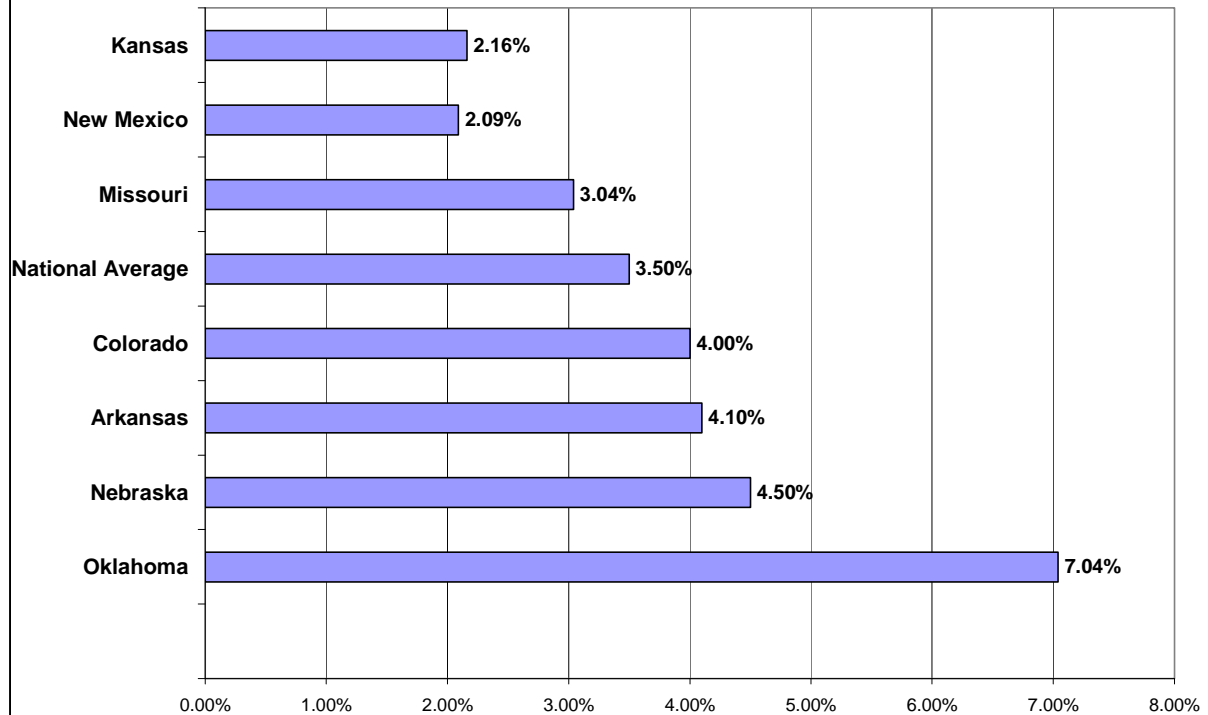
**EXHIBIT 7-4**  
**Correctional System Per Diem Costs**



*Source: American Correctional Association.*

Oklahoma allocates a much greater *proportion* of its state budget to corrections than most other states, however. Oklahoma allocates 7 percent of its state budget to corrections, twice as much of the national average, and much more than all of its peer states (**Exhibit 7-5**).

**EXHIBIT 7-5**  
**Corrections as a Percent of State Budget**

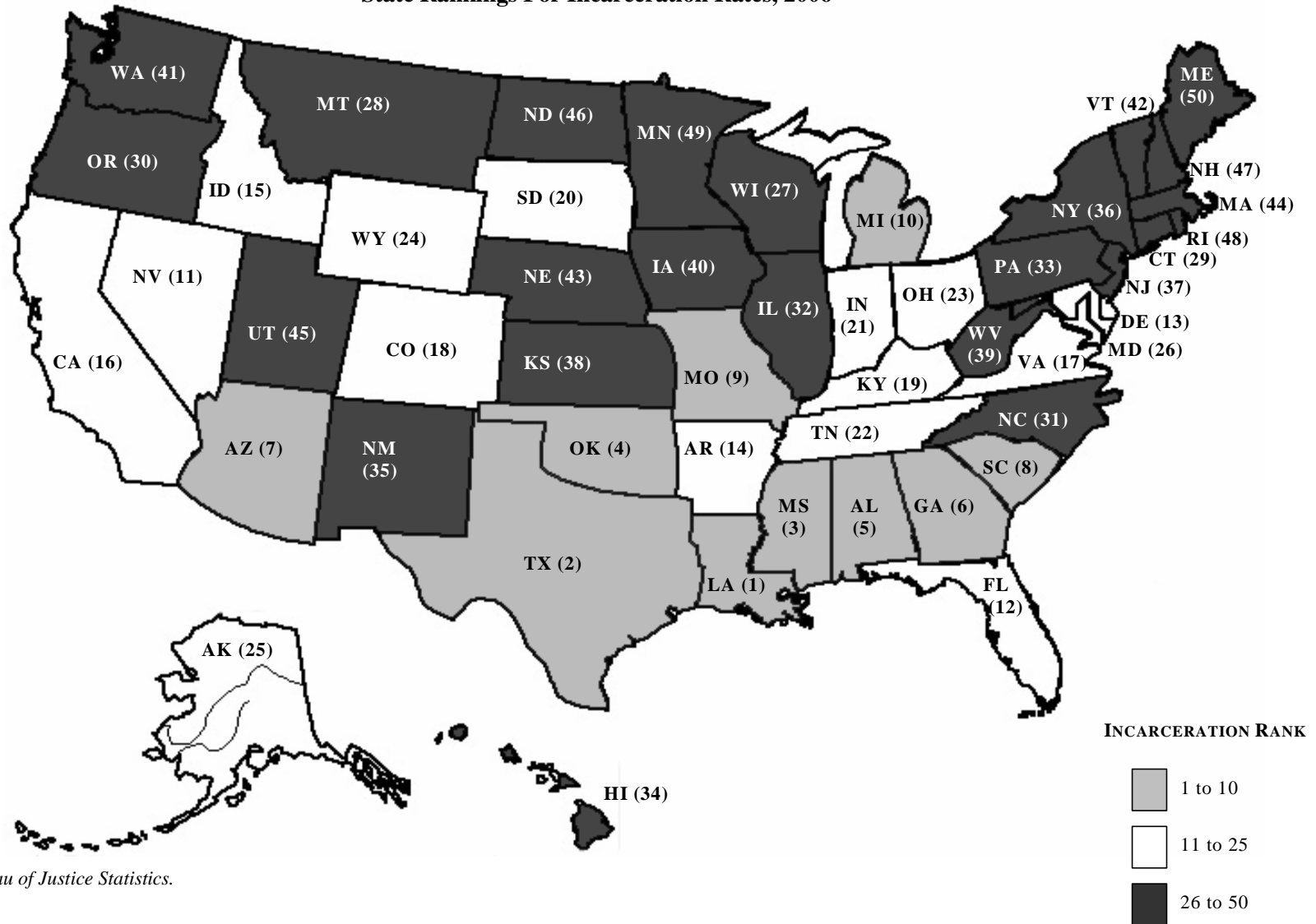


*Source: MGT of America.*

This seeming paradox—very low per diem spending coupled with extremely high levels of state investment in corrections—is explained by Oklahoma’s high incarceration rate. As of October 2007, Oklahoma has the nation’s fourth-highest rate of incarceration, following only Louisiana, Texas and Mississippi. While DOC is very efficient in spending levels per inmate, the sheer number of offenders committed to the system forces the state to allocate an extremely high proportion of its resources to corrections.

Oklahoma’s incarceration rate is nearly twice that of Kansas and about 37 percent higher than Arkansas, for instance. **Exhibits 7-6** through **7-8** illustrate the close correlation between a state’s incarceration rate and its investment in its correctional system. With the sole exception of Nebraska, the percent of the state budget spent on corrections generally tracks a state’s incarceration rate rather closely.

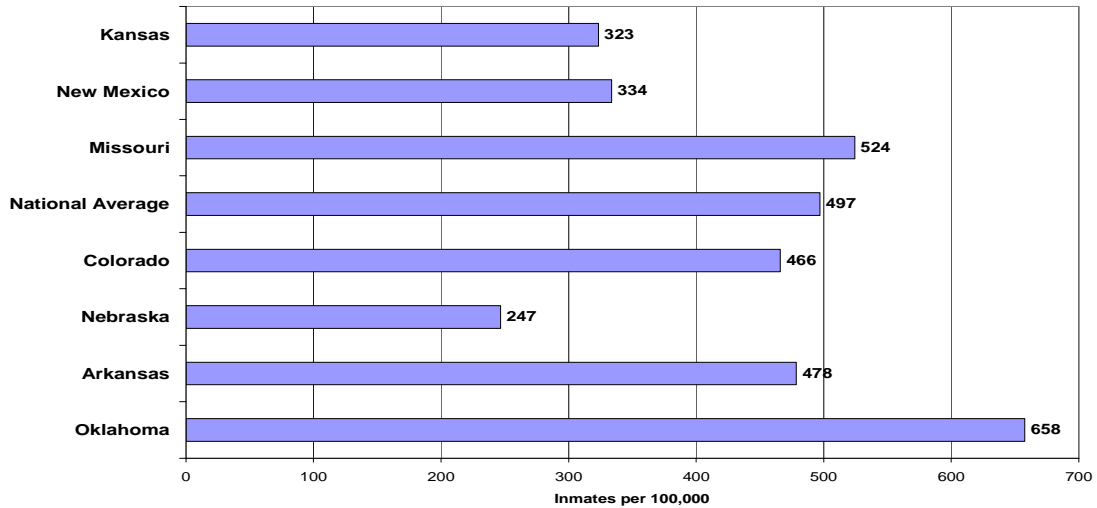
**EXHIBIT 7-6**  
**State Rankings For Incarceration Rates, 2006**



Source: Bureau of Justice Statistics.

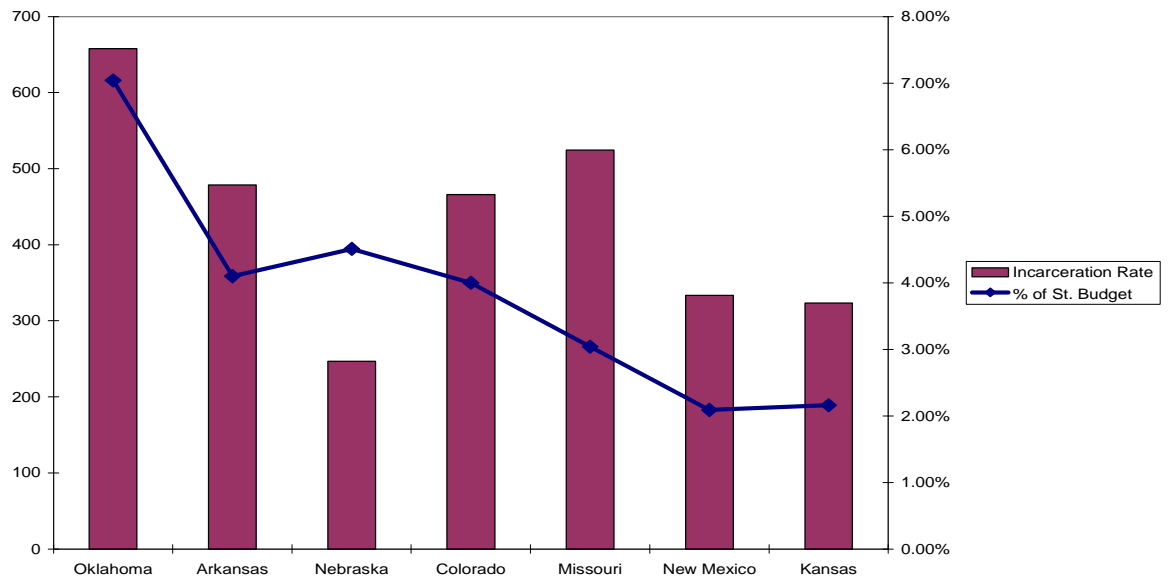


**EXHIBIT 7-7**  
**Peer State Incarceration Rates**



Source: Bureau of Justice Statistics.

**EXHIBIT 7-8**  
**Peer States: Incarceration Rate and Corrections Spending**  
**As a Percent of State Budget**

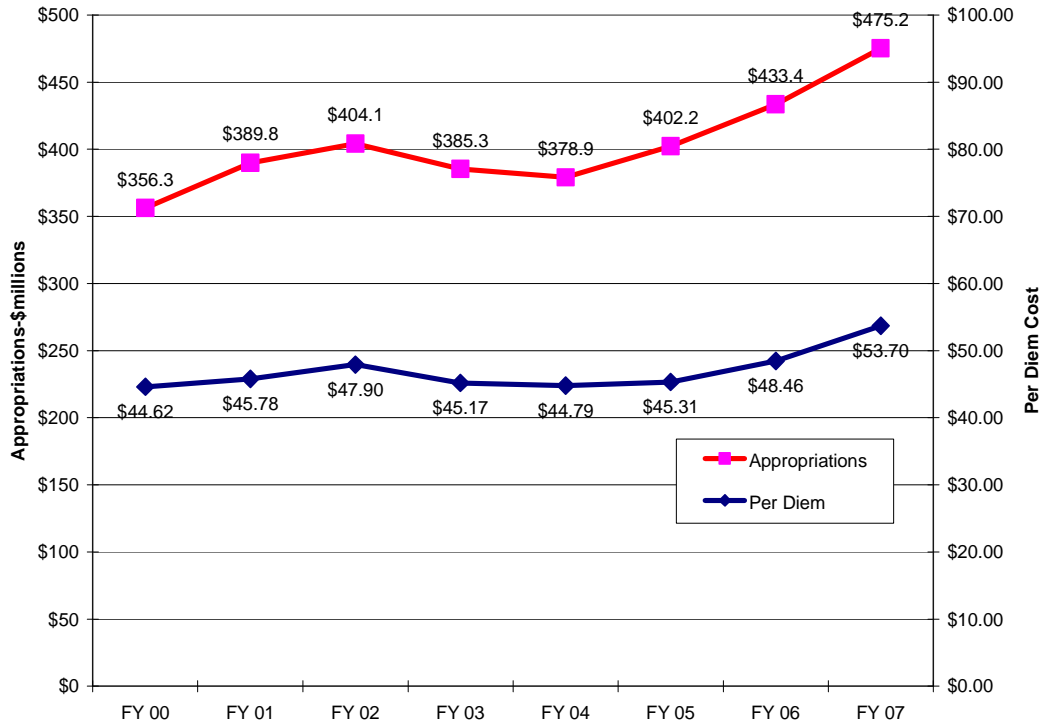


Source: Oklahoma Department of Corrections, American Correctional Association.

**DOC Spending Trends**

Since fiscal 2000, DOC appropriations and per diem costs have been remarkably stable, only accelerating significantly beginning in fiscal 2005.

**EXHIBIT 7-9  
DOC Appropriation and Per Diem Trends**

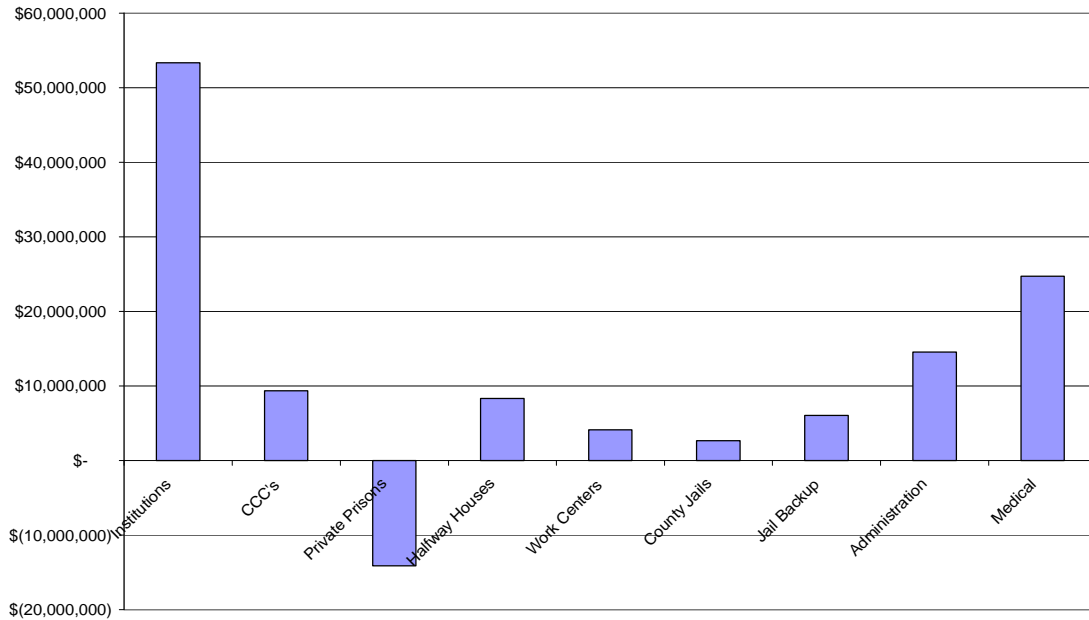


Source: Oklahoma Department of Corrections.

Actual per diem rates and appropriation levels in fiscal 2005 were lower than fiscal 2002 levels. Oklahoma is the only state correctional system we are aware of that actually *reduced* system spending over this period. In all, from fiscal 2000 to 2007, DOC appropriations rose by 33 percent, while per diem rates increased by 20 percent. More than 57 percent of the increase in per diem costs over this period occurred in the past year.

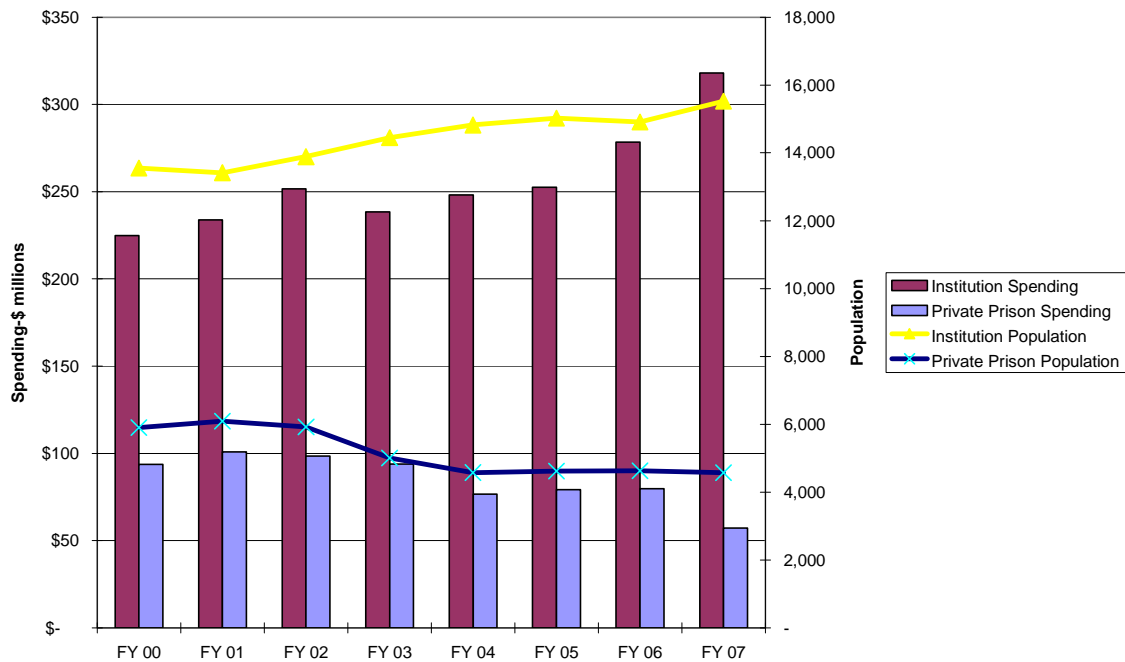
The two most significant factors underlying these spending trends have been the steady increase of inmates and spending at state institutions, and a decrease in the offender population and spending at the state's private prisons (**Exhibits 7-10** through **7-12**). Institutional spending has risen by \$53.7 million since fiscal 2000, while private prison contract spending decreased by \$14.1 million.

**EXHIBIT 7-10**  
**DOC Spending Increases**  
**Fiscal 2000-2006**



Source: Oklahoma Department of Corrections.

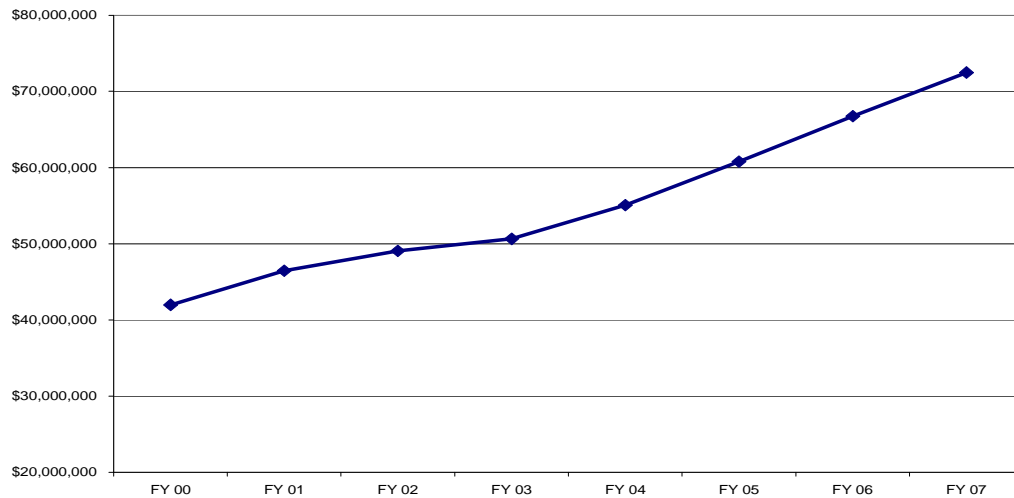
**EXHIBIT 7-11**  
**Facility Spending and Population**



Source: Oklahoma Department of Corrections.

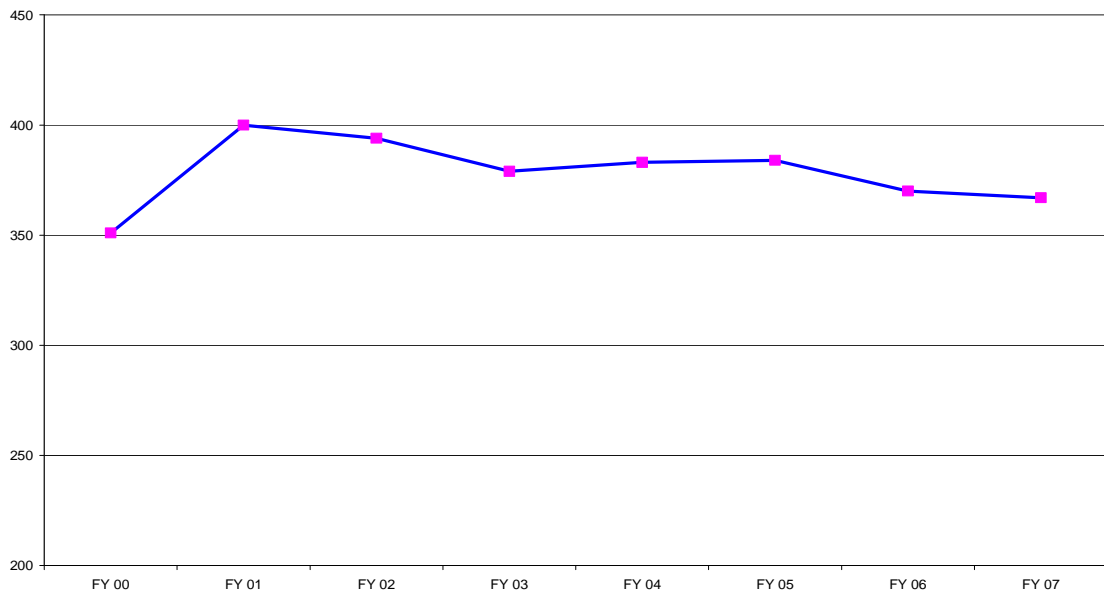
The other primary area of significant growth in spending has been in the department’s medical program, with expenditures rising by nearly \$25 million or 73 percent since fiscal 2000 (Exhibit 7-12). This increase in spending is not staff-driven. After a significant increase in staffing levels in fiscal 2001, medical staffing levels have slowly declined until current levels are only slightly higher than fiscal 2000 levels, despite an increase in the offender population of nearly 2,000.

**EXHIBIT 7-12  
DOC Medical Spending**



Source: Oklahoma Department of Corrections.

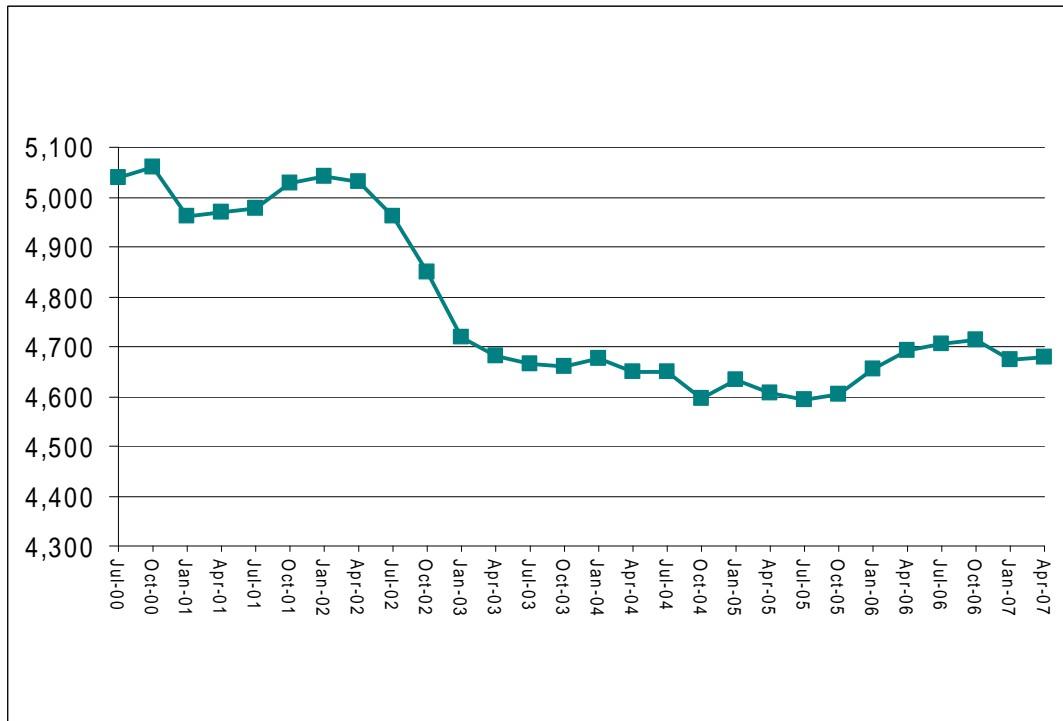
**EXHIBIT 7-13  
DOC Medical Staffing**



Source: Oklahoma Department of Corrections.

This pattern of declining staff levels since fiscal 2000 also characterizes department staffing in general. The following chart (**Exhibit 7-14**) shows actual Full Time Equivalent (FTE) staffing for the department over the last seven years. Over this period, DOC staffing shrank by 7 percent, despite increasing growth in the prison population.

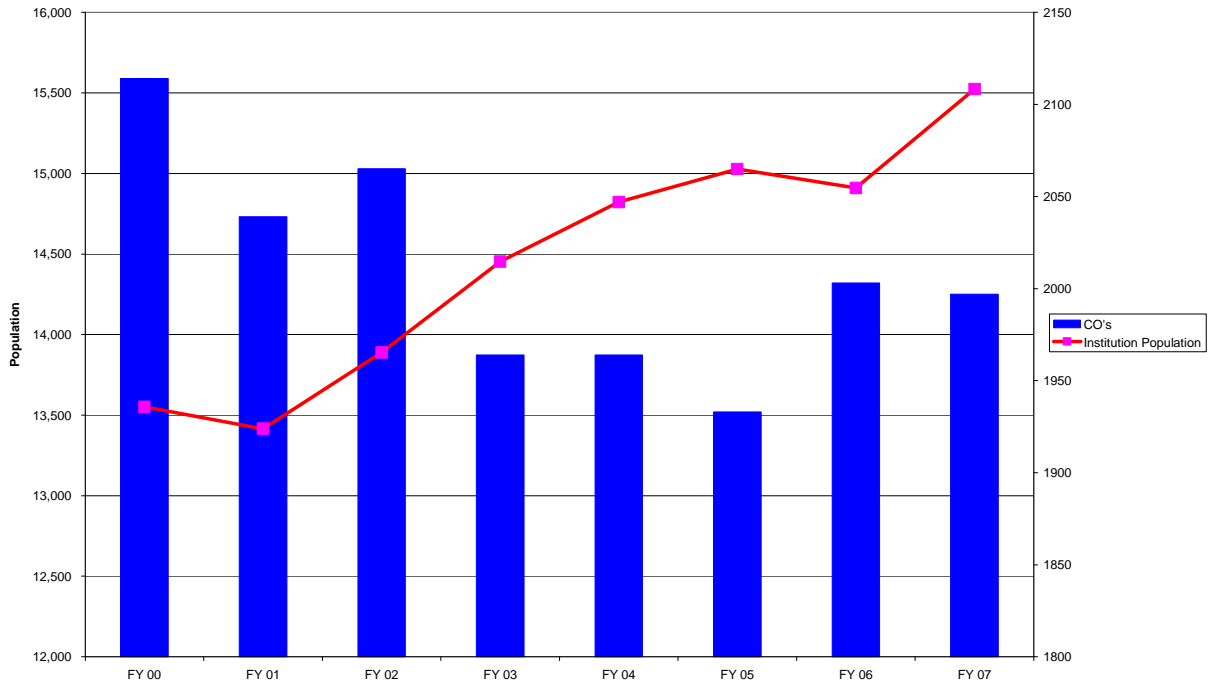
**EXHIBIT 7-14**  
Department of Corrections Actual FTEs



*Source: Oklahoma Department of Corrections*

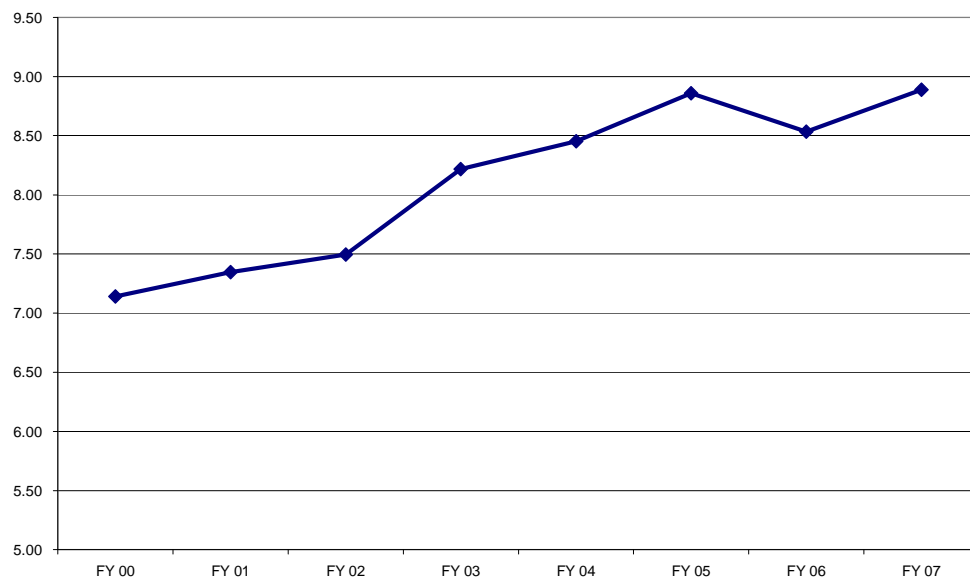
As shown in **Exhibit 7-15**, department institutions now operate with approximately 100 fewer officers in department institutions than in fiscal 2000, despite the addition of 2,000 inmates to these facilities. The result of this trend has been a steadily increasing ratio in the number of inmates relative to staff in department institutions, from roughly seven inmates per officer fiscal 2000 to nine per officer in fiscal 2007 (**Exhibit 7-16**).

**EXHIBIT 7-15**  
**Institution COs and Population**



Source: Oklahoma Department of Corrections.

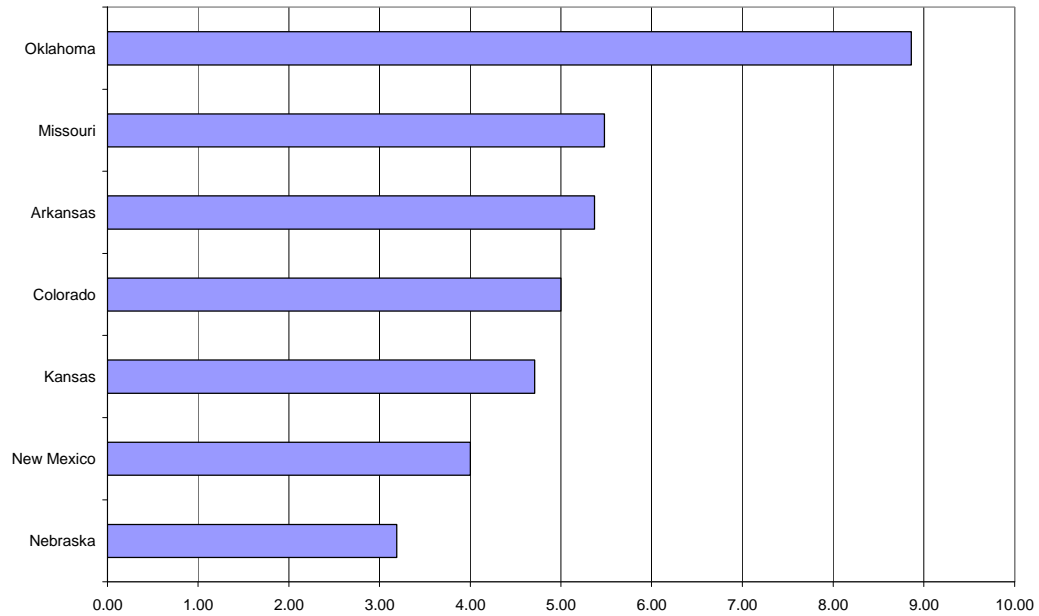
**EXHIBIT 7-16**  
**Inmates Per Officer**



Source: Oklahoma Department of Corrections.

As a result of this trend, Oklahoma has by far the highest ratio of inmates to officers of any of the comparable peer states (**Exhibit 7-17**).

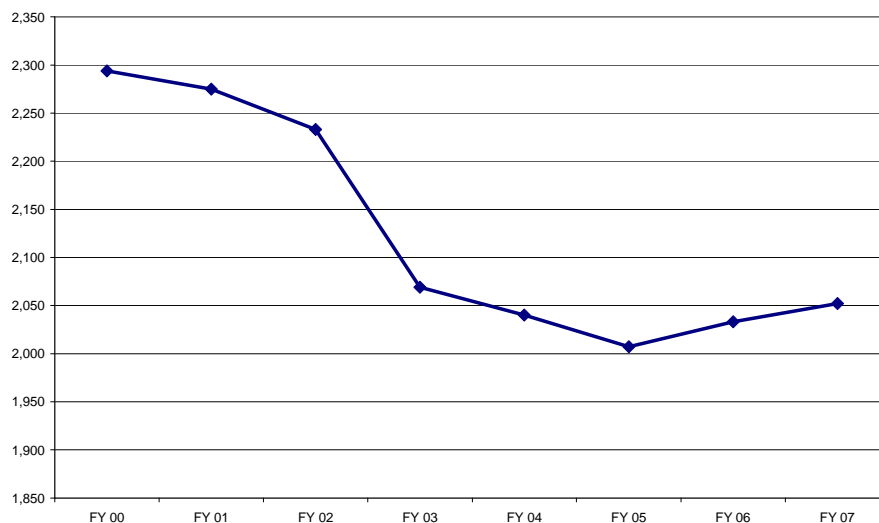
**EXHIBIT 7-17**  
**Inmates Per Officers in Peer States**



*Source: American Correctional Association, MGT of America.*

This pattern of declining staff levels is also striking in the program, administration and support areas of the DOC, where FTE levels have declined by 11 percent (**Exhibit 7-18**).

**EXHIBIT 7-18**  
**Administration, Program and Support Staffing**

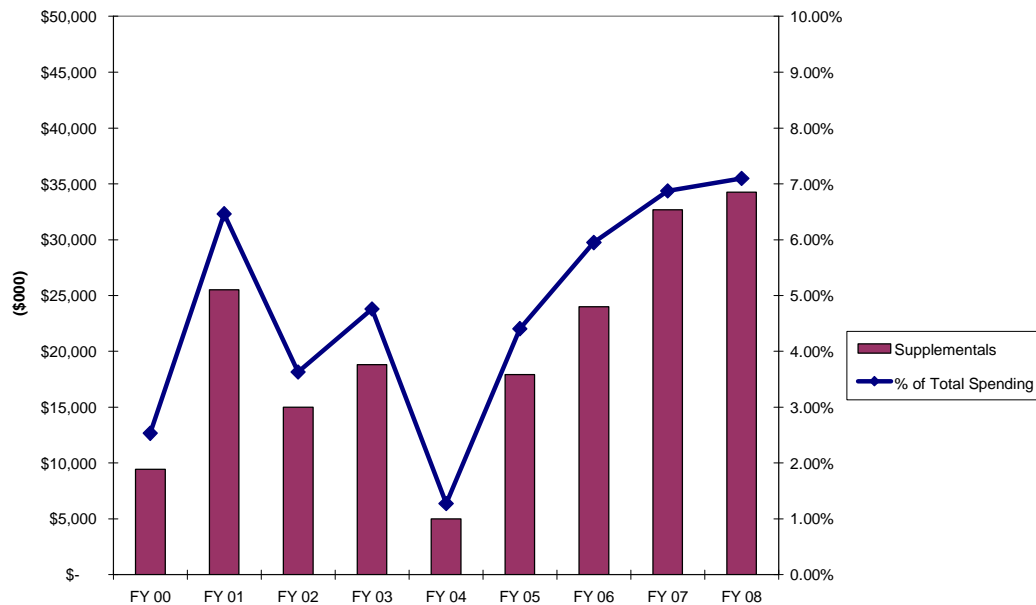


*Source: Oklahoma Department of Corrections.*

### DOC Spending Trends

The defining characteristic of the department's budget management over the last nine years has been a continued reliance upon supplemental appropriations, which since fiscal 2004 have increased as a percent of department spending (**Exhibit 7-19**).

**EXHIBIT 7-19**  
**Supplemental Appropriations**



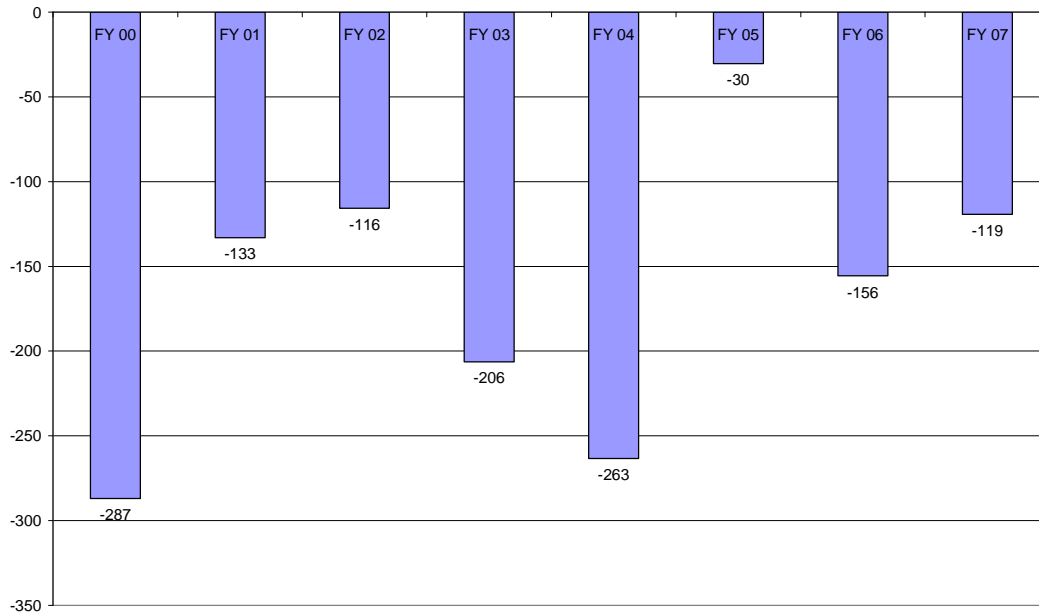
*Source: Oklahoma Department of Corrections.*

Obviously, reliance upon supplemental appropriations creates uncertainty as to the amount of resources available in any given fiscal year. This uncertainty has forced the department to reduce controllable spending through the fiscal year until the supplemental appropriations are approved. Unfortunately, the primary area of controllable spending available to the department is staffing, which has led the department to reduce staffing levels each fiscal year below budgeted levels in order to generate resources to meet operational needs(**Exhibit 7-20**).

With the exception of fiscal 2001 and 2005, the department has transferred millions of dollars in approved appropriations out of funding allocations for staff (**Exhibit 7-21**).



**EXHIBIT 7-20**  
**Annual FTE Reductions from Budget**



Source: Oklahoma Department of Corrections.

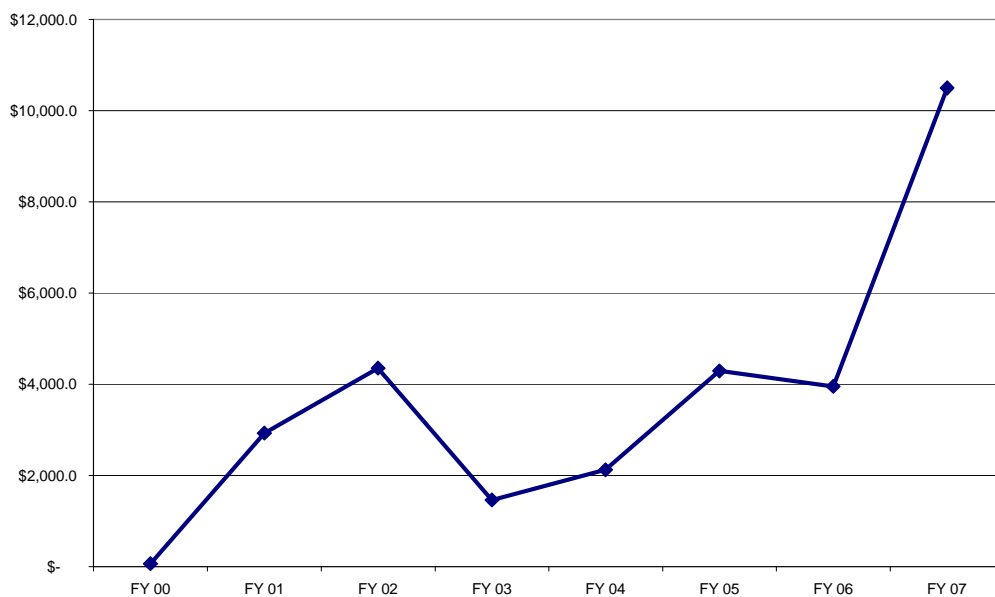
**EXHIBIT 7-23**  
**Changes in Budgeted Payroll**



Source: Oklahoma Department of Corrections.

The department's policy of reduced staffing is intended as a temporary response to the lack of sufficient appropriations. Accordingly, once the supplemental funding is approved, DOC seeks to catch up on hiring and spend its budget. However, the fact that funding is generally approved late in the fiscal year makes it difficult for the department to fully catch up. As a consequence, the department carries remaining appropriation balances over into the following fiscal year. As the department's supplemental appropriations have grown, the amount of appropriations carryover has increased as well (**Exhibit 7-24**).

**EXHIBIT 7-24**  
**Carryover Funding**



*Source: Oklahoma Department of Corrections.*

Carryover funds primarily consist of supplemental appropriations that cannot be spent due to the timing of their availability late in the fiscal year, as well as excess payroll funding made available by the department's actions to slow hiring in order to create surplus funds to meet contingent needs. The department uses carryover funds to address a variety of spending pressures. These include unbudgeted expenses, unanticipated price increases for fuel, capital construction, and to reduce overall department supplemental appropriation needs in the upcoming fiscal year. While the department notifies the legislature and the governor's office of the ultimate allocation of these funds, they are essentially unbudgeted and may be used for purposes at the discretion of the department.

**EXHIBIT 7-25**  
**Carryover and Excess Payroll Funds Cover Unbudgeted Expenditures**

<b>Fiscal 2006</b>	<b>\$ 000</b>
Construction	\$ 5,717.5
Food and utilities	\$ 1,786.1
Medical	\$ 1,335.2
Utilities & fuel	\$ 1,329.5
<b>Fiscal 2007</b>	
Electronic monitoring	\$ 200.0
Equipment, maintenance, and repairs	\$ 1,400.0
Employee health insurance	\$ 1,715.9
Capital projects	\$ 1,094.0
<b>Fiscal 2008</b>	
Capital projects and equipment	\$ 7,150.0
Fiscal 2008 deficit offset	\$ 3,350.0

*Source: Oklahoma Department of Corrections.*

The policy of intentionally shorting the department's annual budget request, with the assumption of a late year supplemental appropriation results in the following system of budget management at the department:

1. At the beginning of the fiscal year, the department develops a budget work plan based on maintenance of effort and identified department priorities.
2. Once the department's fiscal year spending requirements are calculated, the difference between these requirements and the enacted appropriation establishes the department's funding shortfall for the year.
3. The department attributes all of funding shortfall to contracts for private prison beds. The department argues this policy is due to the fact that private prison expenditures are the easiest part of the budget to project, and that this option is preferable to preparing for employee furloughs or layoffs that will not be necessary if a supplemental appropriation is provided.
4. Based on the amount of the budget shortfall and the projected rate of private prison spending, the department identifies a date required for approval of additional supplemental funding.
5. Throughout the year, the department hedges by developing an internal spending plan that produces available funding to meet unexpected demands and reduces the department's risk should the legislature not approve all of the proposed funding request. The department also continually revises its estimate of supplemental funding needs throughout the fiscal year, typically lowering them significantly from earlier forecasts.
6. Once the supplemental is approved, the department reprograms some of these resources, taking into account savings it has generated through the current fiscal year.

7. The remaining resources resulting from the supplemental and department-generated surpluses are carried over into the following fiscal year, to be reallocated internally to meet department priorities.

As a result of this process, there is no agreement on what the budget should fund at the beginning of the fiscal year. Instead, the department must operate without knowledge of the resources available to it to get through the fiscal year. Without a realistic, approved spending plan, the legislature cannot hold the department accountable for complying with the agreed budget allocations and priorities. Instead, the department must juggle funding in available accounts to address its needs, intentionally reducing staffing below desired levels in order to create budgetary flexibility. Finally, the timing of supplemental appropriation availability late in the fiscal year and the imperative to spend requested resources, can at least potentially lead to spending patterns and expenditures that are not consistent with department priorities or legislative intent.

The legislative policy of intentionally providing only partial year funding for the department, with the assumption of a late fiscal year supplemental appropriation has been characterized as an effort to more tightly control department spending. However, the unintended consequence of the system appears to be depressed staffing levels at the department and the development of significant levels of spending that occurs without legislative oversight or approval. To the extent that policymakers agree that the department should maintain staffing FTE levels that have been approved by the legislature, and that maintaining department accountability is best served by formal legislative review of department spending allocations and priorities, the system of ongoing supplemental funding of the department does not represent effective public policy.

Accordingly we recommend that the legislature and department work together to develop a realistic agreement on the department's annual budgetary requirements. The budget agreement should be developed with clear assumptions on population, capacity, staffing, capital projects, and programs. This agreement should be fully funded in the annual appropriations process. Supplemental funding requests should be reserved for unforeseen emergencies or developments that were not specifically addressed during consideration of the department's appropriation request. In order to establish a firm common understanding of funding priorities, we also recommend that the legislature modify the department's appropriation bill to establish funding allocations for major operations and program components of the department. These allocations should be negotiated to assure the department sufficient flexibility to effectively respond to normally changing conditions or developments during the fiscal year. We recommend the following appropriation categories.

- Institutions and field operations
- Contract beds
- Community corrections
- Treatment and rehabilitation services
- Administration

These categories should be revisited in subsequent fiscal years and revised if necessary to provide sufficient accountability and oversight over department spending.

***FY 08 Supplemental Request***

The department's initial supplemental appropriation request for fiscal 2008 was developed in August 2007 and totaled \$40.3 million. In subsequent months, the department has steadily lowered its estimate of required supplemental funding based on spending experience in the first quarter of the fiscal year. The current estimate of supplemental funding needs has been lowered to approximately \$28-\$29 million, as shown below.

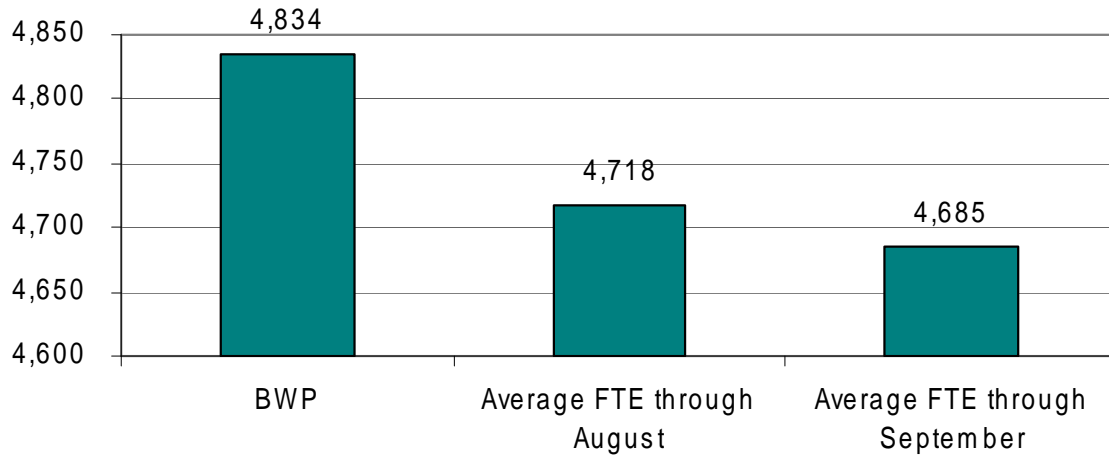
**EXHIBIT 7-26**  
**Fiscal 2008 Supplemental Assumptions**

Fiscal 2008 Supplemental	Change to Budget	Total Request
Initial Budget Work Plan Request		\$ 40,295.9
Medical spending	\$ (103.7)	\$ 40,192.2
Staff benefits update	\$ (3,000.0)	\$ 37,192.2
Contract beds update	\$ (2,400.0)	\$ 34,792.2
Sept. staffing update	\$ (2,600.0)	\$ 32,192.2
Nov. carryover estimate	\$ (3,350.0)	\$ 28,842.2

The key variables in estimating supplemental funding needs are the amount of excess staffing funds that will be made available through the course of the fiscal year, and the amount of carryover funding that can be applied to reduce supplemental funding needs. Carryover funding depends upon how the department allocates these resources and whether spending meets targeted levels (For example funding programmed on capital projects, may become available later in the year if projects come in below initial estimates).

Surplus funds in staffing are developing this year because the department began the fiscal year well below its budgeted staffing levels in many facilities, and has experienced difficulty in increasing staffing in a number of areas due to continuing staff turnover and increased competition in recruitment of suitable candidates. As **Exhibit 7-27** shows, the average number of FTE's in the department has dropped steadily through the first quarter of the year.

**EXHIBIT 7-27**  
**Fiscal 2008 Staffing Trends**



*Source: Oklahoma Department of Corrections.*

Current supplemental projections only recognize the savings that has occurred in the 1<sup>st</sup> quarter of the fiscal year. Based on experience to date the department will have to increase staffing by several hundred positions over the next six months to avoid creating substantially greater surplus staff resources. Maintaining the September FTE level through the rest of the year would further reduce supplemental needs by \$6-\$7 million. Staffing up to the August FTE level through the rest of the year would reduce supplemental needs by \$4-5 million.

Current trends suggest supplemental funding needs of \$24-25 million, depending upon the factors identified above. However, if the department does not begin to improve its ability to hire and retain staff, the amount of supplemental required could go down much further. 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***

The department's current request for funding for fiscal 2009 stands at \$572,994.4 thousand. This represents a \$90,374.4 thousand increase over current fiscal 2008 appropriations (without a supplemental), or an 18.7 percent increase. Key assumptions include:

- Operating funds for 1,054 new prison system beds to be opened in fiscal 2009, to manage projected population growth of 719 inmates.
- 155.5 new FTE's, most associated with the capacity expansions.
- \$309.6 million bond program for 3,818 new prison beds.

Due to the uncertainty over the amount of supplemental funding that will be provided this year and the ultimate level of fiscal 2008 spending, the budget request is based upon current year appropriations, not projected spending. While understandable given the current budget

environment, this approach is not advisable in that it fails to take into account current year one-time costs, actual vs. targeted staffing levels, or annualization of current year cost savings.

**Exhibit 7-28** shows the differences between the alternative bases that could be utilized for development of the upcoming budget. Regardless of the base, it is important to make those adjustments required to accurately depict current budget year experiences and trends that will be continued over into the next fiscal year. In terms of presentation, the base used is significant because it determines the amount of increase requested by the department. Because the department uses the current appropriation as its base, instead of actual projected spending with a supplemental, the percentage increase shown for the request will be higher, as the supplemental then gets counted as new funding in fiscal 2009. For example, using \$511 million as base fiscal 2008 spending lowers the percentage increase of the fiscal 2009 budget request from 18.7 percent to 10 percent.

**EXHIBIT 7-28**  
**Fiscal 2008 Base Alternatives**

	\$ 000	FTE
Fiscal 2008 Appropriation	\$ 482,620.0	4,833.5
Fiscal 2008 Appropriation with Original Supplemental Request	\$ 522,915.9	4,833.5
Fiscal 2008 Revised Supplemental Projection	\$ 511,462.2	4,833.5
Fiscal 2008 Current Estimated Spending	\$ 506,620.0	4,685.1

In developing the requested increases in funding for fiscal 2009, the department must first budget for all mandatory rate and price increases that it projects will take place next year. The budget request identifies \$7.8 million of these types of increases, as identified below in Exhibit 7-29. Because these expenditure increases are mandatory, if not funded, the department must cover these costs by freeing up other resources in its budget.

**EXHIBIT 7-29**  
**Fiscal 2009 Mandatory Increases**

	\$ 000
Mandatory Funding Increases	\$ 000
Scheduled Staff Benefit Increases	\$ 4,601.2
Medical inflation/population increase	\$ 3,183.8
Total	\$ 7,785.0

After funding these increases, the department's priority is additional resources to support the new prison system capacity scheduled to come on-line in fiscal 2009. The budget request contains \$24.3 million for these projected expenditures. **Exhibit 7-30** summarizes these capacity expansions, along with the staff required and the number of new beds provided. Key assumptions include:

- Full 365-day funding of contract beds in fiscal 2009.
- Rate increases for jail contracts to \$35 and jail backup beds to \$30.

**EXHIBIT 7-30  
Bed Expansion Capacity**

<b>Bed Expansions</b>	<b>\$ 000</b>	<b>FTE</b>	<b>Beds</b>
CCA Davis Unit	\$ 13,972.0		660
Jail Backup Rate Increase	\$ 1,642.5		
Jail Contract Rate Increase	\$ 690.0		
Crabtree Expansion	\$ 1,257.1	17	200
Lilley Expansion	\$ 944.2	13	150
Mabel Bassett A&R Expansion	\$ 886.2	15	
Clara Waters CCC	\$ 4,084.3	37	294
Mangum Work Center Expansion	\$ 531.8	6	34
Healdton Work Center Expansion	\$ 276.6	4	66
<b>Total</b>	<b>\$ 24,284.7</b>	<b>92</b>	<b>1,404</b>

The department also requests approval of a \$327.8 million bond program that will support construction of 3,816 new prison beds; purchase new trucks and buses; provide additional operating and information technology equipment; fund capital repairs at prisons and community corrections centers; and provide additional program buildings. These items are structured into 5, 10, and 25 year bond financing proposals depending upon their projected useful life. The only fiscal 2009 expenditures from the bond program are for first year debt service payments, which total \$7,378.3 thousand.

**EXHIBIT 7-31  
Fiscal 2009 Expenditures from the Bond Program**

<b>Proposed FY 09 New Facilities</b>	<b>Type</b>	<b>Count</b>	<b>Cost</b>	<b>FY09 Debt Service</b>
Bill Johnson	Minimum	608	\$ 15,331.6	
Dick Conner	Medium	300	\$ 21,593.3	
James Crabtree	Medium	600	\$ 33,647.3	
Reformatory	Medium	300	\$ 18,484.9	
Alford	Medium	300	\$ 21,790.9	
Key	Segregation	40	\$ 6,199.3	
Harp and LARC	Segregation	100	\$ 16,226.0	
OSP	Maximum	1,568	\$ 76,290.0	
<b>Total</b>		<b>3,816</b>	<b>\$309,563.3</b>	<b>\$ 7,022.6</b>
<b>Infrastructure Work</b>				
Field Operations			\$ 12,637.5	
Community Corrections			\$ 200.0	
Program/Treatment Space			\$ 696.0	
<b>Total</b>			<b>\$ 13,533.5</b>	<b>\$ 266.8</b>
<b>Equipment</b>				
Field Operations			\$ 1,097.6	
Information Technology			\$ 3,720.0	
<b>Total</b>			<b>\$ 4,817.6</b>	<b>\$ 88.9</b>



Finally, the department also includes \$10.6 million in requests for the treatment program expansions, as well as additional program and mental health staff. These requests are summarized below:

**EXHIBIT 7-32**  
**Fiscal 2009 Other Increases**

	\$	FTE
Treatment/Administrative Staff	1,224.8	26.5
MH staff	2,822.8	37
Medical Staff Increased Salary/Benefits	5,135.3	
One-time Equipment	168.2	
Bill Johnson Expanded Treatment	60.0	
Reintegration Program Expansions	562.9	
Institution Program Expansions	656.5	
<b>Total</b>	<b>10,630.5</b>	<b>63.5</b>

**Exhibit 7-33** summarizes all of the components of the department's budget request described above and shows how each increment build up to the total request of \$572 million.

**EXHIBIT 7-33**  
**Fiscal 2009 Budget Request Summary**

	\$	Cum. Total	FTE
Fiscal 2008 Base Funding		511,462.20	4,833.5
Rate/price increases	7,785.0	519,247.20	
Operate new beds	7,980.20	527,227.40	92
Contract for Davis	13,972.0	541,199.40	
Jail contract/backup rate increase	2,332.50	543,531.90	
Medical staff benefit increase	5,135.3	548,667.20	
Program/operating initiatives	5,495.20	554,162.40	63.5
Debt service	7,378.3	561,540.70	
<b>Total</b>	<b>50,078.5</b>	<b>561,540.7</b>	<b>4,989.0</b>

“Maintenance” is the concept of first budgeting only for those items that unavoidable costs or that represents mandatory expansions of current operations or programs. Maintenance funding applied to the department's fiscal 2009 budget request would support the rate/price increases of \$7.8 million, \$6.0 million in operational funding for the new beds scheduled to come on-line in fiscal 2009, and \$14 million for the contract for 660 maximum-security beds at Davis. These increases total \$29,737.2 thousand, an increase of 5.8 percent over base funding. While we support the bond program concept to develop additional department capacity, we recommend an architectural/engineering review of the department's current facilities and expansion alternatives prior to funding of a specific capacity expansion proposal.

### *Fiscal 2009 Budget Request Issues*

- The fiscal 2008 budget base artificially inflates total fiscal 2009 requirements. The budget request should be built from a realistic estimate of spending, and then adjusted for annualizations and one-time costs.
- Staffing/FTE assumptions for new initiatives do not reflect actual practices, experience, and in some cases, operational requirements.
- The request assumes full 12 month funding for all new staff, beds, and initiatives, rather than a realistic phase-in schedule.
- The cost/benefits of the use of bond funding to purchase vehicles, equipment, and information technology should be more fully explained. Particularly in the areas of equipment, the desirability of locking in substantial future year extended payments for these purchases requires more justification.
- The rationale for program and operational initiatives should be more fully developed.
- The request does not address serious problems with the department's offender information system or staffing deficiencies in several facilities.

### *Potential for Significant Savings in Current DOC Operations*

Our review of the department's budget indicates extremely limited opportunities for significant additional savings. As noted earlier, virtually every objective measure of unit costs or staffing ratios indicates a very efficient level of operations in the department. Consistent reductions have been made in staffing and most programs across the board over the last eight years, leaving little opportunity for additional cuts that will not seriously impair current department operations. Current contract rates for prison beds are extremely low and pressure to increase capacity will likely force spending on contract beds up.

Further the department has been unable to make reasonable investments in infrastructure and equipment resources in recent years. There is a large pent-up demand for spending in these areas. Organizational or program realignment 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 7-34** 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 7-34**  
**Direct Cost Savings Recommendations: \$55 million**

<b>Recommendation</b>	<b>(thousands)</b>	<b>Implementation Issues</b>
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
<b>Total Savings</b>	<b>\$ (54,577.4)</b>	

\*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 7-35**.

**EXHIBIT 7-35**  
**Indirect/Unknown Cost Savings Recommendations**

<b>Recommendation</b>
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.
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.

**EXHIBIT 7-35**  
**Indirect/Unknown Cost Savings Recommendations**

<b>Recommendation</b>
8. Expand Drug Court 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 at 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***

This report also identifies a number of areas that require additional funding to assure effective operation of the department. Major recommendations that require additional resources are summarized in **Exhibit 7-36**.

**EXHIBIT 7-36**  
**Additional Spending Recommendations: \$25 million**

<b>Recommendation</b>	<b>(thousands)</b>	<b>Implementation Issues</b>
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
<b>Total</b>	<b>\$ 25,095.8</b>	

\*Fiscal 2008 project.

### **Summary of Recommendations**

**Recommendation 7-1. Fund a full-year budget for the department with clear assumptions on population, capacity, staffing, capital projects, and programs.**

**Recommendation 7-2. Modify the department's appropriation to establish funding allocations for major operations and program components of the department.**

- Institutions and field operations
- Contract beds
- Community corrections
- Treatment and rehabilitation services
- Administration

**Recommendation 7-3. Continue to refine projections of the department's fiscal 2008 supplemental appropriations needs by regularly reviewing department staffing levels, salary surpluses, and carryover fund utilization.** Current data that suggest a trend toward a supplemental funding need of \$24-\$25 million should be closely monitored.

**Recommendation 7-4. Approve the department's fiscal 2009 budget request at maintenance level funding, including resources for rate/price increases of \$7.8 million, \$6.0 million in operational funding for the new beds scheduled to come on-line in fiscal 2009, and \$14 million for the contract for 660 maximum-security beds at Davis.** These increases total \$29,737.2 thousand, an increase of 5.8 percent over base funding.

*Recommendation 7-5. Review potential cost savings associated with recommendations in this report to achieve further efficiencies in DOC spending.*

*Recommendation 7-6. Include \$4.3 million in the fiscal 2009 budget to address recommendations for additional staffing made in this report, and \$650 thousand in fiscal 08 for studies of the department's infrastructure and IT needs.*

## 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.

### *Background*

The information technology function of the Oklahoma Department of Corrections is decentralized. While the Information Technology Unit (ITU) of the department provides technology services, support, and development for a portion of the agency's computer systems, information networks, databases, software, and phone systems, much of the IT procurement, staffing, and application development resides outside the control or oversight of ITU. The ITU's responsibilities include:

- Agency-wide development and support of some centralized software applications including email, human resources, financial, and administrative systems;
- Support and maintenance of the inmate database application - the Offender Management System (OMS);
- Procurement and support of telephony equipment and computer hardware for the agency's central office; and
- Operation of the agency information system help desk.

This decentralized approach has allowed other divisions to have significant control over information technology development: Other areas of the department with significant control over IT functions include:

- **Institutions:** Computer and network hardware for institutions are generally purchased at the discretion of the local warden. Therefore, these purchases are greatly dependent upon the priority the warden gives them in the facility's limited budget.
- **Division/Regional Offices:** Division offices will often supplement the technology purchases of institutions by procuring personal computers and other equipment out of the office budget.
- **Community Sentencing:** The responsibility for the development of a replacement for the Offender Management System has been given to the Community Sentencing and Offender Information Services Unit.

The ITU has the potential to manage and support the department's hardware, software, and telecommunication systems. It has the basic ability to manage the agency's current technology infrastructure, to make improvements to hardware, and to provide for minor adjustments to ongoing application support. In fact, centralized oversight and management of information technology is a recognized best practice for effective correctional systems. Unfortunately, due to the department's IT decentralization of authority over information technology, the ITU is unable to provide the quality of data management and operational performance required for effective support of the department's operations and programs.

### ***Offender Management System (OMS) Deficiencies***

For correctional agencies, the offender database application is mission-critical. This application should be the key technology resource to manage the offender and parole population. Specifically, it should provide correctional staff and others with quick access to inmate demographics, offense history, behavioral adjustment, program involvement, and sentence information. It also should provide administrators with summary information that can be used to assist in managing the agency. We found serious deficiencies in DOC's Offender Management System (OMS) that create significant questions regarding its accuracy and reliability. 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.

In 1998, the DOC selected a commercial off-the-shelf product (SYSCON) for their offender management system. SYSCON had limited previous experience in development of statewide offender systems, and the Oklahoma implementation was problematic. In 2000, the resulting OMS went into full-scale use and the agency quickly became unhappy with its operation. Just two years later, the agency's dissatisfaction grew to the point where it discontinued purchasing upgrades, support, or maintenance for OMS. As a result, the software problems, lack of functionality, and programming flaws that existed in 2002 still remain today. The total cost to the agency from 1998 to 2002 for development and support of OMS was \$3.6 million. OMS continues to be the offender database for DOC and is used daily to manage the inmate population. However, because the agency has not purchased maintenance or software upgrades, this program continues to be inundated with serious problems.

At nearly every MGT site visit, agency staff identified OMS as a critical issue due to its limited functionality, serious inaccuracies, and slow response time. Because of these problems, field staff are maintaining paper records or spreadsheets to accomplish the tasks that should be done by a working offender database application. This has reduced staff efficiency and increases the probability of errors in system applications such as sentence calculation. It is probable that if the agency had continued to pay for annual maintenance of this software many of the issues would have been resolved with software upgrades. Now five years later, it could be cost prohibitive to bring the existing SYSCON software up-to-date. The current software is so out of date that it cannot reside on newer computer equipment and is maintained on an antiquated hardware platform that is becoming increasingly difficult to repair. A recent malfunction of this server took OMS down for over a full day while replacement parts were located. If this hardware ultimately fails, the agency will lose its most vital technology resource in the day-to-day management of the offender population.



### ***Replacement System Issues – COMIT***

The development of an offender management application is very complex and requires considerable staff resources. Extensive agency-wide planning, documentation, and preparation must occur long before actual programming of the application takes place. It requires not only technical knowledge of programming languages and network hardware, but also relevant project management and offender database development experience. Very rarely do state correctional agencies successfully attempt to build this application on their own. Instead, the standard practice for most systems is to hire outside firms or buy an off-the-shelf product that may be adapted for their use. The cost of these implementations can run from \$8 million to \$40 million and require at least 10-15 full-time technical staff.

In 2004, facing continued problems with OMS's operation, DOC dedicated a minor amount of resources to develop its own, in-house offender database program. This in itself represented a significant departure from the experience of state correctional systems that have successfully developed offender information management systems. The department compounded this error by taking the unusual step of assigning development responsibility not to the Information Technology Unit, but to a unit that had no prior technology responsibility. The Community Sentencing Unit (now Community Sentencing and Offender Information Services) was assigned the project, but lacked any significant computer experience, application development experience, or the necessary staffing for this project. Currently four to five staff have been assigned to build the Criminal Offender Management Information Tracking system (COMIT), designated as the replacement for the OMS system. To our knowledge the DOC is the only state that has attempted development of its keystone information management system in this manner.

The agency's decision to have a non-technical unit attempt development of a complex, mission-critical, offender management application was ill-advised. Staff directly assigned to this project have attempted to make progress and are committed employees, but their lack of knowledge and experience, and their limited resources have doomed the project from the start. We found that since the COMIT project began, little development has actually been completed. COMIT staff indicate they have only implemented one very minor module, GED and TABE reporting for adult institutions. Further, we found the project team did not complete the majority of the necessary initial planning and development work that is a prerequisite for project success. In fact, only this year did the agency hire a project manager to lead the development. This individual is beginning to step back and complete some of the initial planning that should have been done three years ago, but the individual has no correctional experience and no experience developing offender management applications.

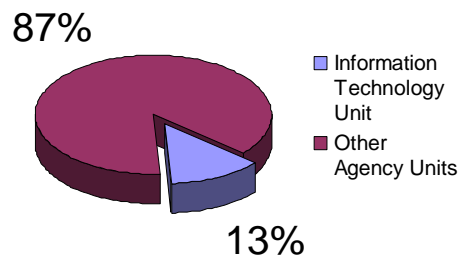
The DOC should quickly evaluate and determine the best alternative for development of a future offender management system to replace OMS. The agency's current offender management application is unsuitable to meet the needs of DOC. It not only lacks functionality and is poorly programmed but must exist on fragile, antiquated hardware. The department's efforts to build its own application, COMIT, has yielded poor results and MGT has 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. The existing inmate database could fail at any time, leaving nothing to replace it. Staff would have to return to paper and pencil to manage and account for inmates and parolees. Any efficiencies that currently exist would disappear, increasing the demands on the state's limited resources. To correct this issue, the agency should 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 COMMIT, or adopting a different direction. This review should be managed through ITU.

### ***Decentralized Information Technology Budget***

Procurement of information technology is spread throughout the department. We note that for the four fiscal years from 2004 through 2007, the agency averaged over \$1.6 million per year in computer equipment and software expenditures. Of those expenditures, only 13 percent were initiated and coordinated by the ITU. The overwhelming majority of the expenditures were purchased under the authority of wardens, supervisors, and division offices, outside of a coordinated central plan for information technology development. This practice results in disparate levels of information technology across the department, and significantly increases the potential for wasted or misspent resources. Institution site visits confirmed this finding. MGT found some facilities with modern network and computing equipment and others with antiquated systems that were unable to run current software.

**EXHIBIT 7-37**  
**Units Making It Purchases**



This decentralized approach limits the agency's ability to deploy new software solutions to the field because of the inconsistent capabilities of hardware at different office and facilities. This lack of uniformity further restricts the agency's capacity to develop and install technological solutions necessary to improve the efficiency of the agency's overall operation. It creates a duplication of resources and a lack of a coherent, organized infrastructure to support users, software, and development. It allows more opportunity for security breaches in the department's network because central IT lacks the ability to standardize user capabilities, block virus's and monitor staff usage. Finally, it restricts the Information Technology Unit's ability to remotely diagnose issues or identify network or security problems.

The DOC should consolidate technology expenditures under the responsibility of the Information Technology Unit. A modern correctional system depends on an integrated, centralized information technology function for access to critical information. The DOC's decentralized approach creates limitations on technology progress. Centralizing the procurement of technology expenditures will allow control and coordination of the states limited resources. It will allow the agency to ensure uniformity among its various units. The ITU has developed a five-year plan that addresses this issue and the specific technology needs of the department. If

the agency consolidates IT procurement, it could improve the efficiency of its operation and be better able to current with advances in technology.

### ***Decentralized Information Technology Personnel***

Information technology staffing is decentralized and inconsistent in the agency. The central Information Technology Unit has 28 positions filled out of its authorized headcount of 35. Four of the vacancies are in the essential OMS section. Additionally, five staff with IT responsibilities are in the Community Sentencing and Offender Information Services unit to develop the COMIT system.

The agency also deploys IT coordinators in some of its facilities and division offices. These individuals are responsible for directly supporting computer equipment, networks and users. They function outside of any direct or indirect supervision of the Information Technology Unit, and the ITU has little authority over their practices. This structure adds to disorganization of the department's technology development.

The use of this position is even inconsistent within the agency. Under a previous field operations regional management structure, one region left IT coordinator positions vacant while the other region kept then filled. As a result, some facilities currently benefit from onsite IT coordinators while other facilities must depend on a few division level IT coordinators who are responsible for several facilities

The DOC should consolidate the COMIT staff into the Information Technology Unit. This unit should have increased control over the responsibilities and practices of information technology coordinators.

The responsibility for development of any future offender database application should be assigned to the most logical unit – the Information Technology Unit. The agency's decision to place this responsibility into the hands of a non-technical unit that is physically located over 100 miles away from the ITU wastes the state's limited resources. This functional and logistical decentralization limits knowledge and resource sharing and impedes progress. Therefore, DOC should consolidate the staff, equipment, and budget for this project under the authority of the Information Technology Unit.

Information technology coordinators provide a needed service to the institutions they support. The agency should more consistently approach the deployment of these staff. The regional differences that currently exist, should be eliminated. Further, these positions currently report to the wardens of their facilities or the administrative staff at the division offices. While this reporting is appropriate, the ITU should establish an indirect line of authority with these positions. The unit should develop standard responsibilities in agency policy for IT coordinators and should work to provide training and support to these positions.

### **Summary of Recommendations**

***Recommendation 7-7. The DOC should 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 must exist on fragile, antiquated hardware. The department's efforts to build its own application, COMIT, has yielded poor results and MGT has 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. The existing inmate database could fail at any time, leaving nothing to replace it. Staff would have to return to paper and pencil to manage and account for inmates and parolees. Any efficiencies that currently exist would disappear, increasing the demands on the state's limited resources. To correct this issue, the agency should 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. This review should be managed through ITU.

***Recommendation 7-8. The DOC should consolidate technology expenditures under the responsibility of the Information Technology Unit.***

A modern correctional system depends on an integrated, centralized information technology function for access to critical information. The DOC's decentralized approach creates limitations on technology progress. Centralizing the procurement of technology expenditures will allow control and coordination of the states limited resources. It will allow the agency to ensure uniformity among its various units. The ITU has developed a five-year plan that addresses this issue and the specific technology needs of the department. If the agency consolidates IT procurement, it could improve the efficiency of its operation and be better able to current with advances in technology.

***Recommendation 7-9. The DOC should consolidate the COMIT staff into the Information Technology Unit.*** This unit should have increased control over the responsibilities and practices of information technology coordinators.

***Recommendation 7-10. The responsibility for development of any future offender database application should be assigned to the most logical unit – the Information Technology Unit.*** The agency's decision to place this responsibility into the hands of a non-technical unit that is physically located over 100 miles away from the ITU wastes the state's limited resources. This functional and logistical decentralization limits knowledge and resource sharing and impedes progress. Therefore, DOC should consolidate the staff, equipment, and budget for this project under the authority of the Information Technology Unit.

***Recommendation 7-11. Assess the role of information technology coordinators.*** The agency should more consistently approach the deployment of these staff. The regional differences that currently exist should be eliminated. Further, these positions currently report to the wardens of their facilities or the administrative staff at the division offices. While this reporting is appropriate, the ITU should establish an indirect line of authority with these positions. The unit should develop standard responsibilities in agency policy for IT coordinators and should work to provide training and support to these positions.

## Internal Audit Division

This chapter reviews the Oklahoma Department of Correction's internal audit function and handling of unclaimed inmate trust funds.

### *Background*

The Internal Audit Unit (IA) reports to the Director of the Oklahoma Department of Corrections. The IA unit is staffed with three auditors and managed by an Administrator of Internal Audit, who is a Certified Public Accountant.

The Internal Audit division derives its authority and policies from several state statutes.

- *Section 57--510 A. Penal institutions – Director's specific powers and duties.* Item 14 requires the director "to provide for the periodic audit, at least once annually, of all funds and accounts of each institution and the funds of each prisoner."
- *Section 74--228 Internal audits – Supervisory responsibility.* The administrative head and the governing body of any state agency, board, department or commission having internal audit functions shall have direct supervisory responsibility over all internal audits conducted by the agency, board, department or commission. Such supervisory responsibility shall include, but not be limited to, the duty of assuring that all internal audits are conducted in accordance with the "Standard for the Professional Practice of Internal Auditing" developed by the Institute of Internal Auditors (IIA) or any successor organization thereto.
- *Section 74--229 Internal audit reports.* In addition to other requirements regarding audits prescribed by law, all agencies, departments, boards and commissions that conduct internal audits shall submit internal audit reports, including initial and final reports, to the State Auditor and Inspector. Each audit shall be identified clearly as either an initial internal audit report or a final internal audit report.

The department conducts about 50 audits per year based on an annual plan prepared by the administrator and approved by the director. The IA division conducts audits of the funds and accounts and conducts a physical inventory of certain department assets (vehicles, arms and laptops) at each DOC institution on a 12-month cycle, per the authorizing statute (57-510). For most audits the audit team, generally composed of all four staff members including the administrator, goes to a prison or other DOC facility (institution) on Monday and stays until the audit is complete on Thursday or Friday, although some institutions take less time, which can allow the audit team to conduct additional audits in the week. Some institutions also have multiple functions such as industry and/or agri-services that receive separate audits. Thus at some DOC prisons, three or four audits may be completed in the week. The following week the audit team is in the office writing up their audit, preparing and reviewing their work papers, and planning for the next audit, which will begin the following Monday.

To prepare for each audit, the lead auditor creates a risk-based plan of specific items that team members will review. In addition to the general accounts, the audit team looks at purchases and purchase card usage, revenues, prison canteen funds, public works (PPW) funds, and other items of interest based on the risk assessment.

**Finding:** The statutory requirements to conduct annual audits at all state institutions coupled with insufficient resources limits the number of audits this unit could and should be conducting. For example, the unit conducts very few performance audits. Also, there have been a few audits of central administration departments, private prison operations, probation and parole offices or functions, or other numerous operations that are performed by the DOC or under contractual arrangements with vendors, including inmate telephone provider, county jails or private providers of services in the community. The only audits of agriculture operations or of the prison industry programs are what the audit team can accomplish during the week on site at an institution. Funds sent by the state to counties for holding inmates should be an area of strong interest to the state, but is not regularly reviewed. How much each offender in the community owes in restitution, fines, and fees is not known. Many fees are waived by probation and parole offices but there is little structure to the waiver process. The list of topics that the DOC and its internal audit unit should be monitoring and reviewing is virtually endless in a department the size and scope of a corrections department.

This is by no means a criticism of the Internal Audit division, which, based on our review of a sample of audits it has conducted and opinion of the State Auditor and Inspector in reports on the DOC IA function, does excellent audit work. The audits it conducts are based on the resources it has and the language in the statute that requires annual audits of all funds and accounts of all state institutions and inmate funds. There are simply too many other areas in a department as complex and costly as DOC to be spending the majority of the audit hours on the areas denoted in the statute. Because the IA unit must do the audits required by statute, there is little time for the balance of the agency that warrants the same, it not a higher, level of auditing.

**Recommendation:** The Legislature should, by removing some or all of the words “annually” and “funds and accounts” and “institutions,” amend DOC’s Internal Audit statute *Section 57--510 A*, which serves to limit the scope of what the IA unit is doing, IA should be free to audit any and every function of the DOC, its contracts, its programs, administrative and operational duties, and its contractors. It should be free to conduct operational reviews, internal control reviews, performance audits, compliance audits and other objective examinations of the department that will lead to improved accountability, service delivery, and cost savings (enhanced revenues).

Internal auditing should be more than just conducting compliance audits and auditing of “accounts and funds.” The internal audit function within a governmental agency is an internal management resource tool that helps improve the delivery of service and ensures taxpayer money is used efficiently and effectively. Internal auditing is an independent, objective, assurance, and consulting activity designed to add value and improve an organization’s operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The Institute of Internal Auditors (IIA) an internationally recognized industry association as part of this Professional Practices Framework has developed the globally accepted definition of internal auditing:

*Internal Auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.*

Internal auditors in government provide a variety of services to their agencies, including:

- Assurance Services (audits and reviews):
  - Efficiency or economy reviews to evaluate areas in need of improvement or to increase operational effectiveness;
  - Financial audits;
  - Internal control reviews;
  - Management or performance reviews of an agency's programs, activities or functions;
  - Compliance audits; and
  - Investigative or fraud audits.
- Consulting Services: Advisory service to add value and improve agency's governance, risk management and control processes

**Finding:** The IA unit does not have the human and financial resources to conduct more than the statutory minimum required number and type of audits each year and is unable to conduct many, if any of the services mentioned in the above recommendation, including performance audits of divisions of the DOC.

When the time has been available, the IA unit has conducted a few performance reviews with outstanding results such as the review of copy machines which led to the disposal of several machines, moving to leasing rather than owning and saving the state thousands of dollars. According to staff interviewed, the IA unit generally leaves performance reviews up to the Quality Assurance (QA) Unit. The DOC's Quality Assurance System was created in June 2007 to establish a system of continuous review and evaluation of operational, programmatic, and functional areas operated by the DOC or by a provider of services under contract with the DOC.

The Quality Assurance System is composed of three parts: an Executive Quality Council; a Quality Assurance Unit; and Local Quality Councils. The Executive Quality Council serves to establish a philosophy and strategic goals, to support and promote the QA program, to identify and prioritize issues to be addressed, and to provide guidance, support, and resources to the QA program in order to effect organizational changes as a result of organizational reviews. The QA Unit is charged with: planning and conducting organizational reviews; overseeing the integration of quality improvement principles into policy formulation; providing education and training opportunities for employees; and other duties to support the QA initiative. The Local Quality Councils, composed of facility, district, and unit heads, are designated to: support and promote

QA system at the local level; identify local issues that warrant reviews; and establish local process action teams to review issues for improvement.

**Commendation:** The Department of Corrections is commended for creating a quality assurance program to identify areas and issues for improvement, to review and recommend improvements, and to help implement change across all sections of the department.

**Finding:** The IA division has no charter, which is a document that describes its mission and goals and how it will carry out its mission and reach its goals. The IA unit administrator does not believe one is needed since the statute lays out what IA division will be doing. The director looks at risk on an audit-by-audit basis but does not look at risk system wide or prepare a department wide risk assessment document upon which to base the annual audit plan. Again this is primarily due to the statute that prescribes what is to be done annually and the budget for the division that only enables it to meet the legislative mandate of an audit of funds and accounts of institutions and inmates.

**Recommendation:** Prepare a charter and a risk assessment for the Internal Audit division. The statute should be a floor for what the division should be accomplishing; not a ceiling. An IA unit should have a charter to communicate its mission and goals to the agency, to capture its charge from the executive and governance level of the agency and to communicate its mission to the audit team and to others in the agency. Attribute Standard 1000 of the IIA standards for internal auditing state, “The purpose, authority, and responsibility of the internal audit activity should be formally defined in a charter, consistent with the standards and approved by the board.” The statute provides the legal authority and if considered a limitation of what can be done also provides the purpose and responsibility, but if the statute is to serve as only a floor of what should be within the realm of duties, a charter needs to be drafted and approved by the DOC and the Board.

IIA standards include preparation of an annual audit plan approved by executive manager and based on an annual risk assessment. The risk assessment is a tool to better target other areas in need of oversight areas that are more risky or have had a history of problems. As part of the annual planning, the administrator of IA should prepare a risk assessment. This will help prioritize audits based on the risk associated with the functions performed by each DOC unit or function, reduce the frequency of some audits that may not be needed on an annual basis, increase the frequency of some, and add others based on the risk of loss of state financial other resources. Identified risks will be much more than financial or accounting risk, so when the audit plan is based on a the completed risk assessment, it will represent those areas of highest risk or concern to the agency heads and as a result will identify the appropriate type of audit that should be conducted and the necessary auditor skills needed to evaluate the area or issue identified for review. This will help maximize the value provided by the internal audit function.

Currently, for each institution being audited, the auditing team appropriately conducts a preliminary assessment of the risks relevant to the activity under review and includes the results of that assessment in their audit objectives.



**Recommendation:** Revise the annual audit plan to include the results of an annual risk assessment. The IIA standards for this area include:

**2010 – Planning**

The chief audit executive should establish risk-based plans to determine the priorities of the internal audit activity, consistent with the organization's goals.

**2010. A1** - The internal audit activity's plan of engagements should be based on a risk assessment, undertaken at least annually. The input of senior management and the board should be considered in this process.

**2010. C1** - The chief audit executive should consider accepting proposed consulting engagements based on the engagement's potential to improve management of risks, add value, and improve the organization's operations. Those engagements that have been accepted should be included in the plan.

**2020 – Communication and Approval**

The chief audit executive should communicate the internal audit activity's plans and resource requirements, including significant interim changes, to senior management and to the board for review and approval. The chief audit executive should also communicate the impact of resource limitations.

**Finding:** Oklahoma law dealing with internal audits indicate that the administrative head and the governing body of any state agency having an internal audit function will have direct supervisory responsibility over all internal audits conducted by the agency. Included in the supervisory duties is ensuring that “all internal audits are conducted in accordance with the ‘Standards of the Professional Practice of Internal Auditing’ developed by the Institute of Internal Auditors or any successor organization thereto.”

***Handling Of Unclaimed Inmate Trust Funds***

While reviewing a sample of internal audits, the MGT Review Team noted that the same finding appeared in several prison audits regarding inmate trust fund accounts. This finding was about former inmates who had balances in their trust fund accounts for more than one year after they had been discharged.

***Background***

According to Department of Correction policy OP120230 section 1G Unclaimed Funds...”Any inmate funds remaining in a Department of Corrections trust fund account for one year after discharge, escape or death, (sic) may be transferred to the Special Agency Account for canteen operations.” Generally, the response by the unit being audited was that it had “sent all of the relevant inmate funds to the canteen fund per OP 120230, and that new procedures had been implemented to ensure funds are distributed upon transfer or release.

**Finding:** DOC’s policy regarding the handling of “unclaimed or abandoned” inmate funds left in trust funds account one year after an inmate has left a unit is inconsistent with state law regarding unclaimed property or abandoned.

Title 60, Chapter 13, Section 661 provides for the following regarding unclaimed property:

- A. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under the Uniform Unclaimed Property Act shall report to the State Treasurer concerning the property as provided in this section.
- B. The report must be verified and must include:
  - 1. The name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of Fifty Dollars (\$50.00) or more presumed abandoned under the Uniform Unclaimed Property Act;
  - 2. In the case of unclaimed funds of Fifty Dollars (\$50.00) or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last-known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;
  - 3. In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible personal property, a description of the property and the place where it is held, which may be inspected by the State Treasurer, and any amounts, including offsets for drilling costs and rent, owing to the holder;
  - 4. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under Fifty Dollars (\$50.00) each must be reported in the aggregate, except property which is one of a recurring number of continuous payments, including, but not limited to, royalties, annuities, dividends, distributions, and other sums presumed abandoned pursuant to subsection D of Section 655 of this title, all of which shall be reported in the same manner as property with a value of Fifty Dollars (\$50.00) or more;
  - 5. The date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property;
  - 6. In the case of a cashier's check, if known, the names and last-known addresses of the payee(s), the payor(s) and the purchaser(s); and
  - 7. Any other information reasonably required by the Treasurer.
- C. If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or if the name of the holder has changed while holding the property, the holder shall file with the report all known names and addresses of each previous holder of the property.
- D. The report must be filed before November 1 of each year for property reportable as of the preceding September 1, but the report of any life insurance company must be filed before May 1 of each year for property reportable as of

the preceding March 1. The State Treasurer may postpone the reporting date upon written request by any person required to file a report.

- E. Not more than one hundred twenty (120) days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under the Uniform Unclaimed Property Act shall send written notice to the apparent owner at the owner's last-known address informing the owner that the holder is in possession of property subject to the Uniform Unclaimed Property Act if:
  - 1. The holder has in the records of the holder an address for the apparent owner which the holder's records do not disclose to be inaccurate;
  - 2. The claim of the apparent owner is not barred by the statute of limitations; and
  - 3. The property has a value of Fifty Dollars (\$50.00) or more, or the property has a value of less than Fifty Dollars (\$50.00) reportable pursuant to paragraph 4 of subsection B of this section. The holder is not required to send written notice to the owner if the holder has previously attempted to communicate with the owner, or otherwise exercised due diligence to ascertain the whereabouts of the owner. The mailing of notice by first-class mail to the last-known address of the owner by the holder shall constitute compliance with this subsection and, if done, no further act on the part of the holder shall be necessary.
- F. Reports filed by a holder shall remain confidential except for that information required to be subject to public inspection pursuant to the Uniform Unclaimed Property Act.

Title 60, Chapter 13, Section 663 provides for the following regarding unclaimed property:

- A. A person who is required to file a report under Section 661 of this title shall at the same time pay or deliver to the State Treasurer all abandoned property required to be reported after first deducting there from expenses incurred in the mailing of notices required by subsection E of Section 661 of this title and any offsets as provided by law. Any funds or property subject to aggregate reporting shall be delivered at the same time as the report.
- B. A holder may file a written explanation of an error in the presumption of abandonment of any previously reported and paid or delivered property. If the property has not been claimed by the owner and the State Treasurer is satisfied an error has been made, a refund of the payment or delivery of the property shall be made to the holder.
- C. The holder of an ownership interest under Section 655 of this title shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the State Treasurer. Upon delivery of a duplicate certificate to the State Treasurer, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of liability as provided in

Section 664 of this title to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the State Treasurer, for losses or damages resulting to any person by the issuance and delivery to the State Treasurer of the duplicate certificate.

There is no exemption for the DOC or other government agency in these statutes. DOC's policy of transferring abandoned trust fund money to its "Special Agency Account for canteen operations", which was referred to as the employee and inmate recreation fund, is contrary to the Uniformed Unclaimed Property Act. MGT inquired of DOC legal department staff about the inconsistency of the policy with state laws and was informed that even though it was inconsistent, it was a "long standing practice." According to the legal department, a long standing practice has the effect of law in Oklahoma courts and that is why the department continued the practice.

Upon a subsequent visit, MGT review team members were presented a policy revision that changed how trust fund balances would be handled. The revised policy requires unclaimed inmate trust fund money to be transferred to the State Treasury pursuant to the Unclaimed Property Act.

### ***Summary of Recommendations***

***Recommendation 7-12. The Legislature should, by removing some or all of the words "annually" and "funds and accounts" and "institutions," amend DOC's Internal Audit statute Section 57--510 A, which serves to limit the scope of what the IA unit is doing.***

***Recommendation 7-13. The Department of Corrections is commended for creating a quality assurance program to identify areas and issues for improvement, to review and recommend improvements, and to help implement change across all sections of the department.***

***Recommendation 7-14. Prepare a charter and a risk assessment for the Internal Audit division.***

***Recommendation 7-15. Revise the annual audit plan to include the results of an annual risk assessment.***

## Internal Affairs Unit

### *Background*

The Internal Affairs Unit is responsible for investigation of all internal allegations of crime or misconduct within the department. The unit reports to the Associate Director of Administrative Services. Internal Affairs (IA) conducts pre-employment background investigations for prospective DOC employees. The Unit has 12 IA special investigator positions, with three current vacancies. Investigators have been primarily recruited from within the DOC and must be CLEET certified. Some of the most recent hires have come from the Probation and Parole Division. All four IA supervisor positions are filled. The internal affairs investigators are not included in the more favorable “20 year” pension program.

Allegations investigated by the Unit, generally, come through the chain of command and the investigation results are routed back through the chain of command before final disposition of a case and the closing of the file. DOC policy OP-040117, effective July 31, 2007, governs the conduct of investigations. Investigators provide management with regular status updates on their cases.

Investigators perform pre-employment background investigations, preliminary inquiries and formal investigations, both administrative and criminal. They may be responsible for the processing of a crime scene and the handling of evidence. For this, they attend a 48-hour course of instruction. Investigations encompass matters concerning offenders, employees, and in some cases, criminal activity within the community that impacts correctional operations. The classification of an investigation recently changed from a four level system. A level 1 investigation formerly was a preliminary investigation resulting from a letter, tip, or a request from a warden or manager. A level 2 investigation addressed petty incidents. Level 3 investigations were homicides and other serious incidents. Level 4 investigations were employee background investigations. In the present system investigations begin as preliminary and may end there or be upgraded to an investigations if the results of the preliminary so warrant. This changed system substantially simplifies the classification of investigations.

Allegations involving staff-on-staff harassment, retaliation, and/or discrimination are not handled by this Unit, but are instead referred to the Employee Rights and Relations Unit for investigation per department policy.

Certain investigators who have received appropriate training may serve as polygraph examiners or computer forensic examiners. Investigators are assisted, upon request, by the Oklahoma State Bureau of Identification (OSBI).

The administrator of the Internal Affairs Unit is responsible for directing and coordinating administrative and criminal investigations of the department’s offenders and employees. He also is responsible for the Security Unit at headquarters, Intelligence Unit, Fugitive Apprehension Unit; and the Communications Unit.

Unit managers expressed concerns about the limited staff resources, particularly given the department’s interest in implementing a Security Threat Group intelligence unit.

Staff indicated that the tobacco-free prison policy has had a direct impact on the work of the office. Inmates are continually seeking access to tobacco and employees are frequently suspected of smuggling in the tobacco. Employees found with tobacco in their possession on institutional grounds are subject to a policy violation. In a correctional setting this can be a substantial problem because inmates are willing to pay more money for tobacco than other less available and illegal drugs that are harder to obtain.

### Cases Activity

**EXHIBIT 7-38**  
**Oklahoma Department of Corrections**  
**Office of Internal Affairs**  
**Investigators End of Month Report Summary**

	Jan 2007	Feb 2007	Mar 2007	1st QTR 2007 Totals	Apr 2007	May 2007	Jun 2007	2nd QTR 2007 Totals	1st 6 months Totals	Jul 2007	Aug 2007	Sep 2007	3rd QTR 2007 Totals
Background Investigations assigned	9	8	9	26	8	5	8	21	47	1	1	0	2
Background Investigations completed	8	7	5	20	11	5	6	22	42	1	1	0	2
Preliminary assignments	9	6	6	21	2	4	9	15	36	2	3	4	9
Preliminaries completed without being upgraded to investigations	9	5	2	16	2	2	2	6	22	2	2	2	6
Preliminaries upgraded to investigations	0	1	1	2	1	0	4	5	7	1	0	1	2
Investigations assigned	29	18	29	76	16	22	12	50	126	15	19	23	57
Investigations completed	13	21	20	54	12	9	13	34	88	11	17	12	40
Cases presented for prosecution	1	3	8	12	7	6	2	13	25	1	2	4	7
Polygraphs completed	4	7	5	16	0	0	0	0	16	0	0	1	1
Computer forensics audit	8	5	2	15	3	0	2	5	20	0	0	4	4
Out of state transports	1	1	0	2	1	1	0	2	4	0	1	0	1
In State transports	0	0	1	1	0	0	0	0	1	0	0	0	0
Total Number of Training Hours	9	25	19	53	36	46	529	611	664	24	76	197	297
Total Number of Investigator Reports	10	12	13		11	12	12			12	12	12	

There have been eight inmate homicides in the DOC in the last year.

### ***Case Files***

The Internal Affairs case files and records are maintained in the central office. A form developed in Microsoft Outlook has been used for the last six years to keep track of the cases. The master case files were very well organized. However, the manner in which case data is kept, regarding internal affairs cases, makes it difficult to retrieve information for routine management purposes and analysis.

Six case files were initially reviewed at headquarters. The allegations in these cases were: (1) An allegation of sexual misconduct against a doctor at the correctional center infirmary / case unfounded; (2) An inmate escaped from a private contract correctional center; (3) Misconduct by correctional officers; (4) Introduction of tobacco into a correctional institution by a correctional sergeant officer resigned; (5) Allegation of assault and battery on inmate from correctional officer / case unfounded but officer cited for policy violation; and (6) Use of force by correctional officer on inmate.

Two others cases were reviewed while visiting facilities in the Northeast District. One case involved sexual contact between an inmate and a female employee. The female was a secretary who became pregnant from this liaison and resigned her position when confronted with the allegation. The inmate had been discharged from custody when the liaison allegedly took place and he was not interviewed by an investigator because he could not be located although he supposedly still worked at the same facility that he worked at while in custody. This investigation was requested on June 18, 2007. Final recommended plan of action was due from the supervisor to headquarters by October 6, 2007.

The other case involved allegations on May 3, 2007 that three employees who supervised a work crew were involved in the unauthorized use of inmate labor. These employees had inmates pick up aluminum cans that were saved and eventually sold to a recycler. The proceeds were then used to furnish cigarettes and an occasional lunch to the inmate crew. The involved employees were originally suspended with pay and returned to work on different assignments. Internal Affairs investigated the case and the supervisor's recommendation for action against the employees was due at headquarters on October 10, 2007.

All investigations appeared to have been conducted and managed in a professional manner.

### ***Security Unit***

The Security Unit is located at DOC headquarters. The unit is headed by a correctional security manager who reports to an IA supervisor. In addition, there are two Correctional Security Manager 1 positions (1 filled and 1 vacant) who work in the unit. The Security Unit monitors / controls access to the administration building. A video surveillance security system is utilized. They also work in conjunction with sheriff's offices, district attorneys, United States Marshal's office, and other law enforcement agencies to arrange extradition of escapees or parole absconders to the State of Oklahoma

### ***Intelligence Unit***

The Intelligence Unit is in process of being created. It will have two intelligence officers when staffed. The Intelligence unit will be responsible for continuous collection, evaluation, collation, and analysis of raw information into meaningful intelligence for correctional action. Information gathered will assist in identifying high risk situations, illegal activity, and security threat groups. The information will be entered into a computerized database that will serve as a repository for various types of data that relates to agency security.

### ***Fugitive Apprehension Unit***

The Fugitive/Warrant unit is comprised of three fugitive apprehension agents dedicated to the apprehension of fugitives from the Oklahoma Department of Corrections. The unit has agents assigned to the U.S. Marshal's Service, Fugitive Task Force, and the Federal Bureau of Investigation's Joint Terrorism Task Force. Each task force is comprised of municipal, county, state and federal officers who combine their expertise and resources to locate and arrest fugitives from justice and gather data in an attempt to prevent criminal activity relating to the DOC. Agents also participate in extraditions conducted by the Internal Affairs Division. The fugitive apprehension agents are covered by the more favorable (20 year) pension program.

### ***Communications Unit***

The Communications Unit has three staff who teletype service by way of the Oklahoma Law Enforcement Telecommunications System (OLETS). This unit is supervised by an Internal Affairs supervisor. The unit performs online validations and participates in the FBI audits of terminal activities. The unit is responsible for entering data on Oklahoma escapees and parole violators. Following entry, they are responsible for maintaining the escape and parole violators apprehension files. The unit prepares and updates the DOC escapee/fugitive Web site. This unit works closely with the DOC Sex Offender Registration by entering all sex offender initial information and updates into NCIC. The unit also runs criminal history checks and updates on employees, religious volunteers, facility visitors, and CLEET trainees within DOC.

### ***Summary***

The Internal Affairs unit has a significant role to play in the overall operations of the Department of Corrections. The average IA investigator is expected to meet the requirements of the CLEET certification, be capable of handling diverse range of investigations, and be skilled not only as an investigator but a crime scene investigator/ technician and evidence technician. Some investigators may also be trained and serve as polygraph examiners and as forensic computer examiners.



### Summary of Recommendations

**Recommendation 7-16. The administrator of Internal Affairs should report directly to the agency head. Direct access to the agency head is needed as one measure to ensure the integrity of the agency.** This reporting relationship might not be needed if there was an inspector general position that already reported to the agency head or someone else outside of the agency.

**Recommendation 7-17. The DOC should develop a formal memorandum of agreement/contract with Oklahoma State Bureau Identification to process felony crime scenes.** Crime scene processing and the handling of evidence in felony cases is a specialization. It would seem too much to expect internal affairs investigators to possess the necessary expertise and all the equipment to proficiently and effectively handle this important responsibility.

**Recommendation 7-18. A computer caseload management system should be acquired or built to improve internal affairs operation.** The computer databases used to track the various aspects of internal investigation cases are not much more than a modified spreadsheet. However, we noted that the actual master case files are very well organized. Better control and supervision of these cases can be obtained from a system designed for this purpose. Management reports could be routinely and easily produced to assist in the recognition/reporting of potential problem area. The department's online Web site is very functional and suggests that the talent to develop such a system might just be available in-house.

**Recommendation 7-19. Internal investigations and final disposition of cases should be accelerated where possible especially in administrative cases.** Cases were reviewed that case final disposition took months when the facts were present and pretty clear on the day an investigation was requested. Movement up and down the chain of command should be reexamined to expedite the final disposition and case closing where possible.

## Organizational Structure and Governance

### *Board of Corrections*

The Board of Corrections primary authority is outlined in departmental Policy 010200 and includes the following areas:

- Establishes and approves policies for the operation of the department.
- Approves the appointment of the director and confirms the appointment of wardens, district supervisors, and other staff members as required.
- Approves contracts and budgets including the following:
  - The proposed DOC budget before it is submitted to the State Budget Office.
  - All emergency expenditures.
  - Selection of sites for new institutions and community centers.
  - Selection of architect for projects where the fee is over \$200,000.
  - Final selection of private prison contractor.

A review of the organizational structures of the state department of corrections indicate only nine systems have a board overseeing the DOC.

- Arkansas
- Georgia
- Iowa
- Idaho
- Nevada
- New York
- Oklahoma
- Texas
- Virginia

The Board of Corrections no longer serves its original purpose. The DOC is a highly visible agency with very active oversight by the legislature, the governor, and associated governmental bodies. Requiring the board oversight of the DOC offers very little benefit and requires additional administrative work on the part of the department. The board should be abolished or limited to an advisory role.

### ***Cabinet Status***

The Oklahoma Department of Corrections is an agency that is under the organizational structure of the Oklahoma Department of Public Safety. The structure was established by the Executive Branch Reform Act of 1986 (Title 74, Section 10.1).

A review of organizational charts indicate that eight state department of corrections are located organizationally under an umbrella agency. These include:

- Kentucky – Justice and Public Safety
- Hawaii – Department of Public Safety
- Louisiana – Department of Public Safety and Corrections
- Maryland – Department of Public Safety
- Massachusetts – Office of Public Safety
- Oklahoma – Department of Public Safety
- Vermont – Department of Human Services
- West Virginia – Military Affairs and Public Safety

The size of the department of corrections from a fiscal and budget standpoint and scope of services no longer fits in terms of role or mission as a sub agency to the Department of Public Safety.

### ***Summary of Recommendations***

***Recommendation 7-20. The Board of Corrections statutory authority should be rescinded and the replacement board's authority restricted to an advisory capacity only.***

***Recommendation 7-21. The Department of Correction should become a stand alone cabinet level agency with its director appointed by the governor.***



***APPENDICES***

# ***APPENDIX A: RECOMMENDATIONS***

# APPENDIX A: RECOMMENDATIONS

## Chapter 3.0 Population and Capacity

***Recommendation 3-1. Oklahoma should adopt a jurisdiction-based projection that includes the DOC population in local jails.*** Current and past projections have suffered from an inability to assess the number of sentenced state prisoners being housed in local jails while awaiting transfer to state prison. CJRC's projections should reflect the number of persons sentenced to the DOC regardless of their location. To meet this goal, the DOC database must be modified to capture persons sentenced to DOC but held in jails.

***Recommendation 3-2. Enhance CJRC forecasting capabilities and resources.*** Prophet is a complex mathematical tool that combines a large amount of historical data with a set of assumptions to produce an estimate of future population levels. The sheer amount of data that must be entered into model creates a significant potential for data entry errors and misinterpretations that can skew the model and introduce bias. MGT's evaluation of the model uncovered some errors of these types.

One option would be to annually retain an independent organization to assist in the review of the data analysis and model construction and issue the official forecast. In addition, at least two CJRC staff members should be trained in the Prophet software and its use. MGT found some errors and inconsistencies in CJRC staff knowledge of the software, as well as in their understanding of the elements of the model itself. A process that requires an annual review of the simulation protocol and associated training by the independent consultant would help ensure that CJRC staff have a complete understanding of the model. This should help prevent any future data entry errors.

***Recommendation 3-3. Create and develop a new admissions assumption using more sophisticated statistical methods that take demographic, crime, arrest and court sentencing trends into account.*** Although the simulation model is primarily based on historical data from the most recent year, it does require the user to enter projected new court admissions over the forecasted period. The development of this prediction is independent of the simulation model, but it obviously has very serious implications for the resulting forecast; assuming no growth in the number of offenders entering prison will produce a very different forecast than an assumption of 5 percent annual growth. Many sophisticated statistical methods are available to produce admissions assumptions. Using these methods and incorporating more variables would help ensure that the new admissions assumption is accurate and reasonable.

***Recommendation 3-4. 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.*** Again, the assumptions and data built into the simulation model have a profound effect on the resulting forecast. Unreasonable data and assumptions, whether intentional or unintentional, can seriously bias the simulation model and jeopardize the legitimacy of the forecast. A consensus committee would serve as a check and balance over the assumptions and data used, and provide individual expertise in the creation of these assumptions. The committee should include representatives of the legislature, executive branch, fiscal staff, courts, parole board and DOC.

**Recommendation 3-5. Expand the current projection report to provide more information on its assumptions and analysis.** CJRC's current report should be expanded to provide information on the reasons for forecasted growth, and offer comparisons of key assumptions and data points with the previous year's. More detailed information on these and other changes would help policymakers better understand the dynamics of the estimates and the reasons for any inaccuracies in earlier forecasts.

**Recommendation 3-6. Eliminate the CJRC database's data entry backlog.** MGT found that some data from the courts, including arrests, case filings and dispositions, had been awaiting entry since 2004. As a result, critical criminal justice data in the database is out of date, impairing CJRC's ability to complete a thorough analysis of criminal justice trends in Oklahoma.

**Recommendation 3-7. Issue projections every six months.** Current volatility within the Oklahoma criminal justice system suggests that its population projections should be performed semi-annually. The major forecast used to plan agency resources should be published annually, with a supplemental and shorter report issued six months later to weigh the accuracy of the annual forecast and to update it based on any unanticipated trends.

**Recommendation 3-8. Upgrade the Prophet simulation software to the more current Wizard Simulation model.** In 2000, the software vendor responsible for Prophet for Windows revised and upgraded it into a new product, Wizard; it has also issued three subsequent upgrades to Wizard. Revisions and additions to the software have included average-age forecasting and classification and have enhanced the application's forecasting capabilities, as well as some changes to the underlying mathematics of the software. Acquisition of the current software should improve CJRC's forecasting capabilities and accuracy.

**Recommendation 3-9. Track admissions and releases in addition to prison population for accuracy on a monthly basis.** An effective simulation model reports on not just the total population but also the pertinent features of that population. This allows the model's users not only to determine whether the forecast is accurate, but also to determine the reasons for inaccuracies, and to examine underlying admission and release trends.

When fully utilizing the simulation model in the production of tracking reports on admissions and releases, the user can answer more than just the simple question of "Is the forecast accurate?" In the event the forecast is not accurate, the model can not only answer the question of "Why?", but also questions of whether the admission and release trends are accurate can be addressed.

**Recommendation 3-10. Project the prison population by gender using separate male and female models.** The state should maintain separate male and female models so that separate forecasts can be made for each population. At present, CJCR develops an overall projection and then divides it in two based on the current share of females in the total population. This procedure does not allow the forecast to reflect the unique attributes of the female prison population which affect the forecast. These attributes include differences in prior criminal history, history of violence, sentence length, parole rates, etc.

**Recommendation 3-11. Reduce the number of ID groups within the model to improve its performance.** The simulation model is constructed around "ID groups," or groups of like offenders, typically based by offense seriousness and sentence length. For the model's mathematical distributions to produce the most effective results, ID groups should contain at least

50 individuals. At present, CJRC uses several ID groups that fall below this criterion. Reducing the number of ID groups would allow for larger populations in each.

***Recommendation 3-12. Alter the population model to include a “loop-back” feature only for parole violators returning to prison; include probation violators in the new admissions stream.*** A “loop-back” is a mechanism within the model that allows for the introduction of offenders into the population outside of the new admissions assumption. CJRC’s model provides a loop-back feature for both parole and probation violators. To establish these loop-back features, CJCR must model both the larger population and the parole and probation populations.

Typically, however, prison population forecasts include a loop-back for parole violators but *not* for probation violators. This is because modeling the probation population is a near-impossible task. The data needed to create a probation forecast often are unreliable and suspect as they normally reside in local databases and the quality control of the data is often lost due to being decentralized in numerous jurisdictions. As a result including them in a prison model will jeopardize its accuracy.

***Recommendation 3-13. Remove extraneous fields and simplify the model.*** The model has a number of outdated data fields that were required for outmoded prison policies and laws. Although these data fields do not harm the function of the model, they do make it more cumbersome and harder to comprehend.

***Recommendation 3-14. Improve the methodology used to produce legislative impact assessments.*** CJRC prepares legislative impact assessments via a simple spreadsheet with available data. MGT’s review of recently issued assessments found that many impacts were not quantified due to a lack of data. We recommend that further research be performed to provide, at minimum, a “best-case” and “worst-case” scenario for each impact. Potential sources of useful information could include jail records for misdemeanor crimes that become felonies, court records for newly created crime codes and data from other states and jurisdictions who have implemented similar laws. Such information should allow researchers to provide a range of potential impacts on bed space to at least give policymakers an idea of the potential effects.

Furthermore, CJRC should produce legislative impact estimates with the simulation model, rather than a spreadsheet. This would allow for a phase-in of impacts over time and provide policymakers with an idea of bed space impacts and associated costs over the next 10 to 20 years. It also would provide for a simpler transition if the legislation passes and the effect becomes a permanent feature of the baseline model.

***Recommendation 3-15. The State of Oklahoma should immediately commission an independent engineering/architectural firm to produce a master plan that considers DOC’s proposed expansion plans and develops alternatives as found appropriate.***

***Recommendation 3-16. DOC should enter into formal negotiations with CCA for additional maximum-security beds that will become available in July 2008.***

***Recommendation 3-17. DOC should develop a competitive RFP for the private development and long-term operation of a correctional facility.***

***Recommendation 3-18. DOC should develop a long-term capacity plan that incorporates the results of the master plan and, if feasible, additional private prison facilities.*** The plan should



include revised population projections with updated assumptions that reflect additional or modified policies and programs. Upon completion, the plan should be submitted for review by key state policymakers in the executive and legislative branches.

***Recommendation 3-19. Pursue additional privatization opportunities to obtain additional correctional system capacity quickly.*** DOC should contract with CCA for the new 660-bed maximum-security unit at Davis to address its immediate maximum-security bed needs.

***Recommendation 3-20. Develop a RFP process to encourage competition for the development of additional private capacity.*** To the extent the department invests in more private prison capacity, a formal RFP process that establishes the parameters for the type of facility required will better meet the needs of the department, while maximizing vendor competition.

***Recommendation 3-21. Divide future private prison contracts into separate agreements for building leases and facility operation, provided that such arrangements are financially advantageous.*** Such arrangements substantially reduce the state's risk in privatization.

***Recommendation 3-22. Consolidate management of private prison and halfway house contracts into a single unit reporting to the associate director of Administrative Services.*** This will enhance consistency in management across of all of the private facility contracts.

***Recommendation 3-23. Continue to refine standardized criteria for monitoring private prisons.*** Monitoring criteria should be revised periodically to address operational quality issues that develop over time and department priorities. Regular change in monitoring instruments and criteria help keep monitors effective and attuned to emerging contract issues.

***Recommendation 3-24. Establish core criteria for monitoring community programs and jails that address common issues such as security, hygiene and classification, while allowing for individual criteria that address concerns specific to a facility contract.*** Contractors should be treated uniformly and held accountable against the same standards. Current community center and jail contract monitoring is much less developed and effective than the private prison contract monitoring system.

***Recommendation 3-25. Streamline the process for assessing liquidated damages to ensure that it provides a credible incentive for performance.*** Effective enforcement of contract provisions requires timely response to serious issues. A request to invoke liquidated damages should require review only by the associate director of Administrative Services and a final approval by the director to expedite the process.

***Recommendation 3-26. Standardize community correctional center contract provisions.*** Contracts should feature standard provisions, requirements, and terms to assure that all contractors are accountable for operating consistently and meet the same contract requirements.

***Recommendation 3-27. Contracts should include language authorizing department review and inspection of contractor operations at any time.*** Most states reserve the right to conduct inspections or searches of contract facilities unannounced, at any time. Such inspections are a vital element of any program to effectively monitor vendor compliance with contract terms.

**Recommendation 3-28.** *Department contracts should not allow vendors to terminate contracts for convenience.* Vendors should be held to contracts unless they can show cause for contract termination. This is necessary to protect the interests of the department.

## Chapter 4.0 Capacity Management

**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.

**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.

## Chapter 5.0 Community Programs

***Recommendation 5-1. DOC and other independent researchers should be given access to the MHSAS database for evaluation purposes.*** At present, no other state agency has access to the MHSAS database. DOC should have complete data on probationers who are also assigned to a drug court. Any future, independent assessments, moreover, should be conducted by allowing researchers to access the data files independently.

***Recommendation 5-2. MHSAS in conjunction with the DOC should perform a risk assessment to determine the most effective level of treatment and supervision for drug court participants.*** According to research by Festinger and Marlowe, drug courts are most effective with clients who are more criminally involved and have prior offense and arrest histories.<sup>1</sup> Some data suggest that ODCs, predictably, have better outcomes with first offenders.. For example, in Tulsa County, the largest program in the state, 30 percent of participants are first offenders, as are 40 percent of successful graduates.<sup>2</sup> Interestingly, many people reported that in more rural counties, an even larger portion of participants are first offenders.

Since drug courts in Oklahoma are intend to provide an alternative to prison, and since data indicate they are slightly less effective with that population than with first offenders, further analysis of the needs of prison-bound offenders and the nature of the services they need to be provided in order to succeed should be conducted.

***Recommendation 5-3. Prison sentences for those who fail the program should more closely mirror sentences given to other persons with similar criminal histories.*** There is no legal reason to give harsher punishments to prisoners who have tried to change their lives and failed than to persons who did not even *try* to change. In the current situation, an individual who agrees to participate in a drug court program receives a deferred prison sentence that often far exceeds those given to persons who go directly to prison. While this disparity may provide a powerful incentive to succeed in the program, it seems to be an unfair consequence of trying and failing.

MGT recommends that drug court participants who fail the program should receive prison sentences like those given to other offenders with similar criminal histories. This could be accomplished by capping sentences in general, or by using other data in sentencing decisions. MGT also recommends that the legislature consider capping these prison sentences at five years.

***Recommendation 5-4. DOC should conduct research to identify the type of offender and offense most appropriate for community sentencing or drug courts.*** At present, both community sentencing and drug courts target the same moderate-level, prison-bound offenders.<sup>3</sup> There is no objective criteria for determining which program is most appropriate for an offender. The lack of standardized criteria for participation prevents the courts from making the best use of the various

<sup>1</sup>Festinger, David. Treatment Research Institute at the University of Pennsylvania. How Do Drug Courts Work and for Whom? Presentation at Congress on Problems in Drug Dependence, Quebec City, Quebec. June 2007.

<sup>2</sup> Tulsa County MHSAS Annual Report, 2006, page 2.

<sup>3</sup> Oklahoma Department of Corrections, Community Sentencing Division. Partnerships in Corrections, Community Sentencing Act Annual Report 2006. Oklahoma City, Oklahoma, page 5.

interventions available. MHSAS and DOC should jointly develop protocols for handling various types of offenders and appropriate levels of intervention.

***Recommendation 5-5. DOC should use analyses of treatment outcomes to create an assessment process to address offenders' clinical and rehabilitative needs.*** Current research indicates that drug courts have the greatest impact on certain types of offenders. For instance, Festinger and Marlowe report that the intensive supervision and intervention provided by drug courts is more effective with higher-risk participants who have antisocial personality disorder or prior substance abuse histories than with probationers without such conditions.<sup>4</sup> The criminal justice system's intake, eligibility and treatment matching processes should incorporate this knowledge in legal and clinical decisions made to match participants with appropriate interventions; such studies also should inform future enhancements to and expansions of treatment options.

***Recommendation 5-6. The legislature should modify the statute to allow greater use of judicial review to balance the influence of district attorneys in ODC admissions.*** Given the team orientation of drug court members, and their joint responsibility for decision-making for all aspects of the program, it is appropriate to allow them to seek other means for admission to ODC that do not require a district attorney's approval. The best way to ensure another path for admission is greater use of judicial review, specifically by allowing DOC staff to refer cases back to the sentencing judge after a short period of imprisonment.

***Recommendation 5-7. All drug court participants should have at least one prior felony conviction.*** This would help to ensure that the drug courts are in fact diverting persons from prison. It may be beneficial from a public policy standpoint to admit first time offenders to this particular program, but the budgetary premise associated with the program is that it is designed and intended to reduce prison commitments. That particular objective cannot be achieved if participants to the programs were not prison bound offenders in the first place.

***Recommendation 5-8. Improve the tracking and reporting of absconders from the ODC program as maintained by MHSAS and the DOC.*** Other than Oklahoma County, counties were not able to report their rate of absconders. It appears that, unless they commit a new and serious offense, most are readmitted to the program, with some sanction for their actions.

***Recommendation 5-9. In order to ensure only the necessary level of funding be appropriated to MHSAS for this program, 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. This process, if adopted, would insure that only the necessary level of funding will be appropriated to MHSAS for this program on an annual basis.

***Recommendation 5-10. The legislature should redefine the target population for community sentencing to explicitly differentiate the population from those targeted by drug courts, mental health courts, etc.***

<sup>4</sup> Festinger, David. Presentation at Congress on Problems in Drug Dependence, Quebec City, Quebec. June 2007.

**Recommendation 5-11.** *DOC should complete a long-term study of community sentencing program participants and the program's recidivism rates to ensure that it is reducing prison commitments in a manner contemplated by the provisions of the act.*

**Recommendation 5-12.** *The legislature should consider expanding the program eligibility that is contained in the statute to include those who are assessed as high risk on the LSI, but meet all other established criteria.*

**Recommendation 5-13.** *The legislature should eliminate funding for the county jail reimbursement portion of the program, absent some clear redefinition of eligibility that differentiates the population covered by this provision from those who would normally be sentenced to jail.*

**Recommendation 5-14.** *The legislature should eliminate the restriction that those offenders convicted of "85%" offenses be automatically excluded from participation in the program. It is consistent that certain categories of "85%" offenses are eligible, and have been placed, on probation status but are not eligible for participation in the community sentencing programs.*

**Recommendation 5-15.** *The legislature should eliminate the provision in the authorizing statute that requires the program to be administered by a separate division within DOC. This would permit DOC's director to reorganize these functions if warranted, based on available funding and program participation.*

**Recommendation 5-16.** *The legislature should initiate action remove statutory and constitutional provisions requiring the governor to review and approve all paroles. MGT recommends that the governor's review be limited only to the most violent cases, including murder and sexual assaults.*

**Recommendation 5-17.** *The members of the Pardon and Parole Board should be made full-time appointees, so that they can dedicate the necessary time to review and act upon the cases reviewed. This would be particularly desirable if their recommendations become the final decision. This combined with the ongoing use and evaluation of the newly instituted parole risk assessment instrument would significantly improve the capabilities of the board to render thoughtful and sound decisions that are in the best interest of the public they serve.*

**Recommendation 5-18.** *The governor and the board should comply with all statutory time limits for review and consideration of recommendations for parole.*

**Recommendation 5-19.** *The Oklahoma County District should be abolished, and its functions reassigned to the administration of the Central District. MGT found no compelling reason to maintain this district as a separate entity.*

**Recommendation 5-20.** *DOC's implementation of EBP is consistent with national trends and standards. The department should continue to refine and improve its approach as it develops additional data on its offender population. MGT endorses the findings and recommendations of the recently completed National Institute of Corrections assessment.*

**Recommendation 5-21.** *DOC should expand its monitoring of the performance and recidivism rates of offenders placed on administrative and inactive status and report its findings to the legislature annually.*

***Recommendation 5-22. The Oklahoma legislature should develop statewide standards for the supervision of offenders placed with private supervision providers.***

***Recommendation 5-23. DOC should develop a five-year plan to achieve lower ratios of supervisors to line officers.***

***Recommendation 5-24. DOC should offer the legislature alternative solutions to problems related to housing sex offenders caused by restrictions on their placement.***

***Recommendation 5-25. The legislature should amend state law (Title 22, Section 991a) to encourage broader use of GPS in sex offender cases.*** MGT recommends using a fixed period for this monitoring that is not tied directly to the lifetime registration period of registration, to encourage its use by the judiciary, particularly during the first two years of supervision.

***Recommendation 5-26. DOC should assess programs that restrict inmates from community placement, and determine whether they can be provided cost-effectively in a community setting, either by contractors or departmental employees.*** Of a sample of 1,426 cases reviewed for community placement, 319 were restricted from community placement due to active participation in various programs (Career Tech, Regimented Treatment Program, Keys to Life, etc.) or a scheduled start date for entry into a program.

***Recommendation 5-27. DOC should establish a process for screening DOC inmates in county jails for their suitability for community placement, and when possible accelerate their transfer to Lexington to verify this eligibility.*** DOC does not routinely assess these prisoners. It can be assumed that some of them would meet the eligibility criteria, but no formal review of these cases has been conducted.

***Recommendation 5-28. The damaged Clara Waters Community Correction Center in Oklahoma County is being rebuilt and will include a program component for technical violators of community programs. DOC should consider expanding this program to include other offerings that could expedite community center placements.*** These could include Regimented Treatment and other required program offerings that presently preclude placement in the community until completion. This recommendation may require an expansion of bed capacity at the center, but should open up other DOC beds, producing a net increase in capacity.

***Recommendation 5-29. DOC should review its fee collection process to improve consistency and equity in its standards for waiving the fees.*** While the reasons MGT was given for fee waivers are consistent with EBP principles, there is no statewide standard or direction on this matter.

***Recommendation 5-30. The legislature should modify the CLEET requirements to create a special peace officer category for parole and probation officers, with an accompanying modification of the training curriculum to make it more consistent with their duties and responsibilities.*** CLEET should eliminate the training elements that have no relevance to their duties, and where possible substitute relevant training that would enhance and improve their performance.

***Recommendation 5-31. DOC should establish a special unit to complete pre-sentence investigation reports for offenders sentenced in Oklahoma County.***

**Recommendation 5-32.** *DOC should review the workloads of the Oklahoma County and Tulsa intake units and recommend specific funding increases to the legislature.* MGT found that the staff presently allocated to these units cannot cope with their workloads. In Oklahoma County, our review showed a need for at least four additional employees. A more thorough workload review could recommend other efficiencies.

**Recommendation 5-33.** *DOC should finish development of the new COMIT information system as soon as possible, and incorporate the automation of the intake units into the process.* The existing intake process is inefficient, costly and duplicative of other, related functions. An improved automation system to replace the existing OMS should result in considerable staff savings, improve efficiency and eliminate errors created by excessive workloads.

**Recommendation 5-34.** *DOC should consolidate its contract monitoring functions in a single unit outside the scope of authority of the Division of Community Corrections.*

## Chapter 6.0 Institutional Operations & Support Services

**Recommendation 6-1.** *DOC should ensure consistent staffing of the following additional posts at OSP:*

- *Housing Unit A Officer.* Each shift should have one additional officer assigned to the unit. This would result in three additional seven-day posts.
- *Housing Unit C Officer.* Each shift should have one additional officer assigned to the unit. This would result in three additional seven-day posts.
- *Compound/Movement Control.* DOC should create compound posts that would provide movement control and immediate security support within the facility. These positions were previously identified in the 2002 post chart. The recommended posts should include one on the 10:00 p.m. – 6:00 a.m. shift, two (2) on the 6:00 a.m. – 2:00 p.m. shift and two (2) on the 2:00 p.m. – 10:00 p.m. shift. Each post should be considered a seven-day relief post.
- *Gang Intelligence Officer.* DOC should create a gang intelligence officer post to focus on gathering intelligence information on inmates posing security threats.

**Recommendation 6-2.** *DOC should reconsider its present policy of funding all facilities equally at 82 percent of the authorized staffing level.* The use of a uniform 82 percent funding level for each facility ignores difference in their missions, populations and operational requirements, policies and practices.

**Recommendation 6-3.** *DOC should enhance its current statewide recruitment and retention strategies to better assist facilities that cannot meet established staffing funding levels.* Although there are efforts throughout the state to improve recruitment and retention, the efforts in this area should be more centrally coordinated and the approaches proven to be effective emulated state-wide. The goal of this process should be to expand the number of qualified candidates willing to consider employment at the facility.

**Recommendation 6.4.** *The DOC should lower the minimum age for correctional officer employment to 19.* This level is consistent or higher than requirements established in most states, and would increase the department's pool of eligible staff.

**Recommendation 6-5.** *DOC should implement a systemwide policy that halts staff transfers whenever an institution is operating at 5 percent below the funded staffing level.*

**Recommendation 6-6.** *DOC should evaluate its hiring process to find ways to expedite it, so that job applicants are not lost to lengthy delays.* OSP hires staff as temporary employees while they complete the necessary pre-employment background checks. DOC should build on this initiative to recruit new employees more aggressively.

**Recommendation 6-7.** *DOC should calculate the relief factor for each facility annually.* As noted above, the present relief factor was last calculated in 2004, and is used throughout the entire department. MGT's experience is that relief factors should be varied among institutions and even geographic regions to produce the best accuracy. DOC should calculate a unique relief factor for each of its units. This would significantly enhance its accuracy in projecting its staffing needs.

**Recommendation 6-8.** *DOC should require its facilities to conduct exit interviews for staff terminating employment to clearly identify and document their reasons.* DOC then should develop action plans to address trends identified through these exit interviews.

**Recommendation 6-9.** *DOC should reconsider its practice of rotating work schedules (the required rotation to a different work shift) annually to determine its impact on employee recruitment and retention.* Security officers said that shift rotation is one of the primary reasons for low morale and high staff turnover.

**Recommendation 6-10.** *DOC should identify alternative options other than continuing to add additional units at OSP, and give serious consideration to closing its existing housing units.* Any further expansion will only place more strain on an aging infrastructure that is operating well beyond its designed capacity.

**Recommendation 6-11.** *DOC should consider replacing OSR's C Unit with a new living unit on property available near Unit B.* The current location affects the facility's efficiency and security supervision.

**Recommendation 6-12.** *DOC should consider creating a separate maximum-security general population facility to meet its space needs.* In summer 1973, OSP's inmate population at OSP was 2,200; as of August 13, 2007, it was 1,237. Thus the number of maximum-security beds has fallen by more than 56 percent in the past 34 years. In view of the reported number of inmate classification overrides from maximum to medium security, and the reduction in the number of available maximum-security beds, DOC should consider additional maximum-security beds as a high priority.

**Recommendation 6-13.** *Abandoned buildings at OSP should be demolished, provided historical preservation issues are not violated.* DOC should focus on immediately removing the East and West cellhouses, as they present safety, security and health risks to staff and inmates.

**Recommendation 6-14.** *DOC should continue its efforts to provide a consistent physical security approach that addresses JCCC's designated security level of the facility.*



***Recommendation 6-15. DOC should prioritize JCCC's capital request of \$3,151,463 to construct a new kitchen and dining hall.***

***Recommendation 6-16. ODC should develop a strategic plan to upgrade its radio systems.*** This effort should begin = with a survey of all correctional facilities to determine the radio equipment available at each facility; its condition and capabilities; and the future needs of each facility based on its mission and capacity. Future budget requests and purchases should be based on this plan. The use of commercial grade radios should be eliminated.

***Recommendation 6-17. DOC should formally recognize the existence of gangs in its facilities by developing a central gang intelligence unit to identify, assess and coordinate information related to gang members or activities.*** DOC should develop a comprehensive gang intelligence system, including dedicated staffing and training, an electronic data system and both intra- and interagency coordination, to track and manage potential security threats. This system would provide the department with the names and profiles of offenders affiliated with each recognized security threat group, their housing, assignment and criminal history. These data would be available to approved DOC staff. The department should seek assistance from national associations and the National Institute of Corrections in developing its system.

***Recommendation 6-18. DOC should continue to annually assess its existing array of programming to determine whether each is cost-effective and achieving its desired results. Those programs that are not efficient and effective should be eliminated.*** For instance, DOC should work with the state employment office to see what jobs are in the highest demand and tailor its training to meet those needs. We reviewed documents concerning department evaluations of selected programs, but saw no evidence of comprehensive evaluations.

***Recommendation 6-19. DOC should ensure that each institution has the resources, including adequate space and staff, to maximize the availability of programming opportunities.*** For example, the Eddie Warrior and Jim Hamilton center need more programming space, while Jess Dunn and Eddie Warrior need more staff to make their program offerings effective. Both institutions have a shortage of teachers in their educational programs that limits the number of offenders enrolled in these classes.

***Recommendation 6-20. DOC should develop or purchase a data system that automatically recalculates inmate assessment scores as variables are entered.*** This would save case managers a tremendous amount of time since they would no longer have to compute these scores manually each month. In addition, they must spend a significant amount of their time tracking minimum eligibility dates for inmates in their caseloads, both manually and through the current automated system, since the inmate's age, program completions and other variables cause these dates to change. This part of the process is not automated and results in considerable inefficiencies and a very high potential for errors.

***Recommendation 6-21. DOC should develop or purchase an effective automated system to assist case managers and population management officers.*** The case managers must spend at least an hour preparing a transfer packet for each inmate on their caseload who transfers to another facility for any reason. These transfer packets contain several documents maintained in the field file and/or on OMS. All transfer requests flow through the Population Office at Lexington Reception and Assessment Center. Without the information contained in the transfer packets, the population management officers would have insufficient information for their decisions.

**Recommendation 6-22.** *DOC should take immediate steps to address the overuse of classification overrides in its facilities for population management.* This phenomenon is particularly evident in connection with maximum-custody bed space, the primary cause of overrides throughout the system.. Future expansions in department bed capacity must take into account the custody makeup and security needs of its population.

**Recommendation 6-23.** *As recommended above, DOC should establish a centralized intelligence unit with support personnel assigned to each major facility to gather intelligence information on the inmate population.* This would help DOC reduce or eliminate major incidents in its facilities and employ strategies and initiatives based on a thorough assessment of current security risks.

**Recommendation 6-24.** *DOC should deploy sufficient security staff at each facility to ensure that collateral responsibilities such as cell searches and inmate shakedowns are completed regularly and consistently.*

**Recommendation 6-25.** *DOC should increase its number of male beds to ensure that inmates are housed at appropriate security levels and at occupancy rates consistent with best operational practices.*

**Recommendation 6-26.** *DOC should ensure that assaults on inmates are defined consistently and reported by all facilities.* Our review of DOC data indicated that there is inconsistency between divisions on how this data element is measured. For example, the number of assaults on inmates reported by medical staff is not consistent with the number of assaults reported by security.

**Recommendation 6-27.** *DOC should track assaults on inmates separately instead of combining them with other incidents.* At present, assaults on inmates are folded into a “serious incidents” category. This data collection methodology does not permit a full review and analysis of what is occurring in the department in the area of violence.

**Recommendation 6-28.** *DOC should secure enough funding to expand the number of beds available at the various security levels to meet the department’s needs and reduce extensive waiting periods.*

**Recommendation 6-29.** *DOC should expand the number of beds available to house male offenders in correctional facilities and community correctional centers.* These expansions should be designed to allow inmate housing at appropriate security levels.

**Recommendation 6-30.** *DOC should move medium-security inmates from any setting that does not have operational locking systems in its living areas.*

**Recommendation 6-31.** *DOC should ensure that every correctional institution dedicates a minimum of 4 percent of its available bed space to segregated housing.*

**Recommendation 6-32.** *DOC administration should immediately examine all classification overrides to validate the criteria employed.* Whenever an override is invalid, the offender’s classification should be changed to reflect the actual risk and custody level.

***Recommendation 6-33. Transfer the inmates housed in the basement of the old program building at OSP and convert the area into a program or storage area.***

***Recommendation 6-34. DOC should use clinical measures to evaluate the adequacy of its healthcare budget, such as mortality, potentially preventable hospitalizations and sentinel morbid events!***

***Recommendation 6-35. DOC should consider using 430B pharmaceutical pricing to lower pharmaceutical costs.***

***Recommendation 6-36. DOC should validate the results of the claims audit conducted in this review, and if confirmed, take action to improve the accuracy and efficiency of the claims payment process.***

***Recommendation 6-37. DOC should assess the feasibility of utilizing alternative provider networks to achieve greater levels of savings on health care.***

***Recommendation 6-38. DOC should augment its disease management programs by providing physicians with greater nursing support and establishing an electronic medical record. In the meantime, the existing paper record system needs immediate improvement.***

***Recommendation 6-39. DOC should expand its use of utilization review to include concurrent and retrospective reviews of potentially preventable hospital days, as recommended by the Agency for Healthcare Research and Quality.***

***Recommendation 6-40. DOC should increase filled positions in both the medical and mental health program to 100 percent of authorized positions.***

***Recommendation 6-41. DOC should increase its number of infirmary beds to improve hospital utilization and care management for severely disabled inmates.***

***Recommendation 6-42. DOC should negotiate with private prison vendors to give the Office of Health Services oversight over health care programs in the private prisons, and to standardize forms and the implementation of DOC policies.***

***Recommendation 6-43. OCI should consider building or purchasing a central warehouse to store raw materials and finished goods.***

A central warehouse would free up space at existing shops and ultimately increase their capacity and usefulness. OCI should conduct a cost-benefit evaluation that:

- identifies the products it will store in a central warehouse;
- determines current and future square footage needed to accommodate these products;
- identifies all capital and operating costs associated with a central warehouse; and
- projects the benefits and sales growth that would result from both added production space at existing sites and a new central warehouse.

**Recommendation 6-44. OCI should develop annual offender recidivism statistics for inmates involved in its programs.** These data then can be compared to overall department recidivism rates to determine the OCI programs' effectiveness.

**Recommendation 6-45. DOC should assess the number of jail beds and local sentencing options available for women to determine these options need expansion.** MGT was unable to come to a definitive conclusion on whether the lack of local incarceration beds is contributing to the high incarceration rate for women. CJRC should complete a comprehensive study of this issue to determine if the state could initiate any actions to encourage the use of local options for female offenders.

**Recommendation 6-46. DOC should consider separating supervisory responsibilities for female assessment and reception functions from the Lexington operation.** Due to the factors mentioned above, we believe that the level of supervision provided in the proposed organizational structure for the Bassett assessment and reception center will be inadequate.

**Recommendation 6-47. DOC should finalize the proposed PREA policy and ensure that it includes specific provisions for expectations and actions.** The use of terms such as "as appropriate and when appropriate" does *not* provide the specificity needed to address the critical issues of prison sexual assault. Descriptions of expectations and actions required should be specific and outlined in detail. The policy also should also incorporate the improvements

**Recommendation 6-48. DOC should monitor the use of delayed sentencing to ensure that it is not being used simply as an alternative to local incarceration.** MGT believes that this mechanism was intended to provide a period of incarceration during which DOC could observe the offender and assess her programming needs. It does not appear that delayed sentencing is being used for this purpose at present.

**Recommendation 6-49. DOC and MHSAS should continue to collaborate in identifying improved ways to address the mental health needs of female offenders.** The high incidence of mental illness within this population must continue to be a high priority for both agencies. MHSAS has demonstrated a willingness to commit additional resources to meeting these needs, both at the institutional level and in the community. These efforts should continue. Providing as many of these services at the local level will improve their cost-effectiveness.

## Chapter 7.0 Administration

**Recommendation 7-1. Fund a full-year budget for the department with clear assumptions on population, capacity, staffing, capital projects, and programs.**

**Recommendation 7-2. Modify the department's appropriation to establish funding allocations for major operations and program components of the department.**

- Institutions and field operations
- Contract beds
- Community corrections
- Treatment and rehabilitation services
- Administration

**Recommendation 7-3.** *Continue to refine projections of the department's fiscal 2008 supplemental appropriations needs by regularly reviewing department staffing levels, salary surpluses, and carryover fund utilization.* Current data that suggest a trend toward a supplemental funding need of \$24-\$25 million should be closely monitored.

**Recommendation 7-4.** *Approve the department's fiscal 2009 budget request at maintenance level funding, including resources for rate/price increases of \$7.8 million, \$6.0 million in operational funding for the new beds scheduled to come on-line in fiscal 2009, and \$14 million for the contract for 660 maximum-security beds at Davis.* These increases total \$29,737.2 thousand, an increase of 5.8 percent over base funding.

**Recommendation 7-5.** *Review potential cost savings associated with recommendations in this report to achieve further efficiencies in DOC spending.*

**Recommendation 7-6.** *Include \$4.3 million in the fiscal 2009 budget to address recommendations for additional staffing made in this report, and \$650 thousand in fiscal 08 for studies of the department's infrastructure and IT needs.*

**Recommendation 7-7.** *The DOC should 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 must exist on fragile, antiquated hardware. The department's efforts to build its own application, COMIT, has yielded poor results and MGT has 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. The existing inmate database could fail at any time, leaving nothing to replace it. Staff would have to return to paper and pencil to manage and account for inmates and parolees. Any efficiencies that currently exist would disappear, increasing the demands on the state's limited resources. To correct this issue, the agency should 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. This review should be managed through ITU.

**Recommendation 7-8.** *The DOC should consolidate technology expenditures under the responsibility of the Information Technology Unit.* A modern correctional system depends on an integrated, centralized information technology function for access to critical information. The DOC's decentralized approach creates limitations on technology progress. Centralizing the procurement of technology expenditures will allow control and coordination of the states limited resources. It will allow the agency to ensure uniformity among its various units. The ITU has developed a five-year plan that addresses this issue and the specific technology needs of the department. If the agency consolidates IT procurement, it could improve the efficiency of its operation and be better able to current with advances in technology.

**Recommendation 7-9.** *The DOC should consolidate the COMIT staff into the Information Technology Unit.* This unit should have increased control over the responsibilities and practices of information technology coordinators.

**Recommendation 7-10.** *The responsibility for development of any future offender database application should be assigned to the most logical unit – the Information Technology Unit.* The agency's decision to place this responsibility into the hands of a non-technical unit that is physically located over 100 miles away from the ITU wastes the state's limited resources. This functional and logistical decentralization limits knowledge and resource sharing and impedes progress. Therefore, DOC should consolidate the staff, equipment, and budget for this project under the authority of the Information Technology Unit.

**Recommendation 7-11.** *Assess the role of information technology coordinators.* The agency should more consistently approach the deployment of these staff. The regional differences that currently exist, should be eliminated. Further, these positions currently report to the wardens of their facilities or the administrative staff at the division offices. While this reporting is appropriate, the ITU should establish an indirect line of authority with these positions. The unit should develop standard responsibilities in agency policy for IT coordinators and should work to provide training and support to these positions.

**Recommendation 7-12.** *The Legislature should, by removing some or all of the words "annually" and "funds and accounts" and "institutions," amend DOC's Internal Audit statute Section 57--510 A, which serves to limit the scope of what the IA unit is doing.*

**Recommendation 7-13.** *The Department of Corrections is commended for creating a quality assurance program to identify areas and issues for improvement, to review and recommend improvements, and to help implement change across all sections of the department.*

**Recommendation 7-14.** *Prepare a charter and a risk assessment for the Internal Audit division.*

**Recommendation 7-15.** *Revise the annual audit plan to include the results of an annual risk assessment.*

**Recommendation 7-16.** *The administrator of Internal Affairs should report directly to the agency head. Direct access to the agency head is needed as one measure to ensure the integrity of the agency.* This reporting relationship might not be needed if there was an inspector general position that already reported to the agency head or someone else outside of the agency.

**Recommendation 7-17.** *The DOC should develop a formal memorandum of agreement/contract with Oklahoma State Bureau Identification to process felony crime scenes.* Crime scene processing and the handling of evidence in felony cases is a specialization. It would seem too much to expect internal affairs investigators to possess the necessary expertise and all the equipment to proficiently and effectively handle this important responsibility.

**Recommendation 7-18.** *A computer caseload management system should be acquired or built to improve internal affairs operation.* The computer databases used to track the various aspects of internal investigation cases are not much more than a modified spreadsheet. However, we noted that the actual master case files are very well organized. Better control and supervision of these cases can be obtained from a system designed for this purpose. Management reports could be routinely and easily produced to assist in the recognition/reporting of potential problem area. The department's online Web site is very functional and suggests that the talent to develop such a system might just be available in-house.

**Recommendation 7-19. Internal investigations and final disposition of cases should be accelerated where possible especially in administrative cases.** Cases were reviewed that case final disposition took months when the facts were present and pretty clear on the day an investigation was requested. Movement up and down the chain of command should be reexamined to expedite the final disposition and case closing where possible.

**Recommendation 7-20. The Board of Corrections statutory authority should be rescinded and the replacement board's authority restricted to an advisory capacity only.**

**Recommendation 7-21. The Department of Correction should become a stand alone cabinet level agency with its director appointed by the governor.**

***APPENDIX B: MEDICAL CLAIMS/  
AUDIT FINDINGS***



# APPENDIX B: MEDICAL CLAIMS/ AUDIT FINDINGS

## Duplicate Claims

**Seven (7) claims totaling \$101,876 were identified as duplicate claim forms.**

Audit's typically show that up to 30 percent of all claims by value (13-15 percent by volume) are full duplicate claims. Not all of these claims are submitted maliciously, but they are nonetheless submitted multiple times for payment.

“Duplicate Check” reviews check each working claim against all claims that have passed through the ReClaim Suite™ system. Each claim has 15 attributes including patient name, provider, contract, claim, and line item information that the “Duplicate Check” reviews. Each attribute is assigned a score. The attributes are weighted differently depending upon their meanings and a total score is given for the possible duplicates. A list of possible duplicate claims is generated and organized in descending order from the most likely duplicate.

The following image shows the different areas of the claim that determine whether or not a claim is a duplicate. The claim on the right is an exact duplicate of the claim on the left that was already submitted and paid:

The image displays two identical medical claim forms side-by-side. The left form is labeled PC0135002 and the right form is labeled PC0135004, both dated 10/11/2007. Both forms are for JACKSON COUNTY MEMORIAL HOSPITAL, PO BOX 8190, ALBUS, OK 73662. The patient name is ALBUS, and the contract is OK 73662. The claim number is 730568956, and the date of service is 03/10/07. The patient ID is 031507004, and the provider ID is M113744. The provider name is REFORMATORY, OKLAHOMA STATE, 1700 E 1 GRANITE OK 73547. The total charge is 32482.52. The signature on file is HARRINGTON BENEFIT SERVI, P O BOX 268928, OKLAHOMA CITY, OK 73126. Red circles highlight these key identifying fields on both forms, demonstrating that they are exact duplicates.

### **Coding Denials**

“Coding Denials” was the next category of the audit to identify that each line of the claim form was accurately coded. We found five (5) claims totaling \$10,678.11 that were completely denied for inappropriate coding issues.

**1. DOS 08/12/06 for \$1,809.05 – Claim denied.**

- Code 82947: component code of 80053 and not separately payable.
- Code 71010-TC: inappropriate use of a modifier.
- Code 90774: not recognized by OPSS, an alternate code may be available.
- Code 90775: not recognized by OPSS, an alternate code may be available.
- Code 99284-25: modifier -25 for significant E/M service by the same physician on the same day is not payable without supporting documentation.
- Code 99283: multiple E/M codes on same day without appropriate supporting documentation.
- Code J4218: considered a packaged incidental service and not separately payable.
- Code J1940: considered a packaged incidental service and not separately payable.
- Code J2250: considered a packaged incidental service and not separately payable.
- Code J2310: considered a packaged incidental service and not separately payable.
- Code J7030: considered a packaged incidental service and not separately payable.

**Total exceptions for this claim: \$1,809.05**

**2. DOS 08/15/06 for \$1,687.13 – Claim denied.**

- Code 90761: not recognized by OPSS, an alternate code may be available.
- Code 87040: may be a duplicate lab or pathology code and is not payable without appropriate modifier and supporting documentation.
- Code 90774: not recognized by OPSS, an alternate code may be available.
- Code 90775: not recognized by OPSS, an alternate code may be available.
- Code 99284: a CPT procedure has been coded along with an E/M code. Appropriate modifier and supporting documentation is necessary to ensure that the E/M code is a separately identifiable service by the same physician on the same day as the CPT procedure.
- Code J2930: considered a packaged incidental service and not separately payable.

- Code J2275: considered a packaged incidental service and not separately payable.
- Code J2765: considered a packaged incidental service and not separately payable.

***Total exceptions for this claim: \$1,687.13***

**3. DOS 05/31/06 for \$2,179.00 – Claim denied.**

- Code 90765: not recognized by OPSS, an alternate code may be available.
- Code 90775: not recognized by OPSS, an alternate code may be available.
- Code 99284: multiple E/M codes on same day without appropriate modifier and supporting documentation.
- Code 99283: multiple E/M codes on same day without appropriate modifier and supporting documentation.

***Total exceptions for this claim: \$2,179.00***

**4. Claim for \$1,908.30 – Claim denied.**

- Medical records provided are not adequate to determine if services are considered inpatient or outpatient with observation care only.

***Total exceptions for this claim: \$1,908.30.***

**5. Claim for \$3,094.63 – Claim denied.**

- Code 90765: non-allowed item or service for OPSS. Code not recognized by OPSS, alternate code may be available. Code is also a component of comprehensive procedure 36600, 51702 that is allowed if an appropriate NCCI modifier is present.
- Code 70450-TC: inappropriate use of modifier.
- Code 51702: comprehensive code paired with another CPT component code for Emergency Room services.
- Code 90772: component of comprehensive procedure 90765, 36600, 51702 that is allowed if an appropriate NCCI modifier is present. Injection is also coded but no substance has been coded.
- Code 90774: code not recognized by OPSS, alternate code may be available. Code is also a component of comprehensive procedure 90765, 36600, 51702 that is allowed if an appropriate NCCI modifier is present.
- Code 90774-59: non-allowed item or service for OPSS. Code not recognized by OPSS, alternate code may be available.

***Total exceptions for this claim: \$3,094.63***

### ***Potential Denials***

Potential denials represent the next category of the audit and includes claims where additional medical record information is required before making a final determination on the claim's validity. Three (3) claims totaling \$66,118.55 would not have been paid without requesting medical records and itemization to support units and dosage of Hemodialysis treatment drugs.

Two common issues with dialysis billing are

:

1. **Number of treatments.** Treatments are typically scheduled in advance for several weeks to a month at a time. Some treatments can be missed. Billing for a scheduled treatment that did not occur is not uncommon. In order to avoid such errors, comparing the claim form to the medical record and the itemized bill is important.
2. **Units and dosages of drugs such as Epoetin and other high cost drugs.** Billing for drugs that were ordered but not used is not uncommon. Sometimes the drugs cannot be saved and therefore, depending on why a treatment was missed, may be billable by the provider. The record should indicate why a treatment was missed and what amount of the drug may have been rendered useless. In order to avoid such errors, comparing the claim form to the medical record and the itemized bill is important.

### ***Line Item Exceptions***

**Total line item exceptions for codes that should not be paid: \$14,992.53**

This category of the audit was to identify line item exceptions for codes that should not have been paid.

1. **DOS 07/23/06 for \$1,204.00 – Line item exception for code 99283 (\$97.00).**  
Medical visit on same day as a procedure without appropriate modifier and two E/M codes on same date.

***Total exceptions for this claim: \$97.00***

2. **DOS 06/30/06 for \$820.00 – Line item exception for code 99283-26 (\$183.00).** Inappropriate use of modifier.

***Total exceptions for this claim: \$183.00***

3. **DOS 07/28/06 for \$1,218.50 – Line item exception for code 99283-26 (\$183.00).** Inappropriate use of modifier.

***Total exceptions for this claim: \$183.00***

4. **DOS 11/24/06 for \$773.43 - Line item exception for code 99282 (\$278.00).**  
Medical visit on same day as a procedure without appropriate modifier.

***Total exceptions for this claim: \$278.00***

**5. Claim for \$1,245.00**

- Code 90760: component code of comprehensive procedure 23650 that is allowed if an appropriate modifier is present. (\$157.00)
- Code 73030-TC: inappropriate use of modifier. Duplicate radiology code. Add modifier if documentation supports use to differentiate services, otherwise duplicate code may not be paid. (\$408.00)

**Total exceptions for this claim: \$565.00**

**6. Claim for \$365.10**

- Code 99282: medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$147.50)
- Code 99282: medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$96.50)
- Code J2175: Packaged incidental service not separately payable. (\$16.25)
- Code J2550: Packaged incidental service not separately payable. (\$18.35)

**Total exceptions for this claim: \$278.60**

**7. Claim for \$289.50**

- Code 99282: medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$147.50)
- Code 99282: medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$96.50)

**Total exceptions for this claim: \$244.00**

**8. Claim for \$1,514.20**

- Code 90772-59: injection is coded but substance injected is not coded. (\$147.00)
- Code 99284-25: inappropriate use of modifier. (\$468.00)

**Total exceptions for this claim: \$615.00**

**9. Claim for \$2,335.31**

- Code 99284-25: no records to support use of modifier. (\$304.45)

**Total exceptions for this claim: \$304.45**

**10. Claim for \$623.15**

- Code 99284: medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$353.72)

**Total exceptions for this claim: \$353.72**

**11. Claim for \$1,234.88**

- Code 73130-RTTC: inappropriate use of modifier. (\$145.70)
- Code 90772: Component of comprehensive procedure 12002, 29130 that is allowed if an appropriate NCCI modifier is present. Injection is coded but substance injected is not coded. (\$63.93)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$353.72)

**Total exceptions for this claim: \$563.35**

**12. Claim for \$1,105.35**

- Code 73030-TC: Inappropriate use of modifier. Duplicate radiology code. Add modifier if documentation supports use to differentiate services, otherwise duplicate code may not be paid. (\$408.00)
- Code 90774: Component code of comprehensive procedure 23650 that is allowed if an appropriate NCCI modifier is present. (\$78.00)
- Code 99283: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$195.50)
- Code 99283: Medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$108.00)
- Code J2250: Packaged incidental service not separately payable. (\$49.00)
- Code J2270: Packaged incidental service not separately payable. (\$16.35)

**Total exceptions for this claim: \$854.85**

**13. Claim for \$1,055.00**

- Code 71010-TC: Inappropriate use of modifier. (\$127.00)
- Code 99283: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$195.50)
- Code 99283: Medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$108.00)

**Total exceptions for this claim: \$430.50**

**14. Claim for \$2,234.50**

- Code 71010-TC: Inappropriate use of modifier. (\$127.00)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$339.50)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$158.50)

**Total exceptions for this claim: \$625.00**

**15. Claim for \$1,388.35**

- Code 71010-TC: Inappropriate use of modifier. (\$127.00)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$339.50)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$158.50)
- Code J2270: Packaged incidental service not separately payable. (\$16.35)

**Total exceptions for this claim: \$641.35**

**16. Claim for \$394.00**

- Code 99282: Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$147.50)
- Code 99282: Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$96.50)

**Total exceptions for this claim: \$244.00**

**17. Claim for \$2,532.50**

- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$339.50)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$158.50)

**Total exceptions for this claim: \$498.00**

**18. Claim for \$1,418.80**

- Code 71010-TC: Inappropriate use of modifier. (\$135.99)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$353.72)

**Total exceptions for this claim: \$489.71**

**19. Claim for \$1,299.00**

- Code 71010-TC: Inappropriate use of modifier. (\$127.00)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. (\$339.50)
- Code 99284: Medical visit on same day as procedure without appropriate modifier/supporting documentation. Multiple E/M codes on same day without appropriate modifier/supporting documentation. (\$158.50)

**Total exceptions for this claim: \$625.00**

**20. Claim for \$7,673.00**

- Code V2632: Code is for implant device and or supplies for procedure performed in an Ambulatory Surgery setting. Payment rate should be based on provider's cost for device/supply. (\$505.00)

**Total exceptions for this claim: \$505.00**

**21. Claim for \$11,914.00**

- Code V2632: Code is for implant device and or supplies for procedure performed in an Ambulatory Surgery setting. Payment rate should be based on provider's cost for device/supply. (\$505.00)
- Code 67010-LT: Component code of comprehensive procedure 66984-LT that may be allowed if an appropriate NCCI modifier is present. (\$5,909.00)

**Total exceptions for this claim: \$6,414.00**

In addition, a sampling of medical records were reviewed by a certified professional coding expert to ensure that the information obtained from the medical record supported the claim generated by the provider and subsequently reimbursed by the DOC. The benefits of an active claim audit program are:

- confirming services reimbursed are accurately documented in a patient's medical record.
- obtaining and organizing records from services provided within the community assists the DOC in ensuring quality continuity of care as the inmate patient transitions through the system and ultimately back to the community.



***APPENDIX C: ANALYSIS OF CCA COSTS***

# APPENDIX C: ANALYSIS OF CCA COSTS

CCA - Annual Cost Breakdown-Davis Expansion

Category	Total \$	One-Year Contract	5 Year Contract	Year to Year Pricing for 5 Years				
		Per Diem Pop=660	Per Diem Pop=660	Year 1	Year 2	Year 3	Year 4	Year 5
Wages, Salaries & Benefits								
Health Services								
Food Service								
Utilities								
Clothing and Shoes								
Fire Insurance								
Mail and Postage								
Supplies								
Training & Tuition								
Corporate Overhead								
Profit								
Indirect Costs (a)								
Other-please detail (b)								
Capitalization								
Performance Bond								
Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Staffing, FTEs</b>	<b>#</b>							
Executive Office								
Business Support								
Maintenance								
Food Service								
Health Care								
Programs								
Security								
Other-please detail (c)								
Total	0							
Programs (d)	\$	One-Year Contract	5 Year Contract	Year to Year Pricing for 5 Years				
				Year 1	Year 2	Year 3	Year 4	Year 5
Substance Abuse* <sup>1</sup>								
Education* <sup>2</sup>								
Recreation								
Library								
Other-please detail (e)								
Total	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
*1: % of population in program								
*2: % of population in program								
(a) Indirect Costs: Repair & Maint., Refuse Svcs, Leases & Rentals								
(b) Other Operating: Legal Svcs, Inmate Wages, Professional Service Fees, Travel & Entertainment, Misc. Taxes & License Fees and Depreciation of Fixed Assets & Leasehold Improvements.								
(c) Other Staffing: Warehouse and Commissary staff								
(d) Programs: Per Diem amounts are expressed as programming costs per total inmate population								
(e) Other Programs Costs: Salaries & Benefits of Correctional Officers and Administrative staff associated with Programs								

**Confidential information not subject to disclosure**

***APPENDIX D: INTERVIEW LIST***

## APPENDIX D: INTERVIEWS

The MGT project team wishes to thank the members and staff of the Oklahoma State Legislature for their commitment to this project and their personal involvement in providing information, access and feedback as we proceeded to assess the complex issues involved in this review. We also extend our appreciation to Director Justin Jones and his executive staff who facilitated ensuring that the project team had complete access to staff, documents, facilities, and policies during the course of this review. Similarly we extend our appreciation to Commissioner Teri White and the staff of the Department of Mental and Substance Abuse Services for facilitating our review of the drug court programs. The project team also acknowledges the openness, commitment, and cooperation extended to its team members during its visits with Department of Corrections executives and administrators, staff of the Criminal Justice Resource Center, association leaders, contracted auditors, criminal justice leaders, and community leaders. We would like to thank the following individuals that participated in interviews and focus groups and shared their views with the MGT team.

Adams, Gerald	Chief of Staff, Office of Governor Brad Henry
Adams, Jim	Facility Training Officer, Jackie Brannon Correctional Center
Adams, Larry	Chaplain, Lexington Assessment & Reception Center
Addison, Mike	Warden, Joseph Harp Correctional Center
Adkins, Sandra	Human Resources Manager, Eddie Warrior and Jess Dunn Correctional Centers
Aldridge, Mark	Correctional Captain, Oklahoma State Penitentiary
Aldridge, Ray	President, Fraternal Order of Police Lodge 147
Alexander, James	Instructor, Davis Correctional Facility
Alexander, Terry	Unit C Manager, Jess Dunn Correctional Center
Alford, Anita	Administrative Specialist, Lawton Community Correctional Center
Allen, Jimmie	Business Manager, Field Operations Division, Department of Corrections
Alston, Denise	Correctional Sergeant, Disciplinary, Lawton Correctional Center
Altshuler, Katie	Counselor to the Speaker, Oklahoma House of Representatives
Anderson, Marilyn	Fiscal Policy Analyst, Oklahoma House of Representatives
Anderson, Michele	Correctional Training Officer, Lexington Assessment & Reception Center
Argeropulos, Peter	Sr. Vice President & Chief Operating Officer, CiviGenics
Arnold, Eldon	Construction Maintenance Administrator, Eddie Warrior Correctional Center
Bacurch, Connie	Trainer, Joseph Harp Correctional Center
Bailey, Brad	Farm Manager, James Crabtree Correctional Center
Baker, Duane	Horizons Faith Based Program Coordinator, Davis Correctional Facility
Baker, Trish	Teacher, Eddie Warrior Correctional Center
Baksh, Gharzuddin	Internal Auditor, Department of Corrections
Barlow, William	Training Manager, Davis Correctional Facility
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Scott, Glen	Chief Executive Officer, Alpha II Halfway House
Scott, Wade	Chaplain, Davis Correctional Facility
Seiter, Richard P.	Executive Vice President & Chief Corrections Officer, Corrections Corporation of America
Sellers, Jefferson D.	District Judge, 14 <sup>th</sup> Judicial District
Semeski, Alan	Corrections and Maintenance Technician, Jackie Brannon Correctional Center
Sewell, Mark	Chaplain, Oklahoma State Reformatory
Sexton, Margaret	Procedures Officer, Oklahoma State Penitentiary
Shea, Everett	Sergeant, Lexington Assessment & Reception Center
Sheik, Greg	Unit Manager, Charles E. "Bill" Johnson Correctional Center
Shields, Veryl	Unit 3 Manager, Lexington Assessment & Reception Center
Shpeyin, Shola	Unit Manager, Mabel Bassett Correctional Center
Silva, Pete	Chief Public Defender, Tulsa County
Simmons, Judy	Executive Assistant, Office of Internal Affairs, Department of Corrections
Simpson, Wally	Construction Maintenance Technician, John H. Lilley Correctional Center
Sipes, Cathy	Corrections Officer, Armory, Davis Correctional Facility
Sirmons, Marty	Warden, Oklahoma State Penitentiary
Skinner, George	County Commissioner, Cleveland County
Smith, Denise	Caseload Officer, Central District Community Corrections, Oklahoma County
Smith, Donald E.	Avalon Correctional Services
Smith, Sally Howe	Community Sentencing Planning Council, Tulsa County
Smith, Wayne	District Supervisor, Southwest District of Community Corrections
Somer, John	Unit E Manager, Joseph Harp Correctional Center
Spears, Scott	Probation Officer, Community Corrections, Southeast District
Stacy, Valery	Nurse, Jess Dunn Correctional Center
Standifird, Jane	Deputy Warden, Lexington Assessment & Reception Center
Steidly, J. Dwayne	District Judge, 12 <sup>th</sup> Judicial District
Stein, Marie	Secretary, B-Unit, Joseph Harp Correctional Center
Stell, Sid	Captain, Cleveland County Sheriff's Office
Stevens, Bob	Meat Processing Center Manager, Jackie Brannon Correctional Center

Stradley, Kenneth	Sheriff, Comanche County
Street, Dottie	Oklahoma Correctional Industries Manager, Oklahoma State Reformatory
Sullivan, Brenda	Business Manager, Lawton Correctional Center
Tandy, Ann	Residential Contract Administrator, Division of Community Corrections
Tarver, Reggie	Carver Center Assistant Supervisor, Avalon Corrections
Tavanello, Rod	Board President, Bridgeway Halfway House
Taylor, Bill	Correctional Teacher, Jackie Brannon Correctional Center
Taylor, James	Maintenance Supervisor, Lawton Correctional Center
Taylor, Paul	Teacher, Oklahoma State Penitentiary
Teetshorn, Marilyn	Business Manager, Jackie Brannon Correctional Center
Thomas, Jennifer	Correctional Officer, Jess Dunn Correctional Center
Thomas, Martinca	Sergeant, Eddie Warrior Correctional Center
Thomason, Butch	Correctional Case Manager, Oklahoma State Reformatory
Thornburg, Brian	Assistant District Supervisor-Probation and Parole, Southwest District
Thornton, Al	Recreation Supervisor, Jess Dunn Correctional Center
Tillman, Anthony	Senior Case Manager, Bridgeway Halfway House
Timms, Kristin	Classification and Population, Department of Corrections
Tipton, Shelly	Diversion Caseload Officer, Central District Community Corrections, Oklahoma County
Tomlin, Harold	Principal, Eddie Warrior and Jess Dunn Correctional Centers
Tomlinson, Bob	Industrial Coordinator, Oklahoma Correctional Industries
Toyer, Ann	Field Service Coordinator and GPS Coordinator, Department of Corrections
Tucker, Willie	Instructional Leader, Career Tech, Lexington Assessment & Reception Center
Tuggle, Terry	Unit D Manager, Jess Dunn Correctional Center
Turner, Johnny	Correctional Officer, Joseph Harp Correctional Center
Turner, Larry	Food Service, Joseph Harp Correctional Center
Tycret, Mark	Deputy Fiscal Director, Oklahoma House of Representatives
Tyler, Ebony	Female Caseload Officer, Central District Community Corrections, Oklahoma County
Underwood, Terry	Records Supervisor, Davis Correctional Facility
Upchurch, Dierdre	Diversion Caseload Officer, Central District Community Corrections, Oklahoma County
Van Orden, Owen	Lieutenant, Eddie Warrior Correctional Center
Vardell, Steve	Career Tech, Jess Dunn Correctional Center
Vaughan, Jeff	Correctional Industry Manager, Jackie Brannon Correctional Center
Vaughn, Esther	Correctional Activities Officer, Eddie Warrior Correctional Center
Vaughn, Marvin	Deputy Warden, Administration, Oklahoma State Reformatory
Vinsant, Dr. Terry	Psychologist, Eddie Warrior Correctional Center
Von Hagel, Patricia	Probation & Parole Officer, Enid Probation & Parole
Vose, George	Sr. Vice President & Chief Operating Officer, CiviGenics
Vu, Daniel	Network Planning Development Manager, Department of Corrections
Wabaunsee, Deadra	Nursing Manager, Oklahoma State Penitentiary
Wade, Mike	Business Manager, John H. Lilley Correctional Center
Wallace, Sean	Fiscal Analyst, State Senate
Walls, Tom	Chief of Staff, Oklahoma State Senate
Ward, Kevin	Commissioner, Department of Public Safety
Ward, Ronnie	Vice-President, Avalon Correctional Services
Ware, Earnest D.	Vice Chair, Board of Corrections
Warmington, Chad	Chief of Staff, Oklahoma House of Representatives
Warrior, Maurice	Unit B Manager, Jess Dunn Correctional Center
Watkins, Renee	Administrator, Private Prisons, Jails & Safety, Department of Corrections
Watson, Mabel	Material Management Supervisor, James Crabtree Correctional Center
Watson, Robert	Chief of Security, Lexington Assessment & Reception Center
Wattles, Mark	Correctional Record Office Supervisor, John H. Lilley Correctional Center

Watts, Emma	Warden, Jackie Brannon Correctional Center
Webber, John	Construction/Maintenance Administrator, Enid Community Corrections Center
Wedel, Terry	Unit A Manager, Joseph Harp Correctional Center
Welcher, Dobie	Information Services Network Manager Specialist, John H. Lilley Correctional Center
Weldon, Janet	Human Resources Management Specialist, Joseph Harp Correctional Center
West, Kelly	Case Manager , Eddie Warrior Correctional Center
Whetsel, John	Sheriff, Oklahoma County
White, Karen	Central District Supervisor, Community Corrections, Oklahoma County
White, Stephanie	Classification Case Manager Supervisor, Jess Dunn Correctional Center
White, Terri	Commissioner, Department of Mental Health & Substance Abuse Services
Whiteneck, Don	Institutional Farm Manager, James Crabtree Correctional Center
Whitten, Rick	Deputy Warden, Operations, Oklahoma State Reformatory
Wiafe, Melinda	Case Manager, Diversion Services, Tulsa
Wilkett, Cindy	Business Manager, Community Corrections, Department of Corrections
Wilkins, Rev. Tim	Faith and Character Program Coordinator
Williams, Frank	Physician Assistant, Lawton Community Corrections Center
Williams, George	Unit C Manager, Joseph Harp Correctional Center
Williams, Greg	Assistant Deputy Director, Field Operations, Department of Corrections
Williams, Ken	Unit Manager, Mabel Bassett Correctional Center
Williamson, Benito	Caseload Officer, Central District Community Corrections, Oklahoma County
Wilson, Barbara	Unit Manager, Lexington Assessment & Reception Center
Wilson, Elois	Chief of Security, Frederick Community Work Center
Wilson, Jim	Shift Lieutenant, Jackie Brannon Correctional Center
Wilson, Leon	Business Manager, Lexington Assessment & Reception Center
Wintz, Barbara	Probation/Parole Officer, Southeast District Community Corrections
Wiseman, Jon	Maintenance-Electrical, Davis Correctional Facility
Wiser, Ron	Comptroller, Offender Services, Department of Corrections
Wolgamott, Brad	Research Analyst, Oklahoma House of Representatives
Wood, J.C.	Probation & Parole Officer, Stillwater Probation & Parole
Wooden, Jacqueline	Lieutenant, Eddie Warrior Correctional Center
Woody, Jeff	Team Supervisor, Altus Probation & Parole
Wooten, Steve	COMIT Application Specialist, Department of Corrections
Workman, Bob	Principal, Davis Correctional Facility
Workman, Randall	Warden, Lexington Assessment & Reception Center
Wortham, David	Unit A Manager, Oklahoma State Reformatory
Wright, David	Decision Support Manager, Justice Systems, Department of Mental Health & Substance Abuse Services
Wright, Samantha	Corrections Officer, Armory, Davis Correctional Facility
Wyatt, Jan	Case Manager, Jess Dunn Correctional Center
Young, Sid	Maintenance Supervisor, Jackie Brannon Correctional Center
Zarella, Mike	Assistant District Supervisor, Community Corrections, Northwest District
Ziriaux, Paul	Republican Leadership Assistant, Oklahoma State Senate