

PERFORMANCE AUDIT REPORT

of the

Department of Corrections and Rehabilitation

November 24, 2004

Report No. 3022

November 24, 2004

Honorable John Hoeven, Governor

Members of the North Dakota Legislative Assembly

Transmitted herewith is the performance audit report on aspects of the Department of Corrections and Rehabilitation. This report contains the results of our study of the Department of Corrections and Rehabilitation, along with the results of a review performed by an independent consulting firm. This audit contained a review of the effectiveness of management and the administrative structure of the Department as well as a review of the efficiency and effectiveness of the resources used for housing adult offenders.

The audit was conducted at the request of the Legislative Audit and Fiscal Review Committee as well as pursuant to Chapter 666 of the 2003 Session Laws (special session). We conducted this audit under the authority of North Dakota Century Code Chapter 54-10. Included in the report are the goals and scope, findings and recommendations, conclusions, and the responses from the Department of Corrections and Rehabilitation.

We want to extend our appreciation to the management of the Department of Corrections and Rehabilitation and to the staff of the Department for their assistance and cooperation during this audit.

Sincerely,

Robert R. Peterson
State Auditor

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Executive Summary

Purpose and Authority of the Audit

The performance audit of the Department of Corrections and Rehabilitation was conducted at the request of the Legislative Audit and Fiscal Review Committee as well as pursuant to Chapter 666 of the 2003 Session Laws (special session). The purpose of this report is to provide our analysis, findings, and recommendations regarding our limited review of the Department.

Background Information

The Department of Corrections and Rehabilitation is responsible for the direction and general administrative supervision, guidance, and planning of adult and juvenile correctional facilities and programs within the state. The Department is comprised of two major divisions – the Division of Adult Services and the Division of Juvenile Services each of which have an institutional component and a community component.

Results and Findings

We reviewed management controls, applicable state laws, and selected operations of the Department of Corrections and Rehabilitation (DOCR). An independent consultant performed a review of treatment programs, medical costs and services, overcrowding of DOCR facilities, and management and administration. All recommendations are included in Appendix A. Discussions relating to individual recommendations are included in Chapters 2 through 7 of this report.

Overcrowding

Through a review of information as of September 2004, the independent consultant concluded that DOCR facilities were not overcrowded. A plan should be established so that convicted offenders would only be confined at DOCR if they were sentenced to a period of confinement of a year and a day or more. While pursuing this plan, the plans for constructing additional beds at the North Dakota State Penitentiary should be temporarily suspended but not the plans for improving the infirmary and medical areas. To reduce costs, as many inmates as possible should be transferred from a private prison to a DOCR facility.

Female Inmate Facility

Through tests and reviews performed, significant improvements were identified that need to be made at the New England facility used to house DOCR female inmates to ensure state resources are being used in an efficient and effective manner. If significant improvements are not made at this facility, DOCR should identify and review alternatives related to the housing of female inmates and pursue cost saving alternatives. In addition, higher custody female inmates should not be confined at the New England facility but housed in facilities operated by other states.

Significant changes are required relating to medical services at the New England facility. Improvements should be made to ensure Medicaid rates or the equivalent are obtained for all New England facility medical expenditures and an appropriate review of medical bills occurs prior to payment. In addition, DOCR should modify the contract for housing female inmates to require Departmental approval for all medical

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procedures anticipated to exceed \$1,000 and add incentives to control medical costs.

In order to reduce drug costs, the New England facility should become a member of a buying group or DOCR should provide drugs to the facility and be reimbursed accordingly. In addition, DOCR's pharmacist should oversee the pharmacy that provides drugs to the New England facility. The New England facility should only have necessary dental x-rays taken of the female inmates. With the significant improvements required of the facility, DOCR should have an employee on-site. DOCR's oversight responsibility with medical services at the facility needs clarification. In addition, a new Medical Director for the New England facility is required, rates for psychiatric services provided at the site need to be modified, and improvements with mental health assessments should be made.

DOCR Medical Service Delivery

Through a review performed by the independent consultant, they noted medical services were generally provided in an efficient, effective, and professional manner at DOCR's three adult facilities. DOCR should obtain state-funded positions for a dentist and a hygienist. If these positions are obtained, DOCR should determine whether the positions could be used for the juveniles at the Youth Correctional Center (YCC). Also, the dental visits to the James River Correctional Center (JRCC) should be increased in an attempt to reduce backlogs. Improvements should be made to dental policies that are resulting in additional costs and exceed accreditation standards.

Changes could be made at JRCC to improve the contracted pharmacy services provided. Additional staff is needed within the State Penitentiary's pharmacy. Also, YCC should use the pharmacy at the State Penitentiary to purchase drugs which should result in cost savings. DOCR should have a state-funded full-time position for a pharmacy technician rather than contracting for three part-time pharmacy technicians. Improvements with the distribution of certain medications should occur to reduce nursing and pharmacy staff time. In addition, DOCR should initiate an independent review of the use of psychotropic medications. The infirmary of the State Penitentiary needs significant improvement and an Electronic Medical Records (EMR) module is needed to facilitate ease of use for providers, and give real-time information and access to help improve quality and timeliness of medical care.

Daily Rates and Departmental Improvements

Through tests and reviews performed, we noted improvements were necessary in various Departmental areas. DOCR should develop formal policies and procedures for identifying daily rate information for inmates at their three adult facilities. DOCR should make necessary changes to ensure the information it provides is consistent and accurate and make improvements with the calculation used to identify recidivism rates.

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State law requirements related to good time granted to inmates for the purpose of reducing their sentence require modification to ensure the requirements are clear and concise. The Parole Board should review their policies and procedures with the Office of Attorney General and ensure legal assistance is periodically obtained. The processes and procedures used in identifying the count of inmates needs improvement and North Dakota Century Code sections require change to make them clear, concise, consistent, and up-to-date.

Management and Administrative Structure

Through tests and reviews performed, we noted that changes could be made to improve upon an already generally effective management and administrative structure. DOCR employee salaries need to be increased and additional staff are needed. A unit or division to direct and oversee the functions and operations of DOCR is needed, a position with system-wide responsibility to oversee all treatment services should be created, and a funded position for a Prisons Division Director should be established.

Areas related to contracting and human resources should be centralized within DOCR. In addition, a department-wide strategic plan and master plan should be developed. The information systems used by the Prisons Division and Field Services Division should be integrated. Department-wide policies should be established regarding temporary employees receiving and using administrative leave. Finally, improvements can be made with DOCR's policy manuals as well as areas related to employee training.

Treatment Programs

Through a review performed, the independent consultant concluded that, overall, the treatment programs provided were adequate and effective and were provided in an efficient and timely manner. Improvements could be made to enhance the adequacy of treatment programs including having community residential substance abuse treatment programs for offenders with short-term sentences. Additional substance abuse staffing was needed at DOCR and a day treatment program should be added to a transition center. Also, vocational education programs available to inmates should be expanded.

Improvements could be made at long-term, in-house residential treatment programs to enhance the effectiveness of treatment. In addition, DOCR needs to design a program evaluation feedback system to obtain both intermediate and follow-up outcome data. DOCR should clarify the responsibility of contract service providers to address findings that are identified in reviews of treatment programs. DOCR medical staff need to closely monitor advances in the research and treatment of meth addiction and adjust treatment accordingly.

Introduction

Purpose and Authority of the Audit

The performance audit of the Department of Corrections and Rehabilitation (DOCR) was conducted by the Office of the State Auditor at the request of the Legislative Audit and Fiscal Review Committee at their March 5, 2001 meeting. In addition, Chapter 666 of the 2003 Session Laws (special session) requested the Office of the State Auditor to consider conducting a performance audit of DOCR during the 2003-2005 biennium. As stated in this Session Law, if a performance audit was to be conducted, the results were to be presented to the Legislative Audit and Fiscal Review Committee and to the Appropriations Committees during DOCR's budget presentation during the 59th Legislative Assembly.

A performance audit is an objective and systematic examination of evidence to provide an independent assessment of the performance and management of a government organization or program against objective criteria. Performance audits provide information to improve program operations and facilitate decision-making by parties with responsibility to oversee or initiate corrective action and improve public accountability. The purpose of this report is to provide our analysis, findings, and recommendations regarding our limited review of DOCR.

Background Information

DOCR is responsible for the direction and general administrative supervision, guidance, and planning of adult and juvenile correctional facilities and programs within the state. DOCR was created in 1989 when separate agencies established for correctional institutions, parole and probation, and adjudicated juveniles were combined.

The Director of DOCR is appointed by the Governor. In addition to a Central Office, DOCR has established two major divisions: the Division of Adult Services and the Division of Juvenile Services. Each of these major divisions has an institutional component and a community component.

Division of Adult Services

The Division of Adult Services is comprised of a Prisons Division and Field Services Division. The Prisons Division operates the following three incarceration facilities for adult inmates:

- North Dakota State Penitentiary – maximum security facility located in Bismarck;
- James River Correctional Center – medium security facility located in Jamestown; and
- Missouri River Correctional Center – minimum security facility located south of Bismarck.

The Field Services Division manages adult offenders in the community. This includes offenders serving their sentences on parole, offenders sentenced to probation supervision by the courts, and community placed inmates from the Prisons Division. In addition, the Field Services

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Division manages the administrative support duties for the North Dakota Parole Board and the North Dakota Pardon Advisory Board.

Division of Juvenile Services

The Division of Juvenile Services is comprised of the Youth Correctional Center (YCC) and the Community Services Division. YCC is located in Mandan and serves as a secure detention and rehabilitation facility for adjudicated juveniles who require the most restrictive placement and maximum staff supervision. The Community Services Division provides intensive case management for juveniles committed to the Division of Juvenile Services' care, custody, and control.

2003-2005 Biennium

For the 2003-2005 biennium, DOCR's budget appropriation was approximately \$115 million (an increase of approximately 12% from the previous biennium) and the Department was authorized for approximately 644 full-time equivalents. Of the \$115 million, approximately 71% is general funds, approximately 14% is federal funds, and approximately 15% is special funds.

In discussions with DOCR representatives, they identified a budget deficit of approximately \$1.25 million is expected for the Division of Adult Services for the biennium (based on their budget projections as of the end of October 2004). Included in this deficit is an anticipated \$800,000 increase for services at the State Hospital for fiscal year 2005. In addition, DOCR noted that the male inmate population has exceeded the projections used in the appropriated amount which has resulted in additional costs. In a limited review of DOCR information, the projected budget deficit amount appears reasonable.

Goals of the Audit

North Dakota Century Code Section 54-10-01 requires our office to conduct performance audits in accordance with generally accepted government auditing standards. The goals of our audit, listed below, include the necessary elements of a performance audit conducted in accordance with generally accepted government auditing standards.

Goal One

Is management and the administrative structure of the Department of Corrections and Rehabilitation effective?

Goal Two

Is the current placement of adult offenders providing for the most efficient and effective use of resources?

A Request for Proposal (RFP) that sought competitive bids from consultants with expertise in the area of corrections was sent to selected organizations. The four areas outlined in the *Scope of Services* section of the RFP were:

- Treatment Programs
- Medical Costs and Contracted Medical Services

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- Overcrowding at DOCR Facilities
- Management and Administration

Based on proposals received, a contract was awarded to the consulting firm of Criminal Justice Institute, Inc.

Scope & Methodology

This audit was conducted in accordance with generally accepted government auditing standards and includes appropriate performance auditing and evaluation methods. Audit fieldwork was conducted from the end of June 2004 through November 2004. The audit period for which information was collected and reviewed was July 1, 2001 through June 30, 2004. In certain cases, additional information was reviewed. This was done, in part, to obtain prior information on DOCR and to provide updated information regarding changes that occurred after June 30, 2004 including the transferring of all female inmates outside of a DOCR facility. Specific methodologies are identified in the respective chapters of this report.

Issue Requiring Further Study

“Government Auditing Standards” requires disclosure of significant issues identified during an audit that were not reviewed in depth. These are issues which are not directly related to the audit objectives or which the auditors did not have the time or resources to study. We identified one issue that could be reviewed further relating to Licensed Addiction Counselor standards.

In discussions with representatives of DOCR, they noted a problem with filling Licensed Addiction Counselor positions. DOCR representatives stated that this problem was due, in part, to the standards that North Dakota had established with these positions in comparison to other states. Through a limited review of Licensed Addiction Counselor standards, it appears standards in North Dakota are stricter than licensing standards in the three surrounding states.

A review could be performed to determine if standards are having an effect on other state government Licensed Addiction Counselor positions as well as to determine whether changes are necessary to the current standards.

Overcrowding

Introduction

One of the areas the independent consultant, Criminal Justice Institute (CJI), was requested to review related to assessing the nature and extent of overcrowding at the Department of Corrections and Rehabilitation (DOCR) facilities as well as offering solutions to address these conditions. At the time the review was conducted by CJI (October 2004), the consultant concluded that DOCR facilities were not overcrowded. CJI noted that DOCR has been planning how to manage its male and female inmate population to avoid and prevent overcrowding of the facilities it operates and those with which it contracts. CJI identified improvements that could be made to reduce expenditures and improve institutional operations. However, the improvements require direct involvement and decision making by state and local officials in addition to DOCR. The consultant identified a plan was needed so that convicted offenders would only be confined at DOCR if they were sentenced to a period of confinement of a year and a day or more. While pursuing this plan, CJI noted the plans for constructing additional beds at the State Penitentiary should be temporarily suspended but not the plans for improving the infirmary and medical areas. The consultant identified inmates could be transferred between DOCR facilities in order to bring back inmates housed at a private prison sooner than originally planned assuming the male inmate population remains at or below the September 2004 level.

CJI performed a limited review of DOCR's inmate projections for the 2005-2007 biennium (projections made in mid-2004). CJI identified that with the current number of beds available in the facilities DOCR operates and with those for which it contracts, there would be a shortfall of beds for both male and female inmates in the upcoming biennium. CJI concluded that DOCR's proposed plans to address the shortfall appeared to provide adequate bed space for the projected growth in inmates. However, these plans are contingent on additional funds being provided to DOCR to create additional bed space and improve programming to reduce the average daily population.

Analyzing Overcrowding

Criminal Justice Institute (CJI) reviewed information relating to the most recent month that DOCR inmate population information was available (September 2004). CJI analyzed information related to both male and female inmates and determined the Department facilities were not overcrowded at that time. Information regarding the review performed is identified in the following two subsections.

Male Inmates

DOCR operates the following three facilities, all of which currently confine only male inmates (August 12, 2004 was the last day female inmates were in a DOCR facility):

- State Penitentiary: maximum security facility located in Bismarck;
- James River Correctional Center (JRCC): medium security facility located in Jamestown; and

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- Missouri River Correctional Center (MRCC): minimum security facility located south of Bismarck.

CJI notes the three facilities have a total of 1,088 beds and it is their opinion that the facilities have an operating capacity of 988 inmates. The 100 beds excluded by CJI from the total number of beds include 40 restricted use beds for medical and disciplinary purposes; beds for inmates on a temporary leave status (inmate away from the facility for short period of time, such as hospital stay or at a county facility for a court hearing, and DOCR does not fill the vacated bed); and 6% of the total beds at the State Penitentiary, 3% at JRCC, and 2% at MRCC to provide managers with the flexibility to more easily move inmates within and between facilities.

From January 1, 2004 through April 30, 2004, the average daily population of DOCR's three facilities was 1,001. For the month of September 2004, the average daily population of DOCR's three facilities was 952 inmates, leaving, on an average day, an unused capacity of 36 beds. Since that time, the inmate population has seen an increase. Based on inmate data provided by DOCR, the average daily population of DOCR's three facilities was 974 for October 2004 and 979 for November 2004.

DOCR information identified the male inmate average daily population for September 2004 was 1,167 of which 952 were confined in the three facilities operated by the DOCR. The remaining 215 male inmates were confined in facilities operated by other public entities and by private providers. Examples include the Tompkins Rehabilitation Correctional Center (TRCC) operated by the Department of Human Services' State Hospital in Jamestown; Prairie Correctional Facility (private prison) operated by the Corrections Corporation of America in Appleton, Minnesota; Bismarck Transition Center (BTC) operated by Community, Counseling, and Correctional Services, Inc.; and county jails located throughout the state.

The beds in these facilities provide DOCR with the option to confine inmates that under other circumstances would have to be housed in a facility operated by DOCR. CJI concluded that the bed space capacity of these facilities exceeds the number of inmates currently confined in them and, if necessary, could house inmates in excess of the 215 currently confined in them. CJI noted that there were 13 underutilized beds at TRCC and BTC. In addition, there are a number of empty beds at the private prison (approximately 850 empty beds) and a large but undetermined number of beds in other correctional systems. As a result, DOCR has a sufficient pool of non-DOCR beds to provide confinement for its 1,167 male inmates.

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Female Inmates

After August 12, 2004, all female inmates are confined in facilities not operated by DOCR. The majority of female inmates are housed at the Dakota Women's Correctional Rehabilitation Center (DWCRC) in New England which is operated by the Southwest Multi-County Correctional Center. Examples of additional facilities used include TRCC and the Female Transition Program in Fargo and Bismarck operated by Centre, Inc.

The facilities with which DOCR contracts for female inmates contain a total of 156 beds. In addition, two beds are currently used on a temporary basis in local jails making a total of 158 beds. To estimate the number of beds available for a safe and reasonable operation, the restricted use beds (14) and the flex-beds (4) are subtracted from the total number of beds, resulting in a safe and reasonable capacity of 140 beds. The Average Daily Population (ADP) for female inmates during September 2004 was 126. As a result, 14 beds were available, but not in use, for female inmates. In addition, other beds might be available on a temporary basis in county jails if required or needed. Since that time, the female inmate population has seen an increase. Based on inmate data provided by DOCR, the average female daily population was 128 for October 2004 and 138 for November 2004.

Making Changes with Confinement of "Short-Term" Inmates

According to DOCR, in calendar year 2003, 457 of 998 inmates admitted to DOCR (approximately 46%) were to serve less than 365 days in DOCR's custody prior to their anticipated, or "good time," release date. CJI notes that in most states offenders serve short sentences in county jails and most of the 457 inmates were probably confined in a county jail prior to their arrival at the State Penitentiary. As a result, their already short stay with DOCR was shortened even more by the number of days they were confined in county jail. Many of these "short-term" inmates are unable to benefit from the treatment programs offered by DOCR because they are released before they can complete them, even though one of the major reasons the courts may have committed them to DOCR was so they would benefit from participating in those very programs.

A plan to confine "short-term" inmates in local jails or in community-based programs will reduce DOCR's inmate population.

If a plan could be formulated and approved for confining a number of these inmates with short sentences in local jails or in community-based programs without ever being processed through the Orientation Unit at the State Penitentiary, the demand for additional orientation bed space would be eliminated. As the number of new admissions is reduced, the need for increasing the number of cells in an Orientation Unit is also reduced. A hired architect has identified a plan for remodeling and adding a new building at the State Penitentiary. This plan is to assist the State Penitentiary meet its infirmary, orientation, and segregation needs. The estimated cost for the plan is approximately \$29 million, exclusive of any financing costs. Of this amount, approximately 24% is for the proposed building cost of the Orientation Unit; 14% is for the building costs of the infirmary and medical area; 13% is for the building costs for

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segregation beds; and the remaining 49% is attributed to demolition, site work, fees, fixtures, and other building improvements.

CJI notes that a plan for confining inmates with short sentences outside of DOCR facilities will require the allocation of additional resources to local jails, community-based programs in affected counties, and to DOCR's Field Services Division staff to ensure its success. If the plan for confining inmates with short sentences outside of DOCR were implemented, it will reduce both the number of admissions and the average daily population of DOCR. This could have an effect on certain aspects of the proposed plan for remodeling the State Penitentiary. For example, if the plan were to reduce the number of new admissions, the costs associated with the proposed Orientation Unit (building cost of approximately \$7 million) may be avoided. However, CJI noted that regardless of whether a plan for diverting these short-term inmates is implemented or not, there are aspects of the proposed plan for remodeling that must move forward, especially in the infirmary and medical area.

A plan to have short-term inmates being diverted from DOCR will require direct involvement and decision making by state policy makers, local correctional representatives, and court representatives in the formulation of such a plan and the assessment of the impact it will have. If the state were to determine not to implement such a plan, CJI noted that DOCR should then proceed with all aspects of the capital construction project as currently proposed by an architect. CJI concluded that either the short-term inmates are diverted from DOCR or all contemplated additions and renovations must be accomplished.

Recommendation 2-1

CJI recommends the Department of Corrections and Rehabilitation take appropriate action to formulate and implement a plan to confine convicted offenders under the jurisdiction of the Department only if they have more than a year and a day to serve when they are physically placed in the Department's control. This plan will require the active involvement of state policy makers, court representatives, and local officials.

Management's Response

The DOCR agrees that a plan to confine convicted offenders under the jurisdiction of the Department only if they have more than a year and a day to serve when they are physically placed in the Department's control would reduce the number of inmate admissions to the DOCR. In order for this recommendation to be implemented a comprehensive study would be necessary involving all segments of the criminal justice system in order to determine the impact on the DOCR, the courts, the offenders, and the jails that would be required to house these short sentenced inmates. Statutory changes would also be necessary to implement this plan.

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Recommendation 2-2

CJI recommends the Department of Corrections and Rehabilitation temporarily suspend the plans for constructing reception/orientation beds at the State Penitentiary and other proposed bed space additions, except for the improvements to the infirmary and medical areas, until the impact of implementing the preceding recommendation can be determined. If the state determines not to implement the plan, CJI recommends proceeding with all aspects of the capital construction project as currently proposed by an architect.

Management's Response

The DOCR agrees that if short sentenced inmates could be diverted from the DOCR, a new orientation unit may not be necessary. As recommended by CJI, a new infirmary is needed and we believe, regardless of any impact that could be achieved in reducing the inmate population by redirecting short sentenced inmates, the additional administrative segregation cells are also needed. The type of inmate that is housed in administrative segregation seldom receives a short sentence. The new orientation unit/additional housing beds (which would replace the east cell block beds) represents less than 50 per cent of the cost of the project. We agree that if the state disagrees with a change in policy for how offenders are sentenced and placed, then the entire construction project needs to be approved.

Reallocating Inmate Population within DOCR

In relation to the three facilities operated by DOCR, CJI identified an operating capacity at each facility by identifying the beds available at each facility and removing beds restricted for medical and disciplinary purposes, beds for inmates on temporary leave status, and a percentage of beds to provide managers with the flexibility to more easily move inmates within and between facilities. This analysis is identified in the following table:

Table 1				
DOCR Operating Capacity				
Facility	Total Beds	Restricted Beds	Flex-Beds	Available Beds
State Pen	551	24	39	488
JRCC	387	16	18	353
MRCC	150	0	3	147
Totals	1,088	40	60	988

CJI reviewed custody levels of the male inmates housed at the three DOCR facilities as of October 5, 2004 and noted that there were a number of inmates currently confined in facilities whose custody level was significantly below the security level of the facility in which they were housed. While there are a number of reasons why this may occur (i.e. segregation issues or an inmate completing a treatment program), CJI noted certain transfers could be made. Assuming the male inmate population remained at or below the September 2004 level, CJI concluded that transfers could take place between the three facilities which could provide space within the State Penitentiary and JRCC to

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allow DOCR to have certain inmates housed at the private prison in Appleton, Minnesota returned to DOCR. In DOCR's proposed budget to the Office of Management and Budget, the Department identified a plan for creating additional bed space and improving programming to inmates in an effort to reduce the inmate population. If these plans were funded, DOCR anticipated that sufficient bed space would be available to bring back the inmates from Appleton by December 2005. CJI noted that, assuming the male inmate population remains at or below its level in September 2004, the inmates confined at Appleton could be brought back sooner.

CJI noted that bringing the male inmates back from Appleton avoids the boarding expense for these inmates (approximately \$72,000 in September 2004 with an average daily population of 45 inmates at the private prison). Thus, by returning those inmates to DOCR facilities, that expense would be avoided each month, although a portion of that savings is offset by the cost of confining those same inmates in DOCR facilities. However, DOCR will not have to absorb the entire daily inmate cost with the return of these inmates as only a marginal daily cost would be incurred (variable costs). While no national standard exists for marginal costs and DOCR data was not readily available to identify such an amount, CJI provided a conservative estimate of 20% of the full daily rate (approximately \$68/day at the State Penitentiary). On that basis, the marginal cost is \$13.60 per inmate per day [$\$68 \times 20\% = \13.60]. When compared to the daily rate paid of \$52.50 for confining an inmate at Appleton, a savings of \$38.90 per day is realized. Thus, for each inmate that could be returned from Appleton to a DOCR facility, approximately \$1,167 per inmate per month could be saved (using a 30 day month). Using a population of 45 inmates, a savings of \$52,515 a month is realized. As of December 14, 2004, DOCR identified that there were 35 inmates at Appleton which, if all 35 were brought back to a DOCR facility, would result in a savings of approximately \$40,845 a month.

If DOCR inmates housed at a private prison were returned to a DOCR facility, approximately \$1,167 per inmate per month could be saved.

Recommendation 2-3

CJI recommends the Department of Corrections and Rehabilitation make even better use of the beds at the three adult facilities it operates and, assuming the male inmate population remains at or below its level in September 2004, return as many inmates as possible from Appleton, Minnesota to a Department facility to reduce costs.

Management's Response

The DOCR agrees that it would provide cost savings to be able to bring back inmates from Appleton and agrees that if the male inmate population had remained at or below its level in September 2004, the Department would have returned as many inmates as possible from Appleton. The DOCR always strives to maximize the use of its prison facilities.

The inmate average daily population in September 2004 was lower within the DOCR facilities than at any other time during the biennium because the higher custody women had just been transferred in August

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to New England and some of the vacant beds resulting from this transfer had not yet been filled. Because the Department was not certain when the higher custody women would be transferred it was difficult to plan ahead with respect to filling beds with appropriately classified inmates. The DOCR had made the decision not to return inmates from Appleton because the Department didn't want to negatively affect the Appleton contract. Also, based upon history, the DOCR anticipated that the number of inmate admissions during September and October would be high and that any vacant beds could be filled by these admissions; as was anticipated the admissions were high and the beds were filled.

As stated by CJI, there are reasons why inmates are confined in facilities with a custody level that is higher than the custody level of the facility in which they are housed. Some of the reasons that DOCR minimum custody inmates are housed at the higher custody JRCC and at the Penitentiary include that they have lost their minimum custody housing based upon their behavior, they have felony detainers, they have an escape on their record, they are sex offenders, they have more than two years remaining on their sentence to serve or they are participating in programming that is not available at the lower custody MRCC. The DOCR believes that it does an efficient job utilizing the available bed-space, within classification requirements.

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Introduction

One of the goals of this performance audit was to answer the following question:

“Is the current placement of adult offenders providing for the most efficient and effective use of resources?”

Through tests and reviews performed, we noted significant improvements were needed at the New England facility used to house female inmates to ensure state resources were being used in an efficient and effective manner. If significant improvements are not made at this facility, the Department of Corrections and Rehabilitation (DOCR) should identify and review alternatives related to the housing of female inmates and pursue cost saving alternatives. Alternatives to consider include determining a cost to lease or buy the New England facility and use state employees to operate the facility, or identify other placement options. The independent consultant, Criminal Justice Institute (CJI), identified that higher custody female inmates should not be confined at the New England facility but housed in facilities operated by other states.

One of the areas CJI was requested to review was to determine if DOCR contracted medical services were efficiently and effectively provided and to conduct an evaluation of the overall health care provided to inmates to determine if it was provided in a sufficiently efficient and effective manner. As part of this review, CJI noted significant changes were required relating to medical services at the New England facility. CJI noted that the Medical Coordinator at the facility had begun to address many of the areas identified and the staff at the facility that are now in charge appear to be dedicated and capable and were just beginning to address many of the areas that were apparently not managed properly by their predecessors.

Improvements were noted as being needed to ensure Medicaid rates or the equivalent are obtained for all New England facility medical expenditures and an appropriate review of medical bills occurs prior to payment. DOCR should modify the contract for housing female inmates to require Departmental approval for all medical procedures anticipated to exceed \$1,000 and add incentives to control medical costs.

Areas related to pharmacy services pertaining to the New England facility were identified as needing improvement. In order to reduce drug costs, the facility should become a member of a buying group or DOCR should provide drugs to the facility and be reimbursed accordingly. In addition, DOCR's pharmacist should oversee the pharmacy that provides drugs to the New England facility.

The New England facility should only have necessary dental x-rays taken of the female inmates. With the significant improvements required of the facility, DOCR should have an employee on-site. The contract with the facility is in need of modification to clarify DOCR's oversight responsibility with medical services. In addition, a new Medical Director

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for the New England facility is required, rates for psychiatric services provided at the site need to be modified, and improvements with mental health assessments should be made.

The improvements noted on the previous page and above are discussed in this chapter and improvements of less significance were communicated to management in a separate letter.

To determine whether current placement of adult offenders was providing for the most efficient and effective use of resources, we:

- Identified and reviewed placement options for DOCR's inmates;
- Identified where all DOCR inmates were placed as of June 30, 2004;
- Determined a daily rate as of June 30, 2004 for the placement options used (date regarding daily rates is identified in Chapter 5, *Daily Rates Identified* section); and
- Interviewed selected DOCR staff and representatives of the New England facility.

Timeline of Events

Through a review of documentation and discussions with DOCR personnel, information related to the contracting for housing female inmates was identified. The following is information related to the selection of the facility to house female inmates, contract negotiations, acceptance of the female inmates, and costs. While this information does not include every event that transpired with the New England, it does highlight areas we have determined to be significant. Through a review of correspondence between DOCR and a representative of the New England facility, correspondence between state agencies, and discussions with DOCR personnel, it is apparent that DOCR made numerous attempts to cooperate with and offered assistance to the New England facility in order to assist the facility in accepting female inmates.

Selection of New England Facility

The Executive Budget Recommendation for the 2003 Legislative Session included a budget request for DOCR to purchase a building from the Department of Human Services' State Hospital and use the building to house female inmates. This building was on the same campus as DOCR's medium security facility located in Jamestown (James River Correctional Center). A determination was made by the 2003 Legislature that DOCR would contract with a county facility to house female inmates and enacted appropriate legislation.

We performed a limited review of information related to the two options considered by the Legislature to house female inmates – 1) purchasing a building from the State Hospital and housing all female inmates in a DOCR facility; and 2) contracting with a county to house all female inmates. Our review was hampered by a lack of formal documentation regarding the information used to determine to contract with counties to house female inmates and there appears to have been verbal

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The 2003 Legislature determined that DOCR female inmates would be housed in a county facility and only one county option was available for DOCR.

agreements/understandings with certain county representatives. Based on a review of DOCR proposed costs and projection information related to the two options, it appears the option to purchase a building from the State Hospital and have all female inmates in a DOCR facility would have saved over \$450,000 in salary and operating costs in the biennium compared to the option to house the female inmates at the county level.

In June 2003, DOCR sent a Request for Proposal (RFP) to county facilities requesting information related to counties housing DOCR's female inmates. The RFP identified a daily rate of \$67 per inmate plus \$5.15 per day per inmate for medical costs. According to DOCR, these rates were used by the Legislature in developing the appropriation amount for the female contracted facility. After the closing date of the RFP (July 7, 2003), DOCR had received three responses and after preliminary discussions were held, two of the counties determined they would not be able to house female inmates. As a result, one option was available – the Southwest Multi-County Correctional Center (SWMCCC) which proposed housing females at a converted educational facility in New England. SWMCCC is a county consortium comprised of six counties which was operating a corrections center in Dickinson. The proposal submitted by SWMCCC was received by DOCR via fax and did not appear to provide all the information requested in the RFP. The Director of DOCR noted that since DOCR was mandated to contract with a county facility to house female inmates, there was no other choice but to use the proposal and work with SWMCCC.

Contract Negotiations

After the initial meeting with a representative of SWMCCC to discuss the submitted proposal, DOCR stated it was obvious the rates identified in the RFP were not acceptable to SWMCCC. Since DOCR was required to contract with a county facility to house female inmates, it appears the Department's negotiation power was limited. This appears to have placed the state in a position where it had very limited negotiating power in regards to establishing a contract price as well as establishing requirements within the contract.

With only one option available to house female inmates, DOCR's contract negotiation power was limited.

A contract was entered into with SWMCCC on September 2, 2003 with the following compensation requirements:

- A daily rate of \$77.73 per inmate;
- An additional \$12 per day per inmate for those receiving treatment services; and
- Included in the daily rate was \$15.50 which was to be deposited in a separate medical expenditure account and if this account had a negative balance of more than \$50,000, DOCR was to pay the amount needed to bring the account back to a negative balance of \$50,000.

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Acceptance of Female Inmates

The New England facility became known as the Dakota Women's Correctional Rehabilitation Center (DWCRC) and in a review of information, we noted a number of delays with the facility accepting DOCR's female inmates. During these delays, we noted DOCR was working, cooperating, and offering assistance to minimize delays related to the facility accepting the female inmates. In relation to the New England facility accepting the minimum security inmates, a brief timeline of events is below:

- While the contract was entered into on September 2, 2003, a SWMCCC representative informed an interim legislative committee in June 2003 that they were planning on accepting female inmates on August 1, 2003.
- On September 24, 2003, a SWMCCC representative informed DOCR that it would take as long as October 13, 2003 before female inmates could be accepted.
- On September 30, 2003, a SWMCCC representative asked for more time to get the facility ready.
- On October 22, 2003, a SWMCCC representative stated the facility was almost ready to take the female inmates.
- On November 17, 2003, the first minimum security female inmates arrived at the New England facility.

A number of delays with the New England facility accepting DOCR female inmates were identified. The reasons for the delays contradict information regarding the readiness of the New England facility as reported by a representative of SWMCCC.

We also noted a number of delays with the New England facility accepting the medium and close custody inmates. In the time between the New England facility accepting the minimum security inmates and the medium and close custody inmates, female inmates were housed at the James River Correctional Center.

- The contract entered into on September 2, 2003 stated the New England facility was to be ready to house medium and close custody inmates by January 1, 2004.
- On January 15, 2004, a SWMCCC representative reported to an interim legislative committee that they were hopeful certain projects could be completed by April 2004.
- In February 2004, DOCR toured the New England facility and identified a number of renovation and remodeling projects that needed to be completed. A number of those remodeling projects had already been addressed in May 2003 with a SWMCCC representative but work on these projects had not been started. DOCR also identified a similar list of projects needing completion in July and October 2003.
- On April 14, 2004, a SWMCCC representative reported to an interim legislative committee that they planned to have medium custody inmates in the New England facility sometime in June 2004.
- On June 17, 2004, a SWMCCC representative reported to an interim legislative committee that the New England facility would be ready to house inmates in July 2004.
- On August 11, 2004, the first medium security female inmates arrived at the New England facility.

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The delays noted appear to conflict with information we identified regarding the readiness of the New England facility as reported by a representative of SWMCCC. For example, we identified two newspaper articles in March 2003 in which a representative of SWMCCC stated that it would not take long to have the New England facility ready to take female inmates and that the facility was basically ready to be occupied.

It should be noted that while there were a number of delays in the New England facility accepting DOCR female inmates, the delays may have resulted in a cost savings to DOCR. This is due to the New England facility having the highest daily inmate cost of any placement option used by DOCR for inmates (see Chapter 5, *Daily Rates Identified* for information on daily rates). Since significantly lower costs were incurred for housing inmates at facilities other than New England, DOCR was able to avoid the higher daily costs for a period of time.

Costs

In a letter to a Legislator in March 2003, a representative of SWMCCC identified a daily cost for housing inmates at \$67 per day plus \$12 per day for inmates requiring specialized treatment. The \$67 per day rate is the rate identified by DOCR in the RFP sent to counties requesting information for housing female inmates at the county level. The contract entered into with SWMCCC is for \$77.73 per day per inmate, plus an additional \$12 per day per inmate for those in treatment (the New England facility now conducts orientation of female inmates and \$12 per day per inmate is provided for inmates in orientation). However, while \$15.50 is included in the daily rate for medical costs, DOCR is required to pay any and all medical expenditures that exceed \$50,000 over what the medical daily rate does not cover during the contract period (September 2, 2003 through June 30, 2005).

The contract to house DOCR inmates at the New England facility identifies an inmate daily rate of \$77.73 (of which \$15.50 is for medical) plus an additional \$12 per day per inmate for those in treatment. DOCR is also required to pay any and all medical expenditures that exceed \$50,000 over what the medical daily rate does not cover in the 2003-2005 biennium.

In a review of information, we identified DOCR will be paying additional medical costs for the female inmates at the New England facility. However, due to billing problems with the hospital in Dickinson (used for the female inmates), we were unable to determine the amount DOCR will be liable for. During a visit to SWMCCC in the middle of October 2004, representatives noted the hospital in Dickinson had not submitted a bill for services since the end of March 2004, even though services had been provided to female inmates during this time. It appears this was due to confusion related to the amount the hospital was to bill for services. In November 2004, DOCR officials noted that to resolve this billing problem, they would use the Medicaid system of the Department of Human Services for the Dickinson hospital billings in order for appropriate rates to be identified (a modification to the contract was to take place to revise the compensation amount).

Using information related to payments made by DOCR for the housing of female inmates, we identified a daily rate as of June 30, 2004 for the New England facility. However, since DOCR is liable for paying additional medical expenditures, the daily rate identified through payment information would be higher. Based on information provided by

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Due to apparent billing problems with a hospital in Dickinson, it is unclear what DOCR will eventually have to pay for female inmate medical expenditures.

SWMCCC, as of June 30, 2004, DOCR would need to pay an additional \$59,000 in medical costs. As previously identified, this amount would be higher due to hospital services provided to female inmates not being billed in a timely manner. SWMCCC staff noted attempts had been made with the hospital to identify an amount owed but no amount was provided by the hospital. When we discussed this situation with representatives of the hospital on October 14, we were provided an aging account identifying approximately \$80,000 for services provided to female inmates. It is unclear how many of the accounts have been adjusted to lower rates so no conclusion is made as to what SWMCCC, and thus DOCR, will actually have to pay.

Using information provided by SWMCCC for the period of November 2003 through June 2004, we identified a daily rate for the female inmates to be \$83.55. However, it must be noted that the actual rate is higher as an amount for hospital services provided from April through June was unable to be determined. This daily rate was identified as the highest rate of any placement option used by DOCR to house an inmate. In addition, the rate is higher than what was apparently provided to Legislators during the 2003 Legislative Session.

Determining Whether to Continue to Contract with the New England Facility

Through a review of information related to costs and areas in which improvements are needed at the New England facility, we determined significant work will need to be performed by DOCR to determine whether sufficient progress is being made by the facility. CJI did note the staff at the New England facility that were now in charge, appear to be dedicated and capable and were beginning to address many of the areas that were apparently not managed properly by their predecessors.

The independent consultant identified that the New England facility needed improvements in a number of areas in order to improve efficiency and effectiveness. These improvements were identified in the medical area and since DOCR is responsible for medical costs that exceed a certain amount, the Department needs to ensure appropriate changes are made.

Through a review of information related to daily rates as of June 30, 2004, we identified that the New England facility had a significantly higher daily rate than any other facility used to house inmates. The daily rate for the facility was identified as \$83.55 but this amount is actually higher as all medical costs incurred at a local hospital during fiscal year 2004 were not included due to confusion between the hospital and the facility as to what was to be billed for services provided at the hospital. DOCR has three facilities to house inmates and the daily rate identified for all three facilities in fiscal year 2004 was \$65.52.

CJI noted that female inmates have a much higher utilization of health care services, including mental health care. Generally, they have more chronic illnesses, require OB-GYN services, have more substance abuse

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problems, are prescribed more medications, suffer from domestic violence, and may have utilized services in the community more frequently. They often times neglect their own health to take care of a “loved” one.

While the medical costs incurred for female inmates are expected, on average, to be higher than for male inmates, the current housing rate for the female inmates is \$62.23. We identified the housing rate of the three DOCR facilities for fiscal year 2004 was \$55.69 (New England facility rate approximately 12% higher). In October 2004, a representative of the New England facility identified an estimated housing rate for the 2005-2007 biennium. The estimated per day housing cost was identified at \$69.57 (no medical costs included as the facility was not sure of medical costs at the time). This estimated housing cost is approximately 12% higher than what the current housing rate is pursuant to the contract with DOCR.

In reviewing information related to the New England facility, we noted that a representative of SWMCCC presented information regarding costs and other data regarding the facility. We were informed by representatives of SWMCCC that they were unable to find supporting documentation as this SWMCCC employee, as well as the employee who assisted in identifying such data, were no longer employed. In October 2004, information was provided by a representative of the New England facility to an interim legislative committee. In review of the information presented, we noted calculation errors and the information presented appeared to be inaccurate.

Significant changes need to occur with the New England facility. If this does not happen, DOCR should identify alternatives for housing female inmates and pursue alternatives that can result in cost savings.

The independent consultant has identified a number of areas where cost savings could occur at the New England facility. With DOCR’s expertise in the area of housing inmates, additional cost savings may be identified by DOCR that could be implemented at New England. However, if changes are not made by the facility and costs continue to be significantly higher than other placement options, DOCR will need to review and identify other placement options to determine whether a more reasonable option for housing female inmates is available. If a determination is made to pursue a different option, state law requirements for the housing of female inmates will need modification.

Recommendation 3-1

We recommend the Department of Corrections and Rehabilitation take the following actions related to the New England facility:

- a) Enter into a one or two year contract for the housing of female inmates;
- b) Work with the facility to implement recommendations for the cost savings identified in the audit as well as identifying additional areas where costs can be saved; and
- c) Adequately monitor the operations of the facility to determine whether significant changes are made.

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If the Department determines sufficient progress is not made within the contract period or the facility does not implement areas identified by the Department where cost savings could result, the Department should identify and review alternatives related to the housing of female inmates and pursue such alternatives if cost savings can be realized. Such alternatives could include:

- a) Identifying the cost to either buy or lease the facility from the county consortium, identifying the cost for the Department to operate the facility itself using state employees and applicable contracts for services, and determining if the Department could operate the facility at a rate that would result in cost savings; and
- b) Identifying other placement options that could be used, identifying the cost of such placement options, and determining whether other placement options would result in cost savings.

Management's Response

The DOCR agrees with this recommendation, however, it will await direction from the legislative assembly regarding any changes as they relate to contracting with New England for the housing of the women inmates. The DOCR has attempted to work closely with New England during the 2003-05 biennium to the extent that staff time has been available. Additional staff would be necessary for the DOCR to provide additional oversight of the New England contract and operations. We agree that there can be cost savings realized if New England implements the recommendations as outlined in the performance audit, especially as they relate to the provision of medical services. However, if all cost saving recommendations are implemented, currently we have no assurance, based upon the economy of scales and the location of the facility, that if the DOCR bought or leased the facility that it could operate it cheaper.

Modifying the Plan to House Maximum Security Female Inmates at New England

The contract entered into by DOCR to house female inmates at New England requires the facility to accept maximum security inmates by July 1, 2005. In order for the facility to accept maximum security inmates, significant renovations are needed and it appears the facility will attempt to receive a loan from surrounding counties to pay for these renovations (loan estimated at \$300,000). Based on an assessment of the physical capacity of the New England facility to manage inmates in the highest custody levels and the current profile of female inmates, CJI concluded these higher custody inmates should not be housed at the New England facility due to the following two reasons:

1. CJI noted that while cells could be built at New England, the facility is not suitable for the management and treatment of high custody inmates. The facility was designed as an educational facility for a religious order, not a correctional facility, and therefore, lacks many of the necessary security components of prison. CJI concludes these deficiencies are manageable with low custody inmates but it is too risky to confine high custody inmates there.

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Due to the low demand for female maximum security cells and the fact that the New England facility is not suitable for the management and treatment of high custody inmates, such inmates should be transferred to other state departments of corrections.

2. In an analysis of the custody levels of female inmates as of October 2004, CJI determined there were no female inmates classified as maximum custody and only one was classified in the next highest custody classification (close custody). CJI noted approximately 64% of the female inmates were classified in a minimum or lower custody level.

Rather than having the New England facility spend an estimated \$300,000 or more to add five maximum security cells, CJI noted that DOCR could transfer the few anticipated long-term high custody inmates to any of the numerous other state departments of corrections that have the capacity of confining and the programming for high custody female inmates. While it is not expected that DOCR or any other state entity will be paying the up-front cost of constructing these cells at New England, it is acknowledged that DOCR will be reimbursing the facility for that expenditure over time. In addition, the high custody female inmates would be able to participate constructively in programming at the other facilities.

Recommendation 3-2

CJI recommends the Department of Corrections and Rehabilitation's maximum security female inmates not be confined at the New England facility as currently contemplated. These inmates could be housed in nearby state facilities designed to confine and treat high custody female inmates.

Management's Response

The DOCR agrees with CJI that maximum-security women should not be housed at the DWCRC; it was never the DOCR's intent to house maximum-security women at the DWCRC. However, the Department believes that the additional maximum-security cells are needed for Administrative Segregation (AS) and Disciplinary Detention (DD) beds for the female offenders in order to give DWCRC the tools necessary to keep the prison safe. The need for AD and DD beds has little to do with their custody level, but rather with their behavior.

Presently, the DWCRC has one secure cell and 3 cells in the infirmary that could be used for short-term detention in emergency situations. However, we believe that this number is inadequate based upon the DOCR's six years of experience with housing women at the James River Correctional Center. There were many times when all 5 of the secure cells there designated for females were occupied, and additionally there were two women in the 2 infirmary cells. The DWCRC has a greater general population capacity than did the JRCC women's unit. In conversation with DWCRC's Operations Administrator he stated that he believes, and incidents at the facility have shown, that the additional cells are needed.

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Making Improvements over Medical Expenditures

A Medical Services Coordinator, a registered nurse, oversees the medical department at the New England facility. The medical department provides nursing care, medical care, pharmaceuticals, laboratory services, and mental health services. Under the contract with DOCR, the New England facility is reimbursed \$15.50 per day per inmate for all on-site medical costs, nurse's salaries, and offsite medical costs. In a review of medical expenditures and the contract, CJI noted improvements are needed to ensure Medicaid rates are obtained for expenditures and that proper personnel at New England should review and approve medical expenditures. Also, CJI identified that DOCR should be approving all medical expenditures expected to cost \$1,000 or more.

Ensuring Medicaid Rates are Obtained

As previously identified in this chapter, there was apparent confusion between the New England facility and the hospital in Dickinson used by the facility. As a result, representatives noted that no bill for services had been provided by the hospital since the end of March 2004, even though services had been provided to female inmates during that time. In addition, bills that have been provided by the hospital to the New England facility have apparently lacked detailed information regarding the services provided. Representatives noted that detailed bills may have been available from the hospital if they would have been requested at the time services were incurred, however no such request was made. Based on information provided by the New England facility and estimates provided by the Medical Coordinator at the facility, CJI noted approximately \$36,000 in excess costs during the first ten months of operation may have been incurred due to the inability to obtain Medicaid rates or an equivalent discount. At the time of the review, DOCR and the New England facility were attempting to address this issue.

There is a lack of accountability in reviewing medical bills for the New England facility. Inappropriate payments were identified including the payment of medical costs for a male patient.

In discussions related to the medical reviewing process, CJI concluded there was a lack of accountability in reviewing medical bills prior to payment at the New England facility. CJI identified that the Medical Coordinator at the New England facility had not been involved in the process of reviewing bills prior to payment. When the Medical Coordinator spot-checked a bill from the hospital in Dickinson that had already been paid, they identified one patient was a male (\$322) and another was a baby born to a female inmate (\$857). Neither bill should have been paid since the New England facility has no male inmates and, although childbirth costs are paid by the facility, medical expenses for the newborns themselves are not the responsibility of DOCR or the New England facility. These costs have not yet been credited.

CJI noted that controlling health care costs require a good fiscal management system where one individual monitors the payment of health care bills. This individual should be familiar with the costs of medical procedures and the time usually spent in the hospital for specific procedures or illnesses. This individual should also monitor all inmate admissions for length-of-stay, know what customary charges should be, which inmates received services at the hospital, which services were

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authorized, and ensure the billing was consistent with negotiated rates. Significant savings can be realized by such reviews.

Recommendation 3-3

CJI recommends the Department of Corrections and Rehabilitation ensure Medicaid rates (or the equivalent) are obtained for all New England facility medical expenditures and appropriate personnel at New England are involved in the review and approval of medical bills prior to payment.

Management's Response

The DOCR agrees with this recommendation, however believes that the administrators of the New England facility must be primarily responsible for the management of the medical expenditures. Regarding the appropriate review of medical expenditures prior to payment, the DOCR expects and will ensure via contractual requirements that adequate internal controls surrounding the payment of medical expenditures by the New England facility exist. In context of obtaining Medicaid rates, the DOCR with the approval of the Department of Human Services, has agreed to allow the New England facility to process hospital and clinic charges through the State's Medicaid Management Information System (MMIS). This change will insure that all hospital and clinic charges are paid at the appropriate Medicaid rate. This change also requires that the hospital and clinic charges be paid directly from the DOCR appropriation. As a result, the daily medical per diem rate paid to the New England facility and the contract provision requiring the DOCR to pay any and all medical expenditures that exceed \$50,000 over what the daily medical per diem rate does not cover will be adjusted appropriately. It is the intention of the DOCR to implement this change in January 2005.

Modifying Medical Expenditure Amount Requiring DOCR Approval

The contract entered into for housing the female inmates states that DOCR approval for all special procedures is required only after the medical expenditures account reaches a negative balance of \$50,000. CJI noted this is not effective in controlling costs as there is no incentive to keep medical costs down since DOCR becomes a safety net after the threshold is reached. CJI notes if contract language were changed to require DOCR approval for any procedure over \$1,000, additional savings could be realized by keeping expensive medical procedures to a minimum.

Recommendation 3-4

CJI recommends the Department of Corrections and Rehabilitation modify the contract for the housing of female inmates to require Department approval for all medical procedures expected to exceed \$1,000 and add additional incentives to control medical costs.

Management's Response

The DOCR agrees with this recommendation. However, due to current workload of the DOCR's medical staff, implementation of this recommendation is not feasible. The DOCR has and will continue to require, encourage and to assist the New England facility in controlling its medical costs. It is important to note that current contract provisions define inmate health care services that are to be provided. In the event it becomes necessary to provide health care services above the level

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defined in the contract, the New England facility is required to obtain prior written approval from the DOCR for all medical expenses expected to exceed \$1,000.

Making Improvements in Pharmaceutical Areas

Ensuring Drugs are Obtained at a Reasonable Cost

Drug costs at the New England facility could be reduced by approximately 33% if drugs were purchased through a buying group.

Prescription drugs for the inmates at New England are provided through a local pharmacy. In the review performed by CJI, the New England facility was identified as using the same formulary as DOCR (a list developed and approved by the contracted health authority in which all medication is to be prescribed and medications not on the formulary require additional approval). CJI noted improvements were needed to ensure drugs were purchased at lower prices and to allow the State Penitentiary pharmacist to oversee and monitor pharmacy areas.

CJI noted the cost for drugs appears to be higher than the drugs purchased by DOCR through its pharmacy at the State Penitentiary. DOCR purchases its drugs from the Amerinet buying group. CJI noted county consortium (SWMCCC) staff that operate the New England facility noted they were buying drugs from the Amerinet buying group but this does not appear to be taking place. The pharmacist who orders the drugs for the New England facility noted Amerinet has not authorized the membership apparently due to a fear that the drugs being purchased would be sold at the retail level. The Medical Coordinator at the New England facility predicted that buying drugs from Amerinet will reduce drug costs by about one third. Based on information received regarding drug costs from November 2003 to October 4, 2004, approximately \$76,000 had been spent on prescription drugs with approximately \$31,000 spent on pharmacy services. Using the Medical Coordinator estimated savings, if drugs were purchased through the Amerinet buy group, approximately \$55,000 could be saved in a biennium. This amount may be higher as the \$76,000 spent on drugs would have included only minimum security inmates and since then, the medium and close custody inmates have been transferred to the New England facility.

Recommendation 3-5

CJI recommends the Department of Corrections and Rehabilitation ensure the New England facility joins the Amerinet buy group to purchase drugs and if admission is denied, the Department should provide drugs to the facility and be reimbursed accordingly.

Management's Response

The DOCR agrees that the DWCRS would be able to decrease its costs for prescription drugs if the DWCRS could join the Amerinet drug buy group. According to the Director of Medical Services at DWCRS, DWCRS has been accepted into the Amerinet buy group, and began receiving reduced drug pricing in early December 2004.

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Involving the State Penitentiary Pharmacist

The State Penitentiary pharmacist should oversee the pharmacy used by the New England facility.

CJI noted a lack of communication or misunderstanding between staff at New England, county consortium staff that operates the facility, and the contract pharmacist. CJI noted differences in information were provided regarding software for billing and tracking drugs and how drugs were being purchased. CJI noted the State Penitentiary pharmacist oversees the James River Correctional Center pharmacy and contract pharmacists to ensure they are in compliance with all standards and requirements as well as ensuring proper cost controls and inventories are accounted for.

CJI noted the pharmacist at the local pharmacy in New England stated that psychiatrists at the New England facility are prescribing expensive psychotropic medications and many medications are changed before the initial drug has been given a chance to work. CJI noted the Medical Coordinator at the New England facility was working with the psychiatrists to educate them on the cost of the drugs that have been prescribed. CJI concluded more work needs to be done to prevent expensive drugs from being prescribed and from inmates manipulating psychiatrists into frequently changing medications.

Recommendation 3-6

CJI recommends the Department of Corrections and Rehabilitation modify the contract for female inmate housing to authorize the State Penitentiary pharmacist to oversee the pharmacy providing drugs to the New England facility and to monitor prescription practices by psychiatrists at the New England facility.

Management's Response

The DOCR does not agree that the DOCR pharmacist should oversee the DWCRC pharmacy, however, the DOCR agrees that changes are necessary in the operation of the DWCRC pharmacy and that prescription practices by psychiatrists at the New England facility must be reviewed. The DOCR will work with DWCRC to facilitate change in these areas. Since this is a contract, the DOCR does not believe the DOCR pharmacist should have control or oversight of the DWCRC pharmacy. The DOCR must monitor services as required by contract but should not have responsibility or oversight for operating the pharmacy. Also the DOCR believes that the DWCRC should continue to have the primary responsibility for monitoring the prescription practices of the psychiatrist.

Discontinuing Unnecessary Dental X-Rays

Dental services for the female inmates at the New England facility are provided by a contracted dentist at Dickinson with female inmates being transported to Dickinson (52 mile round trip). CJI noted every female inmate sent to the New England facility is having full dental x-rays taken. New England facility staff appear to believe the contract with DOCR requires x-rays for identification purposes on all orientation inmates. CJI noted these x-rays are being taken unnecessarily (cost of the bitewings is approximately half of the \$70 fee for the oral evaluation for new inmates).

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Recommendation 3-7

CJI recommends the Department of Corrections and Rehabilitation ensure only necessary dental x-rays are taken of female inmates at the New England facility.

Management's Response

The DOCR agrees with this recommendation. The DOCR has contacted the DWCRC Director of Medical Services to clarify that the contract language does not require x-rays for all new arrivals. The DOCR will recommend that the DWCRC not provide routine dental exams on female inmates that have less than 1 year to serve on their sentence.

Making Additional Improvements at the New England Facility

In a review of the work performed by CJI as well as a review of information and discussions with DOCR, we noted DOCR was in need of an employee on-site at the New England facility. During CJI's visit to the New England facility, as well as a review of information and discussions with personnel, additional areas were identified as requiring improvement. CJI noted clarification was required in the contract to specifically identify DOCR's oversight responsibility with medical services. CJI also noted that DOCR needed to ensure the New England facility contracted with a new Medical Director, obtained a different rate for psychiatric services, and made improvements with mental health assessments.

Having a DOCR Employee at the New England Facility

To adequately monitor the New England facility, a DOCR employee should be on-site.

During our review as well as the review performed by CJI, a number of areas requiring improvement at the New England facility were identified. DOCR's Classification Director has been assigned the responsibility to monitor the contract with the New England facility and other personnel within DOCR are used to assist in monitoring the facility. The Classification Director estimated that 50% of their time is spent working with the New England facility. DOCR does not appear to have received additional resources for the monitoring of the facility that was to house female inmates. In order to adequately monitor the facility and to ensure necessary changes and improvements are being made at the facility, DOCR should have an employee on-site. DOCR does have an employee on-site at both the Tompkins Rehabilitation Correctional Center and the Bismarck Transition Center (contracted facilities used to house adult offenders). The transition center has fewer offenders and is less costly than the New England facility.

Recommendation 3-8

We recommend the Department of Corrections and Rehabilitation have a representative of the Department on-site at the New England facility to ensure adequate monitoring and oversight of its operations.

Management's Response

The DOCR agrees with this recommendation, however the DOCR would need a new FTE in order to have a representative of the Department onsite at the New England facility.

Chapter 3

Female Inmate Facility

Ensuring DOCR has Official Oversight Responsibility

It is unclear who has official oversight responsibility for medical services provided at the New England facility.

CJI identified that it was unclear to DOCR and the New England facility staff who has official oversight responsibility for medical services provided at New England. The Medical Coordinator at the New England facility has been working with the Director of Medical Services at DOCR for approval on questionable procedures and other technical questions. CJI noted the coordinator is under the impression the oversight is an official process, however the Director of Medical Services at DOCR informed CJI they have no official role in the New England facility's medical services. CJI noted that since New England is a facility under contract with DOCR, it was critical that DOCR exercise full official oversight and monitoring of the services provided and costs being paid. CJI noted the Director of Medical Services provides nursing services in addition to administrative duties so additional staff (part-time or full-time) may be needed to enable the director to devote more time to the New England facility.

Recommendation 3-9

CJI recommends the Department of Corrections and Rehabilitation modify the contract for the housing of female inmates to clearly state that the Department will have official oversight responsibility for all aspects of medical services at the New England facility in order to ensure compliance with standards, consistency in operations, and maintain fiscal control of medical expenses.

Management's Response

The DOCR does not agree that the Department should have official oversight responsibility for all aspects of medical services at the New England facility. The DOCR believes that the New England facility staff needs to continue to have primary responsibility for medical services provided. The DOCR however agrees with the recommendation as it applies to having oversight for inmate health care services that exceed both \$1,000 and the level of care required as defined in the contract; this responsibility is set forth in the current contract. If the recommendation for the DOCR to have oversight responsibility for all aspects of medical services at the New England facility were to be implemented, the DOCR would need additional administrative and medical staff.

Requiring a New Medical Director

The New England facility contracts with a doctor in Dickinson to be the Medical Director who oversees medical services at the facility. CJI concluded the Medical Director is not providing proper oversight of the nurse practitioner. The Medical Director is compensated to oversee medical services, review charts, review the nurse practitioner's work, and approve or deny orders for specialty care. Since the Medical Director will not come to the facility, charts needing review as well as inmates needing care must be taken to the doctor's office in Dickinson. The Medical Director is not reviewing the nurse practitioner's charts as required. The New England facility Medical Coordinator was actively looking for another Medical Director at the time of the review.

Chapter 3

Female Inmate Facility

Recommendation 3-10

CJI recommends the Department of Corrections and Rehabilitation ensure the New England facility contracts with a new Medical Director who will come to the facility to oversee service delivery, review charts, and see inmates as needed.

Management's Response

The DOCR agrees that the DWCRRC should find a new Medical Director that will perform all the duties required.

Ensuring an Appropriate Charge for Psychiatric Services

The New England facility contracts with psychiatrists to conduct inmate evaluations. CJI noted the psychiatrists charge \$220 for each inmate evaluation regardless of the time it takes and that they charge the same fee for reevaluating inmates on psychotropic medications before refilling the prescriptions. CJI noted this was a high fee and most psychiatrists in correctional facilities charge for work by the hour. The psychiatrists contracted with by DOCR for the James River Correctional Center charge by the hour for the work performed. CJI noted that allowing a set fee for a particular service makes it difficult to control costs and provides incentives for providers to perform unnecessary services.

Recommendation 3-11

CJI recommends the Department of Corrections and Rehabilitation require the New England facility to modify their contract for psychiatric services so the charges are based on a flat hourly rate for all psychiatric services rather than a set fee for evaluations.

Management's Response

The DOCR agrees that the DWCRRC should modify its contract for psychiatric services so that charges are based on a flat hourly rate for all psychiatric services rather than a set fee for evaluations.

Making Improvements with Mental Health Assessments

The number of psychiatrist visits at the New England facility is extremely high.

CJI identified there were 428 psychiatric visits in the first 11 months of New England's operation and a high number of female inmates were being prescribed psychotropic medications. CJI concluded the number of psychiatrist's visits was extremely high. Female inmates often ask to see a psychiatrist in order to get psychotropic medications to help them sleep and CJI noted medications prescribed for sleep have a high abuse potential, can be addicting, and may result in an inmate experiencing withdrawal. CJI identified other interventions that were less costly than prescribing medications for sleep such as: all TV's, radios, and lights turned off at the same time each night; participation in increased exercise and activities; decreasing caffeine intake; and earplugs. CJI noted a trained counselor, nurse, or psychologist could conduct intense mental health screenings on inmates before being referred to the psychiatrists which could reduce the number of inmates being seen by the psychiatrist. This process could also potentially save money by reducing the amount of psychiatrist hours by having lower cost personnel conduct the initial screening.

Chapter 3

Female Inmate Facility

Recommendation 3-12

CJI recommends the Department of Corrections and Rehabilitation ensure the New England facility has a specially trained nurse, counselor, or psychologist perform an intense mental health assessment on inmates requesting to see the psychiatrist.

Management's Response

The DOCR agrees that the DWCRC should have a qualified staff serve as a "gatekeeper" and perform mental health assessments on inmates requesting to see a psychiatrist.

DOCR Medical Service Delivery

Introduction

One of the areas the independent consultant, Criminal Justice Institute (CJI), was requested to review related to medical service delivery. CJI was to determine if the Department of Corrections and Rehabilitation (DOCR) contracted medical services are efficiently and effectively provided and conduct an evaluation of the overall health care provided to inmates to determine if it was provided in a sufficiently efficient and effective manner. As a result of their review, CJI noted medical services were generally provided in an efficient, effective, and professional manner at DOCR's three adult facilities. CJI also noted areas where improvements could be made. CJI indicated the health services at the State Penitentiary were accredited by the American Correctional Association (ACA) and appeared to be well managed. There were only seven active lawsuits related to medical services at the time of the review and CJI concluded that none appeared to allege anything significant.

CJI identified areas related to dental services requiring improvement and noted DOCR should obtain state-funded positions for a dentist and a hygienist. If these positions are obtained, DOCR should determine whether the positions could be used for the juveniles at the Youth Correctional Center (YCC). Also, the dental visits to the James River Correctional Center (JRCC) should be increased in an attempt to reduce backlogs. Improvements should be made with dental policies that are resulting in additional costs and exceed ACA standards.

Areas related to pharmaceutical services were identified as requiring improvement. Changes could be made at JRCC to improve the contracted services provided and additional staff was needed within the State Penitentiary's pharmacy. YCC should use the pharmacy at the State Penitentiary to purchase drugs which should result in cost savings. DOCR should have a state-funded full-time position for a pharmacy technician rather than contracting for three part-time pharmacy technicians. Improvements with the distribution of certain medications should occur to reduce nursing and pharmacy staff time. In addition, DOCR should initiate an independent review of the use of psychotropic medications.

The infirmary of the State Penitentiary needs significant improvement as the infirmary was identified as being too small and seriously inadequate. Also, an Electronic Medical Records (EMR) module is needed to facilitate ease of use for providers, and give real-time information and access to help improve quality and timeliness of medical care.

Current Medical Issues

Through the review performed by CJI, the five issues that uniquely impact DOCR medical delivery and costs were identified. These areas are presented for informational purposes. One of these areas is under the control of DOCR (area #5 and a recommendation is made addressing this area) while the remaining four areas are not.

Chapter 4

DOCR Medical Service Delivery

1. There is a scarcity of medical providers willing to work in correctional facilities in the rural areas of North Dakota. For example, the New England facility used to house female inmates must transport females to Dickinson for dental services and the contracted Medical Director requires the inmates to come to his office in Dickinson to be seen. Also, due to DOCR's James River Correctional Center (JRCC) location in Jamestown, there are other medical entities offering more lucrative opportunities at the State Hospital as well as in Fargo. For example, we noted that LPN II salaries at the State Hospital were approximately \$400 more per month than a LPN II salary at JRCC and RN II salaries at the State Hospital were approximately \$400 more per month than at JRCC.
2. The issue of medical malpractice insurance, which is plaguing the medical field nationally, is also threatening provider services at DOCR. The insurance for DOCR's contract doctor is apparently being cancelled January 1, 2005 and the doctor has been unable to obtain insurance with any other company at the time of the review. The insurance was apparently being cancelled due to the insurance company spending \$60,000 responding to law suits filed against the nurse practitioner the doctor employs and covers under their insurance. The doctor has not been sued.
3. Methamphetamine (meth) use in North Dakota is higher than in other parts of the country and the effects of its use has significant medical implications. Meth is an addictive stimulant drug that activates certain systems in the brain (additional information on the effects of meth is identified in Chapter 7, *Monitoring Advancements Related to Meth* section). To illustrate the growth of meth use in North Dakota, CJI conferred with the North Dakota Crime Laboratory and learned that in 1992 there were 14 meth samples submitted for analysis and by 2000 the number had grown to 1,218.
4. Many inmates have chronic diseases requiring expensive treatment. Screening, identifying, and treating offenders for Chlamydia, Hepatitis C, and HIV is done on new arrivals and clinics are held monthly for those with chronic diseases. HIV cases cost approximately \$12,000 per year to treat (at the time of the review, 3 inmates were being treated for HIV). Hepatitis C is also on the increase and is expensive to treat (DOCR is requesting an additional \$241,000 for the 2005-2007 biennium to treat inmates with Hepatitis C).
5. An obstacle to assess and monitor medical costs and services at DOCR is the lack of readily available data. Although there were anecdotal reports providing costs, there is a need for data collection systems that can produce information on services and costs in a timely manner.

Chapter 4

DOCR Medical Service Delivery

Making Improvements in the Dental Area

In a review of the dental services provided at DOCR, CJI noted DOCR should use state-funded positions for a dentist and dental hygienist rather than using a contract for these services. We noted that if such positions were obtained, DOCR should determine whether the dental needs at the Youth Correctional Center could also be addressed with these positions. CJI also noted improvements were needed to reduce backlogs and changes could be made with DOCR dental policies to save costs.

Creating a Dental and Hygienist Position

DOCR contracts with a dentist to provide dental services at the State Penitentiary and the James River Correctional Center (JRCC). DOCR stated they had a very difficult time in finding a dentist and had to lure the current dentist out of retirement. DOCR identified that they sent requests for dental services to every dentist in North Dakota and no responses or inquiries were received.

The contracted dental rate is high and state funded dental and hygienist positions may provide more control of services and costs.

The contract with the dentist identifies a rate of \$1,800 per day for services at the State Penitentiary and \$1,400 per day at JRCC. This rate includes all salary costs (dentist and dental hygienist) as well as dental supplies. CJI noted the daily rate is high even for a rural state and identified an average contractual rate for a dentist was usually \$75-\$85 per hour with \$100 per hour being the maximum (\$800/day) and a contractual hygienist was usually paid \$30-\$40 per hour. CJI did identify the contracted daily rate may be less expensive than going to a fee-for-service given the volume of procedures the dentist performs, the fact that an assistant is included in the cost, and that most supplies are included. For example, CJI noted the dentist may perform 7 to 12 extractions a day and seven extractions at Medicaid rates would cost \$3,500. In fiscal year 2004, DOCR paid the dentist over \$200,000.

CJI noted DOCR's Director of Medical Services has obtained the designation of DOCR as "an area of need," which means that any dentist who takes a "state position" as a dentist would have one year of federal loan obligation forgiven for each year of employment at DOCR. CJI notes this solution has promise and could possibly attract a dentist who would be willing to work for a lower rate with the incentive of loan forgiveness. However, this designation requires the person to be a state employee rather than a contractor. Therefore, a budget for state funded positions and dental supplies would be necessary but CJI notes having a state employee as a dentist may provide more control of dental services and dental costs.

Recommendation 4-1

CJI recommends the Department of Corrections and Rehabilitation take appropriate action to obtain state funded positions for a full-time dentist and hygienist.

Management's Response

The DOCR agrees with this recommendation. The DOCR's 2005 – 2007 executive budget recommendation contains funding and authorization for a dentist and a dental hygienist.

Chapter 4

DOCR Medical Service Delivery

Reviewing the Use of Dentist and Hygienist at YCC

In a review of contract information, we identified that the Youth Correctional Center (YCC) has entered into a contract for dental services for juveniles. YCC's contract is with a local dentist and juveniles are taken to the dentist's office with costs being billed at Medicaid rates. In fiscal year 2004, YCC paid approximately \$23,000 for dental services (over \$200,000 paid to the contracted dentist for adult inmates). If DOCR were to receive positions for a dentist and hygienist, the continuation of the contract for dental services for juveniles should be reviewed as juveniles may be able to see the hired dentist and hygienist of the Prisons Division.

Recommendation 4-2

We recommend the Department of Corrections and Rehabilitation determine whether the dental needs of the Youth Correctional Center can be addressed by state funded positions for a full time dentist and hygienist to alleviate the need for a contract for juvenile dental services.

Management's Response

The DOCR agrees with this recommendation. The DOCR will pursue this issue if funding and authorization of the dentist and dental hygienist positions are approved by the legislature.

Increasing Dental Visits to JRCC

The dentist that DOCR contracts with for dental services at JRCC is on-site once a month. CJI noted that a long waiting list for dental services at JRCC exists and the dentist should be on-site more often to reduce the backlog.

Recommendation 4-3

CJI recommends the Department of Corrections and Rehabilitation have the dentist be on-site at the James River Correctional Center twice a month every other month (18 times per year instead of 12) in order to reduce the backlog.

Management's Response

The DOCR agrees with this recommendation, and has already implemented it.

Making Changes with Dental Policies

In a review of DOCR policies related to dental screenings and exams, CJI noted DOCR's policies exceed the requirements established by the American Correctional Association (ACA) and result in additional costs being incurred. Areas identified included:

DOCR dental policies exceed accreditation requirements and result in additional costs being incurred.

1. DOCR's policy requires all new intakes and intra-system transfers who have not had a health assessment in the last 90 days to receive a review of dental status within 14 days of admission. ACA requires a dental screening be completed within 14 days of admission unless completed within the last 6 months (instead of 90 days) with instructions on dental hygiene.
2. DOCR's policy states inmates are to receive a dental exam within 3 months of admission while ACA states that inmates should receive a dental exam within 12 months of admission.

Modifying policies will free up dentist time and reduce the number of procedures being performed.

Chapter 4

DOCR Medical Service Delivery

Recommendation 4-4

CJI recommends the Department of Corrections and Rehabilitation revise dental screening and exam policies which are costly and exceed American Correctional Association standards. The Department should:

- a) Change its policy requiring dental screenings on admissions who have not had a screening in the past 90 days to require dental screenings for admissions who have not had a screening in the past 6 months; and
- b) Change its policy requiring dental exams to be performed within 3 months of admission to require dental exams to be performed within 12 months of admission.

Management's Response

The DOCR agrees with these recommendations, and will change its policies to reflect the ACA standard language by February 2005.

Making Improvements with Pharmacy Services

Through a review of pharmacy services, CJI noted changes could be made related to the services provided at the James River Correctional Center and additional staff within the State Penitentiary's pharmacy is needed. We determined costs savings could occur if the Youth Correctional Center were to use the pharmacy at the State Penitentiary for purchasing drugs rather than using a local hospital for these purchases. CJI concluded a state funded pharmacy technician position would be cost effective and provide better management than the use of three part-time technicians. CJI also determined that certain medications were being distributed too frequently which required additional nursing and pharmacy staff time. Also, we identified a need for DOCR to initiate an independent review of the use of psychotropic medications.

Centralizing the Pharmacy Function

In the review performed by CJI, they noted improvements were necessary with pharmacy services at the New England facility (identified in Chapter 3, *Making Improvements with Pharmaceuticals* section). In addition, CJI noted improvements were necessary with the pharmacy services at the James River Correctional Center (JRCC).

Pharmacy services
could be provided to
JRCC through the State
Penitentiary pharmacy.

Pharmacy services at JRCC are provided by two part-time pharmacists from the State Hospital. The pharmacists combined work 32 hours per week for JRCC and the State Hospital is paid approximately \$70,000 per year. CJI noted the pharmacists appear to do a good job filling prescriptions but are often in a hurry and do not pay attention to certain areas such as keeping the pharmacy clear of empty boxes, sending medications back to the manufacturer for credit and/or disposal, and entering correct details into their paperwork. The pharmacist from the State Penitentiary performs monthly inspections of the pharmacy at JRCC and discusses drug prices, pill abuse, and proper documentation with them. CJI noted that while there has been improvement in these areas, additional improvement is needed. CJI concluded that it would be less expensive to create a position of pharmacy technician to fill JRCC orders since a technician is much less expensive than the amount currently paid for the pharmacists (approximately \$24,000 for the technician compared to \$70,000 paid for the pharmacists).

Chapter 4

DOCR Medical Service Delivery

CJI noted the pharmacist at the State Penitentiary used methods to save money in pharmacy operations including: utilization and enforcement of a formulary; group bulk purchasing; consulting with those who prescribe medications concerning medications that are most effective and least expensive; and making more over-the-counter drugs available in the commissary for purchase by the inmates.

Recommendation 4-5

CJI recommends the Department of Corrections and Rehabilitation provide pharmacy services at the James River Correctional Center through the pharmacy at the State Penitentiary. To accomplish this, the pharmacist position at the State Penitentiary should be updated to a pharmacy manager, in title and compensation, and a pharmacist or technician position should be created to work under the pharmacy manager.

Management's Response

The DOCR agrees with this recommendation, however it will be difficult to accomplish this within existing Department resources. It is possible that the funding included in the budget to contract for the 32 hours per week of the pharmacist's time from the State Hospital could be used to fund a full time position for the DOCR, but it would require legislative action to approve the additional FTE. The DOCR agrees that under the consultant's recommendation the State Penitentiary pharmacist should be upgraded to a pharmacy manager in title and compensation. See Appendix F for DOCR's complete response.

Using DOCR Pharmacy for YCC Drug Purchases

YCC drug purchases were approximately 18% higher in cost compared to drug prices obtained by the State Penitentiary pharmacy.

The Youth Correctional Center (YCC) has a contract with a local hospital for pharmacy services. The State Penitentiary has their own pharmacist who purchases drugs through the Amerinet purchasing group. Using the June 2004 invoice for YCC's drug purchases, we selected 20 drugs, identified the price paid by YCC, and requested the pharmacist to identify the price the drugs would have cost through the Amerinet purchasing group. The pharmacist identified lower prices for all 20 drugs including a drug that cost YCC \$40.48 and could have been purchased by the pharmacist for \$4.16. Using the 20 medications selected, the difference in prices paid was approximately 18%. Using payment information provided by YCC for their pharmacy costs for the first six months of calendar year 2004 and the 18% potential cost savings, we identified that YCC paid over \$10,500 more for drugs purchased through their contract than if they had used the pharmacist at the State Penitentiary. The pharmacist at the State Penitentiary did identify that an additional staff member may be required to assist in the work that would need to be performed but the results of the cost savings should assist in paying for most, if not all, of a technician's salary.

Recommendation 4-6

We recommend the Department of Corrections and Rehabilitation use the pharmacy at the State Penitentiary for obtaining drugs for juveniles at the Youth Correctional Center rather than obtaining the drugs through a contract with a local vendor.

Chapter 4

DOCR Medical Service Delivery

Management's Response

The DOCR agrees that there would be a cost savings for the Department from implementing this recommendation, but it would not be possible unless the State Penitentiary could hire a full time pharmacy technician to handle the additional workload. The issues previously mentioned (lack of adequate work space and problems with delivery) would still be problems as well, but the proximity of YCC (Mandan) to NDSP (Bismarck) would make it more likely that we could get the prescriptions to the youth in a timely manner.

Establishing a Full-Time Pharmacy Technician Position

A full-time pharmacy technician position could replace the three part-time pharmacy technicians.

There are three part-time pharmacy technicians who assist the pharmacist at the State Penitentiary. The three technicians work a total of 24 hours per week and the cost of the contract is approximately \$20,000 a year. CJI concluded that three contracted pharmacy technicians are not as useful as one full-time technician would be. A full time technician would cost about as much as the part-time technicians (not including fringe benefits) but would be there five days each week and would contribute an additional 16 hours of work each week. The additional technician time could be used to check medications against medical administration records and keep the medication room at the nurse's station stocked. If the technician completes DOCR's Medication Assistant I course, they could also dispense medications at medication lines, thus freeing up nurses time for more vital duties. CJI concluded that this position would be cost effective and provide better management and control of the DOCR pharmacy activities, which is a large portion of the medical budget.

Recommendation 4-7

CJI recommends the Department of Corrections and Rehabilitation take appropriate action to obtain authorization to hire a full-time pharmacy technician to replace the three part-time technicians.

Management's Response

The DOCR agrees with this recommendation. The DOCR requested a full time pharmacy technician as an optional adjustment in its 2005-2007 budget request; it will be forwarded to the legislative assembly for its consideration.

Distributing Certain Medications Monthly Rather than Weekly

Through a review of "Keep On Person" medications (those medications given to inmates to self-medicate), CJI concluded the medications were being distributed too frequently at the State Penitentiary. These prescriptions are being filled in a seven-day supply, rather than in a 30-day supply. This results in an increased workload for both the pharmacy and nursing staff since inmates have to come to medical four times a month rather than one time per month to receive their "Keep On Person" medications. As a result, a significant amount of nursing time is being utilized to distribute medications. Nursing time associated with these medications could be decreased by 75% if the 30-day supply system was implemented and pharmacy staff would only need to restock medication carts once a month instead of four times a month.

Chapter 4

DOCR Medical Service Delivery

Recommendation 4-8

CJI recommends the Department of Corrections and Rehabilitation distribute “Keep on Person” medications monthly rather than weekly.

Management’s Response

The DOCR agrees with this recommendation, and will begin implementation on 2/1/05.

Studying the Use of Psychotropic Medications

In a June 15, 2002 report issued by Security Response Technologies, Inc. and presented to the North Dakota Legislative Council Interim Corrections Committee, a recommendation was made that DOCR initiate an independent review of the use of psychotropic medications within the Prisons Division. Psychotropic medications are drugs prescribed to stabilize or improve mood, mental status, or behavior. CJI identified that although the pharmacy was unable to provide separate information on the amount and cost of psychotropic medications provided to inmates, a 2000 study by the Bureau of Justice Assistance reported that 9.7% of all state inmates nationally were receiving psychotropic medications. In that same study, North Dakota reported that out of 628 inmates, 39.3% were receiving psychotropic medications (information was only provided for 628 of the 992 inmates in custody at that time). Although not quantifiable, CJI noted the large number of inmates who have abused meth may account for the unusually large number of inmates receiving psychotropic drugs.

An unusually large number of North Dakota inmates receive psychotropic drugs.

In review of information and discussions with DOCR personnel, we determined an independent review of the use of psychotropic medications had not been performed. However, we did identify that DOCR has taken other actions in an effort to review the use of psychotropic medications (such as having psychology peer reviews conducted quarterly). While DOCR appears to agree with a study being performed, management noted such a review has not been conducted due to a lack of funding.

Recommendation 4-9

We recommend the Department of Corrections and Rehabilitation initiate an independent review of the use of psychotropic medications within the Prisons Division.

Management’s Response

The DOCR agrees with this recommendation. An independent psychiatrist from Minot has been performing quarterly peer reviews on the Department’s use of psychotropic drugs for the past year. The Department has also contacted Correctional Medical Services, a private company that oversees prison medical operations in 11 states, to ask for a price quote to perform this review. The Department expects to receive a plan and cost estimation from Correctional Medical Services after 1/1/05.

Making Changes to the State Penitentiary Infirmary

The State Penitentiary infirmary is too small and seriously inadequate.

Within the State Penitentiary is an infirmary consisting of seven cells for medical patients. CJI noted the infirmary is too small and seriously inadequate. CJI noted the following areas in relation to the infirmary:

- The physical layout of the infirmary is inadequate to meet the needs of the population. Examples of deficiencies include: difficulty accessing with a wheelchair; no ADA acceptable cells with sink and toilet; no oxygen or suction in infirmary rooms; no isolation cells; and an inadequate number of examination areas and treatment space.
- One cell has been modified by medical and prison staff to function as a negative pressure cell by installation of crude machines and hoses venting through a glass window.
- Records storage has been exhausted and some are now kept in locked cabinets in a hallway.
- Walls in some of the exam areas do not go to the ceiling, which makes privacy difficult and is a potential violation of federal law and American Correctional Association (ACA) standards.
- The pharmacy is so small that it does not meet State Board of Pharmacy space requirements.

CJI concluded that these and other shortcomings have limited the amount and level of services that can be provided on-site and as a result, inmates are transported to the hospital for treatment and services more often than would be necessary if the infirmary was more adequate. CJI noted DOCR's inmate population was aging and suffering from more chronic and terminal illnesses which will continue to drive up the need for infirmary beds. CJI noted a number of areas that an adequate infirmary should have. For example, CJI identified that beds should exist to be utilized to return prisoners back to the facility from the local hospital in a more expeditious manner, which reduces hospital costs. Also, there should be at least one negative pressure isolation room so that prisoners with suspected TB can be isolated from the rest of the population until they are determined not to be infectious.

A hired architect has identified a plan for remodeling and adding a new building at the State Penitentiary. CJI noted in Chapter 2 that DOCR's plan for constructing orientation beds at the State Penitentiary and adding additional beds should be temporarily suspended. However, the plans for a new infirmary should continue to move forward.

Recommendation 4-10

CJI recommends the Department of Corrections and Rehabilitation take appropriate action to obtain funding to make the State Penitentiary infirmary larger and more functional.

Management's Response

The DOCR agrees with this recommendation. The Department agrees that funding is needed to replace the current infirmary at the State Penitentiary.

The DOCR completed a study this past biennium with the use of OMB planning funds and the assistance of an architectural planner to prepare plans for a new infirmary, clinic, and pharmacy to be constructed at the

Chapter 4

DOCR Medical Service Delivery

State Penitentiary. The study included a staffing analysis for the medical department. The request for a new infirmary/medical facility is included in the Department's 2005-07 budget request and it will be forwarded to the legislative assembly for its consideration.

Obtaining an Electronic Medical Records System

CJI noted DOCR is in need of a medical management module on the inmate management information system. An Electronic Medical Records (EMR) module is built to facilitate ease of use for providers, and give real-time information and access to help improve quality and timeliness of care. CJI noted EMR provides tools to streamline workflow, support clinical decision-making by all disciplines, address and track all care given, and enable concise patient data analysis. CJI noted benefits of EMR include access to complete patient information in real time, improved efficiencies by reducing time spent in searching for patient information, reduced costs by eliminating redundant testing, error reduction by eliminating handwritten charts, consistent data tracking and improved reporting, reduced paperwork, standardization of care from facility to facility, enhanced decision-making abilities and monitoring through greater access to care data, and reduced litigation exposure and review ability for courts. An additional benefit would be electronic interface to lab, pharmacy, and inmate tracking which would assist with contraindicated medications not being utilized (thus, decreasing the risk involved with medications), allergy recognition, preventing medication errors, and possible side effects.

Recommendation 4-11

CJI recommends the Department of Corrections and Rehabilitation purchase an Electronic Medical Records program once a suitable program is identified.

Management's Response

The DOCR agrees with this recommendation, and will request funding in the 2007-2009 biennium for this software package.

Daily Rates and Departmental Improvements

Introduction

Through tests and reviews performed in relation to our two audit goals, we noted improvements were necessary in various areas. The Department of Corrections and Rehabilitation (DOCR) should develop formal policies and procedures for identifying daily rate information for inmates at their three adult facilities. DOCR should make necessary changes to ensure the information it provides is consistent and accurate. Also, improvements were necessary with the calculation used to identify recidivism rates.

State law requirements related to good time granted to inmates for the purpose of reducing their sentence require modification to ensure the requirements are clear and concise. The Parole Board should review policies and procedures with the Office of Attorney General and ensure legal assistance is periodically obtained. The processes and procedures used in identifying the count of inmates need improvement. In addition, we noted North Dakota Century Code sections required change to make them clear, concise, consistent, and up-to-date.

The improvements noted above are discussed in this chapter and improvements of less significance were communicated to management in a separate letter.

In relation to our two audit goals, we performed the following work:

- Reviewed information and expenditures related to placement options used by DOCR to house offenders;
- Reviewed information provided by DOCR to legislators and the public;
- Reviewed laws, policies, and procedures related to DOCR; and
- Interviewed selected DOCR staff.

Daily Rates Identified

To identify daily rates associated with placement options used by DOCR to house adult offenders, we noted that offenders on inmate status could be housed in the same placement used for those offenders on parole and/or probation. For example, both inmates and offenders on parole and/or probation are housed at the Tompkins Rehabilitation Correctional Center (alcohol and drug treatment center located at the State Hospital). As a result, we identified placement options used by DOCR into the following three categories:

- Traditional Prison Housing: all offenders included in this category are considered inmates and are housed in incarceration type facilities. Included in this category are the three DOCR incarceration facilities as well as the private prison and county jails/prisons DOCR contracts with to house inmates (including the New England facility to house female inmates). These inmates are under the supervision of the Prisons Division.
- Non-Traditional Prison Housing: offenders included in this category are both those considered to be inmates as well as those that are

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on parole and/or probation. Included in this category are the alcohol and treatment center at the State Hospital and transition centers in Bismarck and Fargo. These inmates and offenders are under the supervision of the Field Services Division.

- Supervised in the Community: offenders included in this category are those that are on parole and/or probation. These offenders are in the community and may be under a variety of different types of supervision or have different reporting requirements. These offenders are under the supervision of the Field Services Division.

The Field Services Division uses the Department of Corrections Subject Tracking and Reporting System (DOCSTARS) to maintain records related to offenders managed by the division. Due to problems related to the count of offenders within the system (further addressed in the section below titled *Ensuring the Accuracy of Information*), the fact that the information within the system is constantly changing (which limits the means to recreate information from past periods), and offenders supervised in the community may have multiple supervision types or have different reporting requirements, we did not identify daily rate information related to those offenders supervised in the community.

To identify daily rates, we used information within fiscal year 2004 to identify daily rates as of June 30, 2004. In computing daily rate information for placement options within the traditional prison housing and non-traditional prison housing, actual expenditure information was not available for all placement options and estimated expenditure information had to be used. Areas where estimated information had to be used included:

To identify daily rates, we used actual and estimated expenditure information.

- The cost to house female inmates at the New England facility includes an inmate daily rate (\$77.73) plus an additional daily amount for inmates in treatment programs (\$12). Included in the daily rate is \$15.50 per inmate for medical expenses. Per the contract, DOCR is required to pay all medical expenditures exceeding \$50,000 over what the medical daily rate does not cover. As previously identified in this report, DOCR will be paying additional medical costs for the female inmates at the New England facility. However, due to billing problems with the hospital in Dickinson (used for the female inmates) we were unable to determine the amount DOCR will be liable for. The actual daily rate for the New England facility will be higher than the daily rate we were able to identify.
- In computing the daily rate for the three DOCR adult facilities, DOCR had to allocate certain expenditures to facilities based on inmate counts. This was due to certain expenditures not being tracked by facility as certain cost centers were used to account for expenditures at all three facilities. For example, cost centers established for training, food services, and buildings and ground maintenance do not identify the specific facility but include expenditures for all three facilities.

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- In computing the daily rate for the three DOCR adult facilities, we had to use an amount for estimating the number of inmates that DOCR has residing in other states through Interstate Compact. When DOCR sent these inmates to another state or federal prison, DOCR received an inmate from that state or federal prison (in effect, inmates are “swapped”). The inmates in other states were not included in the inmate population amount used in computing a daily rate. Due to limitations in iTAG (the inmate management information system), we were unable to identify the actual number of these inmates in fiscal year 2004. As a result, an estimated amount was used.

In identifying a daily rate for the placements that DOCR contracts with to house offenders, we identified payment information and inmate population amounts. For the three DOCR facilities, we attempted to identify a common daily rate computation used in the correctional area. In discussions regarding daily rates with CJI, they noted there was no national standard on how to compute the rate. As a result, we had a number of discussions with DOCR representatives and reviewed daily rate calculations used for identifying a federal Bureau of Prisons rate. To identify a daily rate at the three DOCR facilities, the following computation was used to identify an expenditure amount:

Actual facility expenditures incurred in fiscal year 2004
Less capital payments made in fiscal year 2004
Plus depreciation expense for fiscal year 2004

Capital payments were removed from facility expenditures as these payments can fluctuate from year to year and are dependent upon the number of capital projects in a given year. Thus, years in which a number of capital projects are undertaken will result in a higher expenditure amount and will not provide a comparable daily rate from year to year. In computing a daily rate, these capital expenditures should be allocated over a period of time in which the benefits of the expenditures are realized (i.e. depreciation expense). Thus, the capital payments are removed and depreciation expense is added.

Based on our review of information and discussions with DOCR representatives, the daily rates were identified as of June 30, 2004 and can be seen in the table on the following page:

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Table 2 Daily Rate Information as of June 30, 2004	
Adult Placement	Daily Rate
<i>Traditional Prison Housing</i>	
State Penitentiary	\$68.07
James River Correctional Center	\$69.28
Missouri River Correctional Center	\$46.41
Average of 3 DOCR facilities	\$65.52 ¹
New England Facility (houses female inmates)	\$83.55 ²
Private Prison (Appleton, Minnesota)	\$52.50
County Jails	\$45.26
<i>Non Traditional Prison Housing</i>	
Tompkins Rehabilitation Correctional Center	\$42.42 ³
Bismarck Transition Center	\$51.48 ⁴
Female Transition Program	\$53.00 ⁴

¹ Average of three DOCR facilities would be an overall average using total expenditures and total inmate days (thus, taking the average of the three facilities will not identify the average amount identified as each facility has a different inmate population).

² Actual per day rate is higher as this rate does not include hospital medical costs from April through June 2004 as no billings were submitted by a Dickinson hospital for services provided to female inmates from the New England facility.

³ For fiscal year 2005, the cost for TRCC will increase by \$800,000 and, assuming similar occupancy rate information from fiscal year 2004, would increase the daily rate to \$68.56.

⁴ The amounts identified for the transition programs are based on the payments made by DOCR. In addition to DOCR's payment amount, an inmate or offender on parole/probation at the transition center who is on work release is required to pay a daily fee (\$12 per day for the Bismarck Transition Center and \$11 per day for the Female Transition Program).

Daily Rate Observations

Through a review of daily rate information and additional discussions with DOCR representatives, the following observations and information regarding rates were identified:

DOCR Average Rate Higher than Most Other Placements

Not including the New England facility used to house female inmates, DOCR's average daily rate (\$65.52) is higher than other placement options. Reasons for this are the fact that inmates at these placement options do not have high medical costs and are inmates that typically have no behavior problems. Outside placements are able to determine who they will accept and can send the inmates back to DOCR if they so choose. If an inmate at one of the facilities were to have a medical problem requiring outside services, DOCR would take the inmate back. In addition, certain outside placements such as county jails and the private prison do not provide treatment services. Also, the transition centers charge certain inmates or offenders on parole/probation a daily fee in addition to the payment made by DOCR. Thus, the DOCR

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facilities have inmates in their facilities that are going to be higher in cost for various reasons compared to the other placement options.

Medium Security Daily Rate Higher than Maximum Security Rate

DOCR's medium security facility, James River Correctional Center (JRCC), has a higher daily rate (\$69.28) than the maximum security facility, State Penitentiary (\$68.07). In discussing reasons why this higher rate existed, DOCR representatives noted that the main reason was due to the Special Assistance Unit (SAU) located at JRCC. SAU is a 24-bed unit designed to address the needs of seriously mentally ill inmates. While expenditures are not specifically tracked for SAU, DOCR was able to identify an estimated amount for salaries and operating expenditures (medical costs for SAU were not identified). The estimated daily cost for SAU was determined to be \$151.86. Removing the estimated costs of SAU from JRCC, the facility's daily rate was identified at \$64.45.

Private Prison Rate Lower than DOCR Average Rate

The daily rate identified at the private prison (\$52.50) is lower than the rate identified at the State Penitentiary and JRCC. While this appears to show that it is cheaper to house inmates at a private prison than at DOCR, there are reasons why this may not necessarily be the case. The private prison will only take those inmates that meet certain criteria and will not accept those that are high in medical costs (without an increase in the rate charged) and do not accept inmates with behavioral problems. Also, DOCR is liable for costs incurred if an inmate at the private prison was in need of medical services provided outside of the prison. In addition, the private prison does not have treatment programs or services available for the inmates. CJI noted that bringing these inmates back into a DOCR facility would actually result in a savings to the state as only a marginal cost would be incurred. As identified in Chapter 2, for each inmate that could be returned from Appleton to a DOCR facility, approximately \$1,167 per inmate per month could be saved.

While the private prison rate is lower than DOCR's average daily rate, bringing these inmates back into a DOCR facility would result in a savings to the state.

Medical Rates for DOCR Facilities

Included in the daily rates for the three DOCR facilities are expenditures incurred for all medical costs. The amount would include medical costs that may have been incurred for inmates that are not in one of DOCR's three facilities (placed in county jails, the private prison, and non-traditional prison housing placement). While these inmates are not in a DOCR facility, the Department is still responsible for the medical costs that could be incurred if the inmate requires medical services outside of their housing placement. For example, if an inmate at the private prison (Appleton) was to require a hospital stay, the hospital expenditures would be paid for by DOCR. Currently, DOCR does not track these medical expenditures so we were unable to take out medical expenditures related to inmates not in DOCR's facilities. DOCR representatives noted that while it was not very common for an inmate outside of a DOCR facility to incur an additional medical cost, if they did it is likely to be higher in cost (expensive medical procedures required

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and would be billed at the full rate with no discounts such as Medicaid rates).

Since medical costs incurred for inmates outside of DOCR's three facilities were unable to be identified, the total medical costs identified may be higher than what was actually incurred for the inmates at DOCR's facilities. When an inmate placed outside of a DOCR facility is in need of medical services to be performed outside of the housing placement, DOCR will attempt to bring the inmate back to DOCR in order for the inmate to receive medical services at a DOCR contracted provider. This would result in a lower cost being incurred for the medical services to be received as DOCR has contracted with providers at Medicaid rates. However, this process would also cause the medical rate for DOCR facilities to be higher.

Since medical expenditures are not separately tracked by each DOCR facility, we left all medical expenditures in the information used to compute the daily rate for DOCR's three facilities. The inmate population used for computing medical rates at the three facilities was the same inmate population used to generate the daily rate. Thus, if the medical rate we identified was subtracted from the overall daily rate, a housing rate would be identified. However, this computation does differ from how DOCR computed their medical rate. DOCR would have included in the inmate population all inmates that the Department was responsible for (those inside a DOCR facility and those outside of a DOCR facility). While this computation is reasonable, it does not allow the medical rate identified to be used in conjunction with an overall daily rate identified as the medical rate and overall daily rate would use two different inmate populations.

Medical expenditures were not specifically tracked by DOCR and as a result, expenditures were allocated to facilities based on inmate populations. The table on the following page identifies the medical rates we identified (medical costs include all expenditures DOCR has coded to medical areas):

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Table 3			
Medical Rate Information as of June 30, 2004			
Facility	Overall Daily Rate	Medical Rate ²	Daily Rate without Medical
State Pen	\$68.07	\$9.68	\$58.39
JRCC	\$69.28	\$10.90	\$58.38
MRCC	\$46.41	\$7.67	\$38.74
Average ¹	\$65.52	\$9.83	\$55.69

¹ Average would be an overall average using total expenditures and total inmate days (thus, taking the average of the three facilities will not identify the average amounts identified as each facility has a different inmate population).

² Medical rate uses the same inmate population used in calculating the overall daily rate. This would not necessarily be the same inmate population that DOCR has responsibility for regarding medical costs. DOCR's medical rate computation, which is reasonable, includes all inmates. Using DOCR's calculation, the overall medical rate for the three facilities was identified as \$8.38.

Making Improvements with Daily Rate Calculations

DOCR should establish formal policies and procedures for determining the daily rates for its facilities.

Through the work performed in computing the daily rates for the three adult facilities of DOCR, we had a number of discussions with DOCR representatives as to what expenditures should be included or excluded as well as what inmate population amounts should be used. In our discussions regarding daily rates with CJI, they noted there was no national standard on how to compute the rate and corrections personnel around the country were struggling with this issue.

For fiscal year 2004, all expenditures for the three facilities were not specifically tracked by facility which resulted in having to allocate certain expenditures to facilities based on inmate count. DOCR did state that with the state's new accounting system, the tracking of expenditures by facility should be able to be accomplished. We also had to use certain estimates in relation to inmate populations as certain data was not readily available (and due to limitations in the inmate management information system we were unable to generate the necessary information).

In discussing daily rates with DOCR, it was identified that certain units within the facilities are very high in cost and result in raising the daily rate. For example, at the James River Correctional Center, medium security unit, there is the Special Assistance Unit (a 24-bed unit designed to address the needs of seriously mentally ill inmates). DOCR identified this unit is increasing the cost of JRCC and attempted to identify costs associated with the unit. While estimated salary information and operating costs were identified by DOCR, the medical costs associated with inmates in the unit were not identified.

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Recommendation 5-1

We recommend the Department of Corrections and Rehabilitation develop formal policies and procedures for identifying the daily rate at their three adult facilities. At a minimum, the Department should:

- a) Determine how expenditures at each facility will be identified;
- b) Determine what population information is to be used for calculating rate information;
- c) Ensure that population information is being tracked accordingly; and
- d) Determine whether certain units within the facilities that are high in cost should be tracked separately.

Management's Response

The DOCR agrees with this recommendation. The accounting structure established by the DOCR to capture costs for the 2005-07 biennium will allow the DOCR to record expenditures by facility and function. Formal policies and procedures defining the daily rate calculation at each of the three adult facilities will be developed by the end of the current fiscal year.

Ensuring the Accuracy of Information

Through a review of information presented by DOCR, we had concerns related to information not being consistent and accurate. The majority of the differences identified did not appear significant and appeared inadvertent. However, DOCR does need to make improvements in this area to ensure information is accurate, consistent, and clear.

Enhancing the Quality of Information

We identified DOCR has limited resources in the Central Office available for centralizing data gathering, generating information and reports, and verifying that the information generated or reported is accurate. Through the work performed, we identified information provided by DOCR that did not appear to be consistently reported, information did not appear accurate, different information was provided regarding similar areas, and certain reported count information may have been inflated. While these problems were identified, the majority of the differences in information did not appear significant but did identify an area in which improvement was needed to ensure information is reported in a consistent and accurate manner. A number of problems were identified and five examples are below:

We determined information provided by DOCR needed improvement to ensure consistency and accuracy.

- DOCR identifies an offender body count amount (number of offenders supervised by the Field Services Division) using a report within the Department of Corrections Subject Tracking and Reporting System (DOCSTARS). In a review of this report, we noted certain offenders that were in a DOCR incarceration facility were being counted in the offender body count. This should not have been occurring as these offenders would have already been included in the Prisons Division inmate count information. Thus, DOCR was double counting individuals (included the same individual in both the inmate count and the offender body count). It appears this double count was caused due to a change in certain information no longer being inputted into DOCSTARS. We

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explained this double count to DOCR, who made a programming change that appears to have corrected the count. However, from January 2004 through July 2004, the data regarding offenders supervised by the Field Services Division would be higher than actual.

- During the 2003 Legislative Session, DOCR identified a daily rate for offenders under the supervision of the Field Services Division. DOCR identified two daily rates – one that excluded offenders within certain programs such as the Tompkins Rehabilitation Correctional Center (\$4.29 per day) and another rate that included all offenders (\$5.58). In review of the computation used for the rates, it was determined that the daily rate which was to exclude offenders in certain programs actually included these offenders in the population information used to calculate the rate. Also, the daily rate for all offenders included inflated population information as certain offenders were counted twice. The resulting differences were not considered significant.
- DOCR identifies information regarding sentence length in a document entitled a “Fact Sheet” that identifies population and count information related to inmates. In a review of the information used by DOCR to identify sentence information, it was noted that the sentence information provided by DOCR was the inmate’s entire sentence. This would include their sentence to serve (or incarceration sentence) as well as any suspended sentence (including probation sentences). This information was not identified on the “Fact Sheet” and the sentence information was higher than what the incarceration sentence would be. The sentence information used by DOCR was the sentence amount identified in court documents which appears to result in sentence information being higher than the actual sentence remaining to be served. For example, when a parole violator was sent back to a DOCR facility, the original sentence information was used even though the inmate had already served part of the sentence prior to parole. Also, inmates at DOCR may have already served part of their sentence in a county jail and are given jail time credit (reduces the amount of the time to serve at DOCR) but the full sentence length was identified by DOCR.
- On DOCR’s “Fact Sheet,” information is provided relating to the inmate count as of a specific day. Included in this information is the number of inmates on temporary leave (DOCR inmates that are in a county facility awaiting a court hearing or are in a local hospital receiving medical care). The number of inmates identified in the temporary leave category on the “Fact Sheet” includes only those State Penitentiary inmates on temporary leave. James River Correctional Center inmates on temporary leave for the same reasons were not included in this temporary leave category (included in the facility’s count amount).
- DOCR’s “2001-2003 Biennial Report” provided information related to the Bismarck Transition Center (BTC). The information provided was contradictory as one part of the report identified that BTC

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housed offenders who were within six months of release from custody but another part of the report identified the criteria was one year.

In a review of information provided during the 2003 Legislative Session, we noted different female inmate projection numbers. It appears DOCR lowered their original projection number due to the actual female inmate population being lower than population data at the time of the projection. We also identified that the female projected numbers used for the final appropriation amount were different than DOCR's revised projected amount. In addition, female inmate projections could have been different depending upon whether certain factors were included or excluded. For example, we noted projected numbers that were different depending upon whether or not federal female boarders were included in the amounts. However, while we did note that different female projection numbers were used, we were able to determine the differences were a result of the underlying circumstances for the use of the number and no different projection amounts were identified related to the exact same area. That being said, we did note concerns that with the changes in female projections, confusion may have existed with certain information presented and that areas may have needed further clarification.

Recommendation 5-2

We recommend the Department of Corrections and Rehabilitation take appropriate action to establish management controls to assist in ensuring information provided is consistent and accurate. The Department could consider establishing a centralized process which would include formally tracking data and monitoring requests for information received.

Management's Response

The DOCR agrees with the recommendation and will establish management controls to assist in ensuring that information provided is consistent and accurate. The DOCR agrees that establishment of a centralized process to formally track data and monitor requests for information would assist in ensuring information provided is consistent and accurate, however, the Department presently does not have staff that could be allocated to such a centralized process. Currently, staff within the Divisions of the Department that handle information and data requests all have other primary job responsibilities. For several biennia the Department has requested research staff positions to collect, monitor and analyze data, however these position requests have not been approved. The Department's 2005-07 budget request includes, as an optional adjustment, a request for two research analysts; this request will be forwarded to the legislative assembly for its consideration.

Improving Field Services Count Information

In a review of information identified by the Field Services Division regarding offenders under the division's supervision, we noted information provided may not be as accurate as it could be and may lead to confusion regarding data on offenders. We identified the following information:

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Data regarding the offenders under the Field Services Division's supervision may lead to confusion.

- For December 31, 2003, DOCR identified a one day body count of 3,943 offenders. For this same day, DOCR also identified the number of offenders by supervision category including those on probation (3,523), parole (228), Interstate Compact (482), and Community Placement Program (2). The total for the offenders by supervision is more than the body count number as offenders may be in one or more supervision categories. For example, an offender on both probation and parole is included in both the probation category and the parole category. The program used to generate the information by supervision category was apparently programmed for federal reporting purposes and no changes have been made to allow the supervision category information to equal the offender body count data. This could be accomplished in a number of ways such as having those on both parole and probation be counted in the parole category or having a category established for offenders on multiple types of supervision.
- DOCR provided information related to the number of new offenders as well as the number of offenders released from supervision in certain calendar years. In review of this information, we noted the numbers are not of offenders but of the number of cases opened and closed during the calendar years. An offender with a parole and probation would have two cases. Thus, the actual number of offenders is lower than what is identified.

Recommendation 5-3

We recommend the Department of Corrections and Rehabilitation make improvements to the data provided regarding offenders under the supervision of the Field Services Division to alleviate confusion regarding offender body count data and data related to the type of supervision offenders are on. Options the Department can consider include:

- a) Making programming changes so that offender body count data is consistent with the data related to the type of supervision offenders are on;
- b) Determining if only body count data is necessary for information purposes; or
- c) Making changes to the information presented to clearly identify why data does not agree.

Management's Response

The DOCR agrees with this recommendation. In explanation, the Field Services Division has a managerial need for reports that separate offenders by supervision type: parole, probation, Interstate Compact and Community Placement Program. These reports are used in reporting offender counts to the Department of Justice and other governmental bodies. The Division recognizes a person could become confused since the body count report does not equal the total of all of the supervision types. Therefore, the Division will in the future clearly identify the various offender counts presented in its data.

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Making Improvements with Recidivism Information

To monitor the number of inmates returning to the custody of the Prisons Division, DOCR has identified the following definition of a recidivist:

“A North Dakota inmate who is released from incarceration on probation, parole or expiration of sentence and is returned to ND DOCR Prison Division custody within three years of release because of a new offense.”

Thus, to be a recidivist, an individual returning to the custody of the Prisons Division must be returned within 3 years of their release and must be returning on a new offense. In review of information from other states regarding recidivism rates, we noted no nation-wide definition and noted states include different inmates in their definition. DOCR's 3-year time period appears consistent with most states that provided recidivism information. However, of 13 states in which a definition of recidivism was provided, 7 identified that all returns to the corrections department are included. With the recidivism data provided by DOCR, the Department does include rates regarding “Purely Technical” which would be those released from incarceration and returned to the Prisons Division custody within 3 years for a reason other than committing a new offense (such as a violation of the terms of parole or probation).

DOCR maintains an Excel workbook that is used to calculate recidivism rates. For every individual returning to the Prisons Division's custody within 3 years of release, DOCR determines whether the reason for the return is due to a new offense. In a review of 71 admissions, we identified that 15 admissions were counted as a recidivist and should not have been, and that 2 admissions were not counted as a recidivist and should have been. We also noted that DOCR included releases that should not have been included in the release population, as these releases did not meet certain criteria such as being a North Dakota sentenced inmate (26 releases identified from July 2001 through June 2004 as being inadvertently included in the information). Since a statistical sample was not used in the review of the recidivism rate, the problems identified were not projected to the population. However, if the instances identified in the sample were an accurate representation of the population (nothing was noted in the review or discussions with DOCR personnel that would lead us to believe they are not), actual recidivism rates may be lower than were reported by DOCR. It should be noted that while the recidivism rate may be lower, this would result in the returns for “Purely Technical” to increase. Due to the large investment in time that it would require to calculate an accurate recidivism rate, no recidivism information or conclusions are provided.

Due to problems we noted with the calculation of DOCR's recidivism rate, no recidivism information is provided.

Recommendation 5-4

We recommend the Department of Corrections and Rehabilitation make improvements in calculating the recidivism rate. At a minimum, the Department should:

- a) Establish formal policies and procedures for calculating the recidivism rate; and

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- b) Review previously calculated recidivism information and revise accordingly.

Management's Response

The DOCR agrees with this recommendation. In order to assure that the most up-to-date data is utilized, staff will now utilize iTAG, the official inmate information system, as the main source of information for the Master Recidivism (MR) database. Also, staff has reviewed all releases of inmates entered in iTAG and has removed any ineligible inmates from the MR database. In response to Recommendation 5-4:

- a) The Department will write a formal policy and procedure for calculating the recidivism rate by April 2005.
- b) During CY2005, staff will review each offender returned during the period September 2002 until the problem was identified in September, 2004 and make any corrections to the MR database.

Clarifying Good Time Release Requirements

Through a review of inmate release date information and information related to the Parole Board, we noted clarification was needed and assistance was required from the Office of the Attorney General. The section of state law related to granting inmates "good time" requires modification or clarification and the Parole Board should review their procedures with the Office of the Attorney General and ensure periodic assistance is being received.

Reviewing Good Time Release Requirements

North Dakota Century Code (NDCC) Section 12-54.1-01 identifies information related to Performance-Based Sentence Reduction. Subsection 1 states that except as provided under NDCC Section 12.1-32-09.1 (not eligible for release from confinement until 85% of the sentence imposed by the court has been served):

"offenders sentenced to the penitentiary or any of its affiliated facilities are eligible to earn sentence reductions based upon performance criteria established through penitentiary rules. Performance criteria includes participation in court-ordered or staff-recommended treatment and education programs and good work performance. While *incarcerated* in the penitentiary or any of its affiliated facilities, an *inmate* may earn five days good time per month except for any sentence where the incarceration time is six months or less." (emphasis added)

Due to apparent ambiguity in state law, clarification is required related to granting inmates "good time."

The above section is typically referred to as granting inmates "good time" and results in a "good time release date" being identified for inmates which is earlier than the release date if an inmate were to serve their entire incarceration sentence. In a review of DOCR's policies and procedures related to the calculation of a good time release date, we noted a concern that good time is granted to inmates up front which results in good time credit being given when the offender is not "incarcerated" as they have been released from DOCR's custody prior to the month in which the 5 days good time should have been earned. For

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example, an offender sentenced to incarceration for one year (12 months) receives 60 days good time (12 times 5). If the sentence were to begin January 1, the inmate would be released into the community on November 2 (maximum release date of January 1 the following year minus 60 days) assuming no loss of good time. It appears DOCR has granted 10 days good time for November and December even though the individual was not an “inmate” or “incarcerated” for those two months as they were released. The longer the sentence is, the greater the number of good time days that would be granted to an individual who was not an “inmate” or “incarcerated.” For a 5 year sentence, we determined the individual would receive 40 days of good time while not being an “inmate” or “incarcerated” and a 10 year sentence would result in 85 days of good time while not being an “inmate” or “incarcerated.”

In discussing this area with representatives of the Office of the Attorney General, there was ambiguity noted relating to the good time release date calculation. This is due to prior state laws pertaining to good time and the history related to this calculation. While DOCR’s policies relating to the calculation of the good time release date were reviewed by their Office of the Attorney General representative the last time a change in the law was made regarding the amount of good time (1991), there does appear to be a need for clarification within the law so that the confusion we identified with the terms “inmate” and “incarcerated” can be clarified.

Recommendation 5-5

We recommend the Department of Corrections and Rehabilitation, with assistance from the Office of the Attorney General, review North Dakota Century Code requirements related to good time granted to inmates for the purpose of reducing their sentence, and take appropriate action to modify or clarify sections to make the requirements clear and concise.

Management’s Response

The DOCR agrees with this recommendation and has submitted a bill to the 2005 legislature that modifies the language in NDCC 12-54.1 to make the requirements of the law clear and concise.

Reviewing Parole Board Procedures

The North Dakota Parole Board grants parole to inmates who have been sentenced to DOCR. In discussions with representatives of the Office of the Attorney General, the Parole Board appears to have been given broad authority in state law to perform its functions. In a review of the Parole Board’s policy manual, we identified the Parole Board is granting “good time” to offenders on parole. This good time is given at a rate of 5 days per month and is used to reduce the offender’s release date from parole.

With the Parole Board’s broad authority provided in state law, legal assistance from the Office of the Attorney General should be obtained on a periodic basis.

As noted in the previous section, we identified the good time section of law was in need of review to clarify the requirements. In relation to the Parole Board granting offender’s good time, we noted concerns as the intent of good time identified in state law appears to be for those offenders that are “inmates” and are “incarcerated.” An offender on parole is meeting neither of these requirements and it is unclear whether this practice is allowed under the Parole Board’s broad authority. Since

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parole may be granted months in advance of the projected release date (if the individual remained incarcerated), the effect of being granted good time on the date the offender is released from parole can have a dramatic impact on this parole release date compared to the actual sentence length. The Office of the Attorney General suggested that the Parole Board meet with their office in an attempt to clarify this area and review the Parole Board's procedures.

Recommendation 5-6

We recommend the Parole Board review their policies, meeting procedures, and parole release date calculations with the Office of the Attorney General and ensure legal assistance is periodically being obtained to ensure the Parole Board is in compliance with state law requirements.

Parole Board Response

First, to address the audit, I want to point out that I believe your office exceeded the scope of the legislative intent to conduct a performance audit on the North Dakota Department of Corrections and Rehabilitation (NDDOCR) by including parole board functions in your audit. The North Dakota Parole Board is a separate entity from the NDDOCR. The paroling authority vested in the board lies solely with the board; therefore, the issues your office cites in the audit report regarding paroling policy and expiration dates are inapplicable and outside the parameters of your auditing authority.

In closing, the Board has crafted and utilized a policy that follows North Dakota law and the legal advice of the Attorney General's Office. In addition, there is pending legislation that will clearly define the Board's authority to set expiration dates. See Appendix F for the Parole Board's complete response.

State Auditor's Concluding Remarks

The Chairperson of the Parole Board was requested to state whether they agreed or disagreed with the recommendation. In addition they were requested to comment on what actions they would take to implement the recommendation. The Chairperson's remarks failed to address either request. Instead, the Chairperson makes false accusations about the Office of the State Auditor exceeding our auditing authority and inappropriately accuses us of violating legislative intent relating to the scope of the audit. We met with the Office of the Attorney General prior to making the recommendation and they supported it. The Office of the Attorney General has since informed us that we are well within our auditing authority and that we did not violate legislative intent. Therefore, the Parole Board Chairperson's assertion that we exceeded our auditing authority and violated legislative intent is inaccurate.

Based on the Parole Board's response, it appears they are refusing to review their policies, meeting procedures, and parole release date calculations with the Office of the Attorney General and to ensure legal assistance is being obtained on a periodic basis. See Appendix F for the State Auditor's complete concluding remarks.

Chapter 5

Daily Rates and Departmental Improvements

Additional Areas Requiring Improvement

During a review of the process used by DOCR to take the count of inmates, we noted improvements were needed to increase efficiency. Also, during a review of North Dakota Century Code sections related to DOCR, we noted a number of sections of law which appear to be outdated, contradictory, and in need of clarification.

Making Improvements with the Count of Inmates

The Prisons Division within DOCR completes a count report each day to identify the number of inmates under the control and custody of DOCR. Inmates are located within traditional prison housing units (operated by DOCR or contracted prisons) and nontraditional prison housing (treatment and transition programs). Inmates located in the nontraditional prison housing placements are under the supervision and monitoring of the Field Services Division, not the Prisons Division. However, the Prisons Division is still responsible for identifying the number of inmates within these programs even though the Field Services Division is also identifying the number of inmates in these programs. As a result, additional time is incurred identifying similar count information and if the count information does not reconcile, additional time is spent in an attempt to reconcile information. Since the Prisons Division is not responsible for the supervision and monitoring of the inmates in nontraditional prison housing, it appears the division may not be notified of all information, such as releases, to properly track these inmates.

Recommendation 5-7

We recommend the Department of Corrections and Rehabilitation make improvements with the processes and procedures used in identifying the count of inmates to increase efficiency and reduce duplication of effort.

Management's Response

The DOCR agrees with this recommendation, however, the Department is still uncertain at this time how the recommendation will be implemented. We are working on procedures that will allow the Prisons Division to count only those inmates that are under the control of the Prisons Division. However, the responsibility for taking a daily count of those inmates assigned to the facilities that are under the control of the Field Services Division and the responsibility to maintain an Official Daily Total Inmate Count for the Department must be assigned to other staff. Maintaining the Official Daily Inmate Count would be an appropriate responsibility for Central Office, however at this time we do not have staff available in Central Office that could take over this responsibility. The Department will continue to pursue implementation of this recommendation as it proceeds with its reorganization effort of several DOCR functions.

Making Changes to State Law

Through a review of North Dakota Century Code (NDCC) and discussions with representatives of DOCR, concerns were noted relating to language in NDCC not being clear, concise, and up-to-date. Examples noted include:

- NDCC Section 29-27-07 states that if a judge of the District Court imposes a term of imprisonment to a state correctional facility upon conviction of a felony or a Class A misdemeanor, the judge may not

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Certain sections of state law appear to be outdated and contradictory.

designate a state correctional facility in which the offender is to be confined but shall commit the offender to the legal and physical custody of DOCR. While this section requires the judge to commit the offender to DOCR, we identified a number of sections that identify language relating to sentences or judgments for imprisonment at the State Penitentiary.

- During a review of NDCC, language related to a “Division of Parole and Probation” was identified. NDCC chapters related to the Pardon Advisory Board and the Parole Board identify requirements related to a Division of Parole and Probation and NDCC Section 65-01-15.1 identifies information pertaining to the Parole and Probation Division. DOCR has a Field Services Division which apparently replaced the Division of Parole and Probation.
- NDCC identifies requirements related to inmates and the responsibilities of the Warden in relation to inmates. Century Code also uses the term adult offenders in certain sections. While every inmate would be an adult offender, not all adult offenders are inmates. It appears the Warden is responsible for the sections relating to inmates. However, inmates placed in nontraditional prison housing are under the supervision of the Field Services Division and not the Warden.

In 1989, DOCR was created by combining separate agencies established for correctional institutions, parole and probation, and adjudicated juveniles. It appears certain language still exists in Century Code related to the prior organizations. As DOCR has evolved and implemented additional changes, such as using nontraditional prison housing for inmates, Century Code language has remained relatively the same and has not reflected the changes made with DOCR.

Recommendation 5-8

We recommend the Department of Corrections and Rehabilitation take the appropriate steps to review all North Dakota Century Code sections pertaining to the Department and initiate action to modify or repeal sections to make them clear, concise, consistent, and up-to-date. The review should consider:

- a) Sentencing and judgments related to the Department;
- b) Use of the term inmate and offender;
- c) Use of the term Warden and Director of the Department; and
- d) Language related to the Division of Parole and Probation.

Management's Response

The DOCR agrees with this recommendation and has worked with the Attorney General's Office to draft legislation that clarifies and brings the Century Code up-to-date in all of these areas.

Management and Administrative Structure

Introduction

One of the goals of this performance audit was to answer the following question:

“Is management and the administrative structure of the Department of Corrections and Rehabilitation effective?”

Through tests and reviews performed, we noted that changes could be made to improve upon an already generally effective management and administrative structure. Through a review of information, we determined Department of Corrections and Rehabilitation (DOCR) employee salaries need to be increased and additional staff are needed. Within DOCR's Central Office, a unit or division to direct and oversee the functions and operations of DOCR is needed. In addition, a position with system-wide responsibility to oversee all treatment services and a funded position for a Prisons Division Director should be established.

Areas related to contracting and human resources should be centralized within DOCR. In addition, a department-wide strategic plan and master plan should be developed. The information systems used by the Prisons Division and the Field Services Division should be integrated. Department-wide policies should be established regarding temporary employees receiving and using administrative leave. Finally, improvements can be made with DOCR's policy manuals as well as areas related to employee training.

The improvements noted above are discussed in this chapter and improvements of less significance were communicated to management in a separate letter.

To determine whether the management and administrative structure was effective, we:

- Reviewed laws, policies, and procedures related to training, salaries, staffing, and human resource areas;
- Reviewed similar responsibilities and areas established in more than one division; and
- Interviewed selected DOCR staff.

Additional Salary and Staffing

Through a review of salary information of DOCR and a comparison with other government and non-government entities, we noted DOCR employee salaries are too low. We also determined DOCR is in need of additional staff to assist in the safety of DOCR employees, inmates, and the public. A unit to direct and oversee the functions and operations of DOCR was noted as being needed by CJI. In addition, a position with system-wide responsibility to oversee all treatment services and a funded position for a Prisons Division Director should be established.

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Pursuing Requests for Higher Salaries

Through a review of DOCR employee salaries, we determined salaries were lower compared to other state agencies and similar entities.

During the preliminary work performed, DOCR management identified that DOCR employee salaries were very low which was contributing to turnover and low employee morale. A review was done of salary information related to DOCR, county jails and police departments, and state agencies. Additional information from Job Service North Dakota and the Central States Compensation Association was also reviewed. Based on this review, we determined that DOCR salaries were lower compared to other state agencies and similar entities. Examples include:

- Within the state's personnel system, each classified position is assigned a pay grade. Using December 2003 payroll information, we identified that DOCR average salaries were approximately 6.6% lower than state average salaries in all pay grades that have a DOCR employee in them. In fact, the statewide average salaries were higher than DOCR's average for 15 of 16 pay grades. For example, for pay grade 13, the statewide average was \$3,904 per month while DOCR's average was \$3,460.
- A review was done of payroll information from December 2003. Of the 205 Correctional Officers identified on payroll as of December 2003, 147 (72%) had salaries within the first quartile of their pay grade.
- The Prisons Division conducted a survey in May 2004 to identify starting salaries of Correctional Officers at county jails. Seven counties responded to the survey and DOCR starting salaries were, on average, lower than the counties. For example, for Correctional Officer I positions, the average county starting salary was approximately 17% more than DOCR's starting salary. In addition, information was identified by the New England facility used to house DOCR's female inmates. The starting salary for a Correctional Officer I at New England was approximately 23% more than DOCR's starting salary.
- The Field Services Division conducted a survey in April 2004 of the four major city police departments in the state in order to identify starting salary information. Using DOCR's Parole Officer I position and a similar position at the police department, the average starting salary at the police department was approximately 15% higher than DOCR's starting salary.
- DOCR's medium security facility, James River Correctional Center (JRCC), is located on the same campus as the Department of Human Services' State Hospital. In a comparison of salaries of nurses at JRCC and the State Hospital in November 2004, we noted nurses at the State Hospital were paid more, on average, than JRCC nurses. For example, for Registered Nurse II positions, the State Hospital's average salary was approximately \$400 (13%) more per month than JRCC's average salary.

In the work performed by CJI, they noted nurses' salaries are not competitive with the State Hospital, state nursing positions in Bismarck, or community nursing positions. In addition, CJI noted the pharmacist position at the State Penitentiary was at risk of becoming vacant due to

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non-competitive salary. This pharmacist was paid approximately \$10,000 less per year compared to what DOCR is paying State Hospital pharmacists who are performing services for a total of 32 hours per week. CJI noted that due to the difficulty in identifying professional medical providers in North Dakota it will likely be difficult to fill this position should it become vacant and there would also be a loss of institutional knowledge about correctional pharmacy issues.

Recommendation 6-1

We recommend the Department of Corrections and Rehabilitation pursue requests for additional funds for compensation packages and/or salary adjustments giving consideration to salary equity issues within the Department and other entities.

Management's Response

The DOCR agrees with this recommendation. The Department included a comprehensive salary equity package of \$4.2 million for DOCR employees as an optional adjustment in its 2005-07 budget request; this request will be forwarded to the legislative assembly. The \$4.2 million salary equity package would bring DOCR employee salaries in line with the average salaries of other state employees or in some cases, such as for correctional officers, salaries would be more comparable to those paid county correctional officers.

Pursuing Requests for Additional Staffing

Through a review of information and limited tests performed, we noted that DOCR requires additional staff. Our review identified a number of areas where staffing recommendations had previously been made, areas where additional costs may be incurred due to a lack of staffing, and areas where lack of staffing may pose a risk to the safety of DOCR employees, inmates, and the public.

Through a review of information, we determined DOCR requires additional staff.

- In a review of payroll information, we identified 6 DOCR employees, 5 of which were Correctional Officers, earning an average of \$1,000 or more per month in overtime for the period of April 1, 2003 to June 30, 2004. In this same time period, we identified DOCR paid over \$400,000 in overtime. In a review of overtime information for security personnel at the State Penitentiary, it was identified by DOCR that approximately 5.3 full-time equivalent (FTE) positions could be filled with the amount of money spent on overtime. Although the additional FTE would not eliminate the need for all overtime, it could alleviate the need for some officers to put in a large amount of overtime which can lead to burnout and may pose a security risk.
- Through a review of work schedules and discussions with DOCR representatives, it was noted that the facilities operated by DOCR, including those for juveniles and adults, have identified the essential positions on each of their three shifts that, at a minimum, are to be staffed. DOCR representatives noted facilities have had shifts when these essential positions were not covered or staffed which can pose a risk to the safety of employees, inmates, and the public.
- In a June 15, 2002 report issued by Security Response Technologies, Inc. and presented to the North Dakota Legislative Council Interim Corrections Committee, a number of

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recommendations were identified relating to DOCR obtaining additional staff. Based on a review of budget information from the 2003 Legislative Session, only a limited number of the staffing recommendations were implemented.

- In a report dated March 2004 by the National Council on Crime and Delinquency regarding the probation and parole workload of the Field Services Division, the results of the review identified the Field Service Division is in need of four additional parole and probation officers.

Recommendation 6-2

We recommend the Department of Corrections and Rehabilitation pursue requests for additional full-time equivalent positions giving consideration to information included in this report as well as information regarding staffing from previous studies and reports.

Management's Response

The Department of Corrections and Rehabilitation agrees with this recommendation. It included requests for 113.6 additional full-time equivalent (FTE) positions in its 2005-07 budget request as optional adjustment requests; these requests will be forwarded to the legislative assembly for its consideration. A majority of these requests for new FTEs have also been included in previous budget requests but have not been approved.

Establishing a Unit to Oversee Operations

To direct and oversee the functions and operations of DOCR, CJI identified that DOCR employs 18.5 full-time equivalent (FTE) employees in its Central Office located in Bismarck and regional Field Services Division offices in various cities in the state. Of these employees, 3 are assigned to Juvenile Services, 5 oversee Field Services, and the remaining 10.5 oversee all DOCR operations, devoting most of their efforts to Adult Institutional Services. The 18.5 FTE is approximately 3% of the total FTE number at DOCR. CJI noted in 2002 the percentage of all staff who worked in central and regional offices in other state departments of corrections averaged approximately 6% of their total staff, twice the percentage at DOCR. CJI concluded that DOCR required additional staff to monitor both the internal and external operations of its divisions as well as the contractual obligations of those with which it contracts for services and programs. Given the size, complexity, and diversity of its responsibilities, CJI concluded DOCR's central and regional offices should be in the range of 30 to 35 staff.

Recommendation 6-3

CJI recommends the Department of Corrections and Rehabilitation establish a unit within the Central Office dedicated to analysis, policy, planning, and monitoring that is appropriately staffed to ensure what should be happening is, in fact, occurring in a cost beneficial, timely, and proper manner.

Management's Response

The Department of Corrections and Rehabilitation agrees with CJI that a unit dedicated in Central Office to analysis, policy, planning and monitoring would be beneficial. However, additional staff is needed in order for such a unit to be established.

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Establishing a Position to Oversee Treatment

CJI noted DOCR's treatment system was well designed and coordinated. While this was attributable, in part, to the relatively small size of the corrections system in North Dakota, it is largely the result of a collaborative, inclusive offender assessment and case review process. Offenders were screened and typically scheduled for participation in appropriate levels of service well in advance – and were tracked and reviewed by representatives from the various programs who appeared to share a stake in the operation of the system. While the DOCR treatment system was well coordinated, managers coordinated and planned services both formally and informally, without a central person charged with such system-wide responsibility to oversee all treatment services.

Recommendation 6-4

CJI recommends the Department of Corrections and Rehabilitation establish a central office position with oversight responsibilities for all treatment services within the Department. This position should be responsible for planning and program development across DOCR institutional facilities, Field Services Division, and contract programs.

Management's Response

The Department of Corrections and Rehabilitation agrees that Central Office should establish a position with oversight responsibilities for all treatment services within the Department. The Department requested a Director of Treatment Services for Central Office in its 2001-03 biennium budget, however the position was not funded. The Department also requested a Best Practices Coordinator (to include responsibilities for oversight of treatment services) for Central Office as an optional adjustment in its 2005-07 biennium budget request; this request will be forwarded to the legislative assembly for its consideration.

Establishing a Position for a Prisons Division Director

Within DOCR, the Division of Adult Services is comprised of two divisions – the Field Services Division and the Prisons Division. Both of these divisions are overseen by a director but the Director of the Prisons Division is also the Warden of the State Penitentiary. CJI noted that notwithstanding the fact that the State Penitentiary was operating well, the Warden of that facility cannot do justice to both that position and Director of the Prison Division. Inherently, a conflict of "interest" will always be present in that any warden will have difficulty in representing the interest of the Division at the expense of the State Penitentiary.

Recommendation 6-5

CJI recommends the Department of Corrections and Rehabilitation take appropriate action to officially create a position of Director of the Prisons Division and obtain the funds for that position.

Management's Response

The Department agrees that a position of Director of the Prisons Division is needed. However, we believe the current organizational structure in which the Warden of the State Penitentiary is also serving as the Director of the Prisons Division is working well and, we note, that the Department has a much greater need for the creation of other positions within the Prisons Division.

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DOCR Areas Requiring Centralization

Centralizing Contracting Functions

Through a review of DOCR contracts and policies and procedures as well as discussions with DOCR representatives, we noted improvements were needed for establishing and monitoring contracts. Also, a review of areas related to human resources and discussions with DOCR representatives identified a need for improvement in this area.

In a review of DOCR's contracts for services, we noted there were minimal policies and procedures related to contracting. There is no central database for contracts at DOCR and not all divisions have established a means for identifying and/or tracking their contracts. Each division within DOCR establishes and monitors its own contracts and each division trains staff in procurement procedures. As a result, DOCR is incurring additional time and costs in contracting and inconsistencies in contract language and monitoring are occurring. Examples include:

- DOCR pays the State Hospital approximately \$108,000 a month for operating the Tompkins Rehabilitation Correctional Center (TRCC) program. When preliminary discussions were held with representatives of the State Hospital and DOCR, we were informed a formal contract did not exist or representatives were unsure whether a contract had been entered into. Upon further review, a signed contract was provided to our office almost two months after this issue was discussed with DOCR management. The contract has an effective date of July 2003 but was not signed by DOCR until October 13, 2004 and the State Hospital signature is not dated. DOCR indicated that the State Hospital has requested an additional \$800,000 for this program for fiscal year 2005 which DOCR will apparently pay once an amendment is entered into.
- DOCR contracts with county jails to house DOCR inmates. In a review of a payment to a county jail, we noted DOCR paid a daily rate that was \$10 per day per inmate more than what was identified in the contract (an increase of approximately 29%). The rate increase appears to have been verbally agreed to between DOCR and the county.
- DOCR has entered into two contracts with two separate vendors for the operation of transition centers. For the Bismarck Transition Center, DOCR is not billed the date the offender is discharged from the center. However, for the Female Transition Program, DOCR is billed for the date of discharge.
- The contract for the Female Transition Program (FTP) provides a definition of the term inmate which states "the term inmate means a female offender in the custody of the North Dakota Department of Corrections and Rehabilitation." In addition, under the programming requirements and the counseling services requirements in the contract, the term "female inmate" is specifically used. Thus, the contract for FTP appears to be specifically for services to females. However, it was noted that a male inmate was included in this program and was receiving services similar to those received by the females in FTP.

DOCR incurs additional time and costs in contracting and inconsistencies exist with establishing and monitoring contracts.

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A centralized contracting function would assist in ensuring a qualified individual(s) is reviewing information to assist in ensuring the best services are being provided at the best price and vendors are fulfilling their contractual obligations. Centralizing this function will allow contract information to be tracked department-wide and minimize the possibility of duplicate contracts for the same or similar service.

Recommendation 6-6

We recommend the Department of Corrections and Rehabilitation take appropriate action to centralize the contracting function.

Management's Response

The DOCR agrees with this recommendation. The DOCR had also identified the need to centralize and coordinate the contracting function. It is the intention of the DOCR to address this need in context with its planned reorganization / reengineering of the DOCR's fiscal operations and workflows. Although the DOCR expects to identify and capture efficiencies as a result of this process, the obstacle of inadequate staffing levels presents a challenge to fully implementing this recommendation. However, the DOCR is committed to and will improve the processes and internal controls surrounding the contracting functions.

Centralizing Human Resource Functions

In a review of areas related to human resources, we noted there was no centralized human resource function at DOCR. We determined that divisions within DOCR did not consistently apply policies and procedures related to human resource issues such as turnover, compensatory time, and sick and annual leave. For example, divisions did not compute their turnover information consistently as certain divisions included certain employees in calculating turnover while others did not.

Differences exist between DOCR divisions related to human resource policies and procedures.

DOCR has a Director of Human Resources within the Central Office but there are no employees that this director has direct supervision of as employees performing various human resource functions perform other duties and have other responsibilities. Centralizing the human resource function would assist in ensuring consistency among divisions in developing and applying policies and procedures related to human resource issues.

Recommendation 6-7

We recommend the Department of Corrections and Rehabilitation take appropriate action to centralize the human resource function to enhance consistency with human resource policies, procedures, and practices.

Management's Response

The DOCR agrees with this recommendation. The DOCR agrees that the consistency of implementation of policies, procedures and practices among the DOCR Divisions can be enhanced by further centralizing the Human Resources (HR) function, however, it is not feasible to totally centralize the HR function at this time. Each of the HR staff in the Divisions has other major job responsibilities in addition to the HR duties. Also, even though the current HR staff within each division does not report to the DOCR HR Director, the Director does provide consultation to each of the divisional HR staff. The DOCR agrees to move toward

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further centralizing the function by requiring by policy that all HR policies, procedures and practices flow through the Human Resources Director.

Department-Wide Changes

Through a review of information and discussions with representatives of DOCR, we noted the divisions, for the most part, apparently function as their own separate entities with limited department-wide areas being addressed. DOCR management identified improvements had been made in this area and we did identify areas in which divisions were working in cooperation with one another. We determined a department-wide strategic plan and master plan should be developed. CJI identified an integrated information system was needed for the Prisons Division and the Field Services Division. DOCR should establish department-wide policies related to temporary employees receiving and using administrative leave. In addition, improvements with DOCR's policy manuals were noted as well as areas related to employee training.

Improving Strategic Plan

In a review of information and discussions with DOCR representatives, we identified DOCR was conducting two strategic planning processes – one process for the Division of Adult Services and one process for the Division of Juvenile Services. Thus, two plans were being identified and there was no department-wide plan that addresses priorities on a department-wide basis. While planning has taken place, we noted improvements could be made, including establishing measurable goals and/or objectives and ensuring all tasks are assigned an individual responsible for completion, assisting the DOCR's ability to measure performance and determine how well DOCR was performing and operating.

Recommendation 6-8

We recommend the Department of Corrections and Rehabilitation make improvements to their strategic planning process and identify a strategic plan for the entire Department which contains measurable goals and/or objectives.

Management's Response

The DOCR agrees that it can make improvements in its strategic planning process. The DOCR will pursue combining the strategic plans of the Adult and Juvenile Services Divisions into one document and publish it with a more formal format. However, the Department believes it would still be more productive to host separate strategic planning sessions for the Adult Services and Juvenile Services Divisions. For several biennia, consultants facilitating the strategic planning process for the DOCR, advised us to separate these divisions in the planning process because of the substantial differences between the two. Additionally, we have included a large number of external stakeholders with staff when we have conducted formal "off site" strategic planning sessions. Both Adult Services and Juvenile Services have had 45 to 60 attendees at these sessions. The consultants advised that combining the two divisions and bringing the appropriate representation to the table would simply give us too large a group to work productively.

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Establishing a Master Plan

DOCR operates three adult prison facilities and one juvenile detention facility. We noted DOCR does not have a comprehensive master plan developed. A master plan assists in identifying facility improvement needs and in prioritizing these needs for a department as a whole. In a June 15, 2002 report issued by Security Response Technologies, Inc. and presented to the North Dakota Legislative Council Interim Corrections Committee, a recommendation was made for DOCR to develop a thorough master plan for all facilities. While DOCR agreed with this recommendation, they noted such a plan has not been developed due to a lack of funding.

Recommendation 6-9

We recommend the Department of Corrections and Rehabilitation develop a comprehensive master plan for its facilities that includes operational, programmatic, and maintenance based improvements.

Management's Response

The DOCR agrees that the Department needs to develop a comprehensive master plan for its facilities. The Department has included a request for funding to complete a master plan for the prison in its budget requests for several biennia. A request of \$100,000 to complete a master plan for the Prisons Division is included as an optional adjustment in the DOCR's 2005-07 request; this request will be forwarded to the legislative assembly for its consideration.

Integrating Information Management Systems

Our office conducted an Information System Audit of the Department of Corrections Subject Tracking and Reporting System (DOCSTARS) for calendar year 2003. DOCSTARS is used to maintain records related to offenders managed by the Field Services Division. The report noted there were no procedures or interfaces in place to share data between DOCSTARS and iTAG (the inmate management information system). This results in inefficiencies with entering data twice and increases the risk of errors occurring in data entry. A recommendation was included in the report for DOCR to integrate the two systems. DOCR noted this had always been a goal of DOCR but due to lack of funding they were unable to procure a unified system. The integration of the two systems was also identified by CJI as needing to be accomplished as there was a gross lack of basic DOCR inmate and program (i.e., evaluative) data. CJI noted a lost opportunity was the lack of integration of two good, yet parallel inmate information systems. While independently, these systems were useful, the inability to connect the two systems limited communication and continuity of inmate treatment services.

Recommendation 6-10

CJI recommends the Department of Corrections and Rehabilitation integrate the management information systems of the Prisons Division and Field Services Division. The integration should have the capacity to provide each program with the ability to monitor the flow of inmates through their programs and to obtain both intermediate and follow-up outcome data.

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Management's Response

The DOCR agrees with this recommendation. It has been the Department's goal to integrate the management information systems of the Prisons Division and Field Services Division since early in the Department's existence, however, due to a historic lack of funding the Department was unable to procure a unified system that would fit the needs of both the Field Services and institutional operations. Over time the cost to integrate the systems through purchase of a system has become prohibitive when compared to other options now available to the Department because of technological advances. Future plans for Docstars (field services system) includes a re-write, by Department staff, of the product into a full web based application using a more secure database product. The new product will incorporate the sharing of data with Itag (Prisons Division system) as needed. The auditor's office will be consulted during the analysis phase of the re-write to insure all security and legal issues have been identified before coding begins.

Establishing Department-Wide Policies Regarding Administrative Leave

In a review of policy information, we noted the Field Services Division had a policy stating temporary employees could earn and accrue administrative sick and annual leave. No other division policies identified that temporary employees were eligible to earn and accrue administrative leave. In discussions with DOCR management, it was identified that only the Field Services Division was allowing temporary employees to accrue administrative leave. In a review of information, 10 temporary employees were identified as earning and accruing administrative leave.

One DOCR division allowed temporary employees to earn administrative leave while other divisions did not.

In a review of North Dakota Administrative Code (NDAC), we identified sections that apparently prohibit the granting of annual leave and sick leave to temporary employees. However, based on information from a representative of the Office of the Attorney General, it appears state agencies may provide temporary employees with administrative leave as part of the employment agreement and is generally not considered annual or sick leave as identified in NDAC.

In discussing the use of administrative leave, a representative of the Office of the Attorney General noted that a state agency should not allow its temporary employees to accrue large administrative leave balances and administrative leave should not be carried over and used if the temporary employee were to become a full-time equivalent employee (or regular employee). We noted in August 2004, two temporary employees had accrued over 200 hours in administrative leave and three had accrued over 100 hours. We also identified temporary employees who became full-time equivalent employees were allowed to carry over their administrative leave balances.

Recommendation 6-11

We recommend the Department of Corrections and Rehabilitation develop department-wide policies and procedures for the use of administrative leave. At a minimum, the Department should:

- a) Determine which temporary employees are eligible to receive administrative leave;

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- b) Establish accrual limits for administrative leave; and
- c) Prohibit the carryover of accrued administrative leave when a temporary employee becomes a regular employee for the Department.

Management's Response

The DOCR agrees with this recommendation and will establish department-wide policies for the use of administrative leave. The Department will consult with Human Resource Management Services and the Attorney General's Office in this effort.

Combining Similar Policies and Procedures

Each division within DOCR has established their own policies and procedures. In a limited review of the policies and procedures, we noted the same policies/procedures were identified in each of the divisions, in other cases the same policies/procedures were identified within certain divisions but not all divisions, and similar areas have policies/procedures which are different from division to division. Most of the areas identified related to business/accounting, human resource, and related functions. In discussions with DOCR representatives and a limited review of documentation related to distributing revisions of policies and procedures to employees, we noted differences in distributing revisions and maintaining such information.

Recommendation 6-12

We recommend the Department of Corrections and Rehabilitation combine policies and procedures that exist in common or similar areas and establish guidelines for distributing revisions to policies and procedures to ensure applicable employees have reviewed revisions.

Management's Response

The DOCR agrees that more of the Human Resources and Business/accounting policies, procedures and practices that are in common or in similar areas among the DOCR Divisions could be combined. The DOCR also agrees to establish departmental guidelines for the distribution of revisions to policies and procedures in each Division to ensure applicable employees have reviewed the revisions.

Making Improvements with Training

A significant number of DOCR employees expressed a need for additional training.

As part of this audit, we provided an employee survey form via our web site and assigned a survey number to all employees to be inputted onto the form. On the survey, respondents were requested to answer a question related to whether or not they need or would like to receive additional training in order to perform their job more efficiently and effectively. Approximately 49% of the respondents noted they would like to receive additional training. In a review of types of training listed by employees as being needed, we identified employees in different divisions have similar training requirements and needs. For example, employees from the Field Services Division, the Prisons Division, and the Youth Correctional Center identified they need or would like to receive additional training in self-defense. Also through observation, we noted areas in separate divisions where an apparent lack of training in spreadsheet functions was creating duplicate entry of information and information in spreadsheets was being counted manually rather than using formulas within the application itself.

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DOCR has established training requirements for employees within the Department that require a certain number of training hours for the first year of employment and for subsequent years of employment. In a limited review, we identified 2 of 6 employees reviewed did not meet their first year established training requirement and one of 8 employees reviewed did not meet their subsequent years training requirement.

Recommendation 6-13

We recommend the Department of Corrections and Rehabilitation establish additional management controls relating to training. At a minimum, the Department should:

- a) Ensure employees meet the established training requirements; and
- b) Identify, compare, and combine similar training requirements and needs across divisions.

Management's Response

The DOCR disagrees that additional management controls relating to training are necessary. In response to (a): The Division training policies establish required training and employees are responsible for attending the required training. If staff fails to complete required training, disciplinary action is taken. The Department reviewed the year-end training records for the Prisons Division and found that in 2003, of 424 staff, 10 staff was delinquent (2.4%) and in 2004, of 434 staff, 5 staff were delinquent in their training hours (1.2%). At the Youth Correctional Center, of 90 staff, 3 staff was delinquent (3.3%) in 2003 and one staff (1.1%) was delinquent in 2004. Also, 4 staff did not complete their training requirements because of extended illnesses or other reasons beyond their control.

In response to (b): The Department combines similar training requirements across divisions when it is practical. For example, training for new county correctional officers, provided by DOCR Central Office staff is now combined with training for new Prisons Division correctional officers. These trainings previously were provided separately. However, combining staff from various divisions for similar training, such as for self-defense training, would not necessarily gain efficiencies because (1) these kinds of classes have a class size limit and are usually filled by staff from the Division providing the training, (2) the training varies depending upon whether the subject is an adult or juvenile, and (3) because it is not always practical or efficient for a staff person from one Division to attend a particular class provided by another Division because of time and travel considerations. The Department has found that the great majority of training required for staff is different in each Division because of different job responsibilities and therefore by necessity the training is provided separately.

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Management and Administrative Structure

State Auditor's Concluding Remarks

In relation to (a), DOCR disagrees that additional management controls are needed and provides data related to training for the Prisons Division and YCC. DOCR had ample time and opportunity to identify additional information regarding this recommendation but did not provide such information until their final response. Thus, we have no assurance the information provided by DOCR is accurate. In addition, DOCR identifies that disciplinary action is taken if staff fail to comply with training requirements. In a review of DOCR's policies, we did not identify any policies relating to disciplinary action that was to be taken for noncompliance with training requirements. Also, for the employees we noted as not meeting the training requirements, we identified no disciplinary action taken other than one employee "received a below rating for training on his performance evaluation."

In relation to (b), DOCR identifies it combines similar training requirements across divisions when it is practicable. We identified two areas (self-defense and Excel training) in which training could be provided across divisions and the computer training identified would not be impacted as to whether the employee worked with adults or juveniles. While DOCR does have a process to identify training needs for each division, there does not appear to be an adequate system to properly identify similar training areas across divisions.

Treatment Programs

Introduction

One of the areas the independent consultant, Criminal Justice Institute (CJI), was requested to review related to treatment programs. CJI was to evaluate the adequacy and effectiveness of treatment programs provided to inmates under the Department of Corrections and Rehabilitation (DOCR) control. Also, CJI was to determine if treatment programs were provided in an efficient and timely manner and the effect programs had on recidivism rates. Through their review, CJI concluded that, overall, the treatment programs provided were adequate and effective and were provided in an efficient and timely manner. However, CJI did note improvements could be made to treatment programs. CJI noted the inability to access outcome data, other than on a 'snapshot' basis (a very costly and time-consuming process), made it virtually impossible to answer the question regarding the effect treatment programs had on recidivism. Thus, the extent of treatment programs effect on recidivism rates is unknown.

CJI noted certain improvements could be made to enhance the adequacy of treatment programs including having community residential substance abuse treatment programs for offenders with short-term sentences. In addition, additional substance abuse staffing is needed at DOCR and a day treatment program should be added to a transition center. Also, vocational education programs available to inmates should be expanded.

CJI noted certain improvements could be made to enhance the effectiveness of treatment programs including providing core cognitive-behavioral programming during orientation at long-term, in-house residential treatment programs. DOCR needs to design a program evaluation feedback system to obtain both intermediate and follow-up outcome data. DOCR should also clarify the responsibility of contract service providers to address findings identified in reviews of treatment programs.

CJI noted a significant use of methamphetamine (meth) in North Dakota and this has challenged the ability of DOCR programs to reduce recidivism. DOCR medical staff need to closely monitor advances in the research and treatment of meth addiction and adjust treatment accordingly.

The improvements noted above are discussed in this chapter and improvements of less significance were communicated to management in a separate letter.

Increasing the Adequacy of Treatment Services

Since reliable, quantitative data was not available to provide concrete evidence of the adequacy of programs, CJI relied on sufficient qualitative and anecdotal information that was available to support conclusions. DOCR offers a wide range of appropriate offender treatment programs including universal cognitive-behavioral training, and targeted mental health, substance abuse, educational, and vocational program services.

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CJI noted these services are delivered in a well-organized manner based upon universal screening and assessment using standardized instruments and client treatment matching through classification, case management, and review. In particular, CJI noted substance abuse programming was appropriately provided to a majority of offenders through a continuum of institutional and community-based services including linkages to transitional residential programs and regional services operated by the Department of Human Services (DHS) and private providers.

Increasing Programming

While there was alleged to be a “long waiting list” for services, CJI noted close examination clearly indicated that these were not truly ‘active’ cases for whom access was either delayed or denied due to insufficient capacities (i.e., treatment demand). Rather, they were simply lists of those offenders who had been screened and were queued for admission upon the arrival of their entrance date. Other than the need for increased day treatment slots, there were no suggestions made that there was inadequate treatment capacity to meet existing demand at any of the programs reviewed.

In relation to the adequacy of treatment services, CJI noted the following:

- In interviews conducted by CJI of treatment staff at DOCR facilities, a transition center, and the New England facility, it was the opinion of the treatment staff that the vast majority of those inmates in need of treatment were receiving it. Two factors contribute to inmates not participating in programs. First, due to cognitive impairment related either to serious mental illness or post-acute withdrawal syndrome (particularly from methamphetamine dependence), some inmates were deemed to be not capable of benefiting from treatment. Second, what was described as a large number of inmates (including misdemeanants) with sentences of less than one year and a day, often served periods of incarceration too brief for them to complete an appropriate level of treatment in an institution. The development of a community residential substance abuse treatment program (not within a DOCR facility) could be used to provide treatment to offenders with short sentences which could reduce the number of inmates currently being sent to DOCR who do not receive treatment.
- Actual waiting lists for continuing care at the Human Resources Centers were reported by staff at several DOCR program sites. As a result, an apparent gap in services needed in the community may exist.
- CJI noted that the Missouri River Correctional Center was providing minimal substance abuse treatment programming due to limited staffing.

Additional community substance abuse programming is needed as well as increased DOCR substance abuse staffing to enhance the adequacy of treatment services.

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Recommendation 7-1

CJI recommends the Department of Corrections and Rehabilitation take the following actions to enhance the adequacy of treatment services provided:

- a) Conduct a feasibility study for the development of a community residential substance abuse treatment program (not within the Department's facilities) aimed at providing treatment for offenders with short sentences who are reportedly being sent to DOCR due to a lack of treatment availability in jails (this should be collaborated with courts and jails);
- b) Develop a Memorandum of Agreement (MOA) with DHS to provide training for community-based chemical dependency counselors on criminal justice population issues and to increase the capacity of the Human Resource Centers to serve offenders on community supervision (i.e., aftercare);
- c) Increase substance abuse staffing (i.e., two licensed addictions counselors) and provide increased programming at the Missouri River Correctional Center; and
- d) Support the Bismarck Transition Center in their efforts to develop a day treatment program and consider purchasing such services through an addendum to the contract with the transition center.

Management's Response

Generally the DOCR agrees with this recommendation.

- a) The Department agrees with a feasibility study for the development of a community residential substance abuse treatment program that is aimed at providing treatment for offenders with short sentences who are reportedly being sent to the DOCR due to a lack of treatment availability in jails. However, this program should not be a part of the DOCR.
- b) The Department of Human Services (DHS) works very closely with the Department of Corrections and Rehabilitation to provide aftercare services to DOCR offenders in the community. DHS is also very invested in the Department's Transition from Prison to Community Initiative. Based upon the good working relationship with DHS a memorandum of agreement is not necessary at this time.
- c) The DOCR's budget request for the 2005-07 biennium includes a request for additional treatment staff for the MRCC. The Executive Budget recommendation includes additional treatment staff to provide relapse programming for parolees at the MRCC.
- d) The Department continues in discussions with the Bismarck Transition Center in this effort. Increased daily rates and whether the additional day treatment beds are necessary will be taken into consideration before changing the BTC contract.

Enhancing Vocational Educational Programs

In a June 15, 2002 report issued by Security Response Technologies, Inc. and presented to the North Dakota Legislative Council Interim Corrections Committee, it was identified that vocational education programs were offered to DOCR inmates in certain areas such as

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carpentry, automotive technology, and restaurant management. It was noted DOCR should expand the carpentry program to a full-time building trades program and offer the program at an additional facility as well as establishing a formal computer instruction program for inmates. While DOCR agreed with this, representatives noted the vocational education programs have not been expanded due to a lack of funding.

Recommendation 7-2

We recommend the Department of Corrections and Rehabilitation expand the vocational education programs available to inmates.

Management's Response

The Department agrees that the vocational education programs should be expanded, however has been unable to do so because of a lack of funding.

Increasing the Effectiveness of Treatment Services

CJI noted generally, cognitive-behavioral programming has been found to be an effective approach to reducing offender recidivism. DOCR strives to provide basic cognitive programming to all inmates under its custody. It has commissioned reviews by academic researchers using a standardized instrument, the Correctional Program Assessment Inventory (CPAI), which focuses on assessing program components identified in published research as being associated with reductions in factors linked to recidivism. These reviews have led to an increase in core cognitive-behavioral programming across the DOCR treatment system. In addition, DOCR provides a continuum of health, mental health, educational, vocational, and, in particular, substance abuse treatment that supports the strengthening of skills and resiliency factors aimed at increasing pro-social behaviors and attitudes.

In relation to the effectiveness of treatment services, CJI noted the following:

- In relation to the long-term, in-house residential treatment programs (i.e., State Penitentiary's Treatment Unit), CJI noted an opportunity exists for the programs. These programs have the advantage of an extended length-of-stay with inmates being located in separate housing, away from general population. CJI noted that core cognitive-behavioral programming could be provided during the orientation phase and repeat appropriate, offender-specific modules as a booster session (example: 3-6 months later). An effective social learning program, such as modified therapeutic community (TC), could then be implemented throughout the remainder of the program for all inmates. As a result, the cognitive programming would be limited to the orientation phase (with a booster session at the end of the program) with an increase in the amount of social learning programming (therapeutic community or like programming) in order to have more continuous peer feedback and group behavioral affective therapy rather than all cognitive learning. CJI noted this does not conflict with the concept of providing treatment

Certain improvements could be made to increase the effectiveness of treatment services.

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just prior to release as cognitive-behavioral therapies were one intervention within the social learning model.

- CJI noted there was no program evaluation feedback system for each program. DOCR did not have the capacity to provide each program with the ability to monitor the flow of inmates through their programs and to obtain both intermediate and follow-up outcome data. There was limited ability to determine recidivism rates for each program and to identify factors associated with recidivism across programs.
- In an effort to ensure treatment program effectiveness, DOCR has relied upon the Correctional Program Assessment Inventory (CPAI) reviews which focus on assessing program components identified in published research as being associated with reductions in factors linked to recidivism. CJI noted a word of caution was necessary, as not all combinations of program components have been studied. Unfortunately this could result in misinterpretation and, potentially, over-interpretation of research results could result in negative consequences. During site visits, CJI noted that according to program staff, the message they have received, including directly from some of the academic researchers, is that most of the clinical interventions staff were currently using were not only “ineffective,” but a “waste of time.” Staff at most of the program sites were fearful the academic researchers and/or DOCR Central Office staff (whom they viewed as supporting the views of the researchers) would discover they were conducting, for example, individual and group ‘talk’ therapy and 12-step oriented work which were interventions deemed to be “ineffective.” While the existing research may strongly support the conclusion that some program models are less effective than others, it does not support the conclusion that “all you need to do is cognitive-behavioral” programming, as several clinicians reported they were told by one of the academic researchers. CJI noted the morale of licensed clinicians had been seriously affected by these comments and the programs would possibly face the loss of highly competent and qualified staff that would be difficult to replace. CJI concluded reviews using CPAI and other external, objective feedback should be taken into consideration but should not be the sole drivers of program development. DOCR should equally consider evaluative feedback (e.g., intermediate and outcome data), client satisfaction surveys, and qualitative reviews by qualified, experienced clinical practitioners.

Recommendation 7-3

CJI recommends the Department of Corrections and Rehabilitation take the following actions to enhance the effectiveness of treatment services provided:

- a) At the longer term, in-house residential programs, provide core cognitive-behavioral programming during the orientation phase and repeat appropriate, offender-specific modules as a booster session with effective social learning programming being implemented through the remainder of the program;

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- b) Design a program evaluation feedback system based upon key indicators (i.e., intermediate outcomes) for each program and expand the use of 'client satisfaction' surveys to all programs;
- c) Support individual program directors in the modification of core cognitive-behavioral programming with wraparound services as they deem appropriate to their unique target populations and settings; and
- d) Clarify the responsibility of contract service providers to address findings from the Correctional Program Assessment Inventory reviews to ensure providers are aware that they have flexibility in implementing recommendations from the reviews.

Management's Response

- a) The DOCR agrees with this recommendation. The Director of Treatment for the Prisons Division moved all of the prison's more intensive alcohol and drug abuse treatment programs in this direction following the most recent CPAI review of the Penitentiary's day treatment program.
- b) The DOCR agrees with this recommendation. Client satisfaction surveys have been developed, but the process has not been fully implemented due to lack of staff resources. We believe we will be able to accomplish the satisfaction surveys over the next year. Program evaluation will be more difficult to accomplish, but we will commit to working on this suggestion.
- c) The DOCR agrees that the staff operating these treatment programs needs to be supported. The DOCR strongly supports its treatment staff.
- d) The DOCR agrees that contracts must clearly define the responsibility that contract treatment service providers have with respect to addressing the findings from Correctional Program Assessment Inventory (CPAI) reviews. However, providers must be required to provide the level of treatment services as specified in the contract. The CPAI evaluations assist the DOCR in identifying whether providers are providing services as specified in the contract. When the contract for services is clear, and the CPAI findings show that the contract has not been met, the DOCR disagrees that providers should have flexibility in implementing the recommendations from the CPAI reviews.

Monitoring Advancements Related to Meth

CJI noted the ability of DOCR programs to reduce recidivism is challenged by the severity and prevalence of methamphetamine (meth) dependence in North Dakota. Although North Dakota is not unique, particularly among rural western states, in facing the ravaging affects of this remarkably addictive and readily available substance, the impact on the offender population is substantial. It is a significant cause of rising healthcare costs and contributes to the problem of some short-term inmates not receiving treatment in institutions, as it often takes months before many of these individuals are cognitively amenable to the treatment programs provided. While current knowledge suggests long-

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Significant use of meth contributes to a higher rate of use of dental and psychological services.

term neurological damage (e.g., dopamine depletion), it is unknown whether and how long after abstinence begins that psychotropic medications can be reduced and the introduction of effective treatment programming can be started.

CJI concluded the significant use of meth in North Dakota contributes to a higher rate of use of dental and psychological services due to the devastating effects of the drug on the teeth and dopamine levels in the brain. Lithium, a chemical from car batteries used to make meth, contacts the teeth when meth is smoked, thus accelerating the process of tooth decay. As a result, CJI noted meth was a major contributing factor in rising dental costs. CJI noted meth use also increases the amount of psychotropic medications prescribed for inmates. Use of meth permanently depletes dopamine levels, which causes depression and sleeplessness. Many chronic meth users have no sleep cycle due to the depletion of dopamine. As a result, they see the psychiatrist and seek medication to help them sleep and for their depression.

Recommendation 7-4

CJI recommends the Department of Corrections and Rehabilitation medical staff closely monitor advances in the research and treatment of methamphetamine addiction and adjust treatment protocols accordingly.

Management's Response

The DOCR agrees with this recommendation however believes that the Department of Corrections and Rehabilitation medical staff does already closely monitor advances in the research and treatment of methamphetamine (meth) addiction and does adjust protocols accordingly. We believe the DOCR is taking a leadership role in the treatment of meth offenders.

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- Recommendation 2-1** CJI recommends the Department of Corrections and Rehabilitation take appropriate action to formulate and implement a plan to confine convicted offenders under the jurisdiction of the Department only if they have more than a year and a day to serve when they are physically placed in the Department's control. This plan will require the active involvement of state policy makers, court representatives, and local officials.
- Recommendation 2-2** CJI recommends the Department of Corrections and Rehabilitation temporarily suspend the plans for constructing reception/orientation beds at the State Penitentiary and other proposed bed space additions, except for the improvements to the infirmary and medical areas, until the impact of implementing the preceding recommendation can be determined. If the state determines not to implement the plan, CJI recommends proceeding with all aspects of the capital construction project as currently proposed by an architect.
- Recommendation 2-3** CJI recommends the Department of Corrections and Rehabilitation make even better use of the beds at the three adult facilities it operates and, assuming the male inmate population remains at or below its level in September 2004, return as many inmates as possible from Appleton, Minnesota to a Department facility to reduce costs.
- Recommendation 3-1** We recommend the Department of Corrections and Rehabilitation take the following actions related to the New England facility:
- a) Enter into a one or two year contract for the housing of female inmates;
 - b) Work with the facility to implement recommendations for the cost savings identified in the audit as well as identifying additional areas where costs can be saved; and
 - c) Adequately monitor the operations of the facility to determine whether significant changes are made.
- If the Department determines sufficient progress is not made within the contract period or the facility does not implement areas identified by the Department where cost savings could result, the Department should identify and review alternatives related to the housing of female inmates and pursue such alternatives if cost savings can be realized. Such alternatives could include:
- a) Identifying the cost to either buy or lease the facility from the county consortium, identifying the cost for the Department to operate the facility itself using state employees and applicable contracts for services, and determining if the Department could operate the facility at a rate that would result in cost savings; and
 - b) Identifying other placement options that could be used, identifying the cost of such placement options, and determining whether other placement options would result in cost savings.

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Recommendation 3-2	CJI recommends the Department of Corrections and Rehabilitation's maximum security female inmates not be confined at the New England facility as currently contemplated. These inmates could be housed in nearby state facilities designed to confine and treat high custody female inmates.
Recommendation 3-3	CJI recommends the Department of Corrections and Rehabilitation ensure Medicaid rates (or the equivalent) are obtained for all New England facility medical expenditures and appropriate personnel at New England are involved in the review and approval of medical bills prior to payment.
Recommendation 3-4	CJI recommends the Department of Corrections and Rehabilitation modify the contract for the housing of female inmates to require Department approval for all medical procedures expected to exceed \$1,000 and add additional incentives to control medical costs.
Recommendation 3-5	CJI recommends the Department of Corrections and Rehabilitation ensure the New England facility joins the Amerinet buy group to purchase drugs and if admission is denied, the Department should provide drugs to the facility and be reimbursed accordingly.
Recommendation 3-6	CJI recommends the Department of Corrections and Rehabilitation modify the contract for female inmate housing to authorize the State Penitentiary pharmacist to oversee the pharmacy providing drugs to the New England facility and to monitor prescription practices by psychiatrists at the New England facility.
Recommendation 3-7	CJI recommends the Department of Corrections and Rehabilitation ensure only necessary dental x-rays are taken of female inmates at the New England facility.
Recommendation 3-8	We recommend the Department of Corrections and Rehabilitation have a representative of the Department on-site at the New England facility to ensure adequate monitoring and oversight of its operations.
Recommendation 3-9	CJI recommends the Department of Corrections and Rehabilitation modify the contract for the housing of female inmates to clearly state that the Department will have official oversight responsibility for all aspects of medical services at the New England facility in order to ensure compliance with standards, consistency in operations, and maintain fiscal control of medical expenses.
Recommendation 3-10	CJI recommends the Department of Corrections and Rehabilitation ensure the New England facility contracts with a new Medical Director who will come to the facility to oversee service delivery, review charts, and see inmates as needed.

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Recommendation 3-11	CJI recommends the Department of Corrections and Rehabilitation require the New England facility to modify their contract for psychiatric services so the charges are based on a flat hourly rate for all psychiatric services rather than a set fee for evaluations.
Recommendation 3-12	CJI recommends the Department of Corrections and Rehabilitation ensure the New England facility has a specially trained nurse, counselor, or psychologist perform an intense mental health assessment on inmates requesting to see the psychiatrist.
Recommendation 4-1	CJI recommends the Department of Corrections and Rehabilitation take appropriate action to obtain state funded positions for a full-time dentist and hygienist.
Recommendation 4-2	We recommend the Department of Corrections and Rehabilitation determine whether the dental needs of the Youth Correctional Center can be addressed by state funded positions for a full time dentist and hygienist to alleviate the need for a contract for juvenile dental services.
Recommendation 4-3	CJI recommends the Department of Corrections and Rehabilitation have the dentist be on-site at the James River Correctional Center twice a month every other month (18 times per year instead of 12) in order to reduce the backlog.
Recommendation 4-4	<p>CJI recommends the Department of Corrections and Rehabilitation revise dental screening and exam policies which are costly and exceed American Correctional Association standards. The Department should:</p> <ul style="list-style-type: none">a) Change its policy requiring dental screenings on admissions who have not had a screening in the past 90 days to require dental screenings for admissions who have not had a screening in the past 6 months; andb) Change its policy requiring dental exams to be performed within 3 months of admission to require dental exams to be performed within 12 months of admission.
Recommendation 4-5	CJI recommends the Department of Corrections and Rehabilitation provide pharmacy services at the James River Correctional Center through the pharmacy at the State Penitentiary. To accomplish this, the pharmacist position at the State Penitentiary should be updated to a pharmacy manager, in title and compensation, and a pharmacist or technician position should be created to work under the pharmacy manager.
Recommendation 4-6	We recommend the Department of Corrections and Rehabilitation use the pharmacy at the State Penitentiary for obtaining drugs for juveniles at the Youth Correctional Center rather than obtaining the drugs through a contract with a local vendor.

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Recommendation 4-7	CJI recommends the Department of Corrections and Rehabilitation take appropriate action to obtain authorization to hire a full-time pharmacy technician to replace the three part-time technicians.
Recommendation 4-8	CJI recommends the Department of Corrections and Rehabilitation distribute "Keep on Person" medications monthly rather than weekly.
Recommendation 4-9	We recommend the Department of Corrections and Rehabilitation initiate an independent review of the use of psychotropic medications within the Prisons Division.
Recommendation 4-10	CJI recommends the Department of Corrections and Rehabilitation take appropriate action to obtain funding to make the State Penitentiary infirmary larger and more functional.
Recommendation 4-11	CJI recommends the Department of Corrections and Rehabilitation purchase an Electronic Medical Records program once a suitable program is identified.
Recommendation 5-1	<p>We recommend the Department of Corrections and Rehabilitation develop formal policies and procedures for identifying the daily rate at their three adult facilities. At a minimum, the Department should:</p> <ul style="list-style-type: none">a) Determine how expenditures at each facility will be identified;b) Determine what population information is to be used for calculating rate information;c) Ensure that population information is being tracked accordingly; andd) Determine whether certain units within the facilities that are high in cost should be tracked separately.
Recommendation 5-2	We recommend the Department of Corrections and Rehabilitation take appropriate action to establish management controls to assist in ensuring information provided is consistent and accurate. The Department could consider establishing a centralized process which would include formally tracking data and monitoring requests for information received.
Recommendation 5-3	<p>We recommend the Department of Corrections and Rehabilitation make improvements to the data provided regarding offenders under the supervision of the Field Services Division to alleviate confusion regarding offender body count data and data related to the type of supervision offenders are on. Options the Department can consider include:</p> <ul style="list-style-type: none">a) Making programming changes so that offender body count data is consistent with the data related to the type of supervision offenders are on;b) Determining if only body count data is necessary for information purposes; orc) Making changes to the information presented to clearly identify why data does not agree.

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Recommendation 5-4	<p>We recommend the Department of Corrections and Rehabilitation make improvements in calculating the recidivism rate. At a minimum, the Department should:</p> <ul style="list-style-type: none">a) Establish formal policies and procedures for calculating the recidivism rate; andb) Review previously calculated recidivism information and revise accordingly.
Recommendation 5-5	<p>We recommend the Department of Corrections and Rehabilitation, with assistance from the Office of the Attorney General, review North Dakota Century Code requirements related to good time granted to inmates for the purpose of reducing their sentence, and take appropriate action to modify or clarify sections to make the requirements clear and concise.</p>
Recommendation 5-6	<p>We recommend the Parole Board review their policies, meeting procedures, and parole release date calculations with the Office of the Attorney General and ensure legal assistance is periodically being obtained to ensure the Parole Board is in compliance with state law requirements.</p>
Recommendation 5-7	<p>We recommend the Department of Corrections and Rehabilitation make improvements with the processes and procedures used in identifying the count of inmates to increase efficiency and reduce duplication of effort.</p>
Recommendation 5-8	<p>We recommend the Department of Corrections and Rehabilitation take the appropriate steps to review all North Dakota Century Code sections pertaining to the Department and initiate action to modify or repeal sections to make them clear, concise, consistent, and up-to-date. The review should consider:</p> <ul style="list-style-type: none">a) Sentencing and judgments related to the Department;b) Use of the term inmate and offender;c) Use of the term Warden and Director of the Department; andd) Language related to the Division of Parole and Probation.
Recommendation 6-1	<p>We recommend the Department of Corrections and Rehabilitation pursue requests for additional funds for compensation packages and/or salary adjustments giving consideration to salary equity issues within the Department and other entities.</p>
Recommendation 6-2	<p>We recommend the Department of Corrections and Rehabilitation pursue requests for additional full-time equivalent positions giving consideration to information included in this report as well as information regarding staffing from previous studies and reports.</p>
Recommendation 6-3	<p>CJI recommends the Department of Corrections and Rehabilitation establish a unit within the Central Office dedicated to analysis, policy, planning, and monitoring that is appropriately staffed to ensure what should be happening is, in fact, occurring in a cost beneficial, timely, and proper manner.</p>

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Recommendation 6-4	CJI recommends the Department of Corrections and Rehabilitation establish a central office position with oversight responsibilities for all treatment services within the Department. This position should be responsible for planning and program development across DOCR institutional facilities, Field Services Division, and contract programs.
Recommendation 6-5	CJI recommends the Department of Corrections and Rehabilitation take appropriate action to officially create a position of Director of the Prisons Division and obtain the funds for that position.
Recommendation 6-6	We recommend the Department of Corrections and Rehabilitation take appropriate action to centralize the contracting function.
Recommendation 6-7	We recommend the Department of Corrections and Rehabilitation take appropriate action to centralize the human resource function to enhance consistency with human resource policies, procedures, and practices.
Recommendation 6-8	We recommend the Department of Corrections and Rehabilitation make improvements to their strategic planning process and identify a strategic plan for the entire Department which contains measurable goals and/or objectives.
Recommendation 6-9	We recommend the Department of Corrections and Rehabilitation develop a comprehensive master plan for its facilities that includes operational, programmatic, and maintenance based improvements.
Recommendation 6-10	CJI recommends the Department of Corrections and Rehabilitation integrate the management information systems of the Prisons Division and Field Services Division. The integration should have the capacity to provide each program with the ability to monitor the flow of inmates through their programs and to obtain both intermediate and follow-up outcome data.
Recommendation 6-11	<p>We recommend the Department of Corrections and Rehabilitation develop department-wide policies and procedures for the use of administrative leave. At a minimum, the Department should:</p> <ul style="list-style-type: none">a) Determine which temporary employees are eligible to receive administrative leave;b) Establish accrual limits for administrative leave; andc) Prohibit the carryover of accrued administrative leave when a temporary employee becomes a regular employee for the Department.
Recommendation 6-12	We recommend the Department of Corrections and Rehabilitation combine policies and procedures that exist in common or similar areas and establish guidelines for distributing revisions to policies and procedures to ensure applicable employees have reviewed revisions.

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- Recommendation 6-13** We recommend the Department of Corrections and Rehabilitation establish additional management controls relating to training. At a minimum, the Department should:
- a) Ensure employees meet the established training requirements; and
 - b) Identify, compare, and combine similar training requirements and needs across divisions.
- Recommendation 7-1** CJI recommends the Department of Corrections and Rehabilitation take the following actions to enhance the adequacy of treatment services provided:
- a) Conduct a feasibility study for the development of a community residential substance abuse treatment program (not within the Department's facilities) aimed at providing treatment for offenders with short sentences who are reportedly being sent to DOCR due to a lack of treatment availability in jails (this should be collaborated with courts and jails);
 - b) Develop a Memorandum of Agreement (MOA) with DHS to provide training for community-based chemical dependency counselors on criminal justice population issues and to increase the capacity of the Human Resource Centers to serve offenders on community supervision (i.e., aftercare);
 - c) Increase substance abuse staffing (i.e., two licensed addictions counselors) and provide increased programming at the Missouri River Correctional Center; and
 - d) Support the Bismarck Transition Center in their efforts to develop a day treatment program and consider purchasing such services through an addendum to the contract with the transition center.
- Recommendation 7-2** We recommend the Department of Corrections and Rehabilitation expand the vocational education programs available to inmates.
- Recommendation 7-3** CJI recommends the Department of Corrections and Rehabilitation take the following actions to enhance the effectiveness of treatment services provided:
- a) At the longer term, in-house residential programs, provide core cognitive-behavioral programming during the orientation phase and repeat appropriate, offender-specific modules as a booster session with effective social learning programming being implemented through the remainder of the program;
 - b) Design a program evaluation feedback system based upon key indicators (i.e., intermediate outcomes) for each program and expand the use of 'client satisfaction' surveys to all programs;
 - c) Support individual program directors in the modification of core cognitive-behavioral programming with wraparound services as they deem appropriate to their unique target populations and settings; and
 - d) Clarify the responsibility of contract service providers to address findings from the Correctional Program Assessment

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List of Recommendations

Inventory reviews to ensure providers are aware that they have flexibility in implementing recommendations from the reviews.

Recommendation 7-4

CJI recommends the Department of Corrections and Rehabilitation medical staff closely monitor advances in the research and treatment of methamphetamine addiction and adjust treatment protocols accordingly.

Glossary

American Correctional Association (ACA)	The American Correctional Association (ACA) mission is to provide “a professional organization for all individuals and groups, both public and private that share a common goal of improving the justice system.” One of the purposes and objectives of the ACA is to “develop standards for all areas of corrections and implement a system for accreditation for correctional programs, facilities and agencies based on these standards.”
Bismarck Transition Center (BTC)	The Bismarck Transition Center (BTC) is a transition center for male offenders that is operated by Community, Counseling, and Correctional Services, Inc.
Correctional Program Assessment Inventory (CPAI)	A Correctional Program Assessment Inventory (CPAI) is a standardized instrument used to ascertain how closely a correctional treatment program meets known principles of effective correctional treatment. CPAI focuses on assessing program components identified in published research as being associated with reductions in factors linked to recidivism.
Criminal Justice Institute (CJI)	Based on proposals received pursuant to a Request for Proposal, a contract was awarded to the consulting firm of Criminal Justice Institute (CJI) to review areas related to treatment programs, medical costs and services, overcrowding of DOCR facilities, and management and administration of DOCR.
Dakota Women’s Correctional Rehabilitation Center (DWCRC)	The Dakota Women’s Correctional Rehabilitation Center (DWCRC) is the facility in New England which houses DOCR’s female inmates. The New England facility is operated by the Southwest Multi-County Correctional Center (SWMCCC).
DOCSTARS	The Department of Corrections Subject Tracking and Reporting System (DOCSTARS) is the management information system used to maintain records related to offenders managed by the Field Services Division.
Female Transition Program (FTP)	The Female Transition Program (FTP) is DOCR’s transition program for female offenders. Included in this program are the transition centers in Bismarck and Fargo operated by Centre, Inc.
Inmate	An individual sentenced to the legal and physical custody of DOCR. Regardless of where an individual is housed or what program they are in, the individual remains on inmate status until expiration of their sentence or the individual is paroled by the Parole Board.
iTAG	iTAG is the inmate management information system used to maintain records related to DOCR inmates.
James River Correctional Center (JRCC)	The James River Correctional Center (JRCC) is DOCR’s medium security facility for housing adult male inmates and is located in Jamestown.

Appendix B

Glossary

Missouri River Correctional Center (MRCC)	The Missouri River Correctional Center (MRCC) is DOCR's minimum security facility for housing adult male inmates and is located south of Bismarck.
North Dakota State Penitentiary	The North Dakota State Penitentiary is DOCR's maximum security facility for housing adult male inmates and is located in Bismarck.
Security Response Technologies, Inc. (SRT)	Security Response Technologies, Inc. (SRT) was selected by the North Dakota Legislative Council Interim Corrections Committee to conduct a study of various aspects of DOCR. SRT issued a report dated June 15, 2002, that contained numerous recommendations.
Southwest Multi-County Correctional Center (SWMCCC)	The Southwest Multi-County Correctional Center (SWMCCC) is a county consortium comprised of six counties that operates the New England facility used to house DOCR's female inmates.
Special Assistance Unit (SAU)	The Special Assistance Unit (SAU) is a 24-bed unit at the James River Correctional Center designed to address the needs of the seriously mentally ill inmates.
Tompkins Rehabilitation Correctional Center (TRCC)	<p>The Tompkins Rehabilitation Correctional Center (TRCC) is a partnership between DOCR and the Department of Human Services' State Hospital and is located in Jamestown. TRCC is comprised of three subprograms that offer alcohol and drug treatment to offenders under the control, custody, or supervision of DOCR. The three subprograms are:</p> <p><u>Corrections Rehabilitation and Recovery Program (CRRP)</u> CRRP is a 30-bed drug and alcohol addiction treatment program for high risk, male offenders.</p> <p><u>Tompkins Addiction Services and Corrections (TASC)</u> TASC is a 30-bed drug and alcohol treatment program for female offenders.</p> <p><u>Tompkins Rehabilitation and Corrections Unit (TRCU)</u> TRCU is a 30-bed male drug and alcohol treatment program designed for first time violators of probation and/or parole, first time confined inmates, and for offenders utilizing the intermediate measures program.</p>
Youth Correctional Center (YCC)	The Youth Correctional Center (YCC) is the Department's secure detention and rehabilitation facility for adjudicated juveniles and is located west of Mandan.

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SRT Report

Chapter 41 the 2001 Session Laws required the Legislative Council to study the facilities and operations of the Department of Corrections and Rehabilitation (DOCR) during the 2001-2003 biennium. The Legislative Council was appropriated \$200,000 for the purpose of contracting with a consultant to conduct this study. After the Legislative Council requested two consulting companies to submit proposals for the study, the Legislative Council Interim Corrections Committee selected Security Response Technologies, Inc. (SRT) in October 2001. The final report provided by SRT, dated June 15, 2002, contained the following five volumes:

- Executive Summary and Project Overview;
- Population Projections and Capacity Needs Analysis;
- Physical Plant Review;
- Operations Assessment; and
- Program Review.

Through review of the SRT report, we identified a number of recommendations we determined were significant in relation to the scope of this performance audit. SRT's report contained duplicate recommendations or areas in which similar recommendations were made. We combined these similar areas and determined 18 recommendations were significant to the scope of this performance audit. Based on a limited review performed to determine the status of these recommendations, we determined 6 have been fully implemented, 3 have been partially implemented, 6 have not been implemented, and 3 are no longer applicable. The 18 recommendations and status of each recommendation are identified in the following table. For the recommendations identified as being partially implemented or not implemented, the pages in this performance audit report are identified in which additional work performed is reported.

Description of SRT Recommendation	Status
It was recommended that DOCR provide a separate housing unit for female offenders to increase access to services and programs by pursuing construction of a new housing unit for females at the James River Correctional Center in the 2003-2005 biennium.	Fully Implemented
It was recommended that DOCR ensure the new transition center provides an additional program placement and does not supplant existing programs.	Fully Implemented
It was recommended that DOCR expand the Corrections Rehabilitation and Recovery Program to include female offenders.	Fully Implemented
It was recommended that DOCR should evaluate the staffing complement assigned to complete the addiction assessments during intake to ensure they are completed timely and efficiently.	Fully Implemented
It was recommended that DOCR should initiate action to ensure the classification instrument is both valid and reliable.	Fully Implemented
It was recommended that DOCR work with the Parole Board to accelerate the timing of parole review dates.	Fully Implemented
It was recommended that DOCR initiate an independent review of the use of psychotropic medications within the Prisons Division.	Partially Implemented (page 35)
It was recommended that DOCR implement a system of tracking and evaluating program participants to determine the effectiveness over a period of time for each of the different populations and programs.	Partially Implemented (pages 72-73)
A number of recommendations were made regarding increased staffing levels within DOCR.	Partially Implemented (pages 57-58)

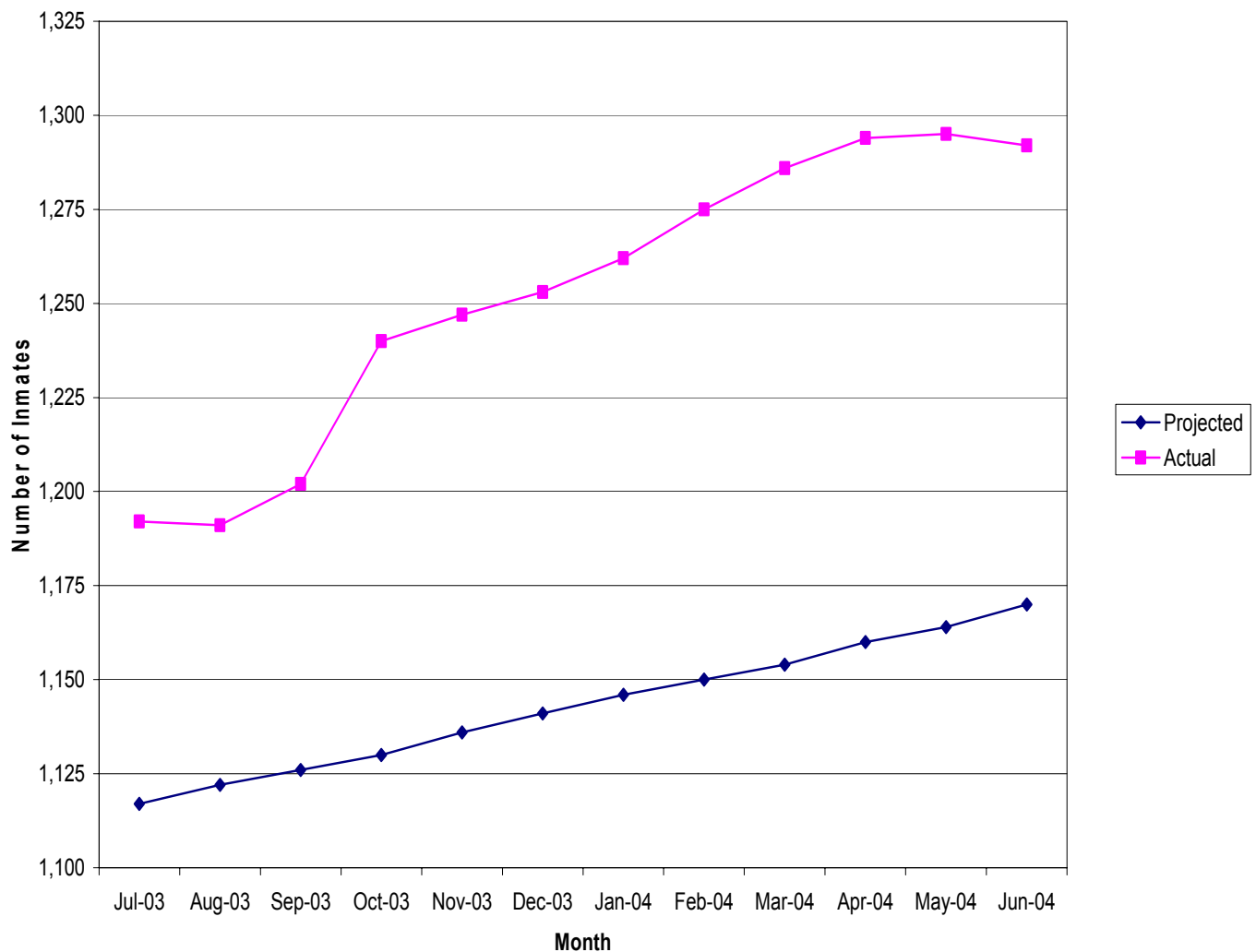
Appendix C SRT Report

Description of SRT Recommendation	Status
It was recommended that DOCR expand the existing carpentry program at the Missouri River Correctional Center to a full-time building trades program, consider expanding the carpentry program to include the James River Correctional Center, and establish a formal computer instruction program for inmates for both the State Penitentiary and the James River Correctional Center with a full-time instructor(s).	Not Implemented (page 70-71)
It was recommended that the Director of the Prisons Division relinquish the additional responsibilities of Warden of the North Dakota State Penitentiary, and that one of the two Deputy Warden positions at the State Penitentiary be converted to a Warden position.	Not Implemented (page 59)
It was recommended that DOCR ensure data validity by developing new data verification procedures and overseeing these efforts to completion.	Not Implemented (pages 45-47)
It was recommended that DOCR integrate and review all Department policies and procedures and implement a formalized internal audit system to check compliance with those policies.	Not Implemented (page 65)
It was recommended that a thorough master plan be developed for all facilities, which includes both programmatic and maintenance based improvements.	Not Implemented (page 63)
It was recommended that DOCR initiate plans to acquire an information management system to replace the Department of Corrections Subject Tracking and Reporting System (DOCSTARS).	Not Implemented (page 63-64)
It was identified that DOCR should explore modifying the dental contract to include performance standards that would equalize the level of treatment delivered during a site visit and also equalize the cost of the services accordingly.	No Longer Applicable
It was recommended that DOCR expand utilization of the Community Placement Program.	No Longer Applicable
It was recommended that the positions involved in the classification process be reassigned to report directly to the Classification Director at the State Penitentiary.	No Longer Applicable

Projected and Actual Population Comparison

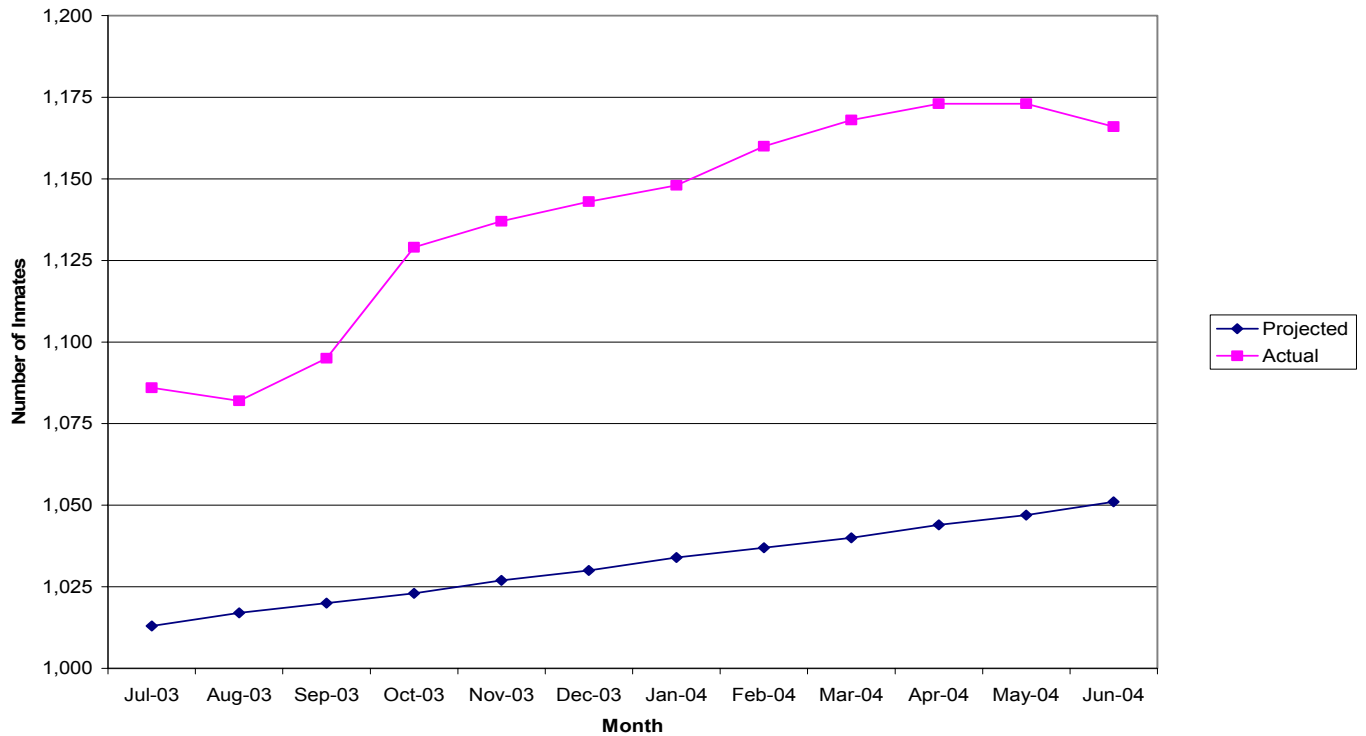
The charts on the next two pages identify the projected inmate population compared to the actual population for the Department of Corrections and Rehabilitation (DOCR) for July 2003 to June 2004. The information is based on projected populations used for appropriation purposes and the actual populations for the fiscal year. The comparisons are made for all inmates, male inmates, and female inmates.

DOCR Inmate Population - All

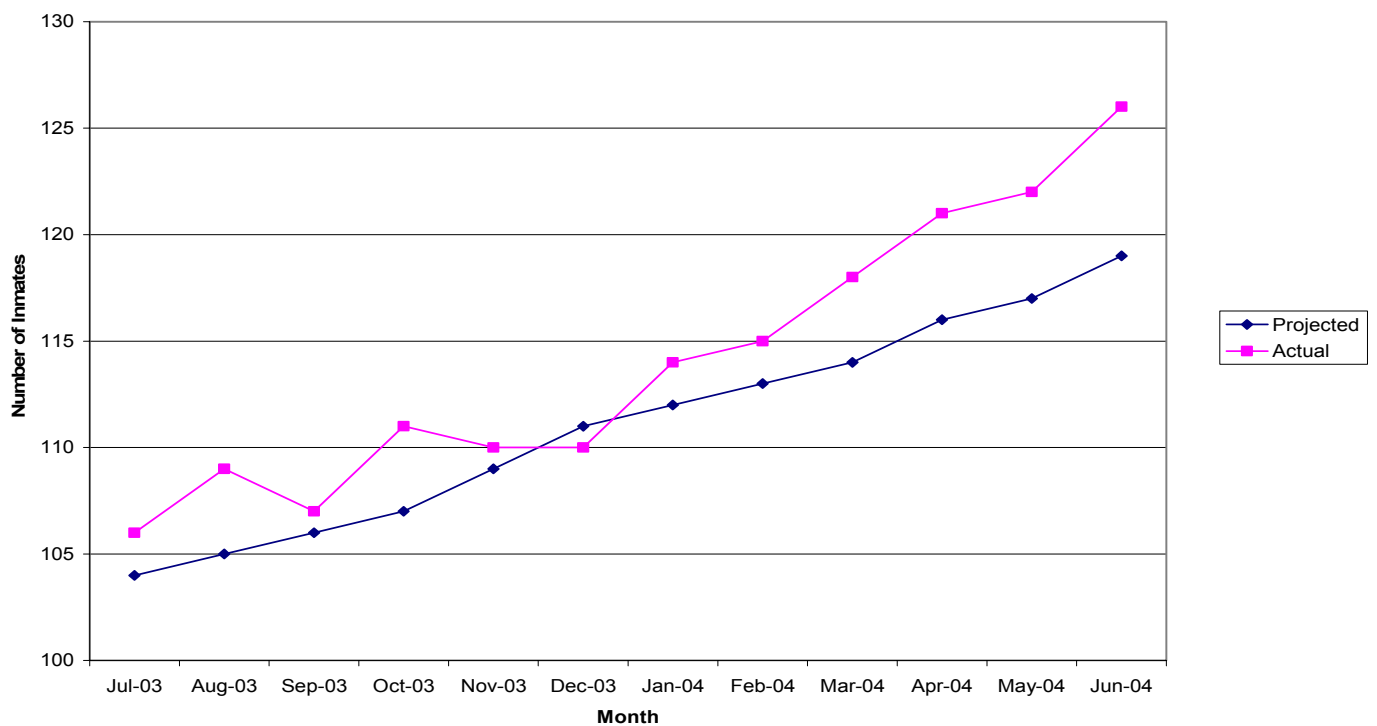


Appendix D Projected and Actual Population Comparison

DOCR Inmate Population - Male



DOCR Inmate Population - Female



North Dakota Century Code Changes

This performance audit identifies recommendations related to North Dakota Century Code (NDCC) sections pertaining to the Department of Corrections and Rehabilitation (DOCR). The table below identifies information related to recommendations made in this performance audit report that may require changes or modifications.

NDCC	Description of Recommendation	Pages in Report
Numerous Chapters	If a plan could be formulated and approved for confining a number of inmates with short sentences in local jails or in community-based programs, a review of NDCC would be required and changes would need to be made to ensure state law provided authority for this process to occur.	6-7
Section 12-54.1-01	This section identifies certain offenders sentenced to DOCR are eligible to earn sentence reductions (good time) based upon performance criteria established by DOCR. We noted a concern that good time is granted to inmates up front which results in good time credit being given when the offender is neither an "inmate" nor "incarcerated." According to the Office of the Attorney General, there is ambiguity related to the good time release date calculation due to former Century Code sections related to good time and the history related to this calculation.	50-51
All NDCC sections related to DOCR, inmates, offenders, sentencing, and judgments	A number of NDCC sections were identified in which language was not clear, concise, and up-to-date. A review of NDCC sections related to corrections and related areas should be performed and appropriate action should be taken to modify appropriate sections of state law.	53-54

Supplemental Responses and Concluding Remarks

Management's Response to Recommendation 4-5

The DOCR agrees with this recommendation, however it will be difficult to accomplish this within existing Department resources. The Department tried to implement this suggestion in the past (fill all JRCC prescriptions from the State Penitentiary) but it became an impossible workload on the existing staff and space; there were also problems with the timely delivery of prescription drugs from Bismarck to Jamestown, and with retrieving and returning for credit drugs that were not taken. If a pharmacist technician is hired, the pharmacist must be physically present to supervise, examine and approve the prescriptions the techs have filled. Since the DOCR pharmacist is located at the Penitentiary, this would mandate that the techs be on site in Bismarck. As mentioned, we don't have adequate space at the State Penitentiary pharmacy for additional techs to work with the pharmacist making this option unworkable without the construction of a new pharmacy. If this suggestion were to work, we would need to address the need for more staff, more space, and a method to correct problems we discovered with delivering and retrieving prescriptions in a timely fashion. Also, additional salary dollars would need to be included in the next biennium's budget in order to upgrade the Penitentiary's pharmacist to a Pharmacy Manager.

It is possible that the funding included in the budget to contract for the 32 hours per week of the pharmacist's time from the State Hospital could be used to fund a full time position for the DOCR, but it would require legislative action to approve the additional FTE. It appears that the best option would be to hire a pharmacist at the JRCC. This could alleviate the space issues, as the pharmacy manager in Bismarck would not need to directly supervise a pharmacist at JRCC, and there is adequate space in the pharmacy at JRCC.

The DOCR agrees that under the consultant's recommendation the State Penitentiary pharmacist should be upgraded to a pharmacy manager in title and compensation.

Parole Board's Response to Recommendation 5-6

First, to address the audit, I want to point out that I believe your office exceeded the scope of the legislative intent to conduct a performance audit on the North Dakota Department of Corrections and Rehabilitation (NDDOCR) by including parole board functions in your audit. The North Dakota Parole Board is a separate entity from the NDDOCR. The paroling authority vested in the board lies solely with the board; therefore, the issues your office cites in the audit report regarding paroling policy and expiration dates are inapplicable and outside the parameters of your auditing authority.

The NDDOCR informs me that they sought the legal advice of the North Dakota Attorney General's Office sometime in 2002 regarding this matter. In 2002, an Assistant Attorney General, advised the board and the NDDOCR on this matter and on December 14,2004 reiterated his position by stating the following:

Appendix F

Supplemental Responses and Concluding Remarks

“My position was, and still is, that NDCC Section 12-59-07 provides the Parole Board with a lot of latitude in establishing terms and conditions of parole and that while I thought it might at least be arguable that “good time” on parole may be an intrusion into the commutation aspect of a pardon, and regardless whether I agreed with the concept, whether to allow parole “good time” is a policy matter for the Parole Board and the Governor and was within the parameters of NDCC ch 12-59.”

NDCC Section 12-59-07 reads as follows:

“conform to the terms and conditions of parole the board or the division of parole and probation may establish for the applicant. The division of parole and probation may establish intermediate conditions of parole, including incarceration for a period of seventy-two hours and restitution, subject to the subsequent approval of the parole board.”

The policy resulting from these sources is contained within the North Dakota Parole Board Policy, updated in June 2003 and signed by the parole board clerk, chairperson and governor. The specific policy section is V(F)(2) which provides:

“The Board may allow good time for offenders on parole at the rate of five days per month for offenders on condition that they are gainfully employed, participating in recommended treatment or educational programs and are engaged in behavior consistent with the conditions of their release. The supervising parole officer shall make a written report to the Board anytime the offender is not in compliance with the rules regarding parole good time. The board will make all final decisions regarding the withdrawal of good time.”

In closing, the Board has crafted and utilized a policy that follows North Dakota law and the legal advice of the Attorney General's Office. In addition, there is pending legislation that will clearly define the Board's authority to set expiration dates.

State Auditor's Concluding Remarks

The Chairperson of the Parole Board was requested to state whether they agreed or disagreed with the recommendation. In addition they were requested to comment on what actions they would take to implement the recommendation. The Chairperson's remarks failed to address either request. Instead, the Chairperson makes false accusations about the Office of the State Auditor exceeding our auditing authority and inappropriately accuses us of violating legislative intent relating to the scope of the audit. We met with the Office of the Attorney General prior to making the recommendation and they supported it. The Office of the Attorney General has since informed us that we are well within our auditing authority and that we did not violate legislative intent. Therefore, the Parole Board Chairperson's assertion that we exceeded our auditing authority and violated legislative intent is inaccurate.

Appendix F

Supplemental Responses and Concluding Remarks

The Chairperson states he believes our office exceeded the scope of the legislative intent to conduct this performance audit. The Office of the State Auditor establishes the scope of the performance audits it conducts. There was no clear legislative intent regarding the scope of this performance audit. We discussed this recommendation and other issues with a representative of the Office of the Attorney General who agreed. Therefore, the Parole Board Chairperson's assertion that our office violated legislative intent is inaccurate.

The Chairperson states the issues cited regarding paroling policy and expiration dates are outside the parameters of our auditing authority. We were in contact with the Office of the Attorney General prior to making this recommendation and after receiving the Parole Board's response. A representative of the Office of the Attorney General informed us they support our recommendation and stated that we are clearly within our auditing authority to make the recommendation to the Parole Board. Therefore, the Parole Board Chairperson's assertion that we violated our auditing authority is inaccurate.

The Chairperson states the issues cited regarding paroling policy and expiration dates are inapplicable. The Parole Board's funding is provided for in DOCR's appropriation and the Board's administrative duties are performed by DOCR employees. In addition, the Parole Board's policies, procedures, and practices have a significant effect on DOCR's operations. As a result, our recommendation to the Parole Board is appropriate.

The Chairperson quotes information that was provided by a representative of the Office of the Attorney General. We were informed by the Office of the Attorney General that the quote used is not an accurate representation of the Office of the Attorney General's position.

Based on the Parole Board's response, it appears they are refusing to review their policies, meeting procedures, and parole release date calculations with the Office of the Attorney General and to ensure legal assistance is being obtained on a periodic basis.