

LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
William Soller

MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Julia Connelley, Associate Management and Program Analyst

CC: Brian Gootkin, Director, Department of Corrections
Cynthia Wolken, Deputy Director, Department of Corrections
Jim Anderson, Public Safety Chief, Department of Corrections
Patrick Smith, Contract Placement Bureau Chief, Department of Corrections
Billie Reich, Program Manager, Montana State Prison, Department of Corrections

DATE: December 2021

RE: Performance Audit Follow-up (21SP-26): *A Comparative Evaluation of State-Operated and Contracted Men's Prisons* (orig. 18P-08)

ATTACHMENTS: Original Performance Audit Summary

Introduction

The *Comparative Evaluation of State-Operated and Contracted Men's Prisons (18P-08)* report was issued to the Legislative Audit Committee in June 2020. The audit included two recommendations to the Department of Corrections (department) and the department concurred with both. In October 2021 we conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our follow-up work.

Overview

Our original audit found the Department of Corrections did not rigorously compare outcomes and measures for its state-owned and contracted men's prisons on a per inmate basis to address potential inequalities across prisons. The audit also found needed improvements to the department's inmate transfer process. We found the department has made some progress in addressing the recommendations from the report, with both being implemented. The department has taken steps to more meaningfully compare performance measures between the prisons on a per-inmate basis. The department also intends to implement a new placement module in its Offender Management Information System (OMIS) that will allow for a less burdensome and more efficient inmate transfer process. However, implementation of the module has been sidelined due to other legislatively mandated changes to the OMIS system, with no specific timeline for completion.

Background

The Montana Department of Corrections is responsible for the custody and housing of male inmates at the Montana State Prison and two contract prisons: Crossroads Correctional Center (Shelby) and Dawson County Correctional Facility (Glendive). One of the contract prisons is privately owned and operated. The other is operated by the county. During the audit, there was an additional contract prison, Cascade County

Regional Prison (Great Falls). However, the department has stopped using this prison to house state inmates since the audit, and the state inmates that were being housed there were transferred to Crossroads Correctional Center.

To address prison overcrowding issues, the legislature authorized the use of private prisons in Montana in 1997. A contract for a for-profit prison in Shelby, Crossroads Correctional Center, was awarded in 1998. Private prisons are controversial nationwide. Opponents argue that privatization can lead to perverse incentives and ineffective rehabilitation. Proponents argue the private sector can innovate effective and rehabilitative incarceration methods. During the audit, we learned the contract facilities were not designed to provide the same level of health care and services for inmates because the contracts aimed at controlling costs.

Montana State Prison had a higher inmate capacity (around 1,500 inmates) than the three other contract prisons in operation at the time of the audit (600 or fewer inmates). The state prison also offers programs like sex offender treatment, addictive disease study, and methamphetamine intensive treatment that are not available at the other prisons. Montana State Prison is also the only facility that houses maximum security inmates. As such, there are considerable differences among the overall populations served by each prison.

Our audit compared Montana's four men's prisons on several measures of prison quality, including rates of grievances, disciplinary actions, visitation, and educational attainment. We also compared recidivism rates across the prisons. Inmates are often transferred between prisons to accommodate their needs as the services available at each prison are different. Our audit also included an assessment of the prison-to-prison transfer process.

Audit Follow-up Results

To assess the department's implementation status, we attended the department's annual conference on inmate grievances and disciplinary reports. This annual conference gives prison officials the opportunity to gather and discuss yearly statistics on inmate grievances and disciplinary actions. We also reviewed recent statistics on grievances and disciplinary reports. Additionally, we learned about the department's plans for implementing an OMIS module to better handle inmate transfers. We also interviewed Department of Corrections staff regarding the changes that occurred since the conclusion of our audit work. The following sections discuss the implementation status of each recommendation.

Recommendation #1

We recommend the Department of Corrections develop a formal, data-driven approach to regularly compare the contract prisons to Montana State Prison and to each other on a per-inmate basis using the following measures:

- A. Grievance rates and the rates of their resolution type.**
- B. Rates of disciplinary actions, including sanctions administered.**
- C. Inmate educational attainment.**
- D. Visitation.**
- E. Any other measures the department deems useful for comparative purposes.**

Implementation Status – Being Implemented

During audit work, we determined that a more rigorous comparison of inmate outcomes and internal measures at the prisons was necessary to assess prison quality. At the time of the audit, the department did

not regularly compare and review statistics on the prisons on a per-inmate basis. In follow-up work, we found the department has made progress in comparing prisons on a per-inmate basis to identify and address potential inequalities across prisons. During the annual grievance conference, the department more rigorously compared the prisons. The department reviewed areas in which inmates were submitting grievances and considered how these have changed over time. We reviewed grievance and disciplinary data for the men's prisons from fiscal year 2021 and compared them to the statistics in the audit report. We found increases and decreases in some areas. The prisons faced many challenges during the COVID-19 pandemic, which affected grievance and disciplinary rates for certain categories. For example, grievance rates related to canteen increased, but decreased for property loss or damage as inmates' movement in the facility was more restricted due to COVID. The department also looked at the number of infractions at each prison and compared the areas in which they were occurring as well as the resulting penalties. Because of this comparison, the department was able to identify the need to change its current disciplinary sanction grid to promote a more equitable application of the disciplinary process. The department has also added two FTE at Crossroads Correctional Center, a grievance coordinator and a hearings officer. The purpose of these positions is to improve consistency in administration and management of grievance and disciplinary reports.

During follow-up work, the department was in the process of centrally tracking inmate educational attainment and reviewing contract language for education requirements. This will allow the department to regularly compare inmate education between the prisons. The department has also begun centralized approvals for visitations at the prisons. However, the ability to compare visitation rates was impacted by the COVID-19 pandemic as well, as visitation was restricted during this time. While the department is comparing grievance rates and disciplinary reports on a per-inmate basis, they are still working toward comparing education and visitation between the prisons. The department did not provide a timeline for full implementation. The department also has not identified other measures for comparative purposes (part E) at this time.

RECOMMENDATION #2

We recommend the Department of Corrections implement within the Offender Management System a population placement module that tracks offender placement requirements, transfer history and reasons, and time spent in specific prisons.

Implementation Status – Being Implemented

During audit work, we noted the department lacked a transfer process that was simple and transparent. We found inmates were subject to increased risk of inappropriate placements due to the burdensome and inefficient nature of the inmate transfer process. The department indicated it intended to implement a population placement module in OMIS to, in part, improve the inmate transfer process.

The department's OMIS Governance Committee approved this change, and department staff are gathering requirements for the module. However, development of the module is on hold until the department implements legislatively mandated changes to the system, such as those in Senate Bill 47 requiring the department to collect data on court placements and criminal offenses. There is no firm timeline for implementation of the placement module, but the department expects it to be completed within the next year or two. In the meantime, the department is conducting the inmate transfer process in the same manner it was during the audit. While we found the department has taken preliminary steps to implement the population placement module, no substantive progress has been made.