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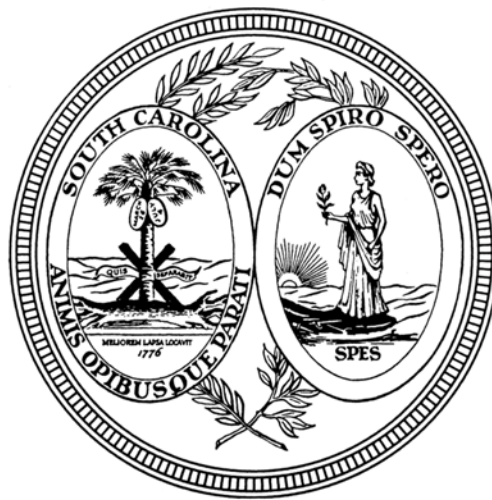
# Legislative Audit Council

# LAC

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August 2019

## A LIMITED REVIEW OF THE S.C. DEPARTMENT OF CORRECTIONS



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# Legislative Audit Council

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## A LIMITED REVIEW OF THE S.C. DEPARTMENT OF CORRECTIONS

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# Introduction and Background

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## Audit Objectives

Members of the House Legislative Oversight Committee asked the Legislative Audit Council (LAC) to conduct an audit of the S.C. Department of Corrections (SCDC). The committee had concerns about agency policies and internal controls regarding security, litigation costs, human resources' areas, and inmate incidents.

We conducted survey work at the agency, reviewed relevant documentation, and consulted with the primary audit requestor to clarify and define issues for review. We also identified other areas to be included in our review. Our audit objectives are as follows:

- Review SCDC's security policies, internal controls, and classification system to determine their adequacy and if they align with national best practices.
- Review human resources' issues, including, hiring, retention, training, work environment, and corrective actions.
- Review the consistency and transparency of reporting of various indicators, including performance measures, types of contraband, types of incidents, etc. to determine if improvement is needed.
- Report on the litigation costs and determine what, if any, trends are identified for lawsuits filed by employees and/or inmates.

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## Scope and Methodology

The period of our review was generally years 2013 through 2018, with consideration of earlier and more recent periods when relevant. To conduct this audit, we used a variety of sources of evidence, including the following:

- Interviews with SCDC employees, employees of other state agencies, and interested parties.
- Management Information Notes (MIN) system data.
- Federal and state laws and regulations.
- Prison Rape Elimination Act (PREA) law, reports, and audits.
- SCDC human resources' files.
- SCDC policies, procedures, and internal reports.
- Southern Legislative Conference Adult Correctional Systems comparative data.

- SCDC litigation documentation.
- Insurance Reserve Fund data.
- S.C. Department of Administration's Division of Human Resources' records.
- South Carolina Enterprise Information System (SCEIS) data.
- Mental health settlement agreement implementation panel reports.
- SCDC employee exit interview data.
- National Institute of Corrections (NIC), American Correctional Association (ACA), and Association of State Correctional Administrators (ASCA) national standards.
- S.C. Department of Probation, Parole and Pardon Services (PPP) interviews, data, and viewings of parole hearings.

Criteria used to measure performance included, primarily, state and federal laws, agency regulations and policies, national best practices, and principles of good business practice. We reviewed some data in its entirety, including data on security staff turnover, corrective actions, separations, and litigation, and reviewed several samples, both statistically-valid and judgmental, including human resources' files and MINs data. Sampling methodologies are described in the audit report. Our findings are detailed in the report.

We also interviewed staff regarding various information systems used by the agency. We determined how the data was maintained and what the various levels of control were. We reviewed internal controls of the systems in various areas and noted several identified weaknesses in the report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

S.C. Code §2-15-50(b)(2) requires us to review the effectiveness of an agency to determine if it should be continued, revised, or eliminated. We did not conclude from this review that the S.C. Department of Corrections should be eliminated; however, our audit includes recommendations for improvement in several areas.



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## Background

According to its website, the S.C. Department of Corrections' mission is:

Safety--we will protect the public, our employees, and our inmates. Service--we will provide rehabilitation and self-improvement opportunities for inmates. Stewardship--we will promote professional excellence, fiscal responsibility, and self-sufficiency.

As of September 2018, the agency employed approximately 4,900 staff at 21 institutions, as well as its headquarters. The agency's FY 18-19 budget was \$492,446,823 and the FY 19-20 budget is \$515,562,354.

During the course of this audit, LAC staff conducted unannounced visits to 12 of the 21 SCDC institutions across the state. We visited institutions representing all three levels of security and visited on different shifts at various times of the day and night.

### LEVEL 3

High-security institutions designed primarily to house violent offenders with longer sentences and inmates who exhibit behavioral problems.

### LEVEL 2

Medium-security institutions.

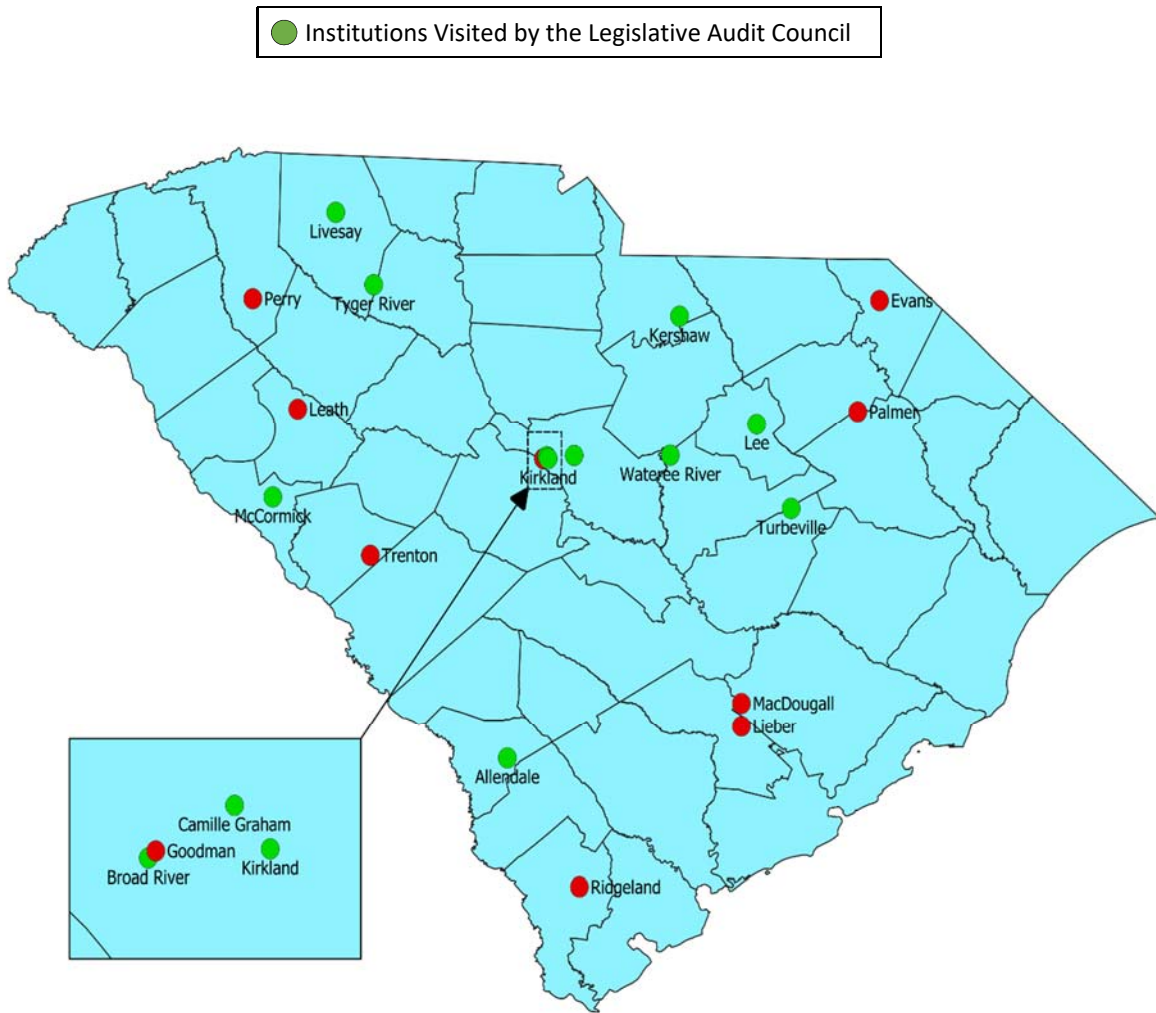
### LEVEL 1

Minimum-security facilities which house inmates with relatively short sentences or facilities which are community-based pre-release/work centers.

We interviewed staff and inmates, at some institutions, and made observations about security procedures. The institutions included in our visits were:

Allendale Correctional Institution (LEVEL 2)  
Broad River Correctional Institution (LEVEL 3)  
Graham (Camille Griffin) Correctional Institution (LEVEL 2)  
Kershaw Correctional Institution (LEVEL 2)  
Kirkland Correctional Institution (LEVEL 3)  
Lee Correctional Institution (LEVEL 3)  
Livesay Correctional Institution (LEVEL 1)  
Manning Reentry/Work Release Center (LEVEL 1-B)  
McCormick Correctional Institution (LEVEL 3)  
Turbeville Correctional Institution (LEVEL 2)  
Tyger River Correctional Institution (LEVEL 2)  
Wateree River Correctional Institution (LEVEL 2)

**Chart 1.1: SCDC Institutions**



# Correctional Officers (COs) and Other Staff

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In this chapter, we report on human resources' issues, including recruitment, training, staffing levels, overtime pay, and retention. We provide statistical data on CO staffing levels, CO salaries, nurse salaries, and CO separations from SCDC. We also make recommendations for improvement, including:

- Improving the agency website to include more information about financial incentives to attract correctional officers.
- Lowering the minimum age requirement of correctional officers to increase the pool from which to hire.
- Ensuring that SCDC's training curriculum is approved by the S.C. Law Enforcement Training Council.
- Providing supervisory training, especially for newly promoted correctional officer supervisors.
- Implementing an electronic timekeeping system at institutions to track when employees arrive, depart, and take breaks.
- Ensuring that overtime is being granted to the institutions that are in the most need of staffing assistance due to vacancies.
- Providing competitive wages for Certified Nursing Assistants (CNAs), Licensed Practical Nurses (LPNs), and Registered Nurses (RNs) to more effectively compete with private employers for nursing staff.
- Creating targeted bonuses for institutions and shifts with high vacancy rates.

Please note that when we use the terms "correctional officer" or "CO," we are often referring to security staff, including cadets, officers, corporals, sergeants, lieutenants, captains, and majors.

## Recruitment

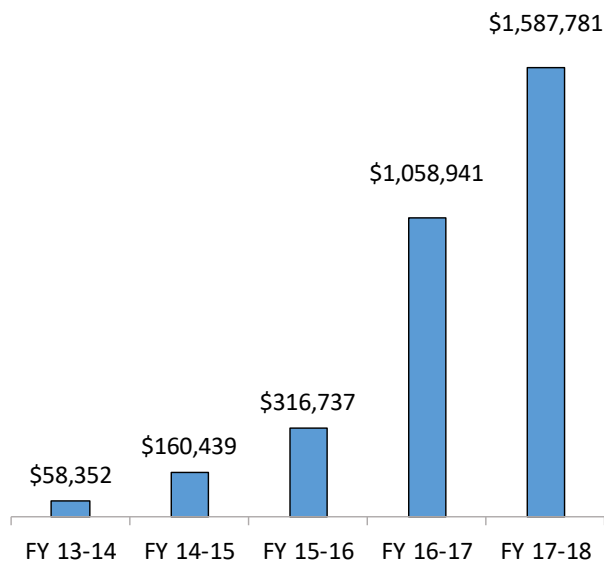
SCDC has taken steps to improve recruitment efforts, such as increasing advertising, implementing NEOGOV (a human resource management software), providing bonuses, and recruiting in Puerto Rico. We found, however, that SCDC could improve recruitment by more effectively:

- Advertising bonuses on the agency website.
- Lowering the age to become a correctional officer to increase the pool of applicants.
- Improving the tracking of job fairs.
- Improving the referral source options in NEOGOV.
- Implementing new bonuses.
- Tracking the effectiveness of bonuses.

## Advertising

From FY 13-14 through FY 17-18, SCDC’s advertising budget grew by \$1,529,429, an increase of more than 2,000%. Chart 2.1 shows the increase in spending from FY 13-14 through FY 17-18.

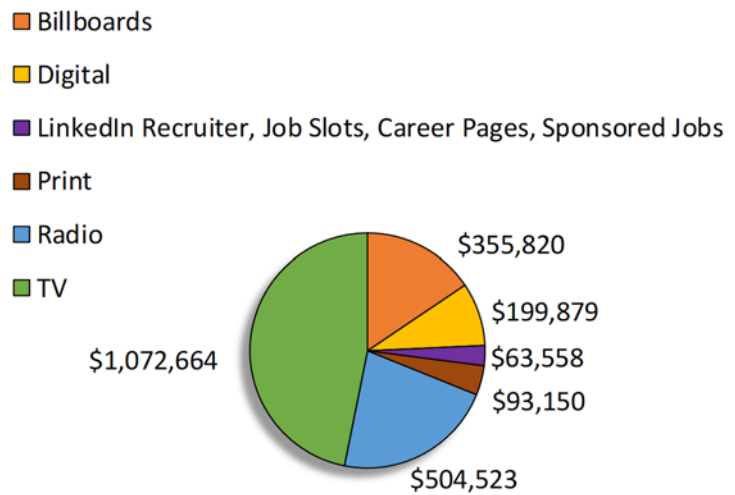
**Chart 2.1: Advertising Expenditures, FY 13-14 – FY 17-18**



Source: LAC analysis of SCDC data.

In FY 16-17, the agency significantly increased spending and began tracking advertising spending in a detailed manner. Chart 2.2 shows that the majority of SCDC advertising spending from FY 16-17 through FY 17-18 was on television advertisements.

**Chart 2.2: Total Advertising Expenditures, February 2017 – December 2018**



Source: LAC analysis of SCDC data.

While SCDC tracks its spending on advertising by type of advertisement, it does not track the effectiveness of its advertisements in relation to hiring in the form of which advertisement attracts the most applicants. Better tracking could improve SCDC’s recruitment efforts and maximize the effectiveness of its advertising expenditures.

## NEOGOV Tracking

SCDC began transitioning its applications’ system to NEOGOV to better capture referral sources and house SCDC jobs where all other state jobs are advertised. Previously, agency employees manually keyed in applications. Initially, the agency piloted the NEOGOV system by placing primarily security positions on this system. In January 2018, the agency completed its conversion to the NEOGOV application system.

From January 2018 through January 2019, SCDC received 10,000 applications that were tracked through the NEOGOV system. The NEOGOV application system allows for the selection of multiple referral sources, or information about how an applicant heard about available jobs.

The ability to select multiple sources created 119 unique referral sources instead of the 22 used in the previous tracking system. The top ten most commonly selected referral sources are found in Table 2.3.

**Table 2.3: Referral Sources,  
January 2018 – January 2019**

RANKING	REFERRAL SOURCE	COUNT
1	State Jobs' Website	2,749
2	SCDC Website	1,716
3	Internet	1,537
4	Employee	794
5	Employment Agency	512
6	Job/Career	390
7	No Referral Source Provided	330
8	Unsolicited Application	300
9	Unknown	173
10	Div. of Human Resource Mgmt.	159

Source: LAC analysis of SCDC data.

## Uninformative Referral Source Choices

There were 803 applicants who selected “no referral source provided,” “unsolicited application,” and “unknown.” SCDC has made it a requirement to select a referral source, therefore eliminating the “no referral source” provided option. Nevertheless, “unknown” and “unsolicited” are still available options for employees to select. These referral source options do not provide any meaningful tracking information for SCDC.

Despite the increase in advertising spending, none of the agency’s advertising methods are in the top ten most commonly selected referral sources. Furthermore, digital advertisements and billboards are not options that applicants can select as a referral source. This does not allow the agency to track the effectiveness of these types of advertisement.

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## SCDC Website

The SCDC website is the second most commonly selected referral source. SCDC last completed a major structural overhaul of its website in 2007. Even though an agency official stated that bonuses are mentioned in all of SCDC's advertisements, bonuses for correctional officers are not mentioned on SCDC's website, only the availability of overtime. Recently produced SCDC recruitment videos are also not on SCDC's website. The North Carolina, Tennessee, and Georgia departments of corrections all have some form of a library of recruitment videos on their websites. Since SCDC's recruitment videos are not easily accessible, the burden is on the potential applicant to find one of the agency's recruitment videos regarding financial incentives to work at SCDC.

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## Job Fair Attendance Tracking

SCDC does not track the number of individuals hired from specific job fairs. The agency began tracking its job fair attendance in March 2017 and has attended a total of 333 events since then. SCDC is proficient in tracking its attendance at job fairs, but does not track its success at job fairs. Currently, SCDC tracks the number of applications received and filled out by individuals at each job fair, but not the number of people hired from each. This does not allow SCDC to make data-driven decisions when deciding which job fairs to attend in the future.

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## Referral Bonus

The fourth most commonly selected referral source is "current employee." The referral bonus began in 2015 and is only available for positions SCDC has designated as hard to fill. These positions include:

- Correctional officers (COs).
- Food service workers.
- Education (teachers and vocational teachers).
- Physicians' assistants and nurse practitioners.
- Registered nurses (RN).
- Licensed practical nurses (LPN).
- Psychiatrists.
- Physicians.
- Psychologists.
- Dentists.
- Qualified mental health professionals.
- Doctors.

The total referral bonus is \$500 and is dispersed in two phases. The first payout of the bonus is \$250 after the referred employee has been with SCDC for three months. The remaining \$250 is paid after the employee has remained with the agency for six months. In 2018, SCDC paid out 315 referral bonuses.

When this bonus was created, it relied on a physical referral card given by a current SCDC employee to a prospective hire who has not previously worked at the SCDC. The prospective hire was expected to attach the card to the employment application. The agency streamlined this process by incorporating a space to list the referring employee in the NEOGOV online application. The agency does not measure the success of the referral bonus by tracking if the referred employee stayed with the agency. This does not allow the agency to understand the effectiveness of referral bonuses.

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## Sign-On Bonus

For medical and mental health staff, SCDC offers a sign-on bonus that is paid out after one year of work and continues to be paid over two or three years, depending on the position. Sign-on bonuses were introduced in FY 16-17. As of May 2019, SCDC had awarded 125 sign-on bonuses totaling \$1,247,500. A list of positions and payout periods are in Table 2.4.

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**Table 2.4: Sign-On Bonus Payout Periods, 2017 – May 2019**

POSITIONS	PAYOUT PERIOD IN YEARS
Physician Assistants	2
RNs	2
LPNs	2
Psychiatrist	3
Psychologist	2
Physician	3
Dentist	2

Source: LAC analysis of SCDC data.



## Special Assignment Pay

SCDC offers special assignment pay for security staff assigned to Level 2 and Level 3 institutions because these are higher security facilities. COs only receive this pay after working at the agency for six months. The difference in pay for both levels is \$1,117.

**Table 2.5: Correctional Officer Salary With and Without Special Assignment Pay**

CORRECTIONAL OFFICER	LEVEL 1	LEVEL 2	LEVEL 3	AVERAGE
Salary	\$32,263	\$33,560	\$35,596	\$33,806
Salary With Special Assignment Pay	N/A	\$34,677	\$36,713	\$35,695

Source: LAC analysis of SCDC data.

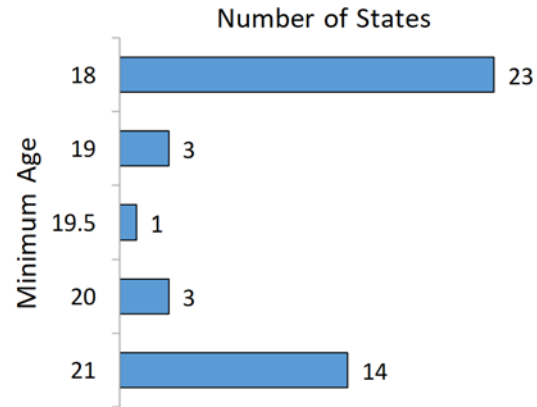
## Lowering the Minimum Age of Correctional Officers

S.C. Code §23-23-60(B)(8) requires that SCDC correctional officers be 21 years old. Currently, SCDC classifies an officer under 21 years old as a cadet. Cadets have similar responsibilities as a CO, but are unable to work specific posts that require an officer to carry keys or weapons. We found that 23 of 44 states reviewed allow COs to be 18 years old. Lowering the age requirement to be a correctional officer would increase SCDC's recruitment pool. SCDC stated they would support this change.

Cadets receive 44 fewer training hours in correctional officer basic training. Cadets must return to the academy to complete their training after reaching the age of 21. Cadets receive a lower salary than COs at all three institutional levels because of the specific posts that cadets are not able to work due to the current age restriction. On average, cadets receive \$5,236 less annually in comparison to a CO.

We reviewed 44 states' minimum age requirements to become a correctional officer. We obtained this information from the National Conference of States Legislatures (NCSL). North Dakota, Pennsylvania, Rhode Island, Vermont, Washington, and West Virginia were not included in the analysis. The average age to become a correctional officer in the 44 states reviewed was 19. Chart 2.6 shows the age most states have set as the minimum age to become a correctional officer.

**Chart 2.6: Minimum Age for CO in 44 states, as of February 2019**



Source: LAC analysis of NCSL data.

## Puerto Rico Recruitment Effort

After Hurricane Maria, SCDC began recruitment efforts in Puerto Rico due to the territory's high unemployment rate. SCDC hired a full-time recruiter who lived in Puerto Rico and was certified as an SCDC officer. Additionally, the agency placed billboard advertisements to further its recruitment efforts.

SCDC recruited nine individuals to work as correctional officers through the months of February through October 2018 and has retained seven. An SCDC official confirmed that the agency ended its recruitment efforts in Puerto Rico in January 2019. The total cost of these efforts was \$71,115.

## Recommendations

1. The S.C. Department of Corrections should compare advertising expenditures to selected referral sources of new recruits.
2. The S.C. Department of Corrections should refine the referral source selections in the NEOGOV tracking system to allow more specific tracking of referral sources.
3. The S.C. Department of Corrections should design its website to include more information, such as videos, on available financial incentives for correctional officers.
4. The General Assembly should amend state law to lower the minimum age to become a correctional officer.

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## Background Checks for Correctional Officers and Volunteers

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SCDC does not have evidence that national background checks on COs are conducted at least every five years, as required by federal regulation. The agency also does not ensure that background checks are completed for all volunteers before their orientation dates and every three years thereafter, as required by policy.

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### Background Checks for Correctional Officers

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While SCDC policy does not require post-employment background checks for COs after a certain number of years, these checks are required by federal regulation §115.17(e), which states:

The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees.

We were not able to verify whether SCDC complies with this standard because according to an agency official, SCDC only retains these background checks for three years.

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## Recommendations

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5. The S.C. Department of Corrections should include in policy that all correctional officers are required to complete post-employment background checks every five years, as required by federal regulation.
6. The S.C. Department of Corrections should complete post-employment background checks on all correctional officers every five years, as required by federal regulation, and maintain documentation for the required period.

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## Background Checks for Volunteers

### **Pre-Orientation Background Checks**

SCDC volunteer services programs policy states:

Volunteer applications and orientation will be renewed every three (3) years. The orientation date must be updated by the Institutional Volunteer Coordinator in the Agency mainframe... The affected institutional staff member will submit the application through the Volunteer Coordinator to the Agency Volunteer Services Coordinator for a background check (NCIC/RAP Sheet)... When the application process is complete and the person has been approved by the Agency Volunteer Services Coordinator as a Volunteer, s/he must attend an orientation and training program and must complete SCDC Form 1-9, Volunteer Services Agreement.

To verify if SCDC is conducting background checks on volunteers before their orientation dates, we selected a random sample of 100 current volunteers, as of January 2019. We compared background check completion dates to the orientation dates and found that SCDC did not conduct these checks for 22 volunteers prior to their orientation dates.

### **Recurring Background Checks**

We were unable to verify whether background checks were renewed every three years, as required by SCDC policy. SCDC officials stated that the database has been recently updated to automatically change an existing volunteer's status to "pending" if a background check has not been conducted within the past three years. Volunteers with this status are not allowed to enter an institution to volunteer.

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## Recommendations

7. The S.C. Department of Corrections should ensure that background checks are completed on all volunteers before allowing them to attend orientation, as required by policy.
8. The S.C. Department of Corrections should complete background checks on all volunteers every three years, as required by policy, and maintain documentation for the required period.

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## Correctional Officer Training

SCDC has not submitted its training curriculum for correctional officers to the S.C. Law Enforcement Training Council (training council) since 2016. Curriculum is supposed to be reviewed every two years. This may call into question the certification status of all SCDC COs certified after 2018 who completed training, which was not approved by the training council.

S.C. Reg. 37-005 states that candidates for basic certification as a CO shall successfully complete a training program approved by the training council and will be certified as a Class-2 state corrections officer. The S.C. Criminal Justice Academy (CJA) is governed by the training council. To receive continuing approval, SCDC must provide lesson plans every two years after the initial approval. CJA limits its review of curricula to subject matter content. It does not review SCDC training curricula for validity or accuracy of the training content.

In 2010, SCDC agreed to annually submit an attestation letter of compliance for the CO basic training certification program to CJA. The attestation letter does not comply with S.C. Reg. 37-005. Despite this, SCDC has not provided an attestation letter of compliance since 2016 and has continued after 2018 to conduct training for all employees without the training council's approval.

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## Training Review

The SCDC training academy currently only tracks the date that training was approved and who internally approved the training. The agency does not track any updates or changes made to individual courses. Some courses within the provided documentation exceeded the prescribed two-year limit for review. This absence of detailed tracking does not allow the agency to have an understanding of what information was updated or changed in each course.

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## CO Basic Training Shortened

In 2018, SCDC shortened basic training for new COs from six weeks to four weeks by eliminating "real life scenario" training. According to an agency official, training was shortened in order for COs to report to work sooner. We reviewed the length of basic training for agencies in South Carolina and other states to determine the length of other basic training programs. We found that the S.C. Department of Juvenile Justice provides a five-week training. Georgia offers five weeks of CO basic training. North Carolina offers six weeks of CO basic training. Abbreviated training may leave officers less confident in their skills when working posts alone initially.

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## Agency Training Advisory Council

SCDC is required by policy to have an agency training advisory council to promote the professional development of SCDC employees and to ensure, to the extent possible, that the training needs of the agency and of its employees are being met. SCDC is unable to provide a date for the most recent agency training advisory council meetings. Even though agency policy dictates that the council will meet at least biannually.

The responsibilities of the council are to:

- Review and approve the annual training needs' surveys.
- Assist in the development of the agency's annual training plan.
- Provide a cost and funding analysis for any training programs that are recommended.
- Review and approve the annual training plan.

SCDC was unable to provide documentation of the most recent in-person meeting of the council. Currently, members conduct the process over email. The American Correctional Association (ACA) recommends that an advisory training committee meet quarterly to review progress and resolve problems.

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## Video Training

There are 13 courses taught via video in the 2019 mandatory training provided to COs. Only 3 of the 13 courses have quizzes after the video to help ensure that COs comprehend the content of the training video. SCDC is currently in the process of creating a computer lab at each institution to allow COs easier access to policies and training. There are currently no criteria for deciding which training videos warrant COs to take a quiz after viewing a training video. This does not allow the SCDC training academy to ensure that COs comprehend all the material covered in a training video. An agency official stated the agency intends to have some form of quiz after all video training.

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## Supervisory Training

Training for CO supervisors may not adequately prepare them for their roles at SCDC. Furthermore, SCDC does not keep accurate training records. SCDC offers a supervisory development program for newly promoted supervisors which consists of three consecutive courses. The course material for this program was purchased in 2012 from the National Institute of Corrections (NIC).

For COs, sergeant is the first level of supervisor that is expected to participate in the supervisory development program. For employees who are not COs, there is no predetermined position identified as having to participate in this program. On the recommendation of the SCDC training academy, new supervisors are expected to complete the first two courses of the program within six months of being promoted to a supervisory position or the CO may be subject to a demotion. This timeframe is not established in policy and does not apply to the final course in the program. An agency official stated the reasoning for this lack of timeframe was to allow COs to implement and practice skills learned in the program. The lack of policy does not incentivize employees to complete the supervisory development program.

For 2019, the class size for the first course in the supervisory development program is 35 employees. The class size is 25 employees for the remaining two classes in the program. This capacity difference of 10 employees from the first course to the second course may not allow for all individuals who attend the first course to complete the second course within the six-month timeframe.

We attempted to examine the average timeframe it takes SCDC employees to complete the supervisory development program; however, SCDC was unable to provide data showing that the last course in the supervisory development program was taught in calendar year 2017. Agency officials were unable to provide an explanation for the lapse in data. This calls into question all employee training records and the recordkeeping practice of the training academy, as well as the preparedness of new supervisors.

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## Communication Skills

Several SCDC employees mentioned that CO supervisors have poor communication skills and may be promoted too quickly. In FY 17-18, supervisors had an average of 4.3 years of experience at SCDC. Since the current supervisory development program may not adequately prepare supervisors communications skills, SCDC should find updated training that focuses on supervisor communications skills.

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## Travel for Training

We were asked to review travel expenditures for training of management staff. SCDC expended \$19,807 from 2014 through 2018 for the director to visit organizations relevant to the corrections field. Other high-level staff traveled to visit organizations relevant to their specific fields of work. We did not find these expenditures to be extravagant, and the travel seemed relevant. Examples include:

- The director of police services attended a conference on gangs across the Carolinas.
- The director of programs, reentry, and rehabilitative services attended the Missouri Reentry Conference.
- The director of operations attended a conference with the American Correctional Associations (ACA) as well as visits to other states' departments of corrections.

Eight wardens have attended the Warden Peer Interaction Program conducted by North American Association of Wardens & Superintendents. This program explores and discusses best practices and strategies for handling critical correctional challenges among other topics. The average cost to send a group of four wardens was \$5,028. An agency official stated that the agency intends to send all remaining wardens to this conference.



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## Recommendations

9. The S.C. Department of Corrections should submit its training immediately to the South Carolina Criminal Justice Academy for approval by the S.C Law Enforcement Training Academy, and then every two years, as required.
10. The S.C. Department of Corrections should document changes and updates to training curricula.
11. The S.C. Department of Corrections should reevaluate its curriculum that was eliminated from correctional officer basic training to determine if or how the deletion is affecting officer preparedness.
12. The S.C. Department of Corrections should hold quarterly agency training advisory council meetings to assess the agency's training needs.
13. The S.C. Department of Corrections should complete the implementation of computer labs at all institutions.
14. The S.C. Department of Corrections should ensure all training, conducted via video, requires a comprehension quiz following the training video.
15. The S.C. Department of Corrections should implement a policy for completing the first two courses of the supervisory development program within six months of being promoted to a supervisory position.
16. The S.C. Department of Corrections should determine what level of supervisor must participate in the supervisory development program.
17. The S.C. Department of Corrections should maintain consistent class sizes in the supervisory development program to ensure that all students who complete the first course can complete the entire program in the prescribed timeframe.
18. The S.C. Department of Corrections should ensure that it maintains accurate training records on the attendance and completion of training.
19. The S.C. Department of Corrections should implement communication skills' training for supervisors.

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## Required Training for Contraband Control Officers Not Provided

According to agency policy, which was last updated in 2004, the deputy director of police services is required to establish a training program for contraband control officers (CCOs) and assistant CCOs. SCDC does not provide this training. This training must cover SCDC's policies and procedures regarding contraband as well as certification as a drug tester.

CCOs are responsible for searching for and confiscating contraband inside an institution, maintaining a log of any contraband found by quantity, and storing and/or disposing of the unauthorized items. However, police services does not provide this kind of training and in 2017 requested for this policy requirement to be removed. Additionally, neither the SCDC training academy nor the SCDC division of security offer this training specifically for CCOs. Although all COs receive some contraband and search training from the SCDC training academy, this training does not cover topics relevant to the specific responsibilities of CCOs, such as contraband storage, contraband logbooks, contraband weighing and measurement, and contraband disposal. Additionally, although this training notes that it is a felony to provide contraband to inmates, it does not detail the criminal penalties for those convicted of doing so.

Without a special contraband training program for CCOs, these officers may not apply a consistent method of documenting the quantity of contraband from institution to institution. SCDC contraband records show inconsistencies between entries from different institutions despite similar types of contraband entered. For example, tobacco has been logged as both a count of the product as well as by its weight.

SCDC policy also requires that employees who are authorized to use the Management Information Notes (MIN) system are adequately trained to do so. However, although COs are trained how to write incident reports, neither the training academy nor SCDC's division of security provides training covering the proper use of the MIN system.

Inconsistent recording methodologies may result in overstated or understated counts of contraband found at SCDC institutions, rendering the agency's contraband data unreliable.

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## Recommendation

20. The S.C. Department of Corrections should develop specific contraband training for contraband control officers and require its completion, as required by policy, to ensure consistent methods are used across all institutions for searching for and recording contraband that is found.

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## Off-Duty Training and Overtime Pay

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SCDC policy states that employee training should not be scheduled when employees are off duty. It is agency practice, however, for security staff to complete training when off duty due to staffing shortages.

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## Off-Duty Agency Training Requirements

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SCDC policy requires security staff, except cadets, to successfully complete 160 hours of certification training, called basic training. Security staff are then required to recertify every three years by obtaining a total of at least 40 hours of training in various continuing law enforcement education (CLEE) classes. In addition to these training requirements, security staff are required to obtain at least 20 hours of training annually, some of which count toward their CLEE training hours.

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## Off-Duty Training is the Agency's General Practice

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SCDC policy states that training for security staff should not be scheduled when they are off duty. Agency policy, however, sets a different standard than national correctional standards, which states:

Because it is not always practical to release correctional officers and other staff for training during regular duty hours, staff should be compensated for their off-duty time spent in training. When officers are taken off the job for training, there should be sufficient funds for replacement personnel.

As noted in a 2018 staffing report commissioned by SCDC and confirmed by LAC auditors during institutional visits, it is currently the agency's general practice that security staff attend training when off duty, as a result of staff shortages.

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## Off-Duty Training Attendees Eligible for Overtime Pay

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An executive order issued in April 2018 authorized SCDC to pay overtime to exempt employees, such as security staff, who exceed 160 hours in a 28-day cycle. According to SCDC policy, security staff who work 171 hours in a 28-day cycle are compensated for overtime, at time and one-half of their hourly rate of pay. Agency officials stated that security staff who attend training on their off days receive eligible overtime compensation.

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## Recommendation

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21. The S.C. Department of Corrections should amend its policy regarding security staff to complete training during off-duty hours to reflect its current practice to the extent that amendments adhere with national correctional standards.
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## Programs for Employees Who Experience Stress and Trauma

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SCDC offers two types of employee assistance programs—the employee assistance program and the critical incident stress management program. The following sections describe these programs.

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### Employee Assistance Program

Since at least 2000, SCDC has been offering the employee assistance program (EAP) for employees who may be experiencing emotional or physical problems or other situations that may be affecting job performance. EAP can assist employees with issues such as substance abuse problems, physical disabilities, or anxiety and depression. EAPs are not provided as part of state health care coverage, but agencies may offer this additional service through contracted providers, as a means to improve job retention.

SCDC employee participation in EAP is voluntary and may begin as a self-referral or supervisory referral. Treatment begins with an assessment followed up by external referrals, as necessary, to community providers that provide counseling, medical evaluations, training, and other treatments, as required. SCDC's expenditures for the EAP in FY 17-18 were approximately \$58,000.

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### Critical Incident Stress Management Program

In February 2018, SCDC implemented the critical incident stress management (CISM) program as a type of employee assistance program for agency employees who have experienced professional or personal traumatic events. CISM is an international program that was initially designed for first responders who had been involved in critical incidents and have been physically and/or emotionally affected by those incidents. The effectiveness of the program has resulted in its use beyond first responders.

The CISM method provides support in three different ways: peer support, group support, and the post critical incident seminar.

#### PEER SUPPORT

Intended to provide emergency mental health intervention on a one-to-one basis. Peer supporters are employees of SCDC who have been specifically selected and trained to provide this assistance to traumatized co-workers. Currently, SCDC has trained 39 staff who act as peer supporters and has a goal of training enough peers to have a minimum of one peer at each institution for each shift.

#### GROUP SUPPORT

Initiated when multiple individuals have experienced the same traumatic event, such as the April 2018 incident at Lee. Through trained facilitators, affected individuals meet in a group setting to debrief the event.

#### POST CRITICAL INCIDENT SEMINAR

Designed for individuals who have experienced highly traumatic events or the effects of an event are long lingering. The seminar is a three-day long event that uses various techniques to address issues.

Peer and group support training costs approximately \$2,500 for 40 individuals. Post critical incident seminars costs approximately \$85,000 for four sessions a year.

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## Employee Assistance Program and Critical Incident Stress Management Differences

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There are two main differences between the EAP and CISM programs. The EAP appears to have a larger scope than CISM, focusing on various types of employee problems, such as marital or legal issues, whereas CISM is specifically for employees who have experienced trauma. Both programs, however, are designed to address issues or traumas.

Another difference between the EAP and CISM programs is the outsourcing of support efforts. With CISM, an SCDC peer supporter often works with the SCDC employee who is traumatized and, therefore, may be a more trusted and effective support than an external resource.

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## CISM and EAP Program Awareness

Agency awareness of the EAP and CISM programs differs. New staff learn about EAP during orientation training, but not the CISM program. CISM awareness is promoted by program staff who visit during pre-duty morning and evening shift meetings at the agency's institutions. An agency official stated that adding information about the CISM program to orientation would be a good addition to that training.

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## Recommendation

22. The S.C. Department of Corrections should amend its orientation training to include education on the Critical Incident Stress Management program.

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## Meal Breaks for Security Staff

Due to a lack of security staff, SCDC is generally not able to allow security staff to take a bona fide meal break. While federal and state law do not require employers to give employees meal breaks, SCDC policy authorizes, but does not require, meal breaks for security staff. It is agency practice that security staff work during their meal periods, but pay is provided for the time worked.

Studies show that working long stretches without breaks leads to exhaustion, inefficiency, mistakes, and burnout while breaks would have the inverse effect.

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## Law, Regulation, Policy, and Agency Practice

Neither federal nor state law requires that employers provide meal breaks for their employees. SCDC policy, however, authorizes a 30-minute meal break per shift for security staff who work 8- and 12-hour shifts. Agency policy also states that if security staff perform their work duties during their meal period, they will be credited that time as hours worked; this aligns with relevant federal regulations.

It is currently SCDC's practice to have security staff continue to perform their duties during their meal periods, which was noted in a 2018 staffing report commissioned by SCDC and confirmed by LAC auditors during institutional visits, as a result of staffing shortages.

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## Security Staff Paid for Meal Breaks

While SCDC security staff generally work during their meal periods, the agency credits these employees with the time worked toward overtime. For the purposes of overtime, S.C. Reg. 19-707.02(D) categorizes employees as exempt and non-exempt. For exempt employees, pay for hours worked in overtime is not required. A gubernatorial executive order issued in April 2018, however, has authorized SCDC to pay exempt employees overtime.

SCDC employs both exempt and non-exempt security staff. These employees, per policy, earn overtime pay at time and one-half of their hourly rates for hours worked over 171 hours in a 28-day cycle.

Therefore, security staff who work 12-hour shifts, including their meal period, work 168 hours in a 28-day cycle. These officers are also required to attend 15-minute pre-shift meetings, which is also credited to their monthly work time total, increasing that total to 171.5 hours. In all, security staff who work their full 28-day cycles automatically earn one-half hour in overtime without working additional shifts.

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## Time-Recording System Inadequate

We intended to analyze whether meal breaks taken by security staff were occurring with any regularity. We could not conduct this analysis, in part, since SCDC pays security staff for meal breaks regardless of whether a break was actually taken.

Additionally, SCDC time records are recorded by employees on time cards, meaning there was no electronic record indicating if, when, and how long employees took a break. According to an agency official, SCDC intends to implement an electronic timekeeping system at the institutions to track when employees arrive, leave, and take breaks.

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## Recommendations

23. When staffing levels permit, S.C. Department of Corrections should ensure that security staff take bona fide meal breaks.
24. The S.C. Department of Corrections should implement an electronic timekeeping system at institutions to track when employees arrive, depart, and take breaks.

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## Correctional Officer Staffing Levels

SCDC has experienced low correctional officer (CO) staffing levels for years. Low staffing levels affect the agency's ability to maintain safety within the prisons for staff, inmates, and volunteers. With a strong economy and competition with other large employers, SCDC faces a difficult task trying to recruit new COs to fill the many vacant positions. When analyzing various staffing level metrics, we found:

- Certain institutions disproportionately suffer from high vacancy rates compared to institutions within the same security level.
- The reasons why certain institutions suffer from high vacancy rates appear to be a mixture of proximity to large population centers and to large employers.
- The inmate-to-officer ratio peaked in the fourth quarter of FY 15-16, and has since dropped.
- From FY 13-14 through FY 16-17, the CO turnover rate increased from 26% to 34%. However, like the inmate-to-officer ratio, the CO turnover rate has dropped in the first three quarters of FY 17-18.
- High turnover rates have led to a substantial number of COs with less than three years of experience.

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## Institutions with Highest Vacancy Rates in FY 17-18

We found that, agencywide, the front-line CO (staff with direct inmate contact) vacancy rate was 27.5% in FY 17-18. Throughout FY 17-18, three institutions—Evans, McCormick, and Tyger River—consistently had the highest front-line CO vacancy rates. The vacancy rates for all three of these institutions hovered around 50%.

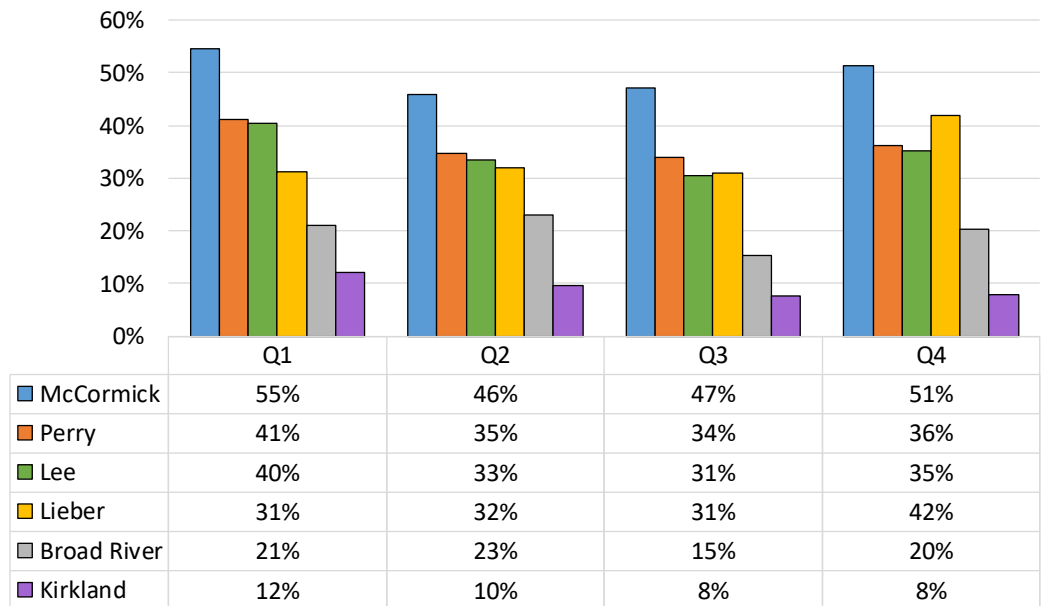
High front-line CO vacancy rates hinder SCDC's ability to maintain safe levels of operations and deliver necessary medical care and programs to inmates. Although the agencywide front-line CO vacancy rate was 27.5% in FY 17-18, there was great variance among the institutions. For example, all four institutions in Columbia's Broad River complex (i.e. Broad River, Camille Graham, Goodman, and Kirkland) had relatively low levels of vacancy rates. By comparison, McCormick, in rural McCormick County, and Evans, in rural Marlboro County, both had vacancy rates hovering around 50%.



We found no link between a county’s population and vacancy rates; however, Livesay (Level 1) and Tyger River (Level 2), in populous Spartanburg County, consistently had the highest or second highest vacancy rates for front-line COs among all Level 1 and Level 2 institutions. Officials at SCDC say competition with large employers, like BMW, in the Spartanburg area makes it difficult for the agency to hire the necessary staff to fill vacant CO positions.

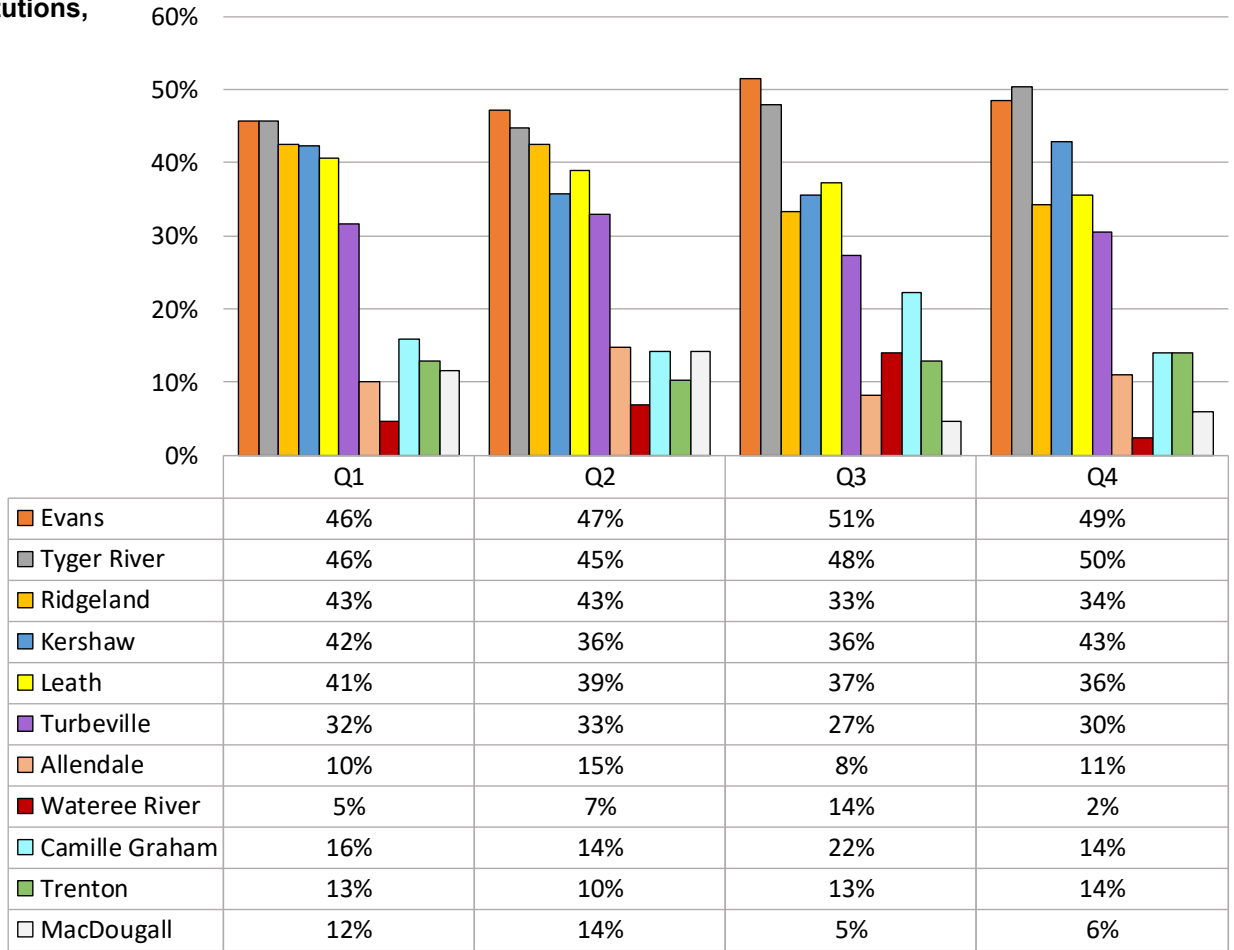
The front-line CO vacancy rates, by institution and fiscal year quarter, are shown in the following charts.

**Chart 2.7: Vacancy Rates at Level 3 Institutions, FY 17-18**



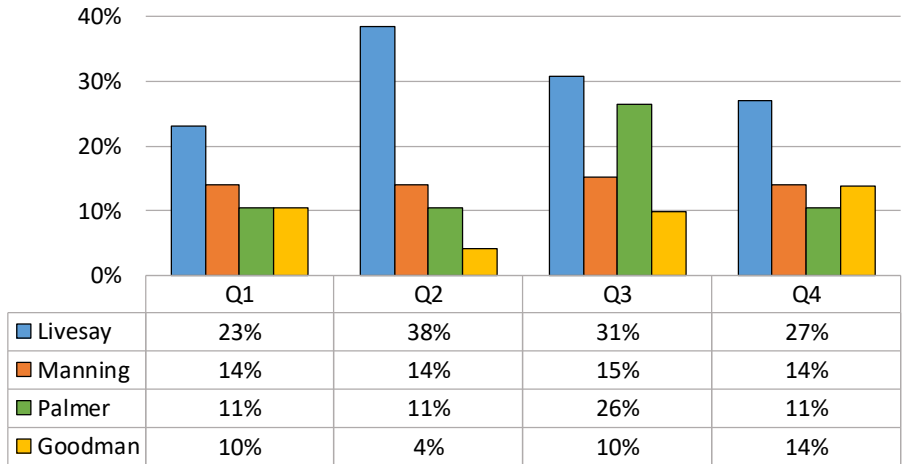
Source: LAC analysis of SCEIS data.

**Chart 2.8: Vacancy Rates at Level 2 Institutions, FY 17-18**



Source: LAC analysis of SCEIS data.

**Chart 2.9: Vacancy Rates at Level 1 Institutions, FY 17-18**



Source: LAC analysis of SCEIS data.

### Institutions with Highest Vacancy Rates Have Highest Inmate-to-Officer Ratios

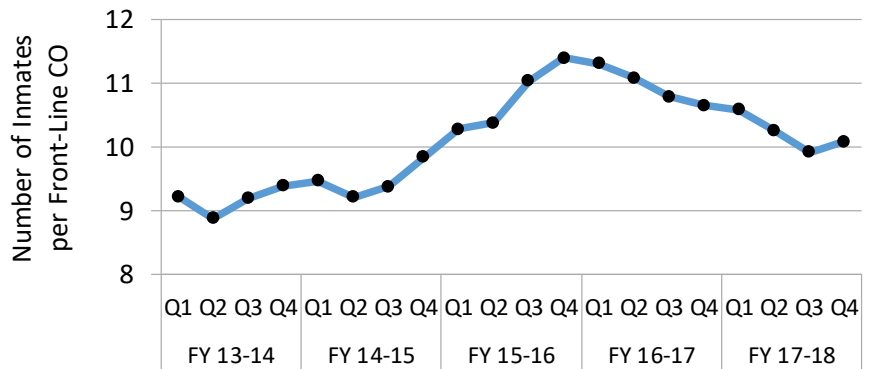
Tyger River, Evans, and McCormick had the second, third, and fourth highest inmate-to-officer ratios, respectively, as of the end of FY 17-18. Leath, one of SCDC’s two all-female institutions, had the highest inmate-to-officer ratio. Overall, inmate-to-officer ratios climbed throughout FY 13-14, FY 14-15, and FY 15-16. However, since FY 16-17, the ratio has steadily declined.

We calculated inmate-to-officer ratios for all SCDC institutions in the last five fiscal years. We found that the institutions with the highest vacancy rates tended to have the highest ratios. As of the end of FY 17-18, Leath and Tyger River had the highest number of inmates-to-officers at 19:1. The institution with the lowest inmate-to-officer ratio was Manning Reentry/Work Release Center at 6:1.

Neither the National Institute of Corrections nor the American Correctional Association establish national standards for CO staffing levels. According to the NIC, “there are too many variables, such as physical plant design, level of security, level of programs and activities, and state and local standards and statutes, to recommend a specific officer to inmate ratio.”

The agencywide inmate-to-officer ratio is provided in Chart 2.10.

**Chart 2.10: Agencywide  
Inmate-to-Officer Ratio,  
FY 13-14 – FY 17-18**



Source: LAC analysis of SCEIS data.

While the inmate-to-officer ratio gives an indication of how many inmates there are at an institution compared to how many front-line COs are assigned to work at the institution, it does not give an accurate picture of the number of inmates COs are responsible for watching at any one time. We observed an instance where only one CO was responsible for watching 132 inmates. Given the short staffing and remote locations of several of SCDC’s institutions, it may take a long time for the agency to respond to a riot or other major disturbance.

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## Agencywide Turnover Increased Each Year from FY 13-14 – FY 16-17

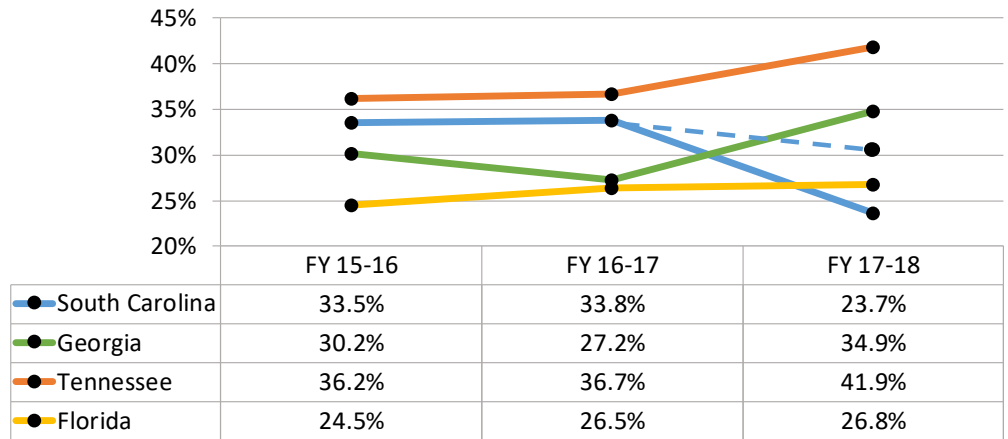
From FY 13-14 through FY 16-17, the CO turnover rate increased from 26% to 34%. In the 19 quarters from FY 13-14 through FY 17-18, the turnover rate for all institutional full-time COs was 143% or nearly one and one-half times the average number of COs employed over the five fiscal years. High turnover rates can jeopardize the security of correctional facilities by resulting in a reduced sense of safety for COs.

We calculated the turnover rates for COs from the first quarter of FY 13-14 through the third quarter of FY 17-18. We found that, much like the inmate-to-officer ratio, the turnover rate peaked in the fourth quarter of FY 15-16 at SCDC. Collectively, the first three quarters of FY 17-18 had the lowest turnover rate over the past five years, at 24%.

By institution, Lieber, Trenton, and Broad River had the highest turnover rates over the past five fiscal years. All three had turnover rates exceeding 180%. In general, Level 3 institutions tended to have the highest five-year turnover rates.

As shown in Chart 2.11, compared to neighboring states, South Carolina's turnover rate through the first three quarters of FY 17-18 (24%) was slightly lower than Florida's (27%), and is significantly lower than Georgia's (35%) and Tennessee's (42%).

**Chart 2.11: CO Turnover Rates in South Carolina and Neighboring States, FY 15-16 – FY 17-18**



Only employee turnover data from the first three quarters of FY 17-18 are included in South Carolina's turnover rate. We estimate that South Carolina's turnover rate would be 31.6% if the fourth quarter's turnover rate were included in the FY 17-18 total.

Sources: GA, FL, SC, TN departments of corrections

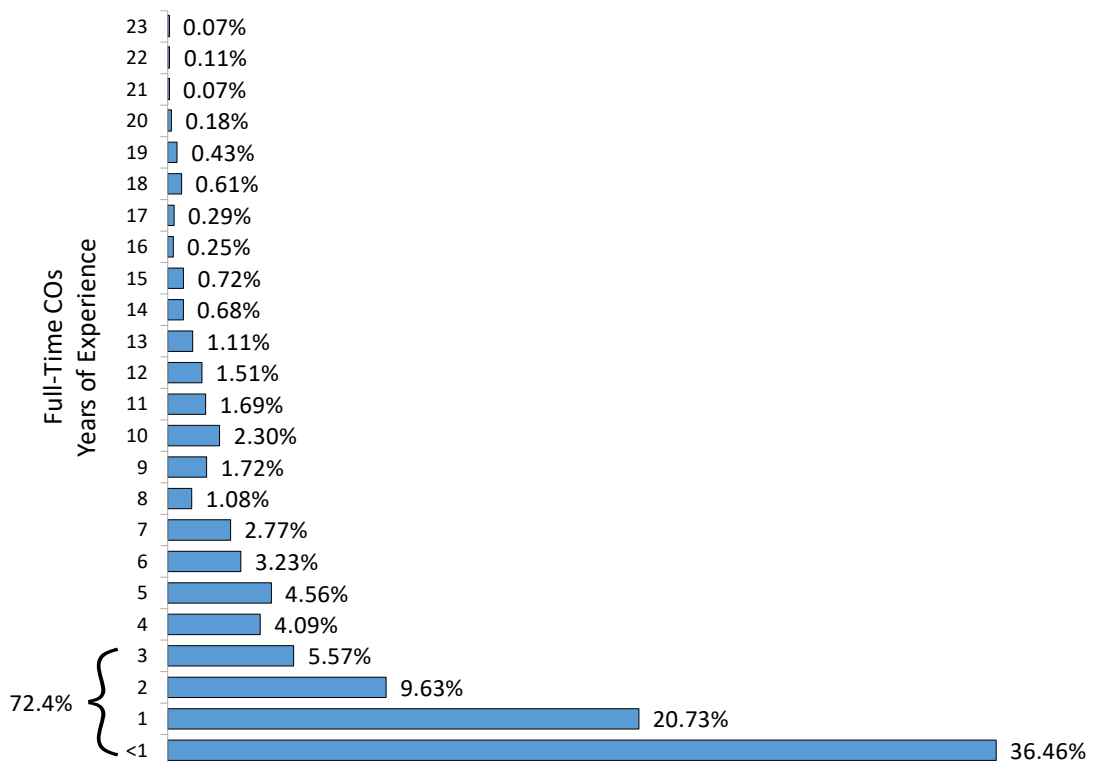
High turnover affects SCDC financially since the agency must devote more funds to recruitment and training in order to fill positions of COs who leave the agency. Notably, SCDC has increased its advertising expenditures by 2,621% from FY 13-14 to FY 17-18. SCDC states it did this to bring awareness to open job opportunities. High turnover rates also increases training costs for SCDC since the agency must continually hire and train individuals to replace the number of COs leaving the agency.

## Correctional Officers with Little Experience

As of June 2018, 57.2% of COs at SCDC had one year of experience or less at the agency. Another 9.6% had approximately two years' experience, and an additional 5.6% had approximately three years' experience. In total, 72.4% of COs at SCDC had approximately three years' experience or less at the agency at that time.

One result of a high turnover rate can be a lower overall level of work experience among staff. Through interviews, we became aware of concerns that some COs may be promoted too quickly to higher-ranking positions because there is not a large pool of existing COs from which to choose. Consequently, we calculated the length of service for all full-time COs at SCDC as of June 2018. The results of our calculations are provided in Chart 2.12.

**Chart 2.12: Years of Experience for Full-Time COs, as of June 30, 2018**

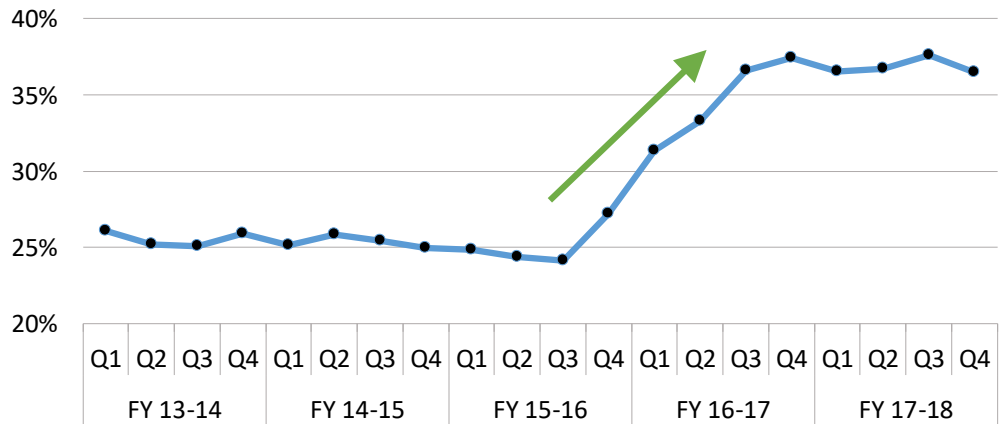


Source: LAC analysis of SCEIS data.

In addition, we calculated the percentage of COs who had less than one year of experience at the agency by fiscal year quarter. We found that there was a noticeable jump in the percentage of COs with less than one year of experience starting in the fourth quarter of FY 15-16. Before that point in time, the percentage of COs with less than one year of experience hovered around 25%.

However, that number rose to 36% in the third quarter of FY 16-17 and remained between 36% and 38% through the fourth quarter of FY 17-18. By institution, Broad River and Ridgeland had the highest percentages of COs with less than one year of experience as of the end of FY 17-18, with both at approximately 50%. Chart 2.13 shows the results of our calculations.

**Chart 2.13: Percentage of COs With Less Than One Year of Experience by Quarter, FY 13-14 – FY 17-18**



Source: LAC analysis of SCEIS data.

## Recommendation

25. The S.C. Department of Corrections should implement incentives for correctional officers that target institutions with high vacancy rates and/or high inmate-to-officer ratios to help alleviate staffing issues at those institutions.



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## Correctional Officer Salaries

Correctional officer (CO) salaries greatly affect SCDC's ability to attract and retain COs. The agency competes directly with similar agencies at all three levels of government for qualified staff and indirectly with private companies for individuals who may have become a CO, but instead chose a different career field. Our analysis of CO salaries at SCDC found that:

- Both the starting and average salaries for COs have risen each year for the past five fiscal years. As of FY 17-18, the average total pay for a CO with the rank of officer was \$40,362.
- The total pay that COs can receive comes in several different forms (i.e. base salaries, special assignment pay, bonuses, and overtime).
- The amount of overtime that SCDC has paid out to its employees has increased dramatically in the past five fiscal years from approximately \$1.7 million in FY 13-14 to \$9.5 million in FY 17-18.
- Almost 200 COs made over \$10,000 each in overtime in FY 17-18.
- The starting salaries for federal COs is approximately \$5,500 to \$9,000 higher than that of COs at SCDC. Of the counties where SCDC has correctional institutions, SCDC's starting pay is higher than most of the starting pay for county detention officers.

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## Correctional Officer Pay Increases

COs have received multiple pay raises in the past five fiscal years, but staffing problems persist at SCDC. Both the starting and average salaries for COs have risen each year for the past five fiscal years. As of FY 18-19, the average starting salary for a CO was \$34,311, an increase of \$7,485 since FY 13-14.

The average total pay (factoring in base salaries, special assignment pay, overtime, and bonuses) for COs with the rank of officer, and at least one year of experience, was \$40,362, an increase of \$9,618 since FY 13-14. Similar increases were seen across all CO ranks.

**Table 2.14: Average Total Pay for All Correctional Officer Ranks, FY 13-14 – FY 17-18**

CORRECTIONAL OFFICER RANK	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Cadet	\$26,712	\$25,690	\$28,329	\$33,456	\$31,849
Officer	\$30,744	\$31,031	\$33,761	\$36,516	\$40,362
Corporal	\$32,332	\$32,560	\$35,291	\$38,225	\$42,839
Sergeant	\$34,243	\$34,574	\$37,606	\$40,469	\$43,966
Lieutenant	\$38,242	\$38,212	\$40,789	\$41,775	\$44,405
Captain	\$46,673	\$46,727	\$50,111	\$51,660	\$52,875
Major	\$52,615	\$52,826	\$55,529	\$57,016	\$60,153
Colonel	--	\$52,064	\$55,829	\$61,767	\$62,310

Note: There was no colonel position in FY 13-14.

Source: LAC analysis of SCEIS data.

The total pay for COs comes from multiple sources. All COs receive a base salary, and COs who work at Level 2 and Level 3 institutions receive incentive pay (i.e. special assignment pay) to work at the higher security level facilities. Most COs are also able to receive overtime pay and bonuses.

During our visits to 12 of SCDC’s correctional facilities, we talked to COs across several ranks to gain a better understanding of what issues affected them the most. We asked COs what they would do to improve the agency. Increase low pay was a frequent answer. Interestingly, state benefits were cited by multiple COs when asked why they accepted and/or stayed at their positions at SCDC.

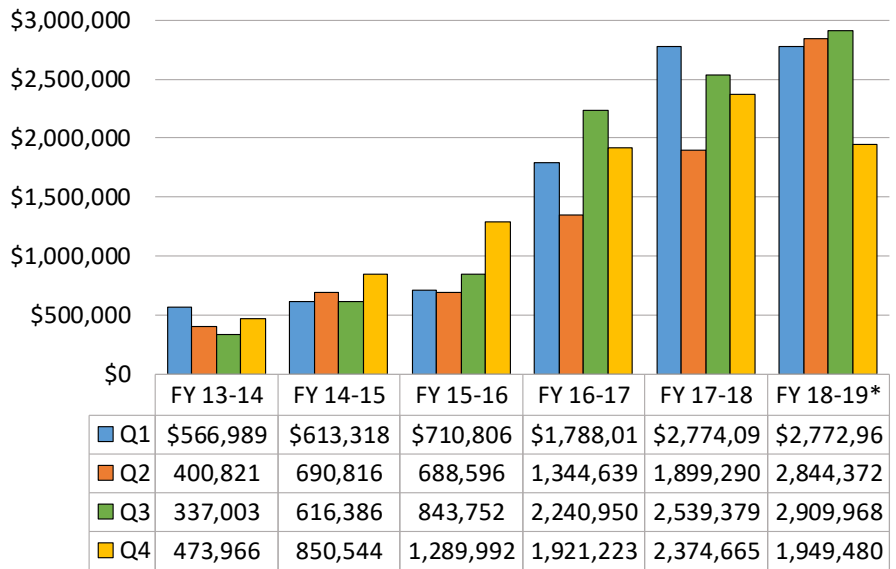
Despite hearing from several COs about low pay, both the agencywide turnover rate and the inmate-to-officer ratio have been declining since reaching a peak in FY 15-16. While we cannot identify the exact cause of the decline, we found that increases in existing CO pay has likely aided in SCDC’s retention efforts. Nonetheless, high vacancy and turnover rates still persist at several of SCDC’s correctional facilities.

## Agencywide Overtime

The amount of overtime that SCDC has paid out to its employees has increased dramatically in the past five fiscal years from \$1.7 million in FY 13-14 to \$9.5 million in FY 17-18. Most of the increases have come in the last two fiscal years. Correctional officers earn more overtime pay, by a significant amount, than any other category of employee at SCDC. The dramatic increase in overtime makes SCDC’s correctional institutions more expensive to staff.

When reviewing CO and nursing staff salaries at SCDC, we found that the average amount of overtime pay that these two groups of employees were earning increased noticeably in recent years. Agencywide, we found that overtime pay grew steadily until the third quarter of FY 15-16. Starting in the fourth quarter of FY 15-16, overtime pay quickly increased. The progression of overtime pay throughout the past five fiscal years is shown in Chart 2.15.

**Chart 2.15: Total Overtime Paid to SCDC Employees by Fiscal Quarter, FY 13-14 – FY 18-19**



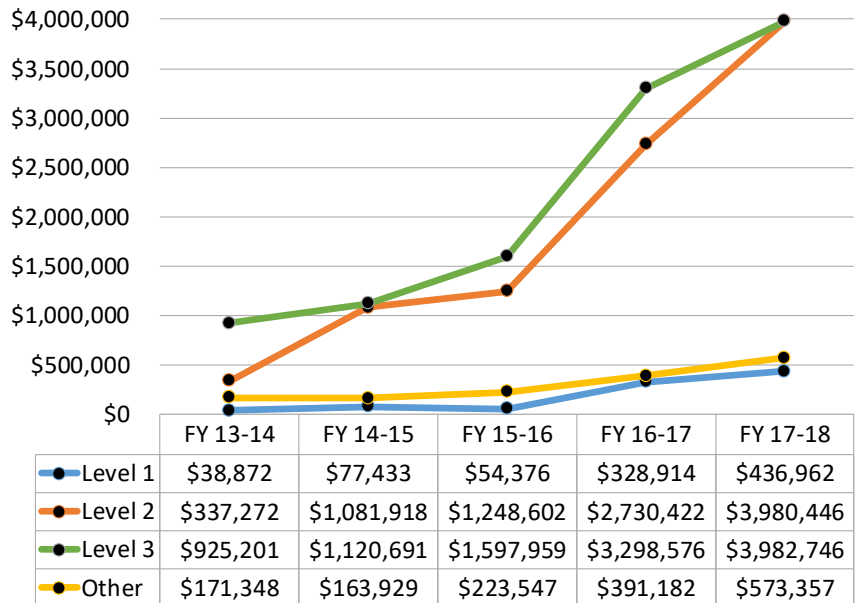
\* Includes overtime earned through May 21, 2019.

Source: LAC analysis of SCEIS data.

Of the approximately \$9.5 million in overtime pay in FY 17-18, 85% was paid to COs. This is a noticeable change from FY 13-14, when just 60% of overtime was paid to COs. Another 5% of overtime in FY 17-18 was paid to LPNs and RNs at SCDC. While overtime pay for LPNs and RNs more than doubled in the past five fiscal years, COs experienced a more than eight-fold increase.

The dramatic increases in overtime comes at a time of increased CO vacancies at SCDC’s 21 correctional institutions. However, we found that the highest amount of overtime pay has not necessarily gone to institutions with the highest vacancy rates. Kirkland, for example, had the lowest front-line CO vacancy rate among all Level 3 institutions and most Level 2 institutions in FY 17-18, but Kirkland had the most overtime among all institutions. Employees at Kirkland earned over \$1.1 million in overtime in FY 17-18. On the other hand, McCormick, which had a front-line CO vacancy rate of 51% at the end of FY 17-18, had the least amount of overtime among all Level 3 institutions. SCDC explained that a reason for this may be that institutions have varying missions.

**Chart 2.16: Total Overtime Paid by Facility Level and Fiscal Year, FY 13-14 – FY 17-18**



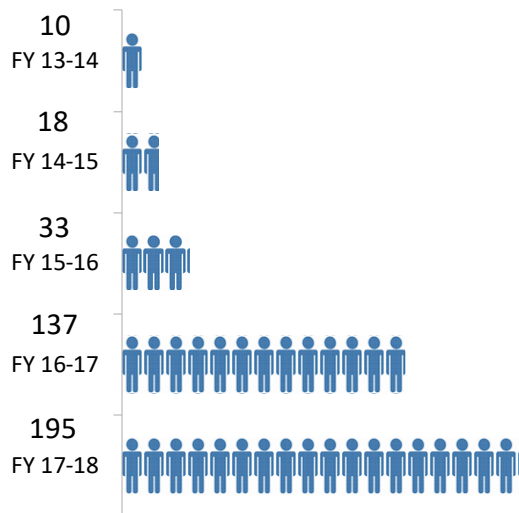
Source: LAC analysis of SCEIS data.

## Overtime for Correctional Officers

SCDC policy ADM-11.21 sets security positions on 28-day work cycles and requires employees to account for 160 hours per cycle. Nonetheless, full-time COs at SCDC typically work 14 12-hour shifts, or 168 hours, per month. COs who work in excess of 171 hours in the 28-day cycle are eligible to receive overtime pay at a rate of one and one-half times the employee's regular hourly pay rate.

Our analysis of CO wage data found that the amount of overtime pay has increased dramatically in the past five fiscal years. In FY 13-14, COs across all ranks averaged just \$274 in overtime pay annually. In FY 17-18, the average overtime pay for COs jumped to \$3,105. Our analysis also found that the number of COs making significant amounts of overtime, which we defined as \$10,000 or more, has greatly increased. One corporal earned \$56,912 in overtime pay in FY 17-18.

**Graph 2.17: Number of Correctional Officers Who Earned \$10,000 or More in Overtime, FY 13-14 – FY 17-18**



Note: Officers and sergeants represented the majority of COs who earned \$10,000 or more in overtime pay.

Source: LAC analysis of SCEIS data.

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## SCDC Pay Compared to County and Federal Institutions

SCDC competes directly with private businesses and other levels of government for employees. We found that SCDC’s wages are higher than most county detention officer salaries, but not as high as federal correctional officer salaries. However, the Federal Bureau of Prisons requires more education and/or experience than SCDC requires.

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## Federal Correctional Officer Salaries

The Federal Bureau of Prisons operates four prisons in South Carolina—Bennettsville, Edgefield, Estill, and Williamsburg. Several jobs, including officer, lieutenant, and captain positions, were available at federal prisons located in South Carolina, as of February 4, 2019. The starting salaries for the Federal Bureau of Prisons was:

CORRECTIONAL OFFICER \$41,187  
LIEUTENANT \$52,285  
CAPTAIN \$61,218

While the federal entry-level correctional officer starting salaries are higher than what SCDC offers for the same position, which ranges from \$32,263 to \$36,713, the job requirements are different for each. The Federal Bureau of Prisons, for example, requires “successful completion of a full 4-year course of study in any field leading to a bachelor’s degree from an accredited college or university” or “at least 3 years of full-time general experience, one year of which was equivalent to the GL-04 grade level, or one year of specialized experience.” On the other hand, SCDC’s requirements include U.S. citizenship, high school diploma or GED, and a valid driver’s license.

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## Incentive Pay for Federal Correctional Officers

Like SCDC COs, federal correctional officers can receive additional incentive pay above their base salary. Incentive pay for federal correctional officers includes:

### EVENING RATE

Employees who must work evening duty (4:00 p.m.–12:00 a.m.) are paid a percentage of their basic hourly rate above regular pay.

### SUNDAY RATE

Employees who must work on Sunday are paid 25% above regular pay.

### OVERTIME PAY

Employees who work beyond their normal hours are compensated for their time.

### COMMUTER SUBSIDY

Employees who work in certain large metropolitan areas and take public transportation to work can be reimbursed up to \$230 per month.

Federal correctional officers can also receive performance-based awards by:

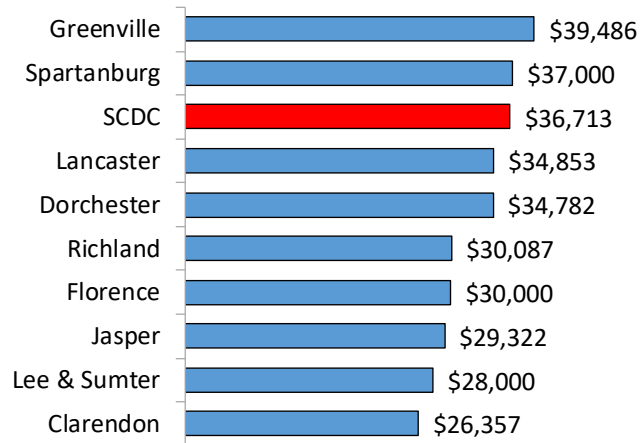
- Performing a courageous act or developing a new technique/procedure that has a substantial impact on the agency and/or government-wide operations.
- Achieving a sustained outstanding performance rating on an employee evaluation.
- Graduating from the staff training academy with honors.

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## County Detention Officer Salaries

SCDC's 21 correctional facilities are located across 15 counties in South Carolina. As of June 28, 2019, 11 of the counties had job postings for detention officers. When comparing the starting salaries of COs at SCDC who have obtained their basic CO certification to detention officers at the county level who have obtained their certification, SCDC is near the top. However, both Greenville and Spartanburg counties have starting salaries that are above that for any CO at SCDC.

**Chart 2.18: Comparison of SCDC's Starting Salary for COs to Starting Salaries for County Detention Officers, as of June 28, 2019**



Notes: We used the starting salary for a CO at SCDC with 6 months of experience, given that 6 months assumes that the CO has obtained their certification, and who is assigned to work at a Level 3 institution. COs who work at Level 1 and 2 institutions have lower starting salaries.

Lee and Sumter counties share a detention facility. Berkeley County only provided a salary range for detention officers of \$31,405 to \$36,115, thus they were excluded from the table. Edgefield County also had a job posting for a detention officer, but no salary was provided.

Source: County government websites and SCDC.

## Recommendations

26. The S.C. Department of Corrections should ensure that overtime is being granted to the institutions that are in most need of staffing assistance due to vacancies.
27. The S.C. Department of Corrections should contact the Federal Bureau of Prisons to determine if it has evaluated the effectiveness of the various types of incentive pay that are offered to federal correctional officers.
28. The S.C. Department of Corrections should evaluate whether offering an incentive for correctional officers to work at correctional institutions close to Federal Bureau of Prisons' facilities would help alleviate staffing issues at those institutions.



## Nursing Staff Salaries

SCDC has difficulty recruiting and retaining nursing staff. Agency staff cited the pay disparity between SCDC-employed nursing staff and other outside employers, such as contracted nursing staff and hospitals, as a major reason for the difficulty in recruiting and retaining staff.

Our analysis of nursing staff salaries found that SCDC-employed nursing staff's hourly wages are below their contracted counterparts by a margin of \$4 to \$14 per hour. However, when factoring in the value that SCDC-employed nurses receive for fringe benefits, their total wage and benefits package meets or exceeds the value that contract nurses receive.

## Contracted Nursing Staff

We requested all of SCDC's contracts for nursing staff since FY 13-14. We received nine contracts, each from different staffing agencies. The contracts stated that the staffing agencies would provide two main categories of nurses to SCDC—licensed practical nurses (LPN) and registered nurses (RN). Five of the contracts also stated the staffing agencies would provide certified nurse assistants (CNA) to SCDC. Consequently, we focused solely on RNs, LPNs, and CNAs for our analysis.

**Table 2.19: SCDC Contracted Nursing Staff Hourly Rates**

STAFFING AGENCY	CONTRACT DATE	HOURLY PAY RATES		
		CNA	LPN	RN
Allied Medical Staffing	08/13/2008	--	\$27.50	\$38.95
Favorite Healthcare Staffing	08/14/2018	\$18.00	\$27.70	\$37.96
MedFirst Staffing	11/29/2016	\$18.00	\$29.35	\$39.20
Medical Staffing Network	01/27/2017	--	\$26.00	\$36.00
Medustrial Healthcare	07/01/2018	\$16.95	\$30.85	\$36.75
On Call Staffing	08/14/2018	\$17.50	\$29.00	\$40.00
Open Door Personnel	03/25/2016	--	\$28.50	\$38.50
Quality Placement Authority	11/01/2017	\$17.00	\$28.00	\$37.50
Supplemental Health Care	03/02/2018	--	\$27.00	\$36.00

Source: SCDC.

As with SCDC-employed nurses, contracted nurses earn overtime at a rate of one and one-half times the regular hourly rate. In addition, contracted nurses are eligible for one and one-half times the regular hourly rate when working on certain holidays. Perhaps the biggest difference between SCDC-employed nursing staff and contracted nursing staff is the fact that contracted nursing staff are not eligible for state benefits, such as paid leave, health insurance, and retirement. We were informed by SCDC that most staffing agencies do not provide any benefits.

## SCDC-Employed Nursing Staff

SCDC-employed CNAs, LPNs, and RNs have experienced small increases in total hourly pay in the last five fiscal years. As with COs, we found that most of the increase in total pay is attributed to more bonuses and overtime pay. The average total hourly pay for CNAs, LPNs, and RNs at SCDC is included in Table 2.20.

**Table 2.20: Average Total Hourly Pay for SCDC Nursing Staff, FY 13-14 – FY 17-18**

	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
CNA	\$12.71	\$12.72	\$13.10	\$13.06	\$14.07
LPN	\$16.72	\$16.94	\$17.24	\$17.26	\$18.46
RN	\$26.09	\$26.02	\$26.82	\$27.00	\$27.97

Source: LAC analysis of SCEIS data.

## Comparison of SCDC-Employed and Contracted Nursing Staff

Comparing the hourly pay between SCDC-employed nursing staff and contracted nursing staff is not a fair comparison since most staffing agencies do not provide benefits to the contracted nurses. Consequently, we had to convert the fringe benefits that SCDC-employed nursing staff receive into an hourly value rate. We determined what percentage of an employee's total compensation came in the form of wages and salaries, and what percentage came in the form of fringe benefits like insurance, retirement, and paid leave.

According to the U.S. Bureau of Labor Statistics (BLS), the total employer compensation costs for state and local government workers averaged \$50.55 per hour worked in December 2018. Of that, wages and salaries accounted for 62.5% of the cost and fringe benefits accounted for the remaining 37.5%.

Using the BLS’s percentages, we calculated the total hourly cost for SCDC-employed nursing staff. Table 2.21 shows the results of our calculations.

**Table 2.21: Total Hourly Cost for SCDC-Employed Nursing Staff, as of June 30, 2018**

	HOURLY COST				
	SALARY/WAGE		BENEFITS		TOTAL
BLS Percentages	62.5%	+	37.5%	=	100%
CNA	\$13.03	+	\$7.82	=	\$20.85
LPN	\$17.16	+	\$10.30	=	\$27.46
RN	\$26.33	+	\$15.80	=	\$42.13

Sources: LAC analysis of SCEIS data and U.S. Bureau of Labor Statistics.

When looking at only hourly pay rates for SCDC-employed nurses and contracted nurses at SCDC, SCDC-employed CNAs make \$4 to \$5 less per hour than their contracted counterparts, SCDC-employed LPNs make \$10 to \$13 less per hour, and RNs make \$10 to \$14 less per hour. However, when using the total hourly cost that factors in a state employee’s pay plus their benefits package, the total hourly value that SCDC-employed nursing staff receive per work hour is approximately the same as, and in some cases more than, what the contracted nursing staff receive.

## Recommendation

29. The S.C. Department of Corrections should evaluate what wages should be paid and incentives offered to certified nursing assistants, licensed practical nurses, and registered nurses to more effectively compete with private employers for nursing staff.

## Distribution of Overtime

From FY 13-14 to FY 17-18, the amount of overtime paid at SCDC increased from \$1,778,779 to \$9,587,426. Preliminary data through May 2019, shows that SCDC has already exceeded the FY 17-18 total by nearly \$1 million. With a rapidly expanding amount of overtime paid by SCDC, it is imperative that the agency establish in policy how mandatory and voluntary overtime will be distributed since the agency does not currently have a policy that addresses this.

When analyzing employee salaries of correctional officers (COs) at SCDC, we found that the amount of overtime has increased dramatically in the past five fiscal years. In particular, we found multiple instances where employees had more than doubled their annual salaries in overtime pay, alone. The dramatic increase in overtime comes at the same time the number of front-line COs have been decreasing. SCDC funds overtime pay through vacant FTE (full-time equivalent) positions; therefore, the agency is able to grant significant amounts of overtime due to low staffing levels.

The COs who earned at least double their base salaries in overtime from FY 13-14 through FY 17-18 are displayed in Table 2.22.

**Table 2.22: Correctional Officers Who Earned at Least Double Their Base Salaries in Overtime in a Fiscal Year, FY 13-14 – FY 17-18**

FISCAL YEAR	CORRECTIONAL OFFICER RANK	EMPLOYEE'S BASE SALARY	OVERTIME PAY EARNED	PERCENT OF BASE SALARY
FY 15-16	Sergeant	\$35,202	\$38,946	111%
FY 16-17	Corporal	\$40,985	\$49,304	120%
	Sergeant	\$36,204	\$44,151	122%
	Corporal	\$33,854	\$38,754	114%
	Officer	\$32,494	\$34,556	106%
	Officer	\$32,561	\$33,857	103%
FY 17-18	Corporal	\$34,854	\$56,912	163%
	Sergeant	\$35,702	\$54,763	153%
	Sergeant	\$36,713	\$51,516	140%
	Sergeant	\$37,204	\$42,528	114%
	Corporal	\$34,674	\$42,301	122%
	Officer	\$33,494	\$38,909	116%
	Officer	\$33,380	\$37,000	111%
	Corporal	\$33,591	\$34,562	103%

NOTE: No COs earned at least double their base salaries in FY 13-14 or FY 14-15.

Source: LAC analysis of SCEIS data.

Based on our discussions with COs, we found the process for signing up for overtime to be informal. We were informed that when COs want to work overtime, they simply call the captain who is in charge of a shift the CO is not scheduled to work, and inform the captain of their availability to work an open shift. The captain will then assign staff based upon the number of open posts for that shift.

While we found no examples of overtime being granted inequitably, we did find that the SCDC does not have a policy on how overtime will be distributed. SCDC Policy ADM-11.21 provides conditions for and the compensation of “non-exempt” employees’ overtime hours, but it stops short of detailing how overtime will be distributed. A lack of policy can lead to inconsistent and unfair distribution. With the increasing amount of overtime that is being granted, it is important for the agency to be equitable and provide consistency for its employees.

In our review of other states’ overtime policies, we found that the Ohio Department of Rehabilitation and Correction’s overtime policy includes elements of an equitable overtime distribution policy, namely:

- A description of which employees are eligible to volunteer for overtime.
- A defined method for how employees are to sign-up for voluntary overtime.
- An easy-to-follow process for how mandatory and voluntary overtime will be distributed.
- A defined limit on how much overtime may be distributed per individual for a certain time period.

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## Recommendation

30. The S.C. Department of Corrections should implement a policy outlining how overtime will be distributed among the agency’s employees.

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## Inspections of Detention Facilities and Holding Cells

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SCDC is required by state law to inspect all detention facilities and holding cells across the state. We found that SCDC:

- Is unable to complete all of the required inspections of detention facilities across the state.
  - Cannot complete all of the required inspections of holding cells and does not know how many there are.
  - Believes it would be able to complete all statutorily required inspections if it were able to hire more jail inspectors.
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## Inspections of Detention Facilities

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SCDC is required by S.C. Code §24-9-20 to inspect “every facility in this State housing prisoners or pretrial detainees operated by or for a state agency, county, municipality, or any other political subdivision” at least annually. The minimum standards for local detention facilities in South Carolina and SCDC policy also require a follow-up inspection of all of the facilities. According to SCDC, the number and types of facilities it is required to inspect include:

- 44 county detention centers (jails).
- 6 county prison camps.
- 3 county juvenile detention centers.
- 10 municipal jails.
- 21 SCDC prisons.
- 21 other SCDC work sites.
- 15 Department of Juvenile Justice facilities and “various other related sites at that Agency.”
- 1 private facility.

Currently, the jail inspection staff consists of three individuals, and there is one open temporary position. With the small number of staff, SCDC was unable to complete all of the required inspections in 2018. According to SCDC, seven facilities did not receive any inspections in 2018 even though more than half received a second one.

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## Inspections of Holding Cells

SCDC is required to inspect all holding cells within the state. However, we found that the agency has not inspected most holding cells. SCDC states that it had to prioritize where its limited resources should be invested until it is able to hire more jail inspectors.

We also found that the agency does not know how many holding cells there are throughout the state. According to SCDC, holding cells appear in most police departments, sheriff office complexes, many magistrate offices, courthouses, and a couple were even found in a fire department. The number of holding cells throughout the state is estimated to be in the hundreds.

The agency believes that if it were able to hire four more jail inspectors at a cost of \$240,000 plus fringe benefits, it would be able to complete all of the required inspections.

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## Recommendation

31. The S.C. Department of Corrections should identify the location of all holding cells in the state and inspect them annually as required by S.C. Code §24-9-20.

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## Efforts to Improve Staff Retention

Some of the methods used by SCDC to increase retention include implementing retention bonuses, spot bonuses, and placing retention lieutenants at 11 institutions. However, we found that SCDC could improve retention by creating targeted bonuses, aligning retention bonuses with lengths of service showing high turnover, aligning the placement of retention lieutenants at institutions with the highest turnover rates, creating a policy that standardizes the timeframe for new recruits to participate in the Correctional Officer Skills Enhancement Program (COSEP), and improving the tracking of employee transfers.

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## Alternatives to Existing Financial Incentives

Executive Order No. 2018-16 states that, in addition to already existing incentives (retention bonus, spot bonus, referral bonus, and Medical/Mental Health Signing Bonus), the Department may look at creating new or expanding current programs. However, the agency has not used this executive order to create *new* incentives. SCDC officials have cited competition with the private market as a cause for high vacancy and turnover rates at specific institutions.

The departments of corrections in Colorado, Florida, Wyoming, New York, Texas, and Virginia offer additional pay for specific locations. New York and Colorado offer additional pay for officers who work evening and overnight shifts. More targeted bonuses could improve the agency's staffing on specific shifts and retain COs at institutions with high vacancy rates.

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## Retention Bonus

Retention bonuses are never guaranteed by SCDC headquarters since they are funded from vacant positions. Employees must work six months with SCDC before they are eligible to receive this bonus. As of FY 17-18, 57.2% of full-time correctional officers had one year or less of experience; 9.6% had approximately two years of experience; and 5.6% had approximately three years of experience. This creates a scenario where employees may work for the agency until they receive the bonus and then leave the agency. Wyoming, Texas, and Virginia departments of corrections offer bonuses to officers that are paid after a set period if the officer complies with predetermined stipulations. This is similar to the sign-on bonus currently offered for hard-to-fill medical staff positions at SCDC. Bonuses should align with timeframes showing high turnover and be guaranteed to employees who remain at the agency long term.

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## Placement of Retention Lieutenants

Eleven retention lieutenants were placed in institutions classified as security Level 2 or 3 starting in February 2017. Retention lieutenants were placed in institutions to manage COSEP and serve as advocates for COs. An agency official stated the 11 institutions were selected because of the great need of retaining talent at those institutions. Table 2.23 shows the level of institution, turnover rates for COs, and whether the institution has a retention lieutenant.



**Table 2.23: Security Level, Institution, Turnover, and Retention Lieutenant Placement**

LEVEL	INSTITUTION	FISCAL YEARS 13-14 THROUGH 17-18 (THROUGH 3Q)	HAS A RETENTION LIEUTENANT
3	Lieber	189.7%	✓
2	Trenton	187.2%	
3	Broad River	183.0%	✓
3	Lee	178.6%	✓
3	Perry	178.5%	✓
1	Livesay	177.6%	
2	Ridgeland	171.8%	✓
2	Turbeville	171.1%	✓
2	Evans	167.0%	✓
2	Tyger River	161.0%	✓
1	Manning	159.0%	
2	Kershaw	155.0%	✓
3	McCormick	155.0%	✓
1	Goodman	143.8%	
2	Camille Graham	134.8%	
3	Kirkland	126.4%	✓
2	Allendale	120.1%	
2	Leath	119.9%	
2	MacDougall	108.5%	
2	Wateree River	105.8%	
1	Palmer	66.5%	

Source: LAC analysis of SCEIS data.

Retention lieutenants were not placed at locations with the highest turnover rates in the years we reviewed. Furthermore, institutions without a retention lieutenant rely solely on financial incentives, such as retention and spot bonuses, as a method to increase retention. Spot bonuses are used by managers to recognize employees and are only available after an employee has worked at the agency one year. Since retention bonuses are never guaranteed to be paid, spot and referral bonuses are the only guaranteed method used to retain employees at institutions without a retention lieutenant.

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## COSEP Timeframe

The purpose of the COSEP is to develop professional, proficient, and skilled officers who will effectively perform their job duties. COSEP, which was fully implemented in June 2018, takes place before and after new recruits attend basic training. New recruits shadow experienced COs and review policies and procedures with retention lieutenants before attending basic training. When newly certified COs return from basic training, they participate in on-the-job training. During the on-the-job phase of COSEP, the new CO performs post orders and is shadowed by an experienced correctional officer.

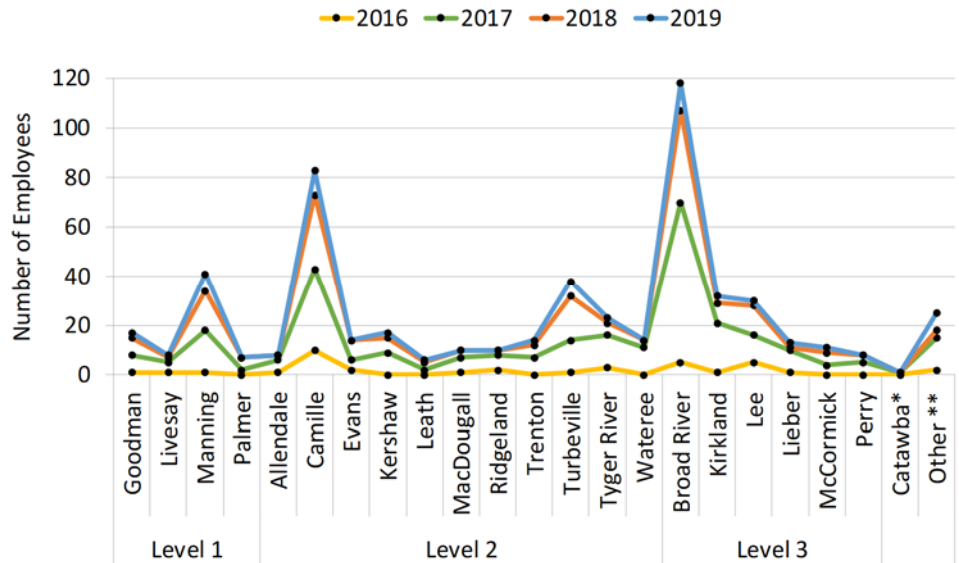
In 2017, 477 COs participated in COSEP. In 2018, 467 COs completed this program. An SCDC official stated the agency is unable to tell which new recruits have participated in COSEP. There is currently no timeframe for how long new hires are supposed to participate in COSEP before attending correctional officer basic training. This does not allow new officers who participate in COSEP to receive the same amount of training. Because of the variation in the amount of material completed in COSEP, SCDC is unable to track the effectiveness of the program at preparing new COs to work in institutions.

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## Employee Reassignment Request Form Tracking Improvement

Employees who wish to transfer to other institutions are required to fill out an employee reassignment form. From 2016 to 2019, 548 employees requested to be reassigned. Of those, 199 employees were reassigned to a new institution. Chart 2.24 shows the institutions where reassignment requests originated.

**Chart 2.24: Location from Where Employee Reassignment was Requested, January 2016–April 2019**



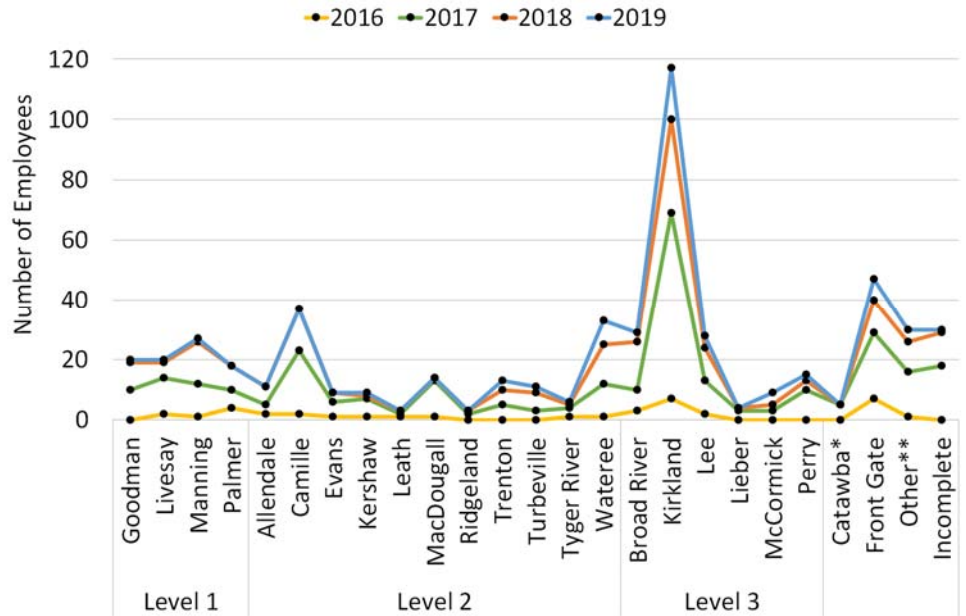
\* Catawba Pre-Release Center closed in 2017.  
 \*\* Refers to positions not assigned to a specific institution such as an agency search team.

Source: LAC analysis of SCDC data.

SCDC currently tracks the movement of employees from one institution to another; however, the agency should refine this process to track the supervisors of employees who elect to transfer to a new institution. This may help the agency to identify managers who could benefit from additional training.

Chart 2.25 shows the location where employees are requesting to be reassigned. There were 118 reassignments requested which originated from Broad River. From those 118 requests, 40 employees requested to be transferred to Kirkland Reception and Evaluation Center. Both Kirkland and Broad River are located on the same campus in Columbia and are classified as Level 3.

**Chart 2.25: Location to Where Employee Reassignment was Requested, January 2016–April 2019**



\* Catawba Pre-Release Center closed in 2017.  
\*\* Refers to positions not assigned to a specific institution.

Source: LAC analysis of SCDC data.

Table 2.26 demonstrates that many reassignment requests were from employees wanting to move to lower security level institutions. When moving to a lower level institution, employees also lose special assignment pay. While some employees may be requesting reassignment due to personal reasons, some may be requesting reassignment to a lower level out of safety concerns.

**Table 2.26: Reassignment Security Level Changes, January 2016–April 2019**

MOVEMENT	COUNT*
Lower Level	250
Same Level	137
Higher Level	161
<b>TOTAL</b>	<b>548</b>

\* Reflects both approved and unapproved requests.

Source: LAC analysis of SCDC data.

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## Recommendations

32. The S.C. Department of Corrections should create targeted bonuses for institutions and shifts with high vacancy rates.
33. The S.C. Department of Corrections should place retention lieutenants at the institutions with the highest turnover rates.
34. The S.C. Department of Corrections should create a policy that sets a timeframe for the completion of the Correctional Officer Skills Enhancement Program.
35. The S.C. Department of Corrections should work to refine its tracking of employee reassignment requests in order to identify managers who could benefit from additional training.

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## Earning Exemption for Retired Correctional Officers

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Due to low staff levels and a small percentage of employees with 20 or more years of experience at SCDC, we determined that granting the same retirement earnings' cap exemption to COs that is already offered for teachers could help the agency retain experienced, trained COs.

S.C. Code §9-1-1790 restricts the annual amount that may be earned by a retired state employee who returns to covered employment with the state to \$10,000, without affecting the employee's monthly retirement allowance; nonetheless, there are some exceptions to this rule. For example, a retired employee can return to work with the state without having his monthly retirement allowance affected if he meets one of the following criteria:

- The eligible employee retired before January 2, 2013.
- The eligible employee has attained the age of 62 years at retirement.
- Compensation received by the retired employee from the covered employer is for service in a public office filled by the appointment of the Governor and with confirmation by the Senate, by appointment or election by the General Assembly, or by election of the qualified electors of the applicable jurisdiction.

S.C. Code §9-1-1795 provides an exemption specifically for teachers who have retired from state employment and come back to work in a critical geographic need area or academic need area pursuant to the Education Accountability Act. Due to the significant staffing shortages and the small percentage of employees with 20 or more years of experience, providing an earning exemption for retired COs could help the agency retain more experienced, trained COs.

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## Recommendation

36. The S.C. General Assembly should amend S.C. Code §9-1-1790 to add an exemption that would eliminate the cap on the annual amount that may be earned by a retired correctional officer who returns to covered employment with the state, if the correctional officer works in a critical need area.

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## No Time Limits for Issuing Corrective Actions

SCDC's policy regarding corrective actions does not discuss how often reprimanding authorities—such as wardens or their designees—must address alleged employee misconduct. It is agency practice to issue only one corrective action to employees who may have repeatedly violated agency policies, if the employee's reprimanding authority has not formally addressed the initial violation.

This method of issuing corrective actions is the same method the agency uses for documenting corrective actions, meaning the agency's records do not reflect actual occurrences.

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## Violations Overlooked Without Time Limits

When SCDC employees allegedly violate agency policy, they are given the opportunity to respond to the allegations in an employee review meeting prior to a determination by their reprimanding authority. Agency policy, however, does not require that review meetings be held within a fixed period from the occurrence of the alleged violation. It is agency policy and practice to issue corrective actions progressively. Consequently, an employee who frequently violates agency policy prior to a review meeting may only be liable and punished for the initial violation.

For example, if an employee who is slated for a review meeting for an unexcused absence acquires additional citations for unexcused absences prior to the review meeting, that employee, if found culpable, is only issued one corrective action. This practice may allow employees to repeatedly violate agency rules when such behavior may demand greater attention.

While violations each require varying degrees of investigation, violations could be categorized according to type and each category allotted a fixed period in which to address the violations. For example, an unexcused absence could be assigned to a category that requires attention within a week of an offense, whereas employee-inmate relations could be assigned a category that allows more time for an investigation.

It is important to note that this method of issuing corrective actions is the same method that is used for documenting corrective actions. Consequently, SCDC's corrective action records are not reflective of the actual number of violations committed by its employees.

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## Recommendation

37. The S.C Department of Corrections should establish, in policy, time limits addressing the length of time permitted, from the date of occurrence to the review meeting, in which employee violations are to be addressed.
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## Analysis of Security Staff Separations

We reviewed SCDC separation data from FY 13-14 through FY 17-18 to identify any trends for why security staff leave the agency. For full-time security staff assigned to a facility, we found that:

- Separations generally increased each fiscal year.
  - Approximately one-half of the cadets who were employed by the agency separated from the agency. Increasingly, one of the reasons noted was failure to meet certification requirements.
  - Approximately one-quarter of the officers who were employed by the agency separated from the agency. One of the most common reasons noted was job abandonment.
  - The overall length of employment decreased by nearly one year from FY 14-15 to FY 17-18.
  - Level 3 institutions had the highest overall separations, and separations for those institutions peaked in FY 15-16 and has since decreased slightly.
  - Lieber had the highest five-year separation rate at 27.4%. The separation rates for all other institutions ranged from 10.7%–26.4%.
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## Separations Overview

The term “separation” is used to refer to employees who have left voluntarily or involuntarily from an agency. Therefore, the term does not necessarily indicate wrongdoing on the part of the employee.

Our review focused on separations of security staff who were full-time employees assigned to an institution, as staffing shortages for this classification of employee appear to be a significant issue. When relevant, our results are provided by security staff rank, which, from lowest to highest, is as follows:

- Cadet.
- Officer.
- Corporal.
- Sergeant.
- Lieutenant.
- Captain.
- Major.

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## Separations by Fiscal Year

As a percentage of full-time security staff employed by SCDC, from FY 13-14 through FY 17-18, separations generally increased over the five-year period. For the last three fiscal years, rates were approximately 26%. Table 2.27 shows these separations by fiscal year.

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**Table 2.27: SCDC Security Staff Separations by Fiscal Year, FY 13-14 – FY 17-18**

FISCAL YEAR	TOTAL SECURITY SEPARATIONS	TOTAL SECURITY EMPLOYEES	PERCENTAGE OF SEPARATED SECURITY EMPLOYEES
13-14	586	3,984	14.7%
14-15	723	3,770	19.2%
15-16	892	3,488	25.6%
16-17	929	3,402	27.3%
17-18	909	3,410	26.7%
<b>TOTAL</b>	<b>4,039</b>	<b>18,054</b>	<b>22.4%</b>

Sources: LAC analysis of SCDC separation data and SCEIS data.



## Separation Reasons

For the period from FY 13-14 through FY 17-18, the most common reason noted for security staff separations was *left of own accord, no reason*. Although there was no *terminated for cause* reason, there were several reasons that qualify as *terminated for cause* such as job abandonment, failed to meet certification requirements, and misconduct. When combined under the category *terminated for cause*, this reason became the second most common. Table 2.28 shows the five most common reasons noted for FY 13-14 through FY 17-18.

It is important to note that agencies are not always knowledgeable of why employees leave. In those cases, SCDC codes separations as *left of own accord, no reason*. Excessive use of this reason can make it difficult to draw conclusions about why employees are leaving. Employees, however, are not required to provide a reason for their separations and may opt not to do so to maintain good relations.

**Table 2.28: Most Common Reasons Noted in Separation Records for Full-Time Security Staff Assigned to an Institution, FY 13-14 – FY 17-18**

REASONS FOR SEPARATED SECURITY STAFF	TOTAL	PERCENTAGE OF TOTAL
Left of Own Accord, No Reason	1,244	30.8%
Terminated For Cause	1,021	25.3%
Service Retirement	426	10.6%
Left On Own Accord/Personal	324	8.0%
To Accept Other Employment/Non-State Job	291	7.2%

Note: Agency records show that 4,039 full-time security staff assigned to an institution separated from the agency during the five-year review period.

Source: LAC analysis of SCDC separation data.

## Separations by Reason and Rank

We analyzed, by rank and fiscal year, security staff separations as a percentage of security staff employed with SCDC from FY 13-14 through FY 17-18. Cadets and officers had the highest separation rates. Table 2.29 provides a breakdown, by rank, of separations as a percentage of security staff employed for FY 13-14 through FY 17-18 and Table 2.30 provides this breakdown by fiscal year.

**Table 2.29: Separations by Rank for Full-Time Security Staff Assigned to an Institution, FY 13-14 – FY 17-18**

RANK	FULL-TIME SECURITY STAFF		
	TOTAL SEPARATIONS	TOTAL EMPLOYEES	PERCENTAGE OF TOTAL SEPARATIONS
Cadet	143	287	49.8%
Officer	2,759	10,737	25.7%
Corporal	242	1,466	16.5%
Sergeant	544	3,171	17.2%
Lieutenant	264	1,735	15.2%
Captain	77	561	13.7%
Major	10	97	10.3%
<b>TOTAL</b>	<b>4,039</b>	<b>18,054</b>	<b>22.4%</b>

Sources: LAC analysis of SCDC separation data and SCEIS data.

**Table 2.30: Separated Security Staff as a Percentage of Those Employed of the Same Rank, FY 13-14 – FY 17-18**

RANK	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 13-14 – FY 17-18
Cadet	62.5%	50.0%	86.5%	47.0%	33.0%	<b>49.8%</b>
Officer	16.4%	21.9%	29.3%	31.2%	31.8%	<b>25.7%</b>
Corporal	13.2%	12.7%	18.7%	21.9%	17.2%	<b>16.5%</b>
Sergeant	11.2%	15.1%	19.7%	21.6%	19.3%	<b>17.2%</b>
Lieutenant	8.5%	14.6%	17.1%	19.8%	16.8%	<b>15.2%</b>
Captain	10.3%	8.8%	18.0%	16.4%	15.2%	<b>13.7%</b>
Major	9.5%	14.3%	10.0%	5.3%	12.5%	<b>10.3%</b>
<b>TOTAL</b>	<b>14.7%</b>	<b>19.2%</b>	<b>25.6%</b>	<b>27.3%</b>	<b>26.7%</b>	<b>22.4%</b>

Sources: LAC analysis of SCDC separation data and SCEIS data.

For cadets and officers, we reviewed the most common reasons given for separating. This information is detailed below.

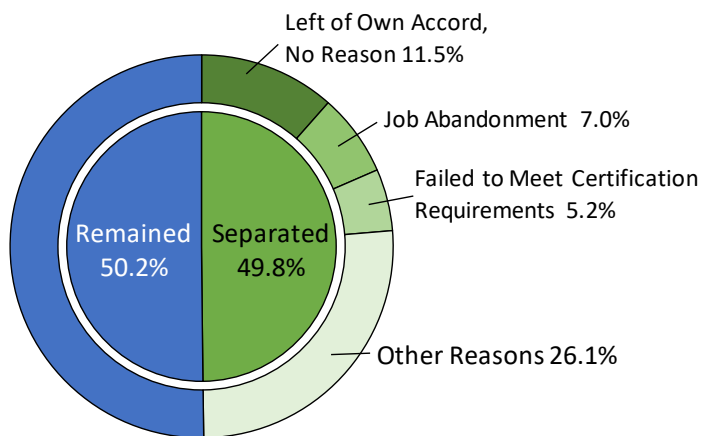
### Separation of Cadets

Overall, nearly one-half of the cadets employed by the agency also separated from the agency. Of separated cadets, the top three reasons noted were:

- Left of own accord, no reason.
- Job abandonment.
- Failed to meet certification requirements.

While *failed to meet certification requirements* was the third highest reason noted for the five-year period, by fiscal year, this rate generally increased, from 0.7% to 4.2%. Certification requirements include a physical agility test and knowledge-based tests relevant to the job. Data suggests that, increasingly over the past five years, cadet candidates are not able to meet agency requirements to perform the job and, therefore, are terminated. Chart 2.31 shows this information as a percentage of all cadets employed during the review period.

**Chart 2.31: Percentage of Cadet Separations and Reasons, FY 13-14 – FY 17-18**



Sources: LAC analysis of SCDC separation data and SCEIS data.

### Separation of Officers

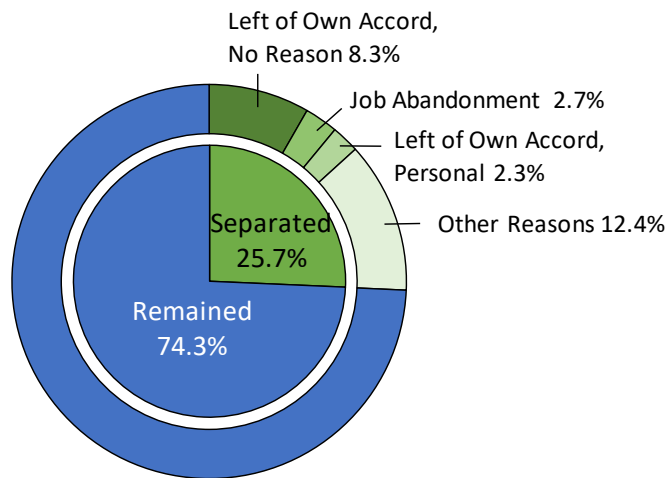
Officers were second to cadets regarding separations as a percentage of those employed. During the five-year period, one quarter of the officers employed by the agency also separated from the agency. From FY 13-14 through FY 17-18, this rate nearly doubled, from 16.4% to 31.8%.

Of separated officers, the top three reasons for separation were:

- Left of own accord, no reason.
- Job abandonment.
- Left of own accord/personal.

It is difficult to draw conclusions with approximately 32% of the noted reasons for separation being *left of own accord, no reason* and *left of own accord/personal*. For job abandonment, there were fluctuations from year to year, but the rate for this reason generally ranged from approximately 1.3% to 3.0%. Chart 2.32 shows this information as a percentage of all officers employed during the review period.

**Chart 2.32: Percentage of Officer Separations and Reasons, FY 13-14 – FY 17-18**



Sources: LAC analysis of SCDC separation data and SCEIS data.

## Average Length of Employment by Rank

We analyzed the average length of employment for the various ranks of security staff from FY 13-14 through FY 17-18. For the five-year review period, there was a decline in the average length of employment for cadets, officers, and sergeants. The length of employment for corporals and captains remained mostly steady while the average for lieutenants and majors increased. Overall, decreases in length of employment occurred primarily in the last three fiscal years. Table 2.33 shows the results of this analysis.

**Table 2.33: Average Length in Years of Employment Before Separation, FY 13–14 through FY 17–18**

↑ Increase
↓ Decrease
— No Change

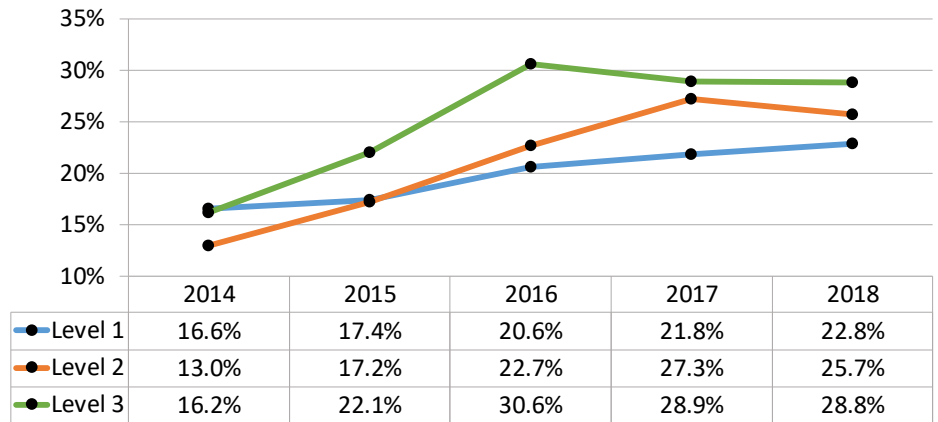
RANK	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 13-14 – FY 17-18
Cadet	2.0	↑ 3.2	↓ 2.1	↓ 1.1	↓ 0.6	1.7
Officer	3.0	↑ 3.1	↓ 2.9	— 2.9	↓ 2.3	2.8
Corporal	7.3	↑ 8.8	↓ 6.0	↑ 6.3	↑ 7.7	7.1
Sergeant	10.4	↑ 10.8	↓ 8.2	↑ 9.2	— 9.2	9.4
Lieutenant	13.2	↑ 14.9	↑ 17.1	↓ 13.4	↑ 16.5	15.1
Captain	20.7	↓ 15.9	↑ 21.8	↑ 22.4	↓ 20.9	20.8
Major	20.8	↑ 25.5	↓ 20.3	↓ 19.4	↑ 22.2	22.3
Total	5.3	↑ 5.6	↓ 5.2	↓ 5.1	↓ 4.6	5.1

Source: LAC analysis of SCDC separation data.

## Separations by Institutional Level

We analyzed the separations of security staff by institutional level from FY 13-14 through FY 17-18. For the overall five-year review period, Level 1 and Level 2 institutions had nearly equal separation rates at approximately 20%. From fiscal year to fiscal year, separations from Level 1 institutions increased, separations from Level 2 institutions generally increased, and separations from Level 3 institutions peaked in FY 15-16 and has since decreased slightly. Chart 2.34 summarizes separations by institutional level from FY 13-14 through FY 17-18.

**Chart 2.34: Separations of Full-Time Security Staff by Institutional Level, FY 13-14 – FY 17-18**



Source: LAC analysis of SCDC separation data.

## Separations by Institution and Rank

We analyzed the separations of security staff, by institution and rank, as a percentage of those employed from FY 13-14 through FY 17-18. Of all SCDC institutions over the same period, Lieber had the highest percentage of separations across all ranks at 27.4%. Table 2.35 summarizes separations by institution and rank for FY 13-14 through FY 17-18. The highest separation rate for each institution and rank were as follows:

- CADET—Broad River 91.7%
- OFFICER—Trenton 33.0%
- CORPORAL—Turbeville 27.9%
- SERGEANT—Lee 28.6%
- LIEUTENANT—Perry 27.6%
- CAPTAIN—Broad River 28.6%
- MAJOR—Lee 50.0%

**Table 2.35: Separations of Full-Time Security Staff by Institution and Rank, FY 13-14 – FY 17-18**

INSTITUTION	CADET	OFFICER	CORPORAL	SERGEANT	LIEUTENANT	CAPTAIN	MAJOR	TOTAL
Lieber	40.9%	30.4%	23.3%	22.0%	18.8%	13.8%	0.0%	27.4%
Ridgeland	66.7%	31.9%	18.7%	16.9%	12.6%	23.8%	20.0%	26.4%
Livesay	33.3%	31.8%	26.7%	16.3%	18.4%	10.0%	20.0%	25.5%
Lee	89.5%	24.2%	18.7%	28.6%	21.1%	23.5%	50.0%	25.4%
Broad River	91.7%	26.6%	15.8%	19.3%	24.5%	28.6%	0.0%	25.3%
Perry	45.0%	26.4%	15.7%	22.7%	27.6%	8.1%	0.0%	24.8%
Turbeville	28.6%	28.1%	27.9%	19.1%	10.8%	18.2%	0.0%	24.7%
Evans	60.0%	28.4%	18.7%	18.9%	13.6%	21.7%	0.0%	24.6%
Tyger River	42.9%	31.7%	19.0%	19.4%	18.8%	2.9%	0.0%	23.8%
Trenton	71.4%	33.0%	12.3%	8.4%	7.3%	15.4%	33.3%	23.6%
Manning	0.0%	29.9%	12.5%	11.7%	15.4%	12.0%	0.0%	23.1%
McCormick	46.7%	28.4%	11.8%	16.8%	11.8%	14.3%	0.0%	22.9%
Kershaw	81.0%	24.3%	18.6%	20.4%	8.8%	4.2%	0.0%	22.4%
Kirkland	18.2%	22.7%	19.7%	15.6%	6.5%	0.0%	33.3%	19.6%
Allendale	33.3%	22.3%	12.9%	17.3%	8.2%	21.1%	20.0%	19.4%
Leath	0.0%	24.3%	12.1%	12.4%	14.3%	14.3%	0.0%	18.6%
Camille Graham	0.0%	22.2%	16.4%	8.3%	12.3%	7.4%	0.0%	18.4%
MacDougall	33.3%	19.8%	10.9%	17.5%	15.6%	14.3%	16.7%	18.0%
Wateree River	62.5%	17.6%	5.2%	11.1%	15.6%	24.1%	20.0%	16.0%
Goodman	0.0%	18.1%	12.1%	9.0%	11.4%	5.9%	0.0%	14.5%
Palmer	0.0%	10.5%	20.0%	3.1%	18.2%	10.0%	0.0%	10.7%

Notes: Higher percentages are darker blue and lower percentages are gray.

CAMILLE, GOODMAN, AND PALMER—there were no cadet separations and no cadets employed. To avoid a division error, rates for these institutions were changed to 0%.

LEATH—separation data showed four cadets while the human resources' data showed zero cadets employed. To avoid a division error, the rate for this institution was also changed to 0%.

The following institutions were not included in the list due to closures in the five-year period.

CAMPBELL PRE-RELEASE CENTER closed as a Level 1 Men's Institution on June 9, 2014 (during FY 13-14).

COASTAL PRE-RELEASE CENTER closed as a Level 1 Men's Institution on April 1, 2015 (during FY 14-15).

LOWER SAVANNAH PRE-RELEASE CENTER closed as a Level 1 Men's Institution on June 1, 2016 (during FY 15-16).

WALDEN CORRECTIONAL INSTITUTION closed as a Level 1 Men's Institution on November 14, 2016 (during FY 16-17).

CATAWBA PRE-RELEASE CENTER closed as a Level 1 Men's Institution on November 16, 2017 (during FY 17-18).

Sources: LAC analysis of SCDC separation data and SCEIS data.

## Exit Survey Data

We reviewed SCDC exit survey data gathered from FY 13-14 through FY 17-18 to determine any trends in agency separations from self-reported employee data. Exit surveys are often used by employers to assess why an employee is leaving.

We found that agency staff transcribed employee survey responses from a written document into survey software. Transcribing responses that could have been directly input by respondents are at risk of being input incorrectly, producing questionable results and, ultimately, unreliable data. We were, therefore, unable to analyze the exit survey data for trends.

Furthermore, the response rate to the exit surveys from those who separated from the agency was, at its highest, less than 44%. Table 2.36 shows the response rates by fiscal year. Data from surveys with low response rates are unlikely to be representative of the population and conclusions, therefore, may be inaccurate.

**Table 2.36: SCDC Exit Survey Response Rates, FY 13-14 – FY 17-18**

	FY 13–14	FY 14–15	FY 15–16	FY 16–17	FY 17–18
Total Respondents	540	140	15	247	392
Total Separations	1,239	1,596	1,761	1,719	1,608
Response Rate	43.6%	8.8%	0.9%	14.4%	24.4%

Sources: LAC analysis of SCDC separation data and exit survey data.

## Recommendations

38. The S.C. Department of Corrections should have separating employees directly enter responses into survey software.
39. The S.C. Department of Corrections should only draw conclusions regarding data when response rates are adequate.



# Inmates

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In this chapter, we discuss SCDC's classification system, programs for inmates, security threat groups (STGs, i.e. gangs), transferring of inmates to private or out-of-state institutions, placement of mentally ill inmates, inmates sentenced to less than one year, and SCDC's collaboration with the Department of Probation, Parole and Pardon Services (PPP). We identified areas in need of improvement, including:

- Increasing the number of classification levels to ensure that each level is distinctly different in terms of security and supervision and develop reclassification criteria emphasizing inmate participation in work opportunities, programs, and consistent good behavior.
- Moving forward with implementing a system to properly track classes/programs, when they are offered, by whom (volunteer or staff), attendance, mastery, and completion.
- Considering using completion of specific core classes/programs, for which performance can be measured, as incentives for inmates to earn "good time" credit.
- Imposing sanctions on STG-validated leaders that are more severe than sanctions imposed on STG members. Also, developing and implementing a detailed STG step-down program that includes incentives for renouncing an STG, as well as considering piloting the separation of STGs in institutions known to have large numbers of STG-affiliated members.
- Conducting a detailed analysis of the implications of transferring more problematic inmates to private or out-of-state institutions.
- Including mental health in security and custody level classification criteria.
- Continuing to communicate and share information with PPP.  
The two agencies should also discuss the possibility of developing a victim-offender mediation program.

We also found that the General Assembly should amend S.C. Code §24-3-20 to only allow inmates with sentences of more than one year to be within the custody of the S.C. Department of Corrections.

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## Classification System

We reviewed the SCDC classification system and compared it to other state correctional agencies and best practice literature on classification to determine if SCDC is in line with national standards. We found that the agency does not follow national classification standards by:

- Not having a classification system that integrates custody and security levels.
- Not having enough distinct classification (security) levels that allow inmates to work their way down the system.
- Not revalidating the agency's risk and needs assessment tool every 3-5 years.
- Having classification criteria that does not allow inmates to move down classification levels.

We also found that SCDC's classification system does not ensure that inmates with consistently good behavior steadily decrease their classification levels. A plan for the decrease in inmate classification levels may ultimately lead to a better process for release.

In addition, we reviewed SCDC's security and custody level overrides and found that the agency does not keep a record of explanations for security and custody level overrides, as required by agency policy.

National experts who have previously reviewed SCDC's operations have found that SCDC may only be able to meet the conditions of the 2016 settlement agreement in the case of *T.R. et al v. South Carolina Department of Corrections et al* by significantly increasing operational and medical staff or significantly decreasing the population of SCDC. Addressing the problems of SCDC's classification system may lead to a safe decrease in the total population of inmates in SCDC. During our audit, SCDC began reviewing its classification system and recently hired a consultant to make recommendations.

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## Overview of SCDC's Classification System

Upon entry into SCDC, all inmates are assigned a security and custody level. The security level determines in what type of institution an inmate is placed. The types of security levels in SCDC include Level 1A, Level 1B, Level 2, Level 3 institutions. Level 3 institutions are the most restrictive and secure facilities in SCDC. The criteria for the security levels include, but are not limited to:

- Severity of the current offense.
- Length of time left to serve.
- Prior criminal history.
- Disciplinary record.
- Escapes.
- STG affiliation.

The custody level determines the type of supervision an inmate will receive in an institution. The criteria for the custody levels include, but are not limited to:

- Disciplinary record.
- Escapes.
- Sex offense history.
- Length of time left to serve.
- STG affiliation.

Inmates' records are scored through an automated system to determine an appropriate security and custody level. SCDC's classification division reviews the automated classification recommendations and makes final security and custody level assignments. An SCDC classification official stated that classification staff agree with the automated recommendation almost every time.

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## SCDC Classification System Comparison to Best Practices

We were told that SCDC has visited Virginia and Ohio correctional institutions to learn how best to update its inmate classification system. We also reached out to a correctional expert who has authored/co-authored reports for the National Institute of Corrections (NIC) and were told that Wyoming has one of the best classification systems in the nation. We reviewed NIC's Objective Prison Classification guide to determine best practices for classification systems in state correctional agencies. We compared practices from Virginia, Ohio, and Wyoming, and the NIC Objective Prison Classification guide to determine if SCDC follows best practices.

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## Integrating Custody and Security Levels

SCDC does not have integrated security and custody levels. Integrating security and custody levels may simplify the classification process.

Virginia, Ohio, and Wyoming have integrated security and custody levels, while SCDC inmates have separate security and custody levels. Having two different classification levels can be confusing and repetitive. For example, SCDC's custody and security levels share criteria for disciplinary convictions, escapes, detainees, and security threat group affiliation. Integrating the classification levels can help to simplify the classification system and ensure that all relevant criteria are used to determine the necessary institution type and supervision an inmate should have.

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## Too Few Distinct Classification Levels

SCDC does not have enough distinct classification levels to allow inmates to work their way down the classification system. This also limits incentives for inmates to have good behavior.

SCDC currently has three security levels, in which Level 1 is split into minimum security institutions (1B), which house inmates with relatively short sentences or time to serve, and pre-release/work centers (1A), which house non-violent inmates within 36 months of release. Ohio has four security levels. Virginia has five security levels, in which the Level 1 is divided into field units and work centers. Wyoming has four custody levels which determine both security and housing of the inmates. Arizona has four custody levels which determine the risk an inmate presents to the public and the staff.

Having additional security levels that are distinct in security and supervision may be useful to ensure inmates are properly separated based on their risks. Having additional security levels may also help provide inmates an incentive for good behavior. If inmates are aware that they are able to move to institutions with distinctly less supervision and security through good behavior, there is a likelihood that the rate of disciplinary infractions in the institutions can decrease.

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## Revalidation of the Needs and Risk Assessment Tool

SCDC's classification system is modeled by a risk and needs assessment tool. However, this tool has not been changed in 25 years.

The risk and needs assessment tool evaluates the possible needs and potential risk factors an inmate may experience within the institutions. The NIC Objective Prison Classification guide recommends that agencies revalidate their classification systems every 3-5 years to ensure that risk factors and custody scales are appropriate for the current prison populations. An official from the Wyoming Department of Corrections told us that it currently revalidates its classification system every 5-10 years, but conducts annual audits to ensure that inmates are accurately classified.

According to an SCDC official, the current classification system has been the same for 25 years. SCDC stated that it has recently hired a consultant to make changes to its classification system. Making effective changes to the classification system and revalidating the risk and needs assessment tool every 3-5 years can help to ensure that inmates in SCDC are accurately classified. Revalidating the risk and needs assessment tool is especially important due to the steady decrease in population that SCDC has experienced since the criminal justice reform legislation passed in 2010.

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## Reclassification Criteria Focused on Programming and Work Credits

SCDC's criteria for reclassification of inmates does not emphasize classes/programming and work credits. Additionally, the criteria for reclassification is identical to initial classification criteria.

We found that Wyoming and Arizona both have separate criteria for reclassification. Wyoming and Arizona review work credits and programming when inmates are reclassified. This allows classification staff to determine how an inmate is progressing while incarcerated. Participation in programs and work opportunities allows inmates to work their way down classification levels.

When inmates are reclassified in SCDC, additional emphasis is not placed on programming and work credits. When considering an inmate's custody level, behavior/adjustment criteria are considered, which review whether an inmate has worked consistently for six months. Custody level also determines an inmate's access to programs and jobs, but does not consider how many programs an inmate has completed.

The criteria for security and custody levels are the same for initial classification and reclassification. This is problematic because criteria like behavior, programming, and work credits cannot be determined when an inmate enters SCDC. Even when an inmate is reclassified, he may not be placed in a lower security level because of other factors such as the nature of his crime, his sentence length, or his time already served.

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## Recommendations

40. The S.C Department of Corrections should change its classification policy by integrating security and custody levels.
41. The S.C. Department of Corrections should increase the number of classification levels, as necessary, and ensure that each level is distinctly different in terms of security and supervision.
42. The S.C. Department of Corrections should consider changes to its classification system based on recommendations from its newly-hired consultant.
43. The S.C. Department of Corrections should ensure that its risk and needs assessment tool is revalidated every 3-5 years.
44. The S.C Department of Corrections should develop reclassification criteria that emphasize inmate participation in work opportunities, programs, and consistently good behavior.

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## Moving Down Classification Levels

Due to the structure of SCDC's classification system, inmates in Level 2 and Level 3 facilities are not able to effectively move down classification levels.

SCDC policy requires all inmates to go through reclassification annually. The process requires inmates to be reclassified through an automated system. During reclassification, caseworkers input an inmate's records into an automated system which matches an inmate's records to the specific criteria for security levels and custody levels. The system is programmed to match an inmate to the most restrictive level required for at least one criterion possible based on his records. For example, if an inmate's record matches almost all criteria to be placed in a Level 2 institution, but one criterion matches a Level 3 institution, the inmate will be placed in a Level 3 institution.

The incarcerative sentence criterion for security level placement requires that inmates with more than eight years left to serve are placed in either a Level 2 or a Level 3 facility. If an inmate meets most criteria to be placed in a Level 1 facility, but has a sentence of more than eight years, the inmate is automatically placed in a Level 2 or Level 3 facility. This structure may be flawed because it assumes that inmates with sentences of more than eight years are more prone to be problematic. This results in placements to higher security levels, regardless of whether an inmate meets most criteria to be placed in a lower-level institution.

Additionally, inmates placed in Level 2 and Level 3 institutions have less of a chance of going to a lower level. At least once a year, all inmates have the opportunity to be reclassified to a different security level based on security and custody level criteria. Based on the criteria mentioned in the classification plan, inmates in Level 2 and Level 3 facilities cannot be reclassified to a Level 1 facility until they have eight years or less of their maximum sentences left to serve.

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## Analysis of Previous and Most Recent Security Levels for SCDC Inmates

We requested data from SCDC that included all inmates' current security and custody levels, their previous security and custody levels, the dates of when they were placed in their current security and custody levels, and the dates of when they were placed in their past security and custody levels. We analyzed data from institutions on each classification level:

PERRY (Level 3)  
EVANS (Level 2)  
MANNING (Level 1B)  
PALMER (Level 1A)

Tables 3.1 and 3.2 show the numbers of inmates that have been reclassified in SCDC.

In Perry, 62 of 857 inmates had a period of ten or more years before they were reclassified to another security level. Only 25 of those inmates actually decreased their security levels. About 190 inmates had a period of 0-9 years before they were reclassified to another security level.

Most of the inmates in Perry (605 of 857) do not have a previous security level. Of the inmates who have never been reclassified, 408 were admitted to SCDC more than five years ago. This means that almost half of the total 857 inmates in Perry have remained at the same security level for more than five years.

**Table 3.1: Reclassification in Perry Correctional Institution (Level 3)**

RECLASSIFICATION PERIOD	TOTAL INMATES	DECREASE OF SECURITY LEVEL	TOTAL INMATES BASED ON RECLASSIFICATION PERIOD
Reclassified after 10 years	62	Decreased Security Level	25
Reclassified within 0-9 years	190	Decreased Security Level	48
Never Reclassified to Another Security Level	605	Admitted more than 5 years ago *	408

\* Five years is calculated from the latest admission date in Perry (August 24, 2013).

Source: SCDC

In Evans, 73 out of 1,235 inmates had a period of ten or more years before they were reclassified to another security level. All of those inmates decreased their security levels. Of 1,235 inmates, 655 had a time period of 0-9 years before they were reclassified to another security level and 507 inmates out of 1,235 inmates did not have a previous security level. A majority of the inmates who did not have a previous security level are inmates who have been recently admitted into SCDC.

**Table 3.2: Reclassification in Evans Correctional Institution (Level 2)**

RECLASSIFICATION PERIOD	TOTAL INMATES	DECREASE OF SECURITY LEVEL	TOTAL INMATES BASED ON RECLASSIFICATION PERIOD
Reclassified after 10 years	73	Decreased Security Level	73
Reclassified within 0-9 years	655	Decreased Security Level	400
Never Reclassified to Another Security Level	507	Admitted more than 5 years ago *	39

\* Five years is calculated from the latest admission date in Evans (September 20, 2013)

Source: SCDC



Manning and Palmer do not have the issue of inmates staying in the same security level for long periods of time. This is because these institutions are designed for inmates with short sentences or inmates who are within 36 months of release.

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## Significance of Decreasing Security Levels

As seen from our analysis, some inmates in Level 2 and 3 institutions tend to stay on the same security level for long periods of time. While this can be due to several factors from the security level criteria, a major contributor is the requirement that inmates with more than eight years left to serve be placed in a Level 2 or 3 facility. Studies have shown that inmates who have been incarcerated for longer periods of time tend to be less prone to infractions within prisons. Additionally, decreasing security levels for inmates can provide incentives for inmates to participate in good behavior and programs during their sentences.

According to the NIC, classification systems that do not allow inmates to move down custody levels result in over-classification of inmates with high initial custody levels because of serious crime convictions and are considered to be over-classified. Based on our analysis and information from the NIC, SCDC's classification system over classifies some inmates.

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## Recommendation

45. The S.C. Department of Corrections should revise its current security level criteria to place less significance on inmate incarcerative sentences and more on inmate behavior.

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## SCDC Not Keeping Record of Explanation of Security and Custody Level Overrides

SCDC does not follow classification policy by providing thorough justification for security and custody level overrides.

The recommendation of security and custody levels for inmates has been automated, but classification staff are also responsible for recommending security and custody levels. An SCDC official explained that almost every time, classification staff agree with the automated security and custody level recommendation. When there are discrepancies between the automated recommendation and the recommendation of classification staff, classification staff can override the automated recommendation. SCDC has specific override codes used in these instances. Along with override codes, classification staff are required to provide detailed explanations for the use of the override codes.

We requested justifications for security and custody level overrides for all inmates in four SCDC institutions. SCDC only provided the override codes. We asked for more detailed explanations on the override codes, and SCDC explained that it could not provide detailed written justifications because they are unique to each inmate and recorded only on each inmate's personal record. This is in opposition to SCDC policy about overrides which states that "Any decision which differs from the recommendation from the automated criteria must be coded as an override and fully explained in the comment section of the custody review."

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## Recommendation

46. The S.C. Department of Corrections should ensure that all security and custody level overrides are accompanied by a detailed, written explanation for the override code.

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## Programs for Inmates

SCDC has made progress in programming for inmates and preparing inmates for reentry into the community; however, we have identified a number of areas needing improvement:

- There is too much dependence on volunteer-led programming.
- Many inmates who are not in character-based dorms have not received programming, partly because there is no requirement for participation.
- SCDC’s system to track participation and completion of programs is not sufficient.
- More or better incentives are needed to encourage inmates to participate in programming when it is available.

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## Recent Improvements in Staffing

In January 2019, the division over programs was changed to Programs, Reentry, and Rehabilitative Services. In early 2019, 12 new program coordinator positions had been filled and placed at particular institutions. We interviewed some of these coordinators during our visits to the institutions; however, they were still too new to be able to elaborate on their plans and goals for programming other than hoping to engage all inmates—not just those housed in character dorms—to participate. All of the coordinators participated in training in May 2019 to become certified in SC Thrive (a program helping inmates apply for food stamps, complete disability applications, etc.) and become familiar with how to track data in the mainframe.

In 2019, SCDC rehired a former warden whose focus is to ensure that there is consistency in programming for inmates in the character dorms. During our visits, we found that a number of institutions had thriving character-dorm programs, including skills’ training. While this is important, more emphasis should be put on determining how to involve more inmates in programming.

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## Reentry Preparation

In November 2018, SCDC developed a plan to transfer Level 2 inmates with six months left to serve for screening by classification to go to a reentry program at Kershaw. The reentry program for female offenders began at Camille Graham in April 2018. The focus of the reentry program is to ensure that inmates being released from prison have identification cards, social security cards, birth certificates, and other preparations for when they are released. SCDC needs to expand this emphasis on reentry.

SCDC staff has identified other states, including Georgia, Ohio, and Pennsylvania, as having robust reentry or transitional programs. In reviewing information about these states' corrections agencies, it is clear that reentry is a focus and is something continually addressed. For example:

#### GEORGIA

Georgia's Department of Correction has a 2019 reentry handbook for planning an inmate's reentry. It includes a checklist of what an inmate can work on during incarceration, such as obtaining important paperwork, obtaining education and certifications, and lining up employment and housing ahead of his release.

#### OHIO

The Ohio Department of Rehabilitation and Correction has a guide entitled "Going Home to Stay" for successful reentry. Ohio also has agency policies, updated in 2019, outlining procedures governing transitional release planning for an inmate's successful release into the community.

#### PENNSYLVANIA

Pennsylvania's Department of Corrections has a newsletter, the most recent dated January 2019, which contains articles about reentry success stories and offerings of the agency.

In contrast, the most recent date on SCDC's webpage entitled *The Reentry Program* is 2004 and it references an interim report from the S.C. Reentry Interagency Collaborative Team. As of July 2019, we found no indication that this team had met again since that time or produced any other reports. Also, SCDC has an outdated agency policy addressing steps to be taken to prepare inmates for reentry.

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## Volunteers

SCDC is fortunate to have a reported 6,000 volunteers providing many different programs to inmates across the state; however, too much dependence on volunteers, wardens' restrictions on volunteers being allowed into the prisons, and unsupportive correctional officers are issues.

During our site visits, we observed volunteers holding sessions with inmates and were able to briefly chat with some volunteers. In response to our interested party letters at the beginning of our audit, several volunteers contacted us. While we did not verify these claims, these volunteers identified issues which they thought SCDC should address:

- When and whether volunteers are allowed at the institutions and how volunteers are viewed is solely up to the wardens and the tone they set. Volunteers acknowledged that security is the first priority, but many believe that additional accommodations can be made to allow programming by volunteers to continue, and staff can be informed of the importance of volunteer instructors.
- Rehabilitation of inmates needs to be more of a focus for the agency so inmates can be better prepared at the time of their release. It was suggested that social workers and psychologists could donate/volunteer time and expertise to strengthen the credibility of the reentry program to address inmates' anxiety as their release dates approach.
- Efforts of volunteers are often thwarted by correctional officers and obstacles are put in place by management.
- Staffing for SCDC employee-led training is woefully inadequate.
- A streamlined approval process for admission to the institutions could be added when a volunteer guest lecturer or one-time teacher wants to meet with inmates.
- Better organization of training and maintenance of training records could allow more incentives for inmates to earn "good time" credit for completion.
- SCDC has policies which do not support the reentry initiative and this creates additional barriers.

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## Inmates' Programming

Most of the training and classes offered at SCDC institutions is for inmates housed in character-based dorms. Offering classes to other inmates should be an achievable goal if operations and programming collaborate to address security obstacles. We found that there are no requirements for inmates, who are not housed in character-based dorms, to participate in training. Also, because of the recent lockdown, which occurred at the majority of institutions and lasted almost one year, programming for non-character-based inmates was virtually impossible due to security issues.

Classification can also play a significant role in programs. If an inmate's classification is reviewed annually and movement to a lower-level institution is warranted, this increases the chances that he will be able to participate in more programming. If program participation and good behavior are used as incentives for an inmate to move to a lower-level institution, SCDC could see participation increase in programs, benefit from fewer disciplinary infractions, and possibly lower the prison population.

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## Good Time Credit for Programs

Some states allow good time credit for completing training in addition to educational and vocational. South Carolina awards good time credit for some educational and vocational training. Good time credit is the amount of time that will be reduced from the actual time an inmate has to be in prison.

As of February 2019, the National Conference of State Legislatures updated its compilation of data showing what state statutes allow inmates to earn for good time credit. In a number of states, completion of core programs, which may include anger management, social life skills, and substance abuse programs can earn inmates good time credit. Most all states, including South Carolina, already award this credit for completion of educational or vocational programs, within specified guidelines.

**Table 3.3: States In Which Inmates Can Earn Good Time Credit for Completion of Specific Programs, as of February 2019**

STATE	GOOD TIME CREDIT
CALIFORNIA	1-6 weeks per 12-month period for completion of rehabilitative programming, including core programs such as anger management, social life skills, and substance abuse programs.
COLORADO	An additional 30 days to 60 days for inmates without penal code infractions, program compliant, and not having certain felonies, for completing program milestones or phases of reentry program.
CONNECTICUT	Up to 5 days for compliance with an accountability plan, participation in eligible programs, and good conduct.
DELAWARE	Up to 5 days per month for participation in rehabilitation or program approved by DOC. Up to 60 days for successful completion of program designed to reduce recidivism.
ILLINOIS	Good time multiplied by 1.5 for participation in behavior modification program, life skills program, or reentry planning.
INDIANA	Up to 6 months for completion of one or more reformative program on top of good time.
KANSAS	90 days for completion of any other program shown to reduce offender's risk after release on top of good time.
MAINE	Up to 3 days per month for complying with transitional plan for work, education, or rehabilitation.
MARYLAND	20 days per month of participation in special programs.
MASSACHUSETTS	7.5 or 5 days per month for any program deemed valuable to inmate's rehabilitation. Additional credit for completion of programs requiring six months or successful completion of a program at the discretion of the commissioner.
MISSISSIPPI	30 days per month of participation in special incentive programs on top of good time; additional time of up to 10 days for every 30 days participation for participation.
NEVADA	10 days per month for participating in a reentry program.
NEW HAMPSHIRE	Up to 12.5 days per month served (150 days per year) for good conduct and participation in programs designed to reduce recidivism.
NORTH CAROLINA	2-6 days per month for full-time participation in programs that assist in productive reentry; 20% the minimum sentence for participation in treatment, education and rehabilitative programs, eligibility determined by the court.
OHIO	1 or 5 days per month of participation in a constructive program to be decided by DOC with specific standards for performance.
OKLAHOMA	10 – 30 days for programs not specified on top of good time.
PENNSYLVANIA	¼ or 1/6 the minimum sentence for participation in and completion of evidence-based program plan as determined by risk assessments.
RHODE ISLAND	5 days per month for programs that address inmate's personal needs related to criminal behavior and 30 days for completion of a program on top of good time.
UTAH	Minimum 4 months for completion of programs approved by the DOC and are part of the offender's action plan.
VIRGINIA	4.5 days per 30 served for participation and cooperation in programs based on a risk assessment, related to successful reentry.
WASHINGTON	Up to 50% of sentence for good behavior and performance in reentry program plan.

Source: National Conference of State Legislatures, February 2019

Programs and practices which are evidence-based means that there are definable measures and outcomes, and are defined according to practical realities, such as how recidivism rates are affected. SCDC staff has acknowledged that they are working to identify core courses which would fall into these categories and would be more evidence-based than current offerings. These should be in place before considering good time credits for programming.

If appropriate courses are established, good time credits may be considered, but only if:

- Core courses have been identified as most beneficial to change behavior and/or prepare the individual for reentry.
- The agency has implemented a system to track attendance and participation of inmates in these programs.
- The agency has determined how an inmate would achieve “successful completion” for each of the classes.

The benefits to using programming for inmates to earn good time credit may include:

- Clear incentives for an inmate to complete programming.
- Better participation in programming.
- Possibly fewer disciplinary issues.
- Better prepared inmates for reentry into society.
- Reduction in prison population by allowing compliant inmates to be released earlier.
- Possibly lower recidivism rate.



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## Recommendations

47. The S.C. Department of Corrections should move forward with implementing a system to track classes/programs, when they are offered, by whom (volunteer or staff), attendance, mastery, and completion.
48. The S.C. Department of Corrections should identify evidence-based, core classes to offer to all inmates.
49. The S.C. Department of Corrections should implement a policy on programming, including the identification of evidence-based, core courses and how successful completion will be measured.
50. The S. C. Department of Corrections should implement a policy outlining reentry preparation steps to be taken to prepare inmates for reentry into the community.
51. The S.C. Department of Corrections should examine the possibility of using completion of specific core classes/programs as incentives for inmates to earn good time credit.
52. If the S.C. Department of Corrections establishes appropriate coursework for which good time credit may be applied, the General Assembly should amend state law to allow for specific training/class completion as qualifiers for good time credit.
53. The S.C. Department of Corrections should continue to hire or reassign staff, as possible, to buttress the programming already provided by volunteers at its institutions.

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## Security Threat Groups

SCDC does not have an effective policy to manage the formation and reduction of security threat groups (STG), i.e., gangs, throughout correctional institutions. Issues with the STG policy include:

- Lack of disciplinary actions for STG leaders.
- Lack of incentives for disaffiliating with an STG.
- Separation and housing of STGs within the institutions.
- Lack of programs to promote the reduction of STGs throughout prisons.
- Proper tracking and classification of STG members between the police services division and classification division.

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## Disciplinary Actions for Security Threat Groups

The agency's STG policy does not include specific sanctions for participation in an STG, but the Inmate Disciplinary System policy indicates that inmates who participate in an STG or possess STG material are subject to a level 2 disciplinary offense. A level 2 disciplinary offense is considered a major offense.

As of June 2019, officials from SCDC stated that revisions to the current STG policy are being drafted to include sanctions for STG affiliation. These level 2 disciplinary offense sanctions already cited in the inmate disciplinary system policy include extra duties, disciplinary detention, loss of good time, and loss of privileges.

The inmate disciplinary system policy does not include specific sanctions for known STG leaders. The revised STG policy includes new affiliation codes for validated STG leaders, but does not include specific sanctions for these leaders. Imposing stricter sanctions on STG leaders could be a useful tactic to break the organizational structure and spread of STGs within the institutions.

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## Recommendations

54. The S.C. Department of Corrections should include specific sanctions for inmates identified as being in a security threat group in its security threat group policy.
55. The S.C. Department of Corrections should impose sanctions on security threat group-validated leaders that are more severe than sanctions imposed on other security threat group members.

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## Incentives for Leaving a Security Threat Group

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Based on current STG policy, there are no incentives for leaving an STG. The STG policy stipulates criteria that an inmate must meet in order to formally renounce STG affiliation, but there is no documentation about incentives for leaving an STG.

The revised SCDC policy requires participation in education programs in order to renounce STG affiliation. While this is a necessary step to ensure STG renunciation, this plan is not comprehensive because it does not provide incentives (i.e. visitation, canteen, etc.) to encourage inmates to renounce STG affiliation. SCDC's educational program requirement for STG renunciation may not be feasible in every institution because programs may not be offered on a consistent basis in all institutions.

A possible incentive that does exist in SCDC is the decrease in security and custody levels. Classification and STG policy indicate that when an inmate renounces his STG affiliation, SCDC can possibly decrease the security and custody level classification. Our analysis of SCDC's classification system found that many inmates do not have the opportunity to decrease their classification levels when they renounce an STG due to the length of their sentences.

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## State Comparison of STG Step-Down Policy

In order to effectively reduce the STG population and reduce violence, SCDC needs to develop a step-down program that provides inmates incentives for leaving STGs. Many of the states throughout the United States have successfully accomplished this, including:

### MICHIGAN

#### *Incentives in Segregation*

This program is divided into six stages in which inmates placed in restricted housing must pass each step in order to lower their custody levels. After successful completion of a step in the program, inmates are awarded additional privileges such as phone calls, visitation, or commissary access.

### TEXAS

#### *Administrative Segregation Diversion Program*

This program gives STG-affiliated inmates returning to prison the ability to avoid segregation by participating in a six-month program that includes cognitive intervention, substance abuse treatment, anger management, and treatment of criminal addictive behavior.

#### *Gang Renouncement and Disassociation*

This program requires STG-affiliated inmates to go through a six-month program in which they are integrated into the general population after six months and are monitored for an additional three months.

### CALIFORNIA

#### *Step-Down Program*

STG-affiliated inmates are required to complete the four steps of the program over two years. Once the program is completed, inmates join the general population.

As of June 2019, SCDC started a new program for gang leaders to assist in reducing gang violence throughout the prisons. SCDC has only implemented this program at Lee Correctional Institution, but plans to expand the program to other institutions. This program may be a useful tool to decrease the impact of gang violence in the prisons, but it does not provide concrete incentives for participation.

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## Recommendation

56. The S.C. Department of Corrections should develop and implement a detailed security threat group step-down program that includes incentives for renouncing a security threat group.

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## Separation of Security Threat Groups

Currently, members of STGs are integrated into the general population in SCDC institutions. We spoke with staff from the classification division and police services division to determine whether separation of STGs is necessary in SCDC. Both divisions explained that separation of STGs is not a best practice because it gives STGs a sense of power over a housing unit. They also explained that separating STGs in SCDC institutions would be difficult due to the number of different STGs present in SCDC. However, as of May 2019, SCDC had started to implement policies geared towards separation of STGs. SCDC recently implemented structured living units, in which problematic inmates are placed into cells or dorms that have limited access to the general population. Inmates in structured living units are only allowed to leave the units a few times a day. SCDC has also recently hired a consultant that will be looking into the possibility of separating units by STG affiliation.

During our site visits to different SCDC institutions in January 2019, we found that Broad River separates STGs by unit. Broad River had the third highest number of STG-affiliated inmates in SCDC from FY 14-15 through FY 17-18. In Broad River, STG affiliation is a factor for determining an inmate's housing unit assignment. A Broad River staff member explained that separation of units based on STG affiliation has worked in the institution because it reduces violence between STGs.

We also conducted research on the practice of separating STGs in prisons. Based on the available research on STGs, there is not a consensus on whether separation of STGs is recommended. The National Gang Crime Research Center conducted a survey in 2012 of 148 county jails and prisons from 48 states that asked about STGs. When asked if housing all STG members together could result in reduction of violence, 67.7% of respondents said no. The survey also asked if housing all STG members together could result in making that STG stronger and more powerful, 83% of respondents said no.

A different study by the National Institute of Justice revealed that housing STG members in restricted housing units is highly endorsed by correctional authorities as a method of decreasing gang activity. In a survey of 37 prison systems, 75% of the respondents found the segregation and isolation of STG members to be a "very effective" method of managing STGs in prisons. While there are disagreements on whether separating STG groups from the general population is a best practice, studies have shown that it could help to reduce violence.

Separation of STGs may not be needed for all institutions in SCDC, but it could be helpful for institutions that have a large number of STG-affiliated inmates. Numerous studies have found that gang members commit disproportionately more offenses while in prison than other inmates. The April 2018 riot that occurred at Lee is an example. Reports about the Lee riot indicated that the riot occurred due to a confrontation between two rival STGs. Separation of STGs could be a possible solution to the reduction of violence within SCDC institutions.

Table 3.4 indicates the number of validated STG members in SCDC institutions from FY 14-15 to FY 17-18.

**Table 3.4: SCDC STG-Validated Inmates**

INSTITUTION	FY 14-15	FY 15-16	FY 16-17	FY 17-18	AVERAGE
Kershaw	201	220	238	262	230
Lieber	157	190	200	216	191
Broad River	147	167	192	214	180
Evans	137	161	175	198	168
Lee	128	146	168	184	157
Ridgeland	133	144	156	173	152
McCormick	112	127	140	156	134
Kirkland	106	111	119	126	116
Turbeville	75	87	99	117	95
Tyger River	76	83	96	107	91
Perry	78	90	93	97	90
Allendale	61	71	73	78	71
Wateree River	39	42	44	52	44
Trenton	28	28	30	42	32
MacDougall	22	23	25	29	25
Goodman	11	11	11	11	11
Livesay	10	10	10	13	11
DMH (Broad River Road Complex)	9	9	9	9	9
Leath	7	8	8	11	9
Manning	7	7	7	9	8
Palmer	6	7	8	8	7
Gilliam Psychiatric Hospital	5	5	8	10	7
Kirkland Max	3	5	5	6	5
Graham	3	4	4	5	4
Graham Reception & Evaluation	2	2	2	2	2
Kirkland Infirmary	1	1	1	1	1

Note: Non-validated, associates, potential, renounced and cleared inmates are excluded from the data.

Source: SCDC

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## Recommendations

57. The S.C. Department of Corrections should pilot the separation of security threat groups in institutions known to have large numbers of inmates affiliated with a security threat group.
58. The S.C. Department of Corrections should evaluate how the separation of security threat groups affects overall violent infractions within the prison.
59. If piloted separation of security threat groups is successful, the S.C. Department of Corrections should implement separation of security threat groups in policy and practice.

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## Communication Between Police Services and Classification

There are currently no formal policies that require information sharing between the classification division and the police services division regarding STGs.

Both police services and classification deal significantly with STG-affiliated inmates. The police services division collects information on STGs and validates suspected STG members, and the classification division evaluates inmates for possible STG affiliation upon intake and annual reclassification. Both of these divisions have to share information with one another in order to successfully complete these functions. During site visits to SCDC institutions, we asked both police services and classification staff about communication between the two divisions. Both divisions responded that they regularly communicate with one another. We also saw that intelligence officers were present in Kirkland Reception and Evaluation Center observing classification's process of examining new inmates for tattoos or paraphernalia that could be linked to an STG.

While this shows that both divisions regularly share information with each other, officials from police services explained that case-specific STG information is not shared with classification. Classification having access to case-specific STG information may be useful in determining the security level and custody level an inmate will have within the institutions. In order to ensure that both divisions have adequate information to investigate and classify inmates, SCDC should create a specific policy that requires the dissemination of all STG-related information between police services and classification.



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## Recommendation

60. The S.C. Department of Corrections should include specific requirements in policy for the police services division and the classification division to regularly share all information regarding security threat groups.
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## Placement of Mentally Ill Inmates

Most inmates classified with severe mental health illnesses are placed in Level 3 institutions based solely on the structure of SCDC's classification system. While SCDC's objective may be to place an inmate in a facility with access to appropriate mental health services, these mentally ill inmates are housed with violent offenders with longer sentences and inmates with behavioral problems.

When staff disagree with the automated classification of an inmate, the classification staff can override the automated classification. Mental health is one of the codes used to override automated classification. Inmates with severe mental health classifications may be housed in institutions with higher security solely due to the concentration of mental health staff in high security institutions.

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## Overview of Mental Health Classification

When inmates are first admitted into SCDC, they undergo intake assessment interviews. During these interviews, inmates are asked a series of questions about their marital/family status, educational/vocational history, substance abuse history, and medical/dental/mental health history. Information gathered from these interviews is forwarded to medical staff to determine whether inmates are eligible for a special needs program. Mental health staff determine the mental health classification for inmates. Level 1, 2, and 3 mental health classifications are for inmates who have severe mental health illnesses and see mental health staff regularly. Level 4 and 5 mental health classifications are for inmates who have less severe mental health illnesses and see mental health staff every three to six months. Outpatient inmates, those with mental health classification levels of 4 and 5, can be assigned to most institutions.

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## Placement of Mentally Ill Inmates

Inmates with severe mental health conditions are mostly limited to placement in institutions with area mental health centers or the Gilliam Psychiatric Hospital which is located in Kirkland, a Level 3 security institution. The area mental health centers (institutions with a concentration of mental health staff) are only available in Lee, Lieber, Perry, and Turbeville for males, and Camille Graham for females. Lee, Lieber, and Perry are Level 3 institutions. Turbeville is a Level 2 institution but only houses youthful offenders who are mentally ill.

If an inmate classified as severely mentally ill is eligible, based on security and custody criteria, to be placed in a Level 1 or 2 institution, the inmate will most likely be placed in a Level 3 institution instead. An SCDC official explained that an inmate's mental health level is the primary factor for the recommended security level to ensure that all inmates receive appropriate mental healthcare. While this is necessary, it can also lead to some mentally ill inmates housed in higher security institutions with violent offenders.

To ensure that all mentally ill inmates are placed in institutions that match their security/custody levels and can also be provided appropriate mental health care, SCDC may need to make changes to mental health classification and the allocation of mental health staff in the institutions. Possible changes could include:

- Inclusion of mental health units in lower-security institutions.
- Rotation of mental health staff from the area mental health centers to lower-security institutions.
- Housing mentally ill inmates from Level 3 institutions in units with less supervision if their custody level warrants.

According to SCDC, it is currently evaluating the feasibility of having an institution designated solely for mentally ill inmates.

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## Security of Custody Criteria

Neither the security nor custody criteria explicitly mentions mental health. During intake, inmates are given automated security and custody levels. Inmates are also evaluated by mental health staff to determine mental illnesses. The criteria used to determine mental health levels are separate from criteria used to determine security and custody levels. If an inmate's mental health level warrants placement in an institution that is not recommended by the automated system, the classification staff can override an inmate's recommended classification. Including mental health in the security and custody level criteria in the automated system would be useful to standardize the placement of mentally ill inmates and avoid the use of classification overrides.

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## Recommendations

61. The S.C. Department of Corrections should develop and implement methods to ensure that all mentally ill inmates are placed in appropriate institutions and units based on security level, custody level, and necessary mental healthcare.
62. The S.C. Department of Corrections should include mental health in security and custody level criteria.
63. The S.C. Department of Corrections should evaluate possible changes, such as including mental health units in lower-security institutions or rotating mental health staff to lower-level institutions, to care for mentally ill inmates.

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## Use of Force in SCDC Facilities

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We reviewed SCDC records on the uses of force against inmates in SCDC facilities. We found that SCDC uses force disproportionately against inmates with mental illnesses, and that the disparity has grown since FY 13-14. One reason for this may be a lack of adequate training.

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## Use of Force and Mental Health of Inmates

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In 2016, SCDC entered into a settlement agreement with the plaintiffs in the case of *T.R. et al v. South Carolina Department of Corrections et al.* As part of this settlement agreement, the agency was required to reduce the disproportionate use of force against inmates with mental health diagnoses. However, as shown in Table 3.5, since FY 13-14, the proportion of uses of force against mentally ill inmates has increased.

One likely contributing factor to the increase in the percentage of uses of force against mentally ill inmates is the percentage of the overall inmate population with mental illnesses, which has increased from 14.3% in July 2014 to 19.3% in June 2018. Facilities with an increasing percentage of inmates with mental illnesses have generally also experienced an increase in the percentage of uses of force that involved a mentally ill inmate. However, this percentage has increased at a faster rate since FY 13-14—the percentage of uses of force against mentally ill inmates has increased by nearly 11 percentage points, whereas the percentage of the SCDC population with mental illnesses has increased by only 4 percentage points.

As shown in Table 3.5, the percentage of planned uses of force involving mentally ill inmates has decreased since FY 13-14, while the percentage of unplanned uses of force involving mentally ill inmates has increased. Planned uses of force are those that are prepared for and approved of in advance, whereas unplanned uses of force are spontaneous responses to an imminent threat or situation. Since most uses of force are unplanned, SCDC's improvement regarding planned uses of force has done little to mitigate the disproportionate use of force against mentally ill inmates.

**Table 3.5: Uses of Force  
in SCDC Facilities,  
FY 13-14 – FY 17-18**

USES OF FORCE	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Planned (% Involving Mentally Ill)	135 (77.8%)	225 (72.4%)	211 (64.9%)	233 (59.7%)	180 (62.8%)
Unplanned (% Involving Mentally Ill)	1,696 (34.7%)	1,251 (39.1%)	1,142 (42.2%)	1,577 (45.8%)	1,221 (46.6%)
<b>TOTAL</b> (% Involving Mentally Ill)	<b>1,831</b> <b>(37.9%)</b>	<b>1,476</b> <b>(44.2%)</b>	<b>1,353</b> <b>(45.8%)</b>	<b>1,810</b> <b>(47.6%)</b>	<b>1,401</b> <b>(48.7%)</b>
Mentally Ill % of SCDC Population*	14.1%	14.6%	15.3%	16.3%	18.2%

\* Average of the percent from the first week of every month of the fiscal year, except FY13-14, for which the full year of data was not available.

In FY13-14, an average was taken from the first weeks of the month from February 2014 through June 2014.

Sources: S.C. Department of Corrections Automated Use of Force System,  
Inmates with Mental Illnesses Reports

Another contributing factor may be a lack of adequate training. In a November 2018 report, the implementation panel overseeing SCDC’s compliance with the 2016 settlement agreement noted that as of September 30, 2018, 97.6% of SCDC staff had not received the required annual use of force training, and only 34.5% of employees had received the annual training on the appropriate methods of managing mentally ill inmates.

SCDC has an automated use of force (AUOF) system which records data on uses of force, as well as whether or not a use of force involves an inmate with a mental illness. According to an agency official, information in the AUOF is copied from the Management Information Notes (MIN) system, which is SCDC’s main recordkeeping computer system, so the information in the MIN system is likely to be more accurate. Our review revealed minor differences in the recorded number of uses of force between the MIN system and the AUOF.

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## Recommendations

64. The S.C. Department of Corrections should conduct a review to determine the causes of the increasingly disproportionate uses of force against inmates with mental illnesses.
  65. The S.C. Department of Corrections should ensure that all staff receive the required annual use of force training and training on managing inmates with mental illnesses.
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## Moving Inmates to Private or Out-of-State Institutions

SCDC has not conducted any formal analysis on the implication of transferring problematic inmates to out-of-state institutions. The agency has no future plans to transfer problematic inmates to out-of-state institutions.

SCDC inmates can serve their sentences in out-of-state institutions for a variety of reasons such as voluntary/involuntary transfers, transfers through the Interstate Corrections Compact Agreement, and transfer of problematic inmates. In June 2018, SCDC transferred 48 inmates to a private correctional institution in Mississippi. SCDC officials explained that inmates chosen for the transfer were inmates who had several disciplinary issues or were influential within the STG organizations. SCDC officials explained that the agency has never transferred this many inmates at one time to an out-of-state institution. Most private correctional institutions, however, require public correctional agencies to transfer a large volume of inmates. For example, one of the private correctional institutions that SCDC contacted in June 2018 required SCDC to transfer at least 100 inmates.

Prior to transferring the inmates to the private institution, SCDC did not conduct any formal analysis on the implications of transferring them. SCDC did look at the cost of transferring inmates to the private institution. The daily cost per inmate was \$70 with a 2.5% increase every year that its contract is renewed with SCDC. SCDC's daily cost per inmate was \$64.96, as of FY 17-18.

SCDC explained that it has plans to reduce the inmate population through modifications to the classification system. Transfer of problematic inmates to private institutions is also a possible solution to safely reduce the inmate population in South Carolina. A more detailed analysis that determines the possible number of problematic inmates that can be transferred in the future and how that can impact the overall safety and population of the institutions would be useful.

The Bureau of Justice Assistance (BJA) within the U.S. Department of Justice issued a report highlighting specific factors that should be considered when transferring inmates to private correctional institutions. The report explains that cost is an important topic to consider; however, there is no consensus from academics and professionals on whether housing inmates in private institutions presents potential cost saving opportunities. The report also states that inmate services, quality of confinement, and public safety are factors that should also be considered for placement in private institutions.

There is little available research that compares the quality of confinement in private to public institutions, but the BJA report explains that careful monitoring and legislation helps to hold private institutions accountable. SCDC requires private and out-of-state agencies to ensure that transferred inmates follow SCDC policies. SCDC staff have traveled to the private correctional institution in Mississippi to monitor transferred inmates. The SCDC classification division also reviews these inmates biannually.

SCDC explained that it may transfer additional inmates to institutions, either private or out-of-state, but does not have immediate plans to do so. SCDC explained that this is due to the costs of moving large numbers of inmates to private institutions. A cost-benefit analysis for transferring problematic inmates to private institutions would be useful to determine whether this is a necessary cost that SCDC should incur.

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## Recommendation

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66. The S.C. Department of Corrections should conduct an analysis on the implications of transferring more problematic inmates to private or out-of-state institutions. Factors of this analysis should include, at a minimum:
- Costs.
  - Quality of confinement.
  - Safe reduction of the S.C. Department of Corrections' inmate population.
  - Decrease in major disciplinarys within the institutions, particularly considering reduction of security threat group-affiliated inmates.

## Inmate Sentences

SCDC has inmates with short sentences of 91 days to 365 days in its institutions. S.C. Code §24-3-20 requires inmates serving sentences of at least 91 days to be at an SCDC institution, but most other state correctional agencies only have inmates serving sentences of at least one year. Inmates with short sentences may be housed at local detention centers.

Consultants have explained that, in order to improve operations, SCDC will have to either hire additional staff or decrease the inmate population. Increasing the minimum sentence for admission in SCDC is a possible way to decrease the inmate population in SCDC. Inmates with sentences of 91 days to 1 year make up a small percentage of SCDC’s total population. Table 3.6 shows inmates serving sentences of 91 days to 1 year. The population has also decreased since FY 14-15. Placement of these inmates within local detention centers should not be too much of a burden on the detention centers due to the small number of these inmates, especially if these inmates are dispersed throughout several institutions across the state.

**Table 3.6: SCDC Minimum Sentence Length Distribution**

SENTENCE LENGTH	FY 14-15	FY 15-16	FY 16-17	FY 17-18
3 Months or Less	3	4	0	0
3 Months and 1 Day–1 Year	306	329	227	124

Source: SCDC

Additionally, SCDC has the lowest minimum sentence in the nation for admission into a state prison. We reviewed national data from the Bureau of Justice Statistics and found that most other states require inmates to have sentences of at least one year for admission into a state prison. Only five states, other than South Carolina, admit inmates into state prisons with less than one-year sentences. Table 3.7 indicates each state’s minimum sentence for entry into a state prison.



**Table 3.7: State Comparison of Minimum Sentence for Entry to State Prison**

STATES	MINIMUM SENTENCE FOR ENTRY TO STATE PRISON
<b>SOUTH CAROLINA</b>	<b>More than 3 months</b>
Indiana, Ohio	6 months or more
New Jersey, North Carolina	More than 6 months
Maine	More than 9 months
Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Nebraska, Nevada, Oregon, South Dakota, Utah, Washington, Washington DC, West Virginia	More than 1 year
Montana, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Tennessee, Virginia, Wisconsin, Wyoming	1 year or more
California	More than 16 months
Colorado	18 months or more
Missouri, Pennsylvania, Texas	2 years or more
Massachusetts	2.5 years or more
Louisiana	5 years or more
Connecticut, Delaware, Hawaii, Rhode Island, Vermont	Unified Correctional Agency

Notes: Unified Correctional Agencies are identified as states that have integrated state level prison and jail systems.

State correctional agencies that admit inmates with sentences of less than one-year are highlighted in orange.

Source: Bureau of Justice Statistics

There are implications for SCDC confining inmates who only serve 91 to 365 days. When inmates first enter SCDC, they are initially in the Reception and Evaluation Centers (R&E) in either Kirkland or Camille Graham. According to an SCDC official, inmates should not be in R&E for more than 30 days. An SCDC official also indicated that it is more expensive to keep inmates in R&E than in the institutions due to the costs of testing inmates. Housing these inmates with short sentences in SCDC is not cost effective due to time served within R&E.

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## Recommendation

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67. The General Assembly should amend S.C. Code §24-3-20 to only allow inmates with sentences of more than one year to be within the custody of the S.C. Department of Corrections.

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## SCDC and S.C. Department of Probation, Parole and Pardon Services (PPP)

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In our review of the operations of SCDC and PPP for releasing inmates into the community upon the expiration of their sentences or parole, we found that:

- SCDC and PPP do not effectively communicate about the release of inmates.
- SCDC may be able to improve the operation of parole hearings by ensuring that the parole board obtains all relevant information to make fully informed decisions about the parole of SCDC inmates.
- SCDC's max-out rate is disproportionately higher in Level 3 institutions than any other security level in SCDC.

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## SCDC and PPP Communication

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SCDC and PPP rarely communicate about the release of inmates in the institutions. Both agencies explained that most communication between the two is through computer systems, such as the offender management system and the parole information system. These systems allow SCDC to share inmate records with PPP so that the parole board can make informed decisions.

However, the agencies have not had discussions on ways to possibly reduce the population of inmates in SCDC. PPP explained that coordinators from its victim services division communicate regularly with SCDC. According to an SCDC official, the directors of PPP and SCDC recently started holding meetings to discuss the operations of both agencies.

Communication between the two agencies is necessary due to the common functions that the agencies share. The mission of SCDC is, in part, to provide rehabilitation and self-improvement opportunities to inmates. The mission of PPP is, in part, to supervise offenders once they are released into the community.

SCDC's criteria for classification does not provide inmates a plan for release through participation in programs. The custody criteria help to determine what access inmates can have to programs and jobs, but no part of the classification plan explains what types of programs inmates should participate in according to their risks and needs. However, as of May 2019, SCDC is in the process of developing a new classification plan that matches inmates' needs to recommended programs. Communication with PPP on the types of programs needed for certain inmates to make parole would be helpful to revamp the SCDC classification system.

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## Observation and Analysis of Parole Hearings

Effective communication between PPP and SCDC is also necessary during parole hearings. We observed the operations of parole board hearings for violent and non-violent inmates. We determined that ineffective communication between the two agencies has resulted in some inefficient operations, such as PPP's reliance on inmate-provided program information, conflicting accounts from offenders and victims during parole hearings, parole of inmates who are close to their max-out dates, and not requiring new parole board members to observe live parole hearings before making decisions on the parole board.

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## PPP Reliance on Inmate-Provided Program Information

We found that PPP relies on inmate-provided program information. During parole hearings, inmates are asked about the parole preparation that they have undergone while incarcerated. At this time, inmates usually give a summary of programs that they have completed. However, the statements from the inmates served as the only proof that programs were completed.

As of June 2019, SCDC did not have a computer system that can track the completion of programs by individual inmates; however, SCDC is in the process of developing a new system that will track the completion of programs. SCDC already had a "released offender skills button" which shows the self-improvement classes that released offenders have completed. The released offender skills button can be accessed through SCDC's website. An SCDC official explained that PPP has access to the current SCDC computer system, but PPP does not ask SCDC staff about inmate programs.

In contrast, a PPP official explained that the agency has tried to obtain inmate program information from SCDC, but has been unsuccessful. Not having documentation or records of program completion verified by SCDC staff may result in inaccurate parole decisions by the parole board.

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## Need for Victim-Offender Mediation Program

During the parole board hearings, we also observed several instances in which the accounts of victims, attorneys, and offenders about cases were drastically different. PPP officials explained that offenders and victims are rarely ever able to have a discussion about a case. This results in offenders and victims having different perspectives about a case during parole hearings. When making parole decisions, the parole board reviews an inmate's parole case summary report which includes:

- The offender's criminal record, offense(s), and description of the offense(s).
- The sentencing date, the max-out date, the parole eligibility date, the date of any previous parole hearings, the names of any co-defendants.
- The offender's prison and disciplinary records.
- Risk classification reports.
- A medical history and psychological reports, if any.
- A history of the offender's supervision on probation or parole, if any.
- A proposed place of residence and employment.
- The parole examiner's recommendation(s).
- Any statements from law enforcement.
- Any statement from the prosecuting witness or the prosecuting witness's next of kin, if the witness is deceased.
- Any statement from the solicitor or his successor.
- Any statement from the sentencing judge.
- The offender's social history.
- The offender's employment experience.

The parole board makes decisions about parole according to the facts of case, but that can be difficult when the offender and the victim have different accounts of the case. SCDC currently does not have a victim-offender mediation program to help resolve this issue.

There are an estimated 400 victim-offender mediation programs throughout the nation. A victim-offender mediation program in SCDC may be useful to resolve conflicting accounts during parole hearings and ensure that the parole board can make fully informed decisions about parole.

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## Max-Out Dates

We also observed instances when the board paroled inmates who were very close to their max-out dates. The parole board can place conditions on parole, and inmates may be required to complete specific programs in order to be paroled.

Completion of some programs can take several weeks. An SCDC official explained that there have been many instances when inmates granted parole are not released early because they have to complete a program for their parole. If the inmates' max-out dates are close to the dates that they are granted parole, they max-out of SCDC while they are completing conditions for parole. Even though these inmates have maxed out of the system, PPP includes these inmates in its parole rate because the inmates were granted parole by the parole board. This possibly inflates the PPP parole rate. This issue can be resolved if there is more effective communication between PPP and SCDC about the release of inmates.

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## New Parole Board Members

While observing the parole board hearings, we found that new members of the parole board are not required to observe parole hearings before deciding parole cases. According to the parole manual, a new parole board member is required to complete a 16-hour training course that reviews:

- National and state crime statistics and trends.
- Decision making and evidence-based practices in the justice system.
- Offender risk and needs assessment.
- Offender case planning.
- SCDC's classifications, programming, and disciplinary processes.
- Violations.
- Criminal victimization.
- Criminal justice collaboration, offender success, and public safety.
- PPP organization and functions.

None of the training required for new parole board members includes observation of live parole hearings. Observation of the parole hearings can provide new parole board members a better understanding of the parole process. A better understanding can help new parole board members make decisions that are more informed when they sit on parole hearings for the first time.

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## Recommendations

68. The S.C. Department of Corrections and the S.C. Department of Probation, Parole and Pardon Services should communicate regularly on methods to safely release eligible inmates into the public, in addition to sharing inmate records through the offender management system and the parole information system.
69. The S.C. Department of Corrections and the S.C. Department of Probation, Parole and Pardon Services should continue agency director meetings to facilitate communication about ways to prepare inmates for release and safely release inmates.
70. The S.C. Department of Corrections should develop a system that can track the completion of programs for current inmates and ensure that the S.C. Department of Probation, Parole and Pardon Services has user-friendly access to this system.
71. The S.C. Department of Corrections and the S.C. Department of Probation, Parole and Pardon Services should discuss the possibility of developing a victim-offender mediation program.
72. The S.C. Department of Probation, Parole and Pardon Services should communicate about how to handle cases where inmates eligible for parole are near their max-out dates.
73. The S.C. Department of Probation, Parole and Pardon Services should require that all new parole board members, prior to their service on the board, observe parole board hearings for both violent and nonviolent offenders.

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## Releases from SCDC

The number of inmates reaching their max-out dates is disproportionately higher in Level 3 institutions than any other security level in SCDC. Inmates who max-out their sentences do not receive supervision when released. This is particularly problematic because Level 3 institutions primarily house violent offenders with longer sentences and inmates with behavioral issues. The rate of unsupervised release of Level 3 inmates may pose a serious threat to public safety.

We reviewed all inmates' releases under SCDC jurisdiction from FY 14-15 through FY 17-18. According to data provided by SCDC, the agency's release categories include (but are not limited to):

- Community supervision.
- Death.
- Intensive supervision.
- Max-out.
- Paid fine.
- Parole, probation, and supervised reentry.

The data included SCDC releases, by institution, as well as releases from county locations and other states that are within SCDC jurisdiction. Table 3.8 details the total number of inmate releases that have occurred from FY 14-15 through FY 17-18. Max-out, not including max-out for YOA, is the most common type of release in SCDC.

**Table 3.8: SCDC Total Releases,  
FY 14-15 – FY 17-18**

RELEASE TYPE	FY 14-15	FY 15-16	FY 16-17	FY 17-18	4-YEAR TOTAL
Max-out	3,948	3,920	3,919	3,067	14,854 (40.82%)
Probation	1,983	1,895	1,831	1,659	7,368 (20.25%)
Community Supervision	1,097	1,033	985	957	4,072 (11.19%)
Parole NYOA	790	655	820	1,219	3,484 (9.57%)
Supervised Reentry	528	692	812	782	2,814 (7.73%)
Intensive Supervision	638	552	513	492	2,195 (6.03%)
Parole YOA	198	180	199	193	770 (2.12%)
Death	72	86	86	114	358 (0.98%)
Max-out – YOA	57	98	96	64	315 (0.87%)
Remanded	31	19	23	31	104 (0.29%)
Resentenced	11	15	17	7	50 (0.14%)
Appeal	0	2	4	0	6 (0.02%)
Paid Fine	1	0	0	0	1 (0.00%)
<b>TOTAL</b>	<b>9,354</b>	<b>9,147</b>	<b>9,305</b>	<b>8,585</b>	<b>36,391 (100%)</b>

Source: SCDC



In order to determine how security level affects inmate release, we analyzed data from three institutions. We chose the institutions that had the overall highest number of releases from each security level. Kirkland had the highest number of releases for Level 3 institutions; Turbeville from Level 2 institutions; and Manning from Level 1 institutions. Tables 3.9, 3.10, and 3.11 detail the number of releases that occurred in each institution from FY 14-15 through FY 17-18.

We found that, in FY 17-18, the percentage of max-out releases from Kirkland is significantly higher than from the other institutions. About 64% of the inmates released from Kirkland in FY 17-18 maxed out, excluding YOA. Only 2.8% of the total number of inmates from Kirkland were paroled. Turbeville’s FY 17-18 max-out percentage of 7.8% was significantly smaller. Turbeville’s total parole percentage for all inmates was significantly higher at 35.6%. However, the max-out percentage in Manning in FY 17-18 was 37% and the parole percentage was 21.7%. The high max-out percentage in Kirkland can be due to several different factors at Level 3 institutions, including high disciplinary rates, the percentage of inmates ineligible for parole, the number and frequency of programs available, and the number of inmates who participate in programs.

**Table 3.9: Kirkland Releases,  
FY 14-15 – FY 17-18**

RELEASE TYPE	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Max-out	747	636	720	573
Probation	311	262	284	226
Community Supervision	36	26	31	25
Parole NYOA	5	9	8	22
Supervised Reentry	3	13	17	17
Max-out – YOA	5	13	6	15
Intensive Supervision	3	8	1	8
Remanded	1	1	3	4
Parole YOA	2	2	4	3
Resentenced	8	12	13	3
Appeal	0	0	3	0
Death	1	0	4	0
Paid Fine	1	0	0	0
<b>TOTAL</b>	<b>1,123</b>	<b>982</b>	<b>1,094</b>	<b>896</b>

Source: SCDC

**Table 3.10: Turbeville Releases,  
FY 14-15 – FY 17-18**

RELEASE TYPE	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Intensive Supervision	376	340	299	255
Parole YOA	26	102	178	183
Parole NYOA	24	8	32	86
Max-out	70	94	92	59
Supervised Reentry	28	35	58	57
Community Supervision	39	44	48	44
Probation	43	40	50	41
Max-out – YOA	38	52	59	27
Death	0	0	1	2
Remanded	0	0	1	1
Appeal	0	0	0	0
Paid Fine	0	0	0	0
Resentenced	0	0	0	0
<b>TOTAL</b>	<b>644</b>	<b>715</b>	<b>818</b>	<b>755</b>

Source: SCDC

**Table 3.11: Manning Releases,  
FY 14-15 – FY 17-18**

RELEASE TYPE	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Max-out	387	375	418	299
Parole NYOA	70	91	117	175
Probation	226	193	218	174
Community Supervision	137	162	150	114
Supervised Reentry	40	82	76	44
Intensive Supervision	0	0	1	1
Appeal	0	0	0	0
Death	0	0	0	0
Max-out – YOA	0	0	0	0
Paid Fine	0	0	0	0
Parole YOA	0	0	1	0
Remanded	0	0	0	0
Resentenced	0	0	0	0
<b>TOTAL</b>	<b>860</b>	<b>903</b>	<b>981</b>	<b>807</b>

Source: SCDC

While max-out releases are necessary in SCDC due to the high number of inmates who are ineligible for parole, SCDC needs to take actions to possibly reduce the number of inmates who max-out. When inmates max-out, they do not receive any type of supervision once they are released into the public. Lack of release supervision can be a possible threat to public safety for particularly dangerous offenders. A report by the PEW Charitable Trusts revealed that “inmates released to parole supervision are more likely to have better public safety outcomes than those who max-out.”

## Recommendation

74. The S.C. Department of Corrections should develop a plan to safely decrease the percentage of max-out releases, specifically in Level 3 institutions, by increasing communication with the S.C. Department of Probation, Parole and Pardon and adding more programs provided to inmates in Level 3 institutions.

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## Issue for Further Study—Criteria for Parole

We attended parole board hearings and observed cases in which inmates serving long sentences had not received disciplinary infractions in several years and had completed multiple programs, but were not granted parole. In some of these cases, victims spoke in opposition of the inmates' parole. We acknowledge that there may have been many reasons why the inmate was not paroled, but found that the feelings of the victim or the victim's family may have been weighted more heavily than other factors such as the inmate's efforts to improve himself while incarcerated through programs offered by SCDC.

In order to make an accurate conclusion about this observation, additional analysis would be required. We spoke to a former SCDC official about this observation and were told that using the opinions from victims or victims' family is not used in every state to determine parole. This is because parole criteria and parole decisions are meant to be objective and based on the facts of the case. Further analysis on South Carolina's parole criteria would be useful to determine if the current criteria are adequate and are being applied appropriately.

S.C. Code §24-21-640 requires the parole board to establish specific criteria for granting parole. The parole board currently uses the following criteria when making decisions on parole:

- The risk that the offender poses to the community.
- The nature and seriousness of the offender's offense, the circumstances surrounding that offense, and the prisoner's attitude toward it.
- The offender's prior criminal record and adjustment under any previous programs of supervision.
- The offender's attitude toward family members, the victim, and authority in general.
- The offender's adjustment while in confinement, including his progress in counseling, therapy, and other similar programs designed to encourage the prisoner to improve himself.
- The offender's employment history, including his job training and skills and his stability in the workplace.
- The offender's physical, mental, and emotional health.
- The offender's understanding of the causes of his past criminal conduct.
- The offender's efforts to solve his problems.

- The adequacy of the offender's overall parole plan, including his proposed residence and employment.
- The willingness of the community into which the offender will be paroled to receive that offender.
- The willingness of the offender's family to allow the offender, if he is paroled, to return to the family circle.
- The opinion of the sentencing judge, the solicitor, and local law enforcement on the offender's parole.
- The feelings of the victim or the victim's family, about the offender's release.
- Any other factors that the Board may consider relevant, including the recommendation of the parole examiner.



# Policy Review and Compliance Issues

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We were asked to review security and other policies of SCDC and we also reviewed external reviews of the agency's policies that have occurred in the past ten years to determine if SCDC is in compliance with recommendations made.

We found that SCDC staff is not always following agency policies and the agency is not following its own guidelines for disciplining employees who violate agency policies. SCDC has also not complied with federal regulations implemented under the Prison Rape Elimination Act (PREA), particularly those regarding auditing and accountability.

In addition, we found that the penalties for introducing, or attempting to introduce, contraband into correctional facilities in South Carolina are in line with other states.

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## External Policy Reviews

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In the past ten years, the National Institute of Corrections (NIC), the Association of State Correctional Administrators (ASCA), and the implementation panel for the May 2016 mental health settlement agreement have reviewed SCDC's policies for best practices. Our review of the recommendations made by each organization found that SCDC:

- Is not in full compliance with most of NIC's policy recommendations made in its review of the agency in February 2009.
- Has implemented or revised all policies that were agreed to in the *T.R. et al. v. South Carolina Department of Corrections et al.* settlement agreement.
- Has implemented a majority of the policy recommendations made by the implementation panel that is charged with reviewing the agency's compliance with the settlement agreement.
- Is in substantial compliance with three of ASCA's six policy recommendations made after the April 2018 incident at Lee Correctional Institution.

## Status of NIC Recommendations from 2009 Review

SCDC is not in full compliance with most of NIC’s policy recommendations made in its review of the agency in February 2009. Most of these policies are security-related. However, the agency states that it is in compliance with or practices much of what was recommended.

In 2008, the National Institute of Corrections, a division of the Federal Bureau of Prisons, was asked by the LAC and SCDC to conduct a limited review of security-related policies and procedures at SCDC. NIC included 11 recommendations, 8 of which included recommendations to implement a new policy/procedure or to revise an existing policy/procedure. For our review, we sought to determine if the agency has implemented the eight policy recommendations. Of the eight policy recommendations, we found that SCDC is in substantial compliance with one of the recommendations, partial compliance with three of the recommendations, and non-compliance with four of the recommendations.

**Table 4.1: NIC Recommendation Summary**

RECOMMENDATIONS	RELEVANT POLICY	LEVEL OF COMPLIANCE
Current affirmative documentation should be presented at all weapons issue points and utilized to confirm qualification prior to any weapons issue to insure that the individual to whom the weapon is to be issued is trained and qualified in its use.	OP-22.05	Non-Compliant
Revise policy to incorporate a more flexible and functional command philosophy more in keeping with that found in the FEMA/NIMS Incident Command System.	OP-22.29	Substantial Compliance
Designate an assistant or back up personnel to both the armory and key control duties.	OP-22.05, OP-22.17	Partial Compliance
Augment agency policy/procedure to include the language that only personnel approved by the warden are authorized access.	OP-22.05	Non-Compliant
Checklist provisions as noted in armory practices be cited in policy and given full force of that authority and enhance the existing directives to emphasize implementation practices.	OP-22.05, OP-22.17	Partial Compliance
Reconsider master and permanent key issue practices.	OP-22.17	Partial Compliance
Develop an agency policy/procedure concerning security system checks/exercises.	N/A	Non-Compliant
Consider implementation of a Critical Incident Response element to the existing Employee Assistance Program.	ADM-11.19	Non-Compliant

Source: LAC analysis of SCDC’s policies, 2009 and 2018.



When NIC's report was initially released in 2009, SCDC leadership provided a response to the report in which SCDC agreed with several of the recommendations and stated the agency would review its policies and practices for the recommendations with which it did not agree. In one instance, SCDC noted that it had previously implemented one of NIC's security recommendations, but found its current practice to be more effective.

To determine the status of SCDC's compliance with NIC's 2009 recommendations, we reviewed previous and current versions of SCDC policies that were referenced in the 2009 NIC report. SCDC was in substantial compliance with only one of NIC's recommendations.

We asked the current leadership at SCDC for an updated response on the security recommendations that we determined were not yet implemented. In its response, an agency official stated that SCDC believed it was in compliance with many of NIC's recommendations, but noted one recommendation which still needed to be implemented. SCDC also stated that it already practiced another one of NIC's recommendations at its institutions.

For NIC's recommendation concerning internal audits of the lock shop, SCDC made changes to the agency's policies, but the changes made by the agency did not align with NIC's recommendations. In another instance, which involves the use of inmates in security system checks, SCDC's policy change actually went directly against what NIC recommended.

We reviewed the relevant policies for compliance with the American Correctional Association (ACA) standards, and the policies appear to meet ACA's standards in the areas where NIC made recommendations. Consequently, the policies listed are not necessarily inadequate policies as currently written. However, NIC reviewers based their recommendations upon their own correctional expertise, and we found NIC recommendations to be more in-depth than ACA's standards.

SCDC states it is already in compliance or already practices much of what NIC recommended; however, our review found that SCDC has not fully implemented a majority of NIC's eight policy recommendations into the agency's policies. SCDC should implement the remaining NIC recommendations into policy. It is important to include requirements, like security system checks as outlined by NIC, into policy to ensure that this practice is uniform across institutions.

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## Status of Settlement Agreement Policy Recommendations

In May 2016, SCDC entered into a settlement agreement with plaintiffs who brought a class-action lawsuit against the agency alleging substandard mental health treatment. As of July 2017, SCDC had implemented or revised all policies addressed in the agreement.

In 2005, the Protection and Advocacy for People with Disabilities, Inc., on behalf of inmates with serious mental health needs, filed a class-action lawsuit alleging that SCDC had failed to provide adequate mental health treatment to inmates. In 2014, the judge presiding over the case ruled against SCDC. The plaintiffs in the case and SCDC began negotiations that eventually resulted in a settlement agreement between the two parties.

As part of the May 2016 settlement agreement, SCDC agreed to implement 11 new policies and revise 5 existing policies. We found that SCDC implemented all of the new policies in August 2016, and all of the agreed-upon policies were revised by July 2017. SCDC has satisfactorily implemented or revised all of the agreed-upon policies included in the May 2016 settlement agreement.

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## Implementation Panel Recommendations

SCDC has implemented a majority of the policy recommendations made by the implementation panel that is charged with reviewing SCDC's compliance with the settlement agreement.

The implementation panel conducts site visits at various correctional institutions, interviews SCDC staff and inmates, and reports its findings from its visits and analyses. As of November 2018, the panel had issued eight reports of compliance. Included in the 8 reports are 11 specific recommendations to revise existing SCDC policies. Most of the recommendations focus on the agency's use-of-force policy. We found that SCDC had implemented all but 4 of the 11 recommended revisions.

While SCDC was required to implement all of the policies included in the May 2016 settlement agreement, the agency is not required to implement all of the policy recommendations made by the panel. SCDC has made a concerted effort to implement the panel's policy recommendations.

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## Status of ASCA October 2018 Recommendations

SCDC is in substantial compliance with three of ASCA's six policy recommendations made after the April 2018 incident at Lee Correctional Institution. However, the agency reports it is still revising the agency's policies to bring the agency in full compliance with ASCA's recommendations.

After the Lee incident, which resulted in the deaths of seven inmates, SCDC requested that the ASCA conduct a post-incident assessment at the institution. The focus of the assessment was to determine what factors might have contributed to the disturbance.

Once the assessment team concluded its on-site visit, interviewed staff, and reviewed policy documents, the team issued a report detailing several recommendations to revise or implement new SCDC policies in October 2018. Of these six recommendations, we found that the agency is in substantial compliance with three of the recommendations. Of the three policy recommendations that have not been implemented, SCDC stated that it is actively working to implement the policy recommendations.

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## Recommendations

75. The S.C. Department of Corrections should implement the remaining National Institute of Corrections' recommendations from the its 2009 technical assistance report on the agency by revising agency policies, almost all of which are security-related.
76. The S.C. Department of Corrections should amend the agency's policies concerning internal audits of the lock shop and the use of inmates in security system checks to align with the National Institute of Corrections' recommendations.
77. The S.C. Department of Corrections should continue addressing the implementation panel's policy recommendations.
78. The S.C. Department of Corrections should implement the three policy recommendations concerning emergency preparedness, first responder procedures, and on-the-job training practices made by the Association of State Correctional Administrators that have yet to be implemented.

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## Efforts to Control Contraband

We reviewed SCDC policies, post orders—descriptions of job responsibilities for specific posts at institutions—practices, and internal controls relevant to preventing the ingress and detecting the presence of contraband inside its institutions. The following describes what is contraband, how it enters the agency’s institutions, and the various methods the agency uses to detect contraband.

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### Background

Inmates who possess contraband pose a serious threat to the safety of other inmates, correctional officers, other staff, and the community. Over the last decade, inmates in South Carolina have used one type of contraband—cell phones— to:

- Conspire to murder a former correctional officer.
- Traffic drugs across the country.
- Extort more than \$500,000 from members of the military.
- Exacerbate the incident at Lee in April 2018, according to an agency official.

Preventing contraband from entering SCDC’s institutions and detecting contraband that is within the institutional walls is paramount in providing safer living conditions for inmates, safer work environments for correctional officers and other SCDC staff, as well as safer communities.

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### State Law and Agency Policy Definition of Contraband

S.C. Code §24-3-950 authorizes the SCDC director to specify which items are to be regarded as contraband. S.C. Reg. 33-1 and the agency’s contraband policy identify the following as contraband:

- Weapons, firearms, explosives, etc.
- Toxic, caustic, or flammable items.
- Drugs and alcohol.
- Locks and keys.
- Tools.
- Money, with exceptions, as well as credit, debit, and calling cards.
- Needles and syringes, including tattoo equipment.
- Jewelry, with exceptions.
- Electronics solely for the purpose of recording.

- Photos, pictures, and magazines beyond authorized limits.
- Items altered from original manufactured condition.
- Unauthorized clothing, appliances, personal hygiene items, games and recreational equipment, and plastics and synthetics.
- Items involved in the disruption of institutional operations (e.g., cell phones).

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## How Contraband Enters an Institution

Contraband may enter an institution on or inside an individual—inmate, visitor, vendor, and SCDC staff—through the mail, and as throw overs, which are items that are thrown over institutional fencing by outsiders.

Contraband may also be created within the institution. An SCDC official estimated that 95% of weapons found were fabricated by inmates from items within the institution.

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## Contraband Detection Devices

SCDC uses various technological devices to detect contraband before it enters an institution via inmates, volunteers, visitors, vendors, or employees. The agency also uses these devices to detect contraband that exists within and around its institutions. These devices are referenced in various agency policies and post orders and are summarized below.

### **Full Body Security Scanners**

All individuals are required to submit to a full body scan on these devices every time they enter an institution in which they are installed, although some exceptions may apply. These scanners use small amounts of radiation to produce an image of an individual and any other items that may be hidden on or inside his/her body. Prior to an initial body scan, a profile is created for each individual using his/her fingerprint for future identification. The agency then centrally stores the body scans so that they may be accessed by the same institution or other institutions at a later time. These scanners are intended to supplement existing detection devices currently in use.

Between April–June 2019, scanners were active at Broad River, Evans, Kershaw, Kirkland, Lee, McCormick, and Turbeville. SCDC anticipates implementing these scanners at the remaining Level 2 and 3 institutions by the end of July 2019. Each scanner costs approximately \$200,000, totaling \$3.6 million for implementation at all Level 2 and 3 institutions.

### **Walk Through Metal Detectors**

Metal detectors may be used at any time on volunteers, visitors, and vendors while on SCDC property, although agency policy does not require that individuals pass through a detector in order to enter an institution. Where metal detectors are installed, employees must pass through and clear prior to entry. Metal detectors are not located at every institution.

### **X-Ray Baggage Scanners**

X-ray baggage scanners are intended to detect contraband and any additional items an individual intends to bring inside an institution. These scanners are located at most Level 2 and 3 institutions, and employees, volunteers, visitors, and vendors must comply with scanning requirements to enter an institution.

### **Hand-Held Scanners**

Hand-held scanners are used on employees after an alert is issued by a metal detector. The hand-held scanner allows correctional officers to scan areas of an individual's body separately to pinpoint where metallic objects may be located.

### **Ferromagnetic Detection Systems**

Ferromagnetic detection systems (FMDS) are similar in purpose to hand-held scanners but larger. They are used to detect cell phones and other metallic items hidden on or inside an individual.

These devices are used on any individuals entering an institution, where available. Additionally, they are used on all inmates set for transport from Level 2 and 3 institutions. Furthermore, SCDC staff stated that these devices have been used during searches of inmates' cells. SCDC has at least one of these poles at each institution and an additional ten available.

### **BOSS Chair**

The BOSS Chair, or Body Orifice Security Scanner chair, is a two-part scan—face and body. The rear of the chair contains a height-level shelf where inmates place their faces and roll from side to side, whereas the body scan requires inmates to sit for scanning. Both scans sound an alert if metal is detected.

This chair is required to be used on inmates before leaving various units at Lee, Lieber, and Kirkland correctional institutions or as deemed necessary by supervisors at these institutions. SCDC also has these chairs at McCormick, Perry, Leath, and Ridgeland.

### **Netting**

SCDC installed netting atop of institutional fencing, rising 50 feet high to prevent contraband throw overs from individuals outside the institution. As of May 2019, netting was installed at Broad River, Evans, Kershaw, Lee, Lieber, McCormick, Perry, Ridgeland, Trenton, Turbeville, and Tyger River. This includes all Level 3 institutions, except Kirkland, and about half of all Level 2 institutions; exceptions include Allendale, Camille, Leath, MacDougall, and Wateree River. The total cost for the netting was approximately \$8.3 million.

### **Cameras**

SCDC uses various types of cameras to monitor activity within the institution as well as surrounding areas.

### **Electronic Fence Protection System/Motion Sensors**

Motion sensors are installed at various institutions and are triggered when fencing is disturbed.

### **Drone Detectors**

These devices alert staff when drones are in the vicinity of an institution.

### **Cell Phone Detection and Managed Access Systems**

SCDC currently operates two cell phone detection systems—detection and managed access. The detection system can locate signals originating from a device. The managed access system analyzes transmissions to and from wireless devices to determine whether the device is authorized by the correctional facility to access wireless network carriers. Transmissions from unauthorized devices are terminated. This system can analyze voice, text, and data transmissions.

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## **Contraband Detection Methods**

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In addition to the various devices SCDC uses to detect contraband, the agency employs a series of searches on inmates and their property as well as all others entering an institution and their vehicles. Institutional searches, including perimeter searches, are also conducted to detect contraband that may already exist within or around an institution. Various agency policies and post orders address these methods and are summarized below.

### **Frisk Searches**

Frisk searches involve the patting down of the body. These types of searches may be performed on inmates at any time and at any institution. Such searches are to be performed on Level 1 inmates who arrive from an outside location, including new arrivals and work-release sites. Level 1 inmates may also be randomly frisked prior to departing an institution.

Frisk searches are also performed on all employees, volunteers, visitors, and vendors ages 18 or older who intend to enter a Level 2 or 3 institution.

### **Strip Searches**

Strip searches involve the search of the body and the clothing separately. Such searches are conducted in private, by staff of the same sex as the individual being searched, and require the consent of the warden or his/her designee. For inmates, these searches may be conducted:

- Upon arrival to and departure from a Level 2 or 3 institution, including all new inmates.
- Upon departure from a Level 1 institution, if the destination requires heightened security.
- When a Level 1 inmate is transported with other inmates who require restraints.
- After a visit.
- When there is reason to believe that an inmate may be concealing contraband.
- At irregular intervals on randomly selected inmates.

A strip search may be conducted on employees, volunteers, visitors, and vendors ages 18 or older who intend to enter a Level 2 or 3 institution, and if there is reason to believe that contraband is concealed and is likely to go undetected with a frisk search. The individual to be strip searched must consent, but refusing a strip search will result in denied entry to the institution.

### **Body Cavity Searches**

Body cavity searches are conducted by trained medical staff and witnessed by security staff of the same sex as the inmate when reasonable suspicion exists to conduct such a search. These searches are only conducted on inmates, and the inmate's consent is not required. These searches, however, require the written consent of the warden or his/her designee.



### **Institutional Searches**

Beyond searches of the person, SCDC conducts searches of inmates' living quarters and other institutional areas, including a cell, a unit, or the institution in part or in its entirety, at any time and without announcement. Officers assigned to the institution or a special SCDC unit, called an agency search team, may conduct these searches. This search team also uses K-9 units to assist in the search.

Searches of an institution's inner and outer perimeters are also conducted. Searches include monitoring perimeter locks, fencing, netting, and razor wire for tampering, such as fencing holes and clipped or loose wire. Additionally, inner and outer perimeters are monitored for washed-out areas, escape tools, and contraband near fencing. Furthermore, perimeter searches include aerial monitoring for drones that may be in the institution's vicinity.

### **Inmate Mail Searches**

Both incoming and outgoing inmate mail is inspected by SCDC for contraband, although exceptions exist for legally privileged mail. Staff inspect inmate mail for contraband such as cash, food or drink, drugs, and weapons.

### **Vehicle Searches**

All vehicles on SCDC property are subject to search at any time, including those of employees, volunteers, visitors, and vendors, including vehicles parked in lots outside institutional fencing as well as those that enter inside institutional fencing.

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## Issues With Contraband Detection and Prevention

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We visited 12 SCDC institutions between December 2018 and May 2019. While at various institutions, staff noted inconsistencies between searches as well as improper use of equipment. We also found shortcomings with agency netting and its cell phone detection and blocking systems, although the latter requires a change in federal statute.

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### Frisk Searches

While all the Level 2 and 3 institutions we visited conducted a frisk search, these searches were cursory compared to one institution, which conducted a thorough frisk of auditors. Volunteers, visitors, and vendors are not required to be frisk searched at Level 1 institutions.

In regard to inmates, we were present at a Level 1 institution as they returned from a location outside the institution. These inmates, however, were not frisk searched, as required by policy.

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### Hand-Held Scanners and Magneto Static Detectors

During a site visit of an institution, which did not have a metal detector or X-ray scanner, we entered the institution without any security checks, even though the institution had a hand-held scanner.

At another institution, we witnessed the scanning of inmates, who were passing from one area of an institution to another, with a magneto static detector (MSD)—this is an earlier version of an FMDS. SCDC updated from the MSDs to the FMDS in January 2019 after our visit to this institution. Inmates are supposed to pass along only one side of the device, the first pass scanning one side of the body, and the second pass scanning the other side. We observed that inmates passed along both sides of the device, passing one side of the body on one side of the device, and then passing the same side of the body on the other side of the device. This left one side of the inmate's body completely unchecked. The warden of the institution pointed out the erroneous practice and then provided instructions and a demonstration of the correct procedure to the correctional officer at that time.

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### BOSS Chair

At two institutions, the power cord for the BOSS chair needed to be located before a demonstration could be provided. Only one of those institutions was able to provide a demonstration prior to our departure.

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## Netting

At one institution, we noted that the newly installed netting was not flush with the entrance of the front lobby; this appeared to be the only gap in the netting surrounding the institution.

An SCDC official stated that while the netting has decreased the amount of contraband throw overs at the institution, staff had still found throw overs in the areas where the netting did not meet the building. This official stated that the netting contractors are expected to return to close this gap.

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## Cell Phone Systems

SCDC's systems for detecting and blocking cell phone use by inmates is not adequate. Federal law, however, prohibits the use of technology, called micro-jamming technology, that would completely block inmates' use of cell phones, as it may also block emergency communication, such as 9-1-1 calls, in areas surrounding correctional institutions.

In the absence of a legal option to completely block cell phone use inside the state's correctional institutions, SCDC has relied on two legally authorized technologies—detection and managed access systems. These systems, however, are not flawless. According to an agency official, in May 2019, a cell phone industry signal change temporarily allowed inmates to use cell phones to broadcast live on the internet via Facebook from inside Lee.

SCDC has long been an advocate for the micro-jamming technology. In April 2019, the federal government partnered with SCDC to pilot the use of micro-jamming technology at Broad River. In March 2019, the Cellphone Jamming Reform Act was introduced in the U.S. Senate, which would allow states to use jamming equipment at correctional facilities.

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## Recommendations

79. The S.C Department of Corrections should ensure that security staff perform all required security checks on individuals prior to their entry into an institution.
80. The S.C Department of Corrections should ensure that security staff properly conduct all required security checks on inmates.
81. The S.C. Department of Corrections should ensure that there are no gaps in netting coverage around its institutions.

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## Staff Not Following Agency Policies

Interviews with agency staff, external reviews, and our observations at SCDC facilities found numerous instances of SCDC staff not following agency policies. In addition, SCDC employee corrective action data shows that the agency is not following its own guidelines for disciplining employees who violate agency policies.

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### Interviews with Staff

Several SCDC officials informed us that staff not following policies is an issue at the agency. One official said that staff may not be aware of all of the agency's policies. Employees may benefit from more training to address this. Another said that he has experienced first-hand blatant disregard for agency policies. Multiple staff members pointed to low staffing levels as the reason why staff "cut corners" at the institutions.

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### External Reviews

We heard similar concerns from reports issued by the implementation panel and through interviews with correctional experts about SCDC staff not following agency policies. Also, a 2018 staffing analysis report found multiple instances where SCDC's restricted housing unit (RHU) policy was not being consistently followed.

The implementation panel charged with reporting SCDC's compliance with a 2016 mental health settlement agreement also found instances where SCDC's RHU policy was not being followed. The panel noted that SCDC's division of quality improvement and risk management identified 160 violations of SCDC's use of force policy in a five-month period, which were forwarded to the division of operations for action. Furthermore, the review team found that 23 inmates at Lee who had been placed on crisis intervention status had not been transferred to the crisis stabilization unit at Broad River within 60 hours or been placed on constant observation, as required by policy.

Interviews with external correctional experts identified two primary reasons why SCDC staff are not following policies—low staffing levels and agency culture. Concerning low staffing levels, correctional experts noted that the staffing shortage does not allow the agency to follow their own policies. Another noted that training employees on the new policy may be difficult with the agency's limited resources. SCDC does not have time to pull staff off the floor to provide training. On the agency culture, one of the correctional experts stated that you can have the best policies, but you need to have the culture among the staff. The same individual went on to say that SCDC needed to change the agency culture.

## LAC Observations of Staff

In our visits to 12 of SCDC’s correctional facilities, we documented one instance of SCDC staff not following policies. The instance took place when a group of inmates was returning to the institution after completing their work-release program for the day. According to SCDC Policy OP-22.19, “...at Level 1 institutions, any new admission and any inmate returning from or arriving from an outside location will always be frisk searched...” Nevertheless, the inmates were not frisk searched.

## Employee Violations

Despite hearing from agency staff and external reviewers about the issue of staff not following agency policies, we found that the number of employee violations has substantially declined in the past five fiscal years.

We requested all employee disciplinary reports from SCDC for FY 13-14 through FY 17-18. Included in the data is the type of offense committed by the employee and the corrective action taken against him/her. We found that negligence was the most common employee offense, followed by unauthorized absences, violations of rules/regulations, unprofessional conduct, and sleeping/inattentive on duty.

**Table 4.2: Employee Violations by Fiscal Year, FY 13-14 – FY 17-18**

TYPE OF VIOLATION	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Negligence	225	244	188	182	125
Unauthorized Absence	97	83	82	70	57
Violation Rules/Regulations	57	85	59	65	56
Unprofessional Conduct	36	65	44	53	55
Sleeping/Inattentive on Duty	38	38	36	27	52
Other	198	181	158	142	125
<b>TOTAL</b>	<b>651</b>	<b>696</b>	<b>567</b>	<b>539</b>	<b>470</b>

Source: LAC analysis of SCDC employee disciplinary data.

## Employee Corrective Actions

We tracked the corrective actions administered by SCDC for each documented employee violation and found that SCDC has deviated from its own guidelines in recent years.

SCDC policy ADM-11.04 provides corrective action guidelines for various types of employee violations based upon the number of times the employee has committed a violation. The recommended corrective action varies by type of violation, but the corrective actions range from written warning to termination.

We found that, beginning in FY 16-17, SCDC started issuing oral warnings for violations, such as leaving a security post, sleeping/inattentive on duty, and unauthorized absences, for which employees in the past would have received more punitive corrective actions. Oral warnings are not listed in SCDC policy as a recommended corrective action for any type of employee violation. SCDC policy allows discretion to deviate from the corrective action guidelines, but policy also requires the reprimanding authority to get approval from the employee relations branch, appropriate member of the director’s staff, and/or the agency director before deviating from the recommended corrective action.

**Table 4.3: Employee Corrective Actions by Fiscal Year, FY 13-14 – FY 17-18**

CORRECTIVE ACTION	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Oral Warning	0	0	0	38	55
Written Warning	398	368	334	266	176
Suspension	206	278	199	206	195
Termination	33	27	18	16	16
Probation	6	6	5	6	17
Transfer	1	0	0	1	0
Demotion w/Salary Reduction	5	7	8	2	6
No Action Provided	2	10	3	4	5
<b>TOTAL</b>	<b>651</b>	<b>696</b>	<b>567</b>	<b>539</b>	<b>470</b>

Source: LAC analysis of SCDC employee disciplinary data.

Without knowing the exact causes of the declining numbers of employee corrective actions and the increasing number of deviations from the agency's corrective action guidelines, we can only speculate why these two things are occurring in conjunction. Nevertheless, based upon our interviews, external reviews by correctional experts, and our observations at SCDC facilities, it may be the case that with the low staffing levels, supervisors are reluctant to document employee violations and/or give more punitive corrective actions for fear of the employee leaving SCDC.

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## Recommendation

82. The S.C. Department of Corrections should update its corrective action policy to include oral warnings, if the agency believes that is an appropriate corrective action for certain violations in the place of more punitive actions.

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## Criminal Penalties for Introducing Contraband into Correctional Facilities

We reviewed the statutory criminal penalties for introducing, or attempting to introduce, contraband into correctional facilities, as well as records of SCDC contraband investigations from 2015 through 2018. We found that most states have statutory penalties for contraband offenses that are in line with those in South Carolina.

According to S.C. Code §24-3-950, providing contraband to a prisoner under SCDC custody, or attempting to do so, is a felony that carries a penalty of a \$1,000 to \$10,000 fine, a 1- to 10-year prison sentence, or both.

Individuals charged with a contraband offense often receive other charges, such as criminal conspiracy, drug possession with intent to distribute, and, if the individual was an SCDC employee, misconduct in office. Misconduct in office is a Class C misdemeanor, punishable by a fine of up to \$1,000 and a prison sentence of up to 1 year. Conspiracy is a felony punishable by a fine of up to \$5,000 or a prison sentence of up to 5 years.

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## Criminal Penalties in Other States

We reviewed the criminal penalties for introducing, or attempting to introduce, contraband into correctional facilities in states other than South Carolina. We found that most states have criminal penalties for the introduction of contraband into prisons that fall within South Carolina’s range of 1–10 years in prison. However, we found significant differences in the way these laws were written.

In 29 states, such as Alabama, Delaware, and Kentucky, it is illegal to knowingly introduce contraband to a correctional facility, regardless of intent. This contrasts with South Carolina, where it is illegal to provide, or attempt to provide, contraband to inmates, but where it is not illegal simply to possess contraband inside a correctional facility or to attempt to bring contraband onto the premises.

In South Carolina, it is a felony to provide “any matter declared by the director [of SCDC] to be contraband” to an inmate. However, many other states have differing statutory penalties ranges depending on the type of contraband. For example, in Illinois, a person convicted of introducing alcohol to a prison can receive a sentence of 1–3 years, while a person convicted of introducing a firearm, ammunition, or an explosive to a prison can receive a sentence of between 6 and 30 years.

We found two states that have mandatory minimum sentences for contraband offenses and do not allow sentences for contraband offenses to be suspended—Georgia and Pennsylvania.

Eleven states have statutory punishments for contraband offenses that can be greater than the South Carolina maximum of 10 years in prison. Illinois has the highest potential sentence for a contraband offense, which can be up to 30 years in prison for introducing a firearm, firearm ammunition, or an explosive to a prison. However, most states have statutory penalty ranges that fall within the 1- to 10-year sentence for contraband offenses in South Carolina.



## SCDC Contraband Investigations and Resulting Criminal Charges

From 2015 through 2018, SCDC police services conducted more than 700 investigations involving drugs or other contraband. These investigations resulted in the arrests of 83 SCDC employees, 268 civilians, and 306 inmates. Of these investigations, 199 were ultimately “administratively closed,” meaning that they either had no criminal basis or were handled administratively instead of criminally, and another 214 were either “awaiting court” or “active” as of January 2019. Table 4.4 shows the top five locations of contraband and drug-related arrests from 2015 through 2018.

**Table 4.4: Top Five Locations of SCDC Contraband and/or Drug Arrests, 2015–2018**

	LOCATION	NUMBER OF CASES	NUMBER OF ARRESTS OF:			TOTAL
			EMPLOYEES	CIVILIANS	INMATES	
1	Tyger River	60	4	22	39	65
2	Perry	46	7	8	41	56
3	Ridgeland	48	5	18	30	53
4	Broad River	63	10	16	25	51
5	McCormick	49	9	19	21	49

Source: SCDC police services case records.

As stated above, individuals arrested as a result of SCDC contraband investigations often receive multiple charges. Of all non-inmates arrested as a result of contraband investigations from 2015 through 2018, 62.6% received 2 or more charges. Of all charges that resulted from SCDC contraband investigations from 2015 through 2018, 37.0% were contraband charges, 34.2% were drug-related charges, and 12.5% were criminal conspiracy charges. The remaining charges included assault, traffic violations, ethics, and weapons charges.

As of May 2019, approximately one-quarter of these charges had not reached a final disposition. Of the charges that we were able to find case dispositions for, 50.4% were dismissed or dropped while 37.8% were pled guilty to by those charged. Sixty percent of those convicted on contraband charges and sentenced to prison had their sentences suspended.

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## Recommendations

83. The General Assembly should amend state law to make it illegal to introduce, or attempt to introduce, contraband into a correctional facility, regardless of intent.
84. The General Assembly should amend state law to provide for different criminal penalties for different types of contraband.

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## Federal PREA Regulations

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SCDC has not complied with federal regulations implemented under the Prison Rape Elimination Act (PREA), particularly those regarding auditing and accountability.

Signed into law on September 4, 2003, PREA directed the federal Department of Justice to adopt national standards to detect, prevent, and punish sexual abuse in prisons and jails. Regulations implementing these standards were promulgated in 2012.

According to federal regulations, starting on August 20, 2013, all prison systems in the country are required to audit at least one-third of the facilities they operate every year and to audit all of their facilities every three years to determine compliance with PREA standards. SCDC has not complied with these regulations. Prior to 2018, SCDC had not conducted PREA audits of any of its facilities. An SCDC official stated that this was because the agency did not want to pay for audits when there were still problems that needed to be addressed. SCDC contracted with a certified PREA auditor in March 2018 to conduct audits of 7 of its 21 facilities. This contract had a maximum value of \$38,500.

According to SCDC, as of July 2019, nine of its facilities have been audited by a certified PREA auditor, and those facilities are in the “corrective action plan” phase of the auditing process until the audit reports are finalized. SCDC plans to have all 21 of its facilities audited by the end of calendar year 2020.

Federal regulations also require prison systems to post PREA audits on their websites or in another publicly available location. As of June 2019, SCDC did not have any PREA audits available on its website. An agency official stated that audits will be posted online when they are completed.

In addition to regular audits of prison facilities, federal PREA regulations also require correctional agencies to prepare annual reports that assess problem areas and actions taken to correct them as well as compare data to previous years, and post these reports on their websites. SCDC has prepared no such reports.

## Inconsistent PREA Data Collection

Every year since 2006, SCDC has responded to the Survey of Sexual Victimization (SSV) which is conducted by the federal Bureau of Justice Statistics and collects data regarding incidents of sexual abuse in prisons and jails. We reviewed SCDC's responses to the SSV from 2013 through the most recent year available, 2017, and found numerous inconsistencies with data on sexual abuse investigations conducted by SCDC's police services.

Table 4.5 shows the number of substantiated allegations of sexual abuse against SCDC inmates from 2013 through 2017, as reported by SCDC in its responses to the annual SSV. From 2013 through 2017, SCDC reported a total of 57 substantiated incidents of sexual abuse, 23 of which were perpetrated by staff members.

**Table 4.5: Substantiated Allegations of Sexual Abuse Against SCDC Inmates Reported on Survey of Sexual Victimization, 2013–2017**

	2013	2014	2015	2016	2017	TOTAL
Inmate-on-Inmate	1	7	12*	11	3	34
Staff-on-Inmate	6	10	2	1	4	23
TOTAL	7	17	14	12	7	57

\* One of these incidents occurred in a locally-operated facility. Agency officials were unsure whether or not this incident should be included on the survey.

Source: SCDC responses to federal survey of sexual victimization.

However, this data does not accurately reflect the incidence of sexual abuse in SCDC facilities. We compared SCDC's responses to the SSV with police services' records and found that SCDC's responses to the SSV not only excluded six allegations of sexual abuse that were substantiated by police services, but also included five allegations of sexual abuse that were not substantiated by police services. Table 4.6 shows the number of substantiated cases of sexual abuse against SCDC inmates from 2013 through 2018 based on data provided by SCDC police services.

One cause of these discrepancies is that police services has not always provided full information to SCDC’s PREA coordinator. According to agency officials, the responses to the SSV are completed by agency PREA staff using information provided by police services and if an allegation is not included in that information, it will not be included on the SSV.

From 2013 through 2017, there were five incidents that were not properly coded in police services’ records as PREA incidents, and, as a result, were not provided to PREA staff for inclusion in the SSV responses. Prior to 2015, cases in police services’ records could not be coded as more than one type of incident, so some cases did not have the PREA code when they should have. Although this limitation was removed in 2015, there were two allegations in 2017 that were still not properly coded as PREA incidents. According to an agency official, police services has changed its procedures to include the PREA code on a case’s record, if appropriate, even when the initial allegations do not involve sexual abuse or harassment. Because police services only provides information on cases it has coded as PREA cases to PREA staff, whether or not a case is reported on the SSV depends on police services’ ability to accurately identify PREA-related cases. This may pose a particular challenge with cases involving actions that may not be strictly illegal under state law.

Additionally, there were several incidents of alleged sexual abuse that were not substantiated by police services but were nevertheless included on SSV responses. Information on these cases were provided to SCDC PREA staff, unlike for those that were not properly coded as PREA cases. Instead, it appears that these inconsistencies were a result of conflicting determinations of what constitutes sexual abuse or harassment.

**Table 4.6: Allegations of Sexual Abuse Against SCDC Inmates Substantiated by Police Services, 2013–2018**

	2013	2014	2015	2016	2017	2018	TOTAL
Inmate-on-Inmate	0	5	12	9	6	6	38
Staff-on-Inmate	8	10	1	2	6	3	30
<b>TOTAL</b>	<b>8</b>	<b>15</b>	<b>13</b>	<b>11</b>	<b>12</b>	<b>9</b>	<b>68</b>

Note: As of March 2019, there were 16 investigations into allegations of sexual abuse from 2016 through 2018 that had not yet been completed.

Source: SCDC police services.

We also identified several incidents where allegations of sexual abuse of inmates by staff members were not substantiated by police services *or* included in the SSV, but nevertheless involved actions that may be considered sexual abuse as defined by federal PREA regulations.

For example, in 2015 there were two instances where employees alleged to have had sexual relationships with inmates denied any sexual activity with inmates, but admitted to kissing inmates. As a result, the allegations of sexual misconduct in these cases were not substantiated by police services and were not included on that year's response to the SSV. However, a staff member kissing an inmate can fall under the federal definition of sexual abuse. PREA regulations state that sexual abuse of an inmate by a staff member includes "contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire." It should be noted that in 2017 an incident was included in SCDC's SSV response wherein a staff member was found to have kissed an inmate.

We also found one instance of sexual misconduct that was not investigated by SCDC police services, as required by policy. In 2016, a correctional officer was terminated after being found to have exchanged sexually explicit messages, photos, and videos with an inmate. Police services stated that they had no records since 2013 of having investigated this employee. The actions of this employee would likely be considered sexual abuse under PREA regulations, which include "voyeurism by a staff member" and "any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate" in the definition of sexual abuse of an inmate by a staff member.

Without clear definitions of sexual abuse and harassment that are consistent with federal PREA regulations and consistent across divisions of the agency, SCDC will continue to report incomplete, inconsistent information regarding sexual abuse and harassment.

According to SCDC, PREA staff has been collaborating with police services and the division of resource and information management to improve the classification of PREA allegations and the collection of PREA data.

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## Employee Resignations Improperly Accepted

SCDC may have violated agency policy by improperly accepting resignations from several employees who were terminated or under investigation for sexual misconduct with inmates. SCDC policy states that resignations are not to be accepted from employees who are disciplined or under investigation for sexual misconduct with inmates. However, in four cases from 2013 through 2018, employees were allowed to resign while under investigation or in lieu of termination despite sexual misconduct allegations against them being substantiated by police services.

For example, in 2016 an employee was placed under investigation after the employee was alleged to have made sexual advances towards an inmate, touched the inmate in a sexual manner, and tried to force the inmate to have sex with the employee. This case was substantiated by police services, but the employee was allowed to resign while under investigation.

In 2017, an SCDC employee resigned while under investigation and a month later was arrested and charged with first degree sexual misconduct with an inmate. The employee's termination code was changed to indicate that he resigned while under investigation.

When asked about these incidents, SCDC stated that a system was implemented in 2018 where police services is notified when an employee submits a resignation so that police services can check for any open investigations into the employee. Any case information will be sent to the office of employee relations so that appropriate action can be taken. SCDC policy has not been updated to include this procedure.

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## Unclear Policy

SCDC policy regarding staff sexual misconduct with inmates is unclear and inconsistent with federal PREA regulations. This policy was last updated in 2004, 8 years before PREA regulations were finalized and promulgated. Furthermore, this policy is internally inconsistent, containing two different definitions of "sexual contact." In 2014, SCDC issued a new policy entitled "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," which contains definitions of sexual abuse and harassment that are consistent with federal PREA regulations. However, the coexistence of these two, inconsistent policies could cause confusion regarding what exactly constitutes sexual abuse and misconduct.

Federal regulation 28 CFR 115.76(b) states that “termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.” SCDC’s policy differs slightly, stating that an employee offense of “Staff Sexual Misconduct with Inmates” is to receive a corrective action of a one- to ten-day suspension up to termination.

Federal PREA regulations require correctional agencies to have a policy to prevent retaliation against inmates or staff who report allegations of sexual misconduct or assist with an investigation. It further states that agencies must monitor individuals who reported sexual abuse to prevent retaliation for at least 90 days. Although SCDC policy states that inmates and staff will not be subject to retaliation, it does not include any procedures for preventing retaliation nor the 90-day monitoring period.

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## Recommendations

85. The S.C. Department of Corrections should prepare annual reports detailing corrective actions it has taken to prevent sexual abuse, the number of allegations and substantiated incidents of sexual abuse by facility, and comparisons with data from prior years. These reports should further be publicly released on the agency’s website.
86. The S.C. Department of Corrections should revise its policy to more accurately reflect federal regulations promulgated under the Prison Rape Elimination Act.
87. The S.C. Department of Corrections division of police services should proactively collaborate with agency’s Prison Rape Elimination Act (PREA) staff in order to ensure that cases are properly classified as PREA cases.
88. The S.C. Department of Corrections should revise its policy to include procedures to ensure that resignations from employees under investigation or terminated for sexual misconduct are not accepted.

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## **Inadequate Application of Internal Controls for Detecting and Preventing Contraband**

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In the last decade, SCDC has not had adequate internal controls to ensure that COs are properly using technology and search methods to detect contraband before it enters its institutions and locate contraband that exists inside its institutions. While previously used, robust reviews resumed in October 2018 to assess institutional compliance with security requirements. Prior to then, SCDC assessed institutional security posture through various, less robust types of reviews.

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### **Agency Policy**

An SCDC policy established guidelines for a management review program to provide for ongoing audits of institutional operations, programs, and activities. Policy states that these reviews consist of 18 program areas—including human resources, budget and finance, classification, and security—and are intended to assess an institution’s compliance with agency policies, procedures, and expected practices. The policy also states that all institutions are to receive an initial review every three years and follow-up reviews in the interim, as needed.

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### **Security Audits**

According to an agency official, full management reviews have not occurred since 2008, due to budget cuts. In October 2018, SCDC resumed these reviews but only for the security program. SCDC refers to these as security audits. The official stated that the security program was reinstated over other programs because of its importance over the other areas.

For FY 19-20, SCDC requested approximately \$1 million in recurring funds for 10 new staff to resume full-scale management reviews. This request, however, was not funded. Since no additional personnel or funding were appropriated for the management review program or security audits, SCDC assigned the responsibility of conducting these security audits to existing staff from SCDC’s security and facilities management divisions, in addition to their regular duties.

Security audits include a visit to the institution and, guided by a checklist, various security features are reviewed for compliance. Checklists were developed from input by agency subject matter experts, national correctional standards, and agency policies and practices. The security checklist contains 525 separate items covering perimeter security, contraband and evidence management, and searches, among others. From October 2018 through June 2019, SCDC completed security audits of 5 of the agency’s 21 institutions.



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## Additional Security Checks

In addition to security audits, SCDC conducts institutional security evaluations, internal security audits, and weekly institutional checks. The following summarizes the various types.

### **Institutional Security Evaluations**

Institutional security evaluations are conducted, at times, by staff of the division of security and, at other times, by regional directors. During site visits, they use a checklist that includes 11 items that focus on the most basic, pertinent security areas. The checklist also includes space for comments to address additional concerns. From FY 15-16 through August 2018, SCDC provided records of these evaluations for nine institutions.

### **Internal Security Audits**

Internal security audits are conducted by institutional management to measure the institution's compliance with recommended security requirements on an ongoing basis. They use the security checklist that was designed for the management review program. Checklists are divided into four sections for a manageable review throughout the year. From FY 15-16 through August 2018, agency records of these checklists show that 16 institutions had conducted a partial or full internal security audit.

### **Routine Institutional Checks**

In addition to security audits, there are several routine, in-house checks that are conducted by institutional management. For example, institutional management conduct weekly checks of institutions for security weaknesses.

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## Recommendation

89. The S.C. Department of Corrections should resume the management review program and complete these reviews according to the schedule outlined in the agency policy.

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## **Inadequate Policy Update Process**

SCDC's process for reviewing policies does not ensure that the parties responsible for overseeing the policies participate in the annual review. Without assurance that agency policies are current, clarity issues may arise among staff regarding appropriate agency processes and practices.

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### **Agency Policy**

While SCDC has and follows a formal process for updating its policies, the process does not ensure that the responsible parties review their relevant policies. Agency policies are distributed for review annually, based on the month the policy was initially released. SCDC policy states that the responsible parties are to document their review and maintain this documentation. There is no requirement, however, that responsible parties demonstrate that policies were reviewed. It is important to note that the agency's specific institutional post order review process requires a signature and date after each review, regardless of changes.

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### **Agency Practice**

During our review, we found that policies relating to contraband control, among others, were obsolete but still listed as active on the agency's website. Additionally, at least one policy listed a department that no longer exists at the agency as the party responsible for overseeing its implementation.

Adjusting the agency's process to ensure that its departments review relevant policies as required could better ensure that policies are current and reflective of agency practices.

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## **Recommendation**

90. The S.C. Department of Corrections should amend its policy review process to ensure responsible parties are annually reviewing their respective policies for accuracy.

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## **Institutional Post Orders Not Archived**

SCDC does not require that specific institutional post orders—agencywide post orders that have been modified by its institutions to their specific requirements—be approved or archived by the agency’s administration. Ultimately, as the entity responsible for the actions of officers at each post, ignorance of these modified orders could potentially result in legal difficulties.

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## **Agency Policy and Practice**

According to agency policy, SCDC’s division of security is responsible for developing uniform post orders to ensure that the responsibilities of each post at all institutions are carried out consistently. Policy also authorizes institutions to modify post orders to the specific needs of the institution, although it does not require administrative approval. According to an agency official, specific institutional post orders cannot contradict agencywide post orders. Rather, they should be further restrictive or cover a responsibility not addressed.

However, there is no policy requirement that SCDC archive these modified orders, and it is also not the agency’s practice to do so. According to an agency official, not having these orders archived by SCDC administration has led to some issues when lawsuits are filed against the agency.

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## **Recommendations**

91. The S.C. Department of Corrections should require that specific institutional post orders are approved by agency administration.
92. The S.C. Department of Corrections should ensure that specific institutional post orders are archived by agency administration.

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## Victims' Rights Not Afforded to Inmates

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Article I, §24 of the South Carolina Constitution enumerates 12 rights for individuals who are victims of crimes, among them are the right to be:

- Informed when the accused is arrested, released, or has escaped.
- Present at any of the accused's criminal proceedings.
- Protected from the accused throughout the criminal justice process.
- Heard during a plea, sentencing, and post-conviction release decision.

Article I, §24(C)(2) of South Carolina Constitution defines victim as:

[A] person who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the person's spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.

S.C. Code §16-3-1510(1), which was enacted to implement the rights guaranteed to victims in the state's Constitution, defines a victim the same as the Constitution but notes the following exclusions:

[A]ny individual who is the subject of an investigation for, who is charged with, or who has been convicted of or pled guilty or nolo contendere to the offense in question. [It] also does not include any individual, including a spouse, parent, child, or lawful representative, who is acting on behalf of the suspect, juvenile offender, or defendant unless his actions are required by law. *[It] also does not include any individual who was imprisoned or engaged in an illegal act at the time of the offense.* [Emphasis added.]

Additionally, Article I, §24(C)(3) of South Carolina Constitution also states that:

The General Assembly has the authority to enact substantive and procedural laws to define, implement, preserve, and protect the *rights* guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings. [Emphasis added.]

The state law's definition of victim appears to be inconsistent with the constitution's definition, as it excludes select individuals, including those who were imprisoned at the time of the offense. Furthermore, the General Assembly's authority to amend the Victims' Bill of Rights in the state Constitution appears to be limited to the rights of victims, not the definition of victims.

Article I, §23 of the South Carolina Constitution states that:

The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms.

Independent of the legal argument, it is unclear why prisoners or inmates have been denied victims' rights, as they are not of a lesser status of a person because they are imprisoned. In April 2018, an incident at Lee resulted in 7 inmates who were killed and 22 who were injured. Because of their imprisoned status at the time of this incident, these 29 inmates or their families are not afforded victims' rights, as are others in general.

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## Recommendation

93. The S.C. Department of Corrections should obtain an Attorney General's opinion on the legality of the statutory definition of a victim in S.C. Code §16-3-1510(1) as it relates to the Victims' Bill of Rights in the South Carolina Constitution.



# Data Issues and Litigation Costs

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We reviewed SCDC data and found that some agency data is not reliable. SCDC has changed the method of measurement of some performance measures over time, making accurate comparisons across multiple years difficult. We found broad inconsistencies and inaccuracies that prevent a complete and accurate accounting of how much contraband has been confiscated in SCDC facilities. Lastly, we found that SCDC cannot explain how the agency determines the available number of positions that are assigned to each institution.

Our requestors asked us to review SCDC's legal expenses and settlements to determine overall costs and trends in lawsuits filed by employees and inmates. Overall, the number of claims against SCDC has decreased, as well as its legal expenses.

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## Data Reliability Issues

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SCDC uses a computer system called the Management Information Notes (MIN) system to record information about incidents and monitor trends. However, due to technical limitations, unclear policy, and a lack of procedures to ensure that the data in this system is accurate, it is ultimately unreliable.

Including MINs, we reviewed contraband data from three different sources and found that SCDC does not have a single, comprehensive, and accurate accounting of how much contraband is confiscated at its facilities. Contraband amounts, as recorded in the MIN system, are significantly lower than the actual amounts of contraband found in SCDC facilities, especially in FY17-18.

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## Policy Regarding Reporting Incidents Through MINs Unclear

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We reviewed SCDC policies regarding the MIN system and the incident reporting process, as well as the agency's MIN training manual. We found that agency policy is unclear in several ways that may contribute to inconsistent reporting and inaccurate data.

When an authorized SCDC employee creates a new entry in the MIN system, there are several fields into which information about an incident can be entered, such as the date of the incident, its location, and the individuals involved. There is also a serious injury indicator, which must be filled for certain MIN codes. If a serious injury is noted in a MIN entry, the number of serious injuries that resulted from the incident must also be entered.

An agency official stated that, for reporting purposes, a “serious injury” is an injury that requires outside medical attention. However, this definition is not specified in either agency policy or in the agency’s MIN training manual. This may cause confusion among staff and result in an inaccurate number of serious injuries being reported.

### **List of Valid MIN Codes Out-of-Date**

MINs can be assigned codes to indicate what types of incidents they document. SCDC’s division of operations can add new MIN codes to the system if necessary. For example, a MIN code for contraband synthetic marijuana was added in December 2015.

However, both agency policy and the agency’s MIN training manual are out-of-date regarding these codes. SCDC policy on the MIN system was last updated in 2004, and lists nearly 40 fewer MIN codes than are currently available. Additionally, the MIN training manual was last updated in February 2018, but it is missing nearly a dozen of the MIN codes that are currently available. If these documents are not kept up-to-date, agency staff may not be aware of newly-added MIN codes, which could lead to misidentification of incidents that are recorded in the system.

### **Amounts Not Defined**

MIN codes are available for various types of contraband, including cell phones, tobacco, marijuana, and homemade alcohol. However, with the exception of cell phones and tobacco, SCDC policy, nor the MIN training manual, define how these items should be measured for the purposes of recording information. Additionally, the MIN training manual states that for MINs involving contraband tobacco, “the number of tobacco items found” should be recorded, which conflicts with agency search team (AST) search results and facility contraband reports, which report tobacco in grams. This lack of clarity and consistency reduces the likelihood that contraband data recorded in the MIN system will be complete and accurate.

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## **MIN System Technologically Limited**

The functionality of the MIN system is limited in several ways that reduces the accuracy and reliability of the data it is intended to track.

In the MIN system, there is a field labeled “NUM” where a numerical value can be associated with a particular MIN code. For example, when an incident involves contraband, this field can be used to enter the amount of contraband that was found. However, it is limited in two ways. First, it can only accept whole numbers, requiring the employee entering the MIN to round.



According to an agency official, SCDC has no standard procedure for handling a situation like this. Second, this field can only accept numbers up to three digits long, meaning that the maximum value that can be entered is 999. In cases where a large amount of contraband is confiscated, multiple identical codes may be needed to enter the full amount. This is not a particularly rare occurrence—from 2013 through 2018, we found 67 instances where searches performed by the AST confiscated 1,000 or more grams of tobacco or \$1,000 or more.

Entries in the MIN system also have a field for employees to provide a detailed description of the event that occurred, but information contained in this field is difficult to aggregate and analyze.

When creating a new MIN, employees can enter different codes to describe the incident. However, employees can only enter a maximum of six codes for a single MIN. When entering the results of an agency search team search, only five codes may be available because one of the six codes will likely be the code for “search team.” Additionally, many MINs with the “search team” code also have another non-contraband code such as “cell search—random,” leaving four or fewer codes to describe the contraband that was found.

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## Counting Method for Contraband Cell Phones

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SCDC utilizes a non-standard method for counting contraband cell phones that may include cell phone accessories (such as chargers) if they are found separately from the cell phone itself. According to SCDC’s MIN training manual:

[I]f the number of cell phone accessories is equal or less than the number of actual cell phones found, the total number of cell phones equate to the number of actual cell phones found. Example: if two (2) cell phones and two (2) cell phone [chargers] are found, this should be counted as two (2) cell phones.

If the number of cell phone accessories is greater than the number of cell phones found, the total number of cell phones will equate to the number of actual cell phones found, plus the number [of] accessories that exceed the number of cell phones. If two (2) cell phones and five (5) cell phone chargers are found, this should be counted as five (5) cell phones.

An agency official stated that the agency’s cell phone counting method was based on the counting method prescribed by the Performance Based Measures System (PBMS) issued by the Association of State Correctional Administrators (ASCA). However, ASCA discontinued the PBMS program at the end of 2016 due to disuse. An SCDC official stated that while SCDC was not aware of the discontinuation of PBMS, the agency would continue to use its particular method of counting cell phones. More importantly, the cell phone counting method used by SCDC is not the method that was recommended by PBMS—the PBMS counting method for contraband cell phones only included actual cell phones, not accessories. SCDC’s use of this non-standard counting method has resulted in inaccurate data being recorded in the MIN system.

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## Lack of Quality Assurance of MIN Entries

There are few processes to ensure that the data entered into the MIN system is complete and accurate. Agency officials reported that only two types of MINs are audited—MINs coded as “escapes” and those coded as “contraband cell phones.” However, officials stated that no documentation is produced as a result of these audits, so we were unable to determine whether or not these audits have actually occurred.

Furthermore, we found evidence suggesting that these audits do not occur on a regular basis. We reviewed a random sample of 371 MINs that were coded as “contraband cell phones” from 2014 through 2018 to determine whether or not their numerical values accurately followed SCDC’s cell phone counting method described above. We found, with SCDC’s agreement, that (at a 95% confidence level)  $15.1\% \pm 3.6\%$  of contraband cell phone MINs from 2014 through 2018 were inaccurately counted.

It should be noted that most of the MINs in our sample were relatively “simple” cases—two-thirds of the MINs in our sample had an initial value of one cell phone found, and of these, only 4% were inaccurate. It is likely that if we analyzed only incidents where greater numbers of cell phones are found, such as searches performed by the AST, we would find a higher percentage of incorrect counts.

We also reviewed all MINs from 2013 through 2018 coded as “escapes” and found that numerous entries did not involve any actual escapes, but rather incidents such as escape attempts, error releases, transfers of previously escaped inmates, or drills. According to an agency official, there were also two escapes, one in FY 16-17 and one in FY 17-18, that were improperly coded in the MIN system as “escape attempts.”

According to the agency's MIN training manual, only four types of MIN codes are required to have a numerical value attached to them:

- Random cell searches.
- Targeted cell searches.
- Contraband tobacco.
- Contraband cell phones.

Because most MIN codes do not require a related numerical value and are not audited, the likelihood that agency staff will accurately enter contraband amounts into the system is diminished. We found that, from FY 14-15 through FY 17-18, at least 20.5% of MIN codes for contraband (except for tobacco and cell phones) entered into the MIN system did not have numerical values associated with them. This significantly reduces the accuracy and reliability of the MIN system's contraband data.

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## Contraband Reports Not Reviewed

SCDC policy requires every institution to prepare quarterly reports detailing the types and amounts of contraband that were confiscated in the previous quarter and to send these reports to the division of operations, police services, and the division director of security. However, agency officials stated that these divisions only sporadically receive these reports, and not from all facilities.

Additionally, it is unclear what, if anything, is done with the contraband reports that are received by SCDC officials. For example, an agency official reported that SCDC police services does not use them for any purpose, and requested to have the policy changed so that facilities would not be required to send contraband reports to them.

If facilities sent contraband reports to the division of operations consistently, they could be used to verify the accuracy of contraband data entered into the MIN system.

According to an agency official, facility contraband reports should include all contraband confiscated at each facility during each quarter, including those found by facility staff, as well as the agency search team (AST). However, we found evidence that these reports do not consistently include the results of all AST searches. We compared AST search results to contraband reports by fiscal quarter and facility, and found that amounts of contraband found are frequently greater in the AST search results.

Because facility contraband reports are supposed to be inclusive of AST search results, this indicates that these reports did not contain all contraband confiscated by the AST. Although we did not find this was the case at all facilities, it occurred most frequently at facilities such as Allendale, Broad River, Lee, Lieber, McCormick, Perry, and Ridgeland.

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## Contraband Control Areas Not Inspected

SCDC policy requires the contraband control operations areas of every facility to be inspected annually, and requires police services to conduct unannounced inspections of these areas at least once every three years. However, police services does not regularly conduct these inspections, and in 2017 requested that these requirements be removed. Without SCDC conducting these inspections on a regular basis, contraband may be mishandled, improperly stored, or inaccurately tracked.

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## Recommendations

94. The S.C. Department of Corrections should update its policy to define what is considered a “serious injury” for the purposes of data collection and reporting.
95. The S.C. Department of Corrections should simplify the method it uses to count confiscated contraband cell phones by counting cell phones and cell phone accessories separately.
96. The S.C. Department of Corrections should ensure that quarterly contraband reports created by its facilities are received by the division of operations.
97. The S.C. Department of Corrections should utilize facility contraband reports to verify the accuracy of contraband data contained in the Management Information Notes system.
98. The S.C. Department of Corrections should require amounts to be entered into all contraband-related entries in the Management Information Notes system.
99. The S.C. Department of Corrections should update its policy and/or Management Information Notes training manual to specify the units in which different types of contraband are to be measured and recorded.

100. The S.C. Department of Corrections should modify the Management Information Notes system to allow for more than six descriptive codes, numerical values greater than 999, and numerical values with at least one decimal place.
101. The S.C. Department of Corrections should conduct inspections of facility contraband control operations areas as required by agency policy.

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## Consistency and Transparency of Data Reporting

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We reviewed SCDC’s accountability reports from FY 13-14 through FY 17-18 to determine the consistency of its reported performance measures. We found that some of the reported performance measures have been added or removed, and the method of measurement of others have changed as well. As a result, making accurate comparisons across multiple years is difficult.

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## Inconsistent Performance Measure Reporting

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In FY 16-17, the measure of “serious inmate-on-staff assaults” was changed to reflect the number of workers’ compensation claims for employees who received serious injuries from an assault by an inmate. In prior years, this measure was equal to the number of MINs recorded as inmate-on-staff assaults that resulted in a serious injury.

In FY 13-14 through FY 15-16, the number of escapes from Level 3 facilities was included as a performance measure in SCDC’s accountability reports. In these years, there were zero escapes from Level 3 facilities. However, in FY 16-17 and FY 17-18, this measure was not included in the SCDC accountability reports. In FY 16-17 and FY 17-18, there was one escape per year from a Level 3 facility. According to SCDC’s FY 17-18 accountability report, the number of escapes from Level 2 and Level 3 facilities will be a performance measure in FY 18-19.

In the FY 17-18 SCDC accountability report, five agency reports were declared confidential when in previous accountability reports (in FY 15-16 and FY 16-17) they were listed as publicly available.

These were:

- SCDC releases to Horry County.
- SCDC releases to Greenville County.
- SCDC releases to Charleston County.
- Use of Force Report.
- Security Threat Group Releases to Out-of-State.

According to an agency official, these reports were not intended to be listed as public, and this error was corrected in FY 17-18 which resulted in their being listed as confidential.

In the agency's FY 18-19 accountability report, SCDC plans to report more performance measures than it had previously. For example, it will report performance measures such as the following, which have not been included in the previous five years of accountability reports:

- The number of medical encounters per inmate.
- The number of mental health encounters per inmate.
- The recidivism rate for inmates who earned GEDs in SCDC programs.
- Separate three-year recidivism rates for inmates who participated in pre-release, a work program, a labor crew, or prison industries.
- The gender breakdown of employees in security positions, with the goal of maintaining 40%–60% women.
- The racial breakdown of employees in security positions, with the goal of matching the demographics of South Carolina's population.
- The one-year retention rate for newly-hired security staff.

The inclusion of these additional, more detailed performance measures will allow the public to be better informed about the performance and effectiveness of SCDC, provided that they are reported and measured consistently in future years.

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## Unclear Data on Inmate Escapes

Data on inmate escapes that is publicly reported by SCDC is unclear. When an inmate escapes while on work detail, that escape is reported as a minimum security escape. From FY 13-14 through FY 17-18, we found two instances where inmates assigned to a Level 2 facility escaped while offsite and whose escapes were classified as minimum security facility escapes.

In addition, if an inmate escapes while on an “authorized absence,” that escape is not included in publicly reported escape statistics. One inmate, who escaped in 2017, while off SCDC property for medical reasons, was not included in reported escape data. These caveats are not explained on SCDC public escape information, so it is difficult for the public to fully understand the information provided.

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## Recommendations

102. The S.C. Department of Corrections should maintain consistency of its publicly reported performance measures from year to year.
103. The S.C. Department of Corrections should provide more information on how its publicly reported inmate escape statistics are calculated.

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## Contraband and Assault Statistics

We reviewed records from the MIN system from FY 13-14 through FY 17-18, as well as other records, to determine the amount of contraband confiscated and the number of violent incidents in SCDC facilities. We found broad inconsistencies and inaccuracies that prevent a complete and accurate accounting of how much contraband has been confiscated in SCDC facilities.

Table 5.1 shows the data we compiled consisting of quarterly contraband data from FY 13-14 through FY 17-18, as well as contraband data sourced from the MIN system. As shown, the amounts sourced from the MIN system are lower than those sourced from facility contraband reports in every fiscal year. The amounts of contraband confiscated has generally increased since FY 13-14. While this could indicate an increase in the amount of contraband inside SCDC facilities, it could also be a result of increased efforts to find contraband by SCDC staff.

**Table 5.1: Comparison of Contraband Data Between MIN System and Facility Contraband Records, FY 13-14 – FY 17-18**

	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
CELL PHONES*					
MINs	-	2,917	5,444	7,404	4,812
Facility Reports	2,705	3,141	5,874	7,853	6,886
HOMEMADE ALCOHOL (GALLONS)					
MINs	-	642	372	499	358
Facility Reports	1,595.1	1,231.3	1,369.7	836.0	727.0
MARIJUANA (GRAMS)					
MINs	-	2,906	4,752	6,965	14,007
Facility Reports	11,113.2	6,745.6	11,928.0	17,796.0	28,591.0
MONEY (\$)					
MINs	-	621	242	2,531	2,497
Facility Reports	2,673.39	2,725.73	7,083.92	18,458.98	10,559.74
SYNTHETIC MARIJUANA (GRAMS)**					
MINs	-	-	2,345	3,926	1,091
Facility Reports	2,883.3	5,792.9	10,845.4	8,870.2	17,551.9
TOBACCO (GRAMS)					
MINs	-	256,555	264,739	244,267	197,569
Facility Reports	370,562.7	432,325.5	739,114.0	713,886.7	1,128,966.5

Note: Allendale, Broad River, Camille Graham, Evans, Lee, Lieber and Manning could not provide contraband records for all time periods requested. Additionally, SCDC stated that it could not provide contraband amounts from the MIN system for FY13-14. This data only includes facilities that were in operation as of 2018.

\* The cell phone data sourced from the MIN system utilize SCDC's cell phone counting method, which can include cell phone accessories and parts. The data from facility contraband reports, however, only include actual cell phones.

\*\* The MIN code for synthetic marijuana was created in December 2015.

Source: SCDC facility-level contraband data.



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## Agency Search Team Results

In addition to the MIN system, there is also a separate computer system in which the results of contraband searches conducted by the agency search team (AST) are recorded. The AST is a team of correctional officers that are not assigned to a single institution, but rather conduct regular contraband searches in various institutions. After an AST search is conducted, the results are entered into the AST system and the contraband officers at the facility that was searched record the results into the MIN system as well. We reviewed the data recorded in the AST as well as MINs related to AST searches from 2013 through 2018. We found that over this time period, 63.1% of AST searches had been recorded in the MIN system and assigned the “search team” code. We also found that an additional 14.9% of AST searches had been entered into the MIN system but were not given the “search team” code as expected. In total, we were unable to find 22% of AST searches from 2013 through 2018 in the MIN records.

Even when an AST search has been entered into the MIN system, that does not necessarily mean that all of the data has been recorded correctly. Due to the limitations of the MIN system detailed previously, AST search MINs may not have the full contraband amounts entered properly.

We also found several instances of MIN records of AST searches that were not included in the AST system itself. Some of these incidents were targeted searches of single cells that members of the AST assisted with, while others were K-9-assisted searches or random searches of full wings of housing units.

For these reasons, the contraband amounts recorded in the MIN system are incomplete and unreliable. According to an agency official, the data in the separate AST database are not used for anything except in cases where it would be needed in a lawsuit. This data could be used to help verify the contraband data recorded in other sources, such as the MIN system and facility contraband records.

## Inmate Assaults on Inmates, Staff, and Other Persons

Table 5.2 shows the number of inmate assaults and the number of resulting serious injuries from FY 13-14 through FY 17-18 as recorded in the MIN system.

**Table 5.2: Assaults and Resulting Serious Injuries in SCDC Facilities, FY 13-14 – FY 17-18**

ASSAULTS		FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Inmate-on-Inmate	Assaults	314	291	340	483	365
	Serious Injuries	67	54	88	132	120
Inmate-on-Staff	Assaults	342	373	524	754	557
	Serious Injuries	15	12	19	27	99
Inmate-on-Other Person	Assaults	11	0	1	0	0
	Serious Injuries	3	0	0	0	0

Source: SCDC MIN data.

As shown in Table 5.3, the number of inmate deaths in SCDC facilities has increased since FY 14-15. Although natural causes are the most common causes of death for SCDC inmates, the number of inmates who have died by suicide or homicide have increased to 12 and 15, respectively, in FY 17-18.

**Table 5.3: Inmate Deaths in SCDC Facilities by Cause of Death, FY 13-14 – FY 17-18**

CAUSE OF DEATH	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Natural Causes	69	61	61	71	79
Accidental	0	1	2	1	3
Alcohol/Drugs	0	1	4	1	0
Homicide	2	0	5	9	15
Suicide	2	5	9	1	12
Other	0	0	0	1	2
Pending Autopsy (as of December 18, 2018)	0	0	0	0	1
<b>TOTAL</b>	<b>73</b>	<b>68</b>	<b>81</b>	<b>84</b>	<b>112</b>

Source: SCDC inmate death records.

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## Recommendations

104. The S.C. Department of Corrections should discontinue the use of a separate computer system for recording contraband searches conducted by the agency search team, and instead record these results within the Management Information Notes system.
105. If the S.C. Department of Corrections does not discontinue the use of a separate computer system for recording contraband searches conducted by the agency search team, it should use this data to verify the search results entered into the Management Information Notes system.

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## Calculation of Vacancy Rates

SCDC cannot explain its methodology for how it allocates its total security positions among of its 21 institutions. This information is integral to accurately determining the agency's institutional vacancy rates. Without a clear understanding of how this is determined, the vacancy rates calculated by SCDC and the LAC may be overstated or understated.

Additionally, SCDC's vacancy rates may be further understated. We compared our calculation of vacancy rates for security positions at several institutions to those published in a 2018 staffing report commissioned by SCDC for the same positions and institutions. That report used the ideal number of security positions needed to operate an institution, which were generated using the correctional industry-standard methodology. Our calculation of the agency's vacancy rates was, on average, 22 percentage points lower than the vacancy rates calculated using the ideal figures.

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## Rates Calculated Using SCDC Figures

Our analysis of vacancy rates was for front-line security staff—cadets, officers, and corporals—who were full-time employees at an SCDC institution. We calculated the vacancy rates for these positions by subtracting the difference between the allocated security positions and the filled security positions and then dividing by the total number of allocated security positions, as shown in Figure 5.4.

**Figure 5.4: Formula for Calculating SCDC Security Vacancy Rates**

$$\text{Front-line Security Vacancy Rate} = \frac{\left( \begin{array}{cc} \text{Allocated} & \text{Filled} \\ \text{Front-line Security} & \text{Front-line Security} \\ \text{Positions} & \text{Positions} \end{array} \right) - \text{Allocated Front-line Security Positions}}{\text{Allocated Front-line Security Positions}}$$

Data for allocated security positions was sourced from SCDC’s legacy system whereas data for filled security positions was sourced from SCDC human resources’ records from SCEIS. We asked several SCDC officials how the agency determines the allocation of security positions to each institution. None of these officials, however, could provide an explanation or formula for how this figure is determined. One official stated that these figures were established years ago and have been carried forward as a part of the agency’s legacy system.

### Rates Calculated Using Industry-Standard Figures

In the correctional industry, there is a standard methodology for determining the ideal number of security staff that are needed to operate an institution. This method generates an ideal count of security positions based on a formula that accounts for various factors, including:

- Institutional size.
- Number of security posts.
- Agency workdays.
- State holidays.
- Sick leave.
- Training.

For select institutions, we compared the ideal number of security positions, which was published in a 2018 staffing report commissioned by SCDC, to the number of security positions SCDC allocated to its institutions. Table 5.5 shows these figures and the percentage of allocated to ideal positions as of January 1, 2018. Table 5.6 compares vacancy rates using the ideal and allocated numbers, and the percentage point differences between these rates.

**Table 5.5: Number of Ideal Security Positions versus Number of Allocated Security Positions, January 1, 2018**

INSTITUTION	SECURITY POSITIONS		
	IDEAL NUMBER	ALLOCATED NUMBER	PERCENTAGE OF ALLOCATED TO IDEAL
Broad River	376	272	72.3%
Evans	261	198	75.9%
Camille Graham	239	166	69.5%
Kershaw	263	209	79.5%
Kirkland	533	340	63.8%
Leath	160	101	63.1%
Lee	375	262	69.9%
Lieber	355	231	65.1%
McCormick	283	174	61.5%
Perry	340	210	61.8%
Ridgeland	215	159	74.0%
Turbeville	292	231	79.1%
Tyger River	350	214	61.1%

Sources: SCDC staffing report and SCDC vacancy rates report.

**Table 5.6: Security Vacancy Rates Using Ideal Number versus Allocated Number of Security Positions, January 1, 2018**

INSTITUTION	SECURITY POSITION VACANCY RATE		
	IDEAL NUMBER	ALLOCATED NUMBER	PERCENTAGE POINT DIFFERENCE
Broad River	47.9%	27.9%	19.9%
Evans	54.4%	39.9%	14.5%
Camille Graham	39.3%	12.7%	26.7%
Kershaw	42.6%	27.8%	14.8%
Kirkland	44.7%	13.2%	31.4%
Leath	52.5%	24.8%	27.7%
Lee	48.8%	26.7%	22.1%
Lieber	56.3%	32.9%	23.4%
McCormick	62.5%	39.1%	23.5%
Perry	54.1%	25.7%	28.4%
Ridgeland	49.8%	32.1%	17.7%
Turbeville	44.5%	29.9%	14.7%
Tyger River	58.9%	32.7%	26.1%

Sources: LAC analysis of SCDC staffing report and vacancy rates report.

Table 5.5 shows that, of the select institutions, SCDC’s allocation of security positions is between 61%–80% of the ideal number of security positions, meaning for these institutions, security positions are staffed at approximately 69% of the ideal security need. In Table 5.6, the vacancy rate that uses SCDC’s allocated number of security positions is, on average, 22 percentage points lower than the vacancy rate that uses the ideal number of positions.

## Recommendation

106. The S.C. Department of Corrections should reevaluate its methodology for determining how it allocates its security positions to each institution, so that the agency may accurately calculate its vacancy rates.

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## Litigation Costs

We were asked to review SCDC's legal expenses and settlements to determine overall costs and trends in lawsuits filed by employees and inmates. We focused on tort liability and medical professional liability claims, as these types of claims are most often filed by former and current employees and inmates. Additionally, we reviewed prepaid legal defense costs, which is an additional coverage for lawsuits not covered under tort liability coverage.

Overall, we found that the number of claims against SCDC decreased, as well as its legal expenses. Settlement costs tended to fluctuate but without a discernable pattern. Specifically, we found that from 2008–2017:

- SCDC's premiums decreased.
- For employee tort claims, the number of claims, legal expenses, and settlements generally decreased annually.
- For non-employee tort claims and professional medical liability claims, the number of claims and legal expenses generally decreased from year to year while settlements for these claims fluctuated.

We also found that from 2011–2018, the legal expenses SCDC itself paid fluctuated annually but decreased compared to amounts reported in our 2009 audit.

We intended to analyze the claim reasons documented in the Insurance Reserve Fund's (IRF) records to assess any trends in lawsuits filed against SCDC. We found, however, that the reasons listed in the IRF's claims entries represent the initial reported reason for the claim, and that reason may change over time as more evidence arises. Therefore, analysis could not be conducted for trends on claim reasons against SCDC.

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## Overview

SCDC obtains tort liability, medical professional liability, and prepaid legal defense coverages from the IRF. The IRF provides property and liability insurance coverages to governmental entities in the state and is under the auspices of the State Fiscal Accountability Authority. We reviewed data from both the IRF and SCDC primarily from 2008–2018 to determine if any trends existed.

There is a lag to the available IRF claims data, as there is a two-year statute of limitations from the date a claimable event occurred in which an individual may file, per S.C. Code §15-78-110. While we requested from the IRF data on claims against SCDC from calendar years 2008–2018, the number of claims for 2016, 2017, and 2018 were considered immature by the IRF at the time of our analysis because of the two-year statute of limitations. The claims reported by the IRF from 2009–2015, however, represent complete totals.

The IRF’s records represent claims, not lawsuits. A claim is defined by an event or occurrence, which may involve a single or multiple individuals. Regardless of the number individuals who file a lawsuit as a result of an occurrence, the IRF records it as a single claim. For example, at least 23 individuals filed suit against SCDC as a result of the April 2018 incident at Lee. The IRF’s records, however, show this as one claim.

The IRF provided closed claims for tort liability in two groups—employee and non-employee claims. With the non-employee claims, the IRF’s records included both inmates and others, such as delivery drivers; claims made solely by inmates could not be separated out. We also received professional medical liability claims, which included claims by inmates and their families who alleged medical malpractice.

Where possible, we included the relevant corresponding information from our 2009 report. The analysis in that report, however, covered an eight-year period, whereas the analysis in this report covers a ten-year period. As in this report, there was also a two-year lag in 2009 report data as a result of the statute of limitations previously mentioned.

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## Premiums

The IRF charges agencies an annual premium for the coverages it provides. Generally, coverage includes payment on behalf of the insured, including all sums up to policy limits, which the insured becomes legally obligated to pay to a third party, as well as legal expenses.

According to the IRF’s records, which were provided on a fiscal year basis, SCDC’s premium for tort liability, medical professional liability, and prepaid legal defense coverages for FY 17-18 totaled \$932,218. In our 2009 report, SCDC’s FY 07-08 total premium for the same coverages was approximately \$1.2 million.



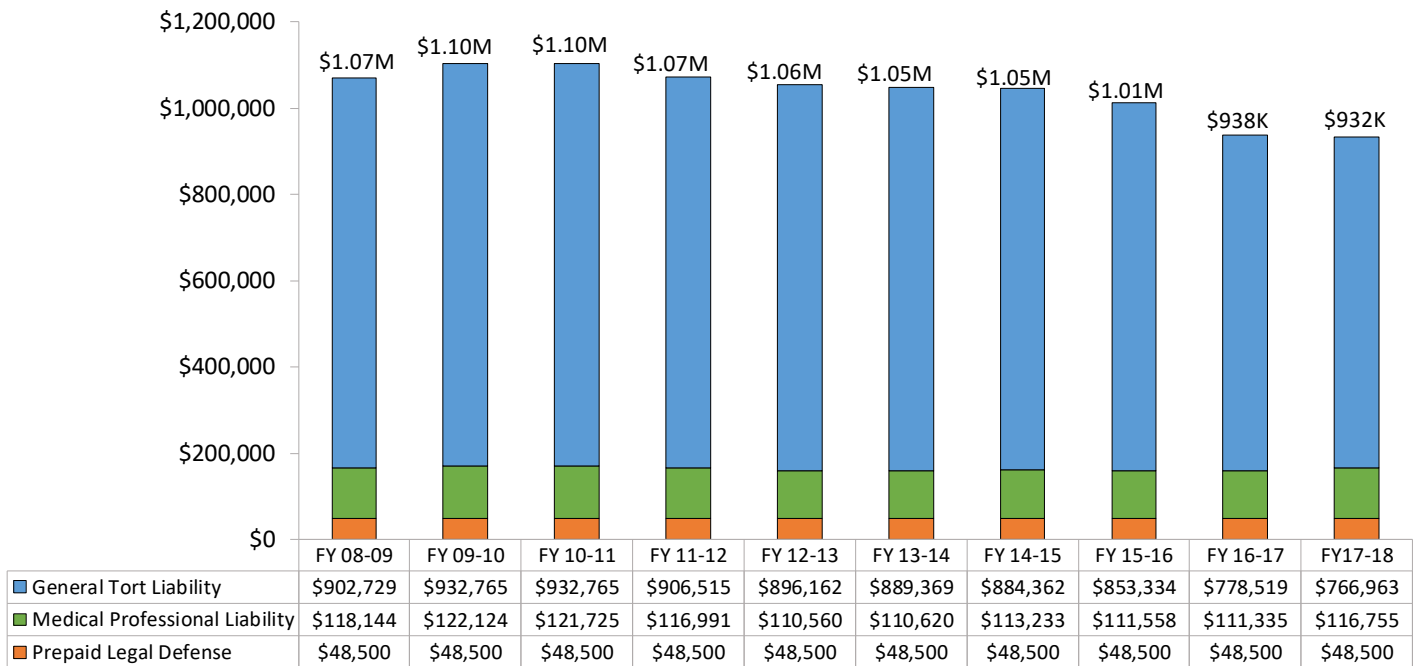
The annual premium for tort liability coverage is based on the insured’s number of employees in specific categories, such as law enforcement, managers, clerical, and maintenance staff, and a rate set by the IRF. For FY17-18, SCDC’s tort liability premium was \$766,963.

The yearly premium for medical professional liability coverage is based on the insured’s types of exposures. For example, more exposure may include facilities with more beds, surgeons versus residents, and acute versus non-acute visits. For FY 17-18, SCDC’s professional medical liability premium was \$116,755.

Prepaid legal defense coverage, which is available to agencies with tort liability coverage, is dependent on the insured’s desired need. This coverage is for the defense of lawsuits not covered under tort liability insurance; coverage does not include settlements. In FY 17-18, SCDC’s prepaid legal defense premium was \$48,500.

Chart 5.7 summarizes SCDC’s premiums for tort and medical professional liability coverage and prepaid legal defense coverage for FY 08-09 through FY 17-18.

**Chart 5.7: SCDC Premiums for Tort Liability, Medical Professional Liability, and Prepaid Legal Defense Coverage, FY 08-09 – FY 17-18**



Source: Insurance Reserve Fund

## Closed Tort Claims

We reviewed the IRF’s records of closed tort claims, including general tort and professional medical liability, against SCDC for calendar years 2008–2017. Tort refers to personal injury or property damage and is defined as wrongs from which actions may be brought. A professional medical claim is a type of tort claim that involves medical malpractice.

### Closed Employee Tort Claims

From calendar years 2008–2017, the IRF closed 45 claims by employees against SCDC, totaling \$1.7 million in legal costs and settlements. In our 2009 report, we found that the IRF closed 22 claims, totaling almost \$1.2 million in legal expenses and settlements. Table 5.8 summarizes the claims for calendar years 2000–2007, while Table 5.9 summarizes the claims for calendar years 2008–2017. Generally, the count of claims, legal expenses, and settlements decreased after 2008.

**Table 5.8: Closed Employee Tort Liability Claims Against SCDC, Calendar Years 2000–2007**

CALENDAR YEAR	COUNT OF CLAIMS	TOTAL	
		LEGAL EXPENSES	SETTLEMENTS
2000	8	\$213,146	\$427,000
2001	1	\$37,295	\$1,000
2002	4	\$165,292	\$5,000
2003	2	\$60,328	\$4,000
2004	4	\$139,186	\$127,500
2005	2	\$0	\$3,500
2006*	1	\$6,200	\$0
2007*	0	\$0	\$0
<b>TOTAL</b>	<b>22</b>	<b>\$621,447</b>	<b>\$568,000</b>

\* Due to a two-year statute of limitations and the time at which this data was obtained, these figures represent immature totals.

Source: Insurance Reserve Fund

**Table 5.9: Closed Employee Tort Liability Claims Against SCDC, Calendar Years 2008–2017**

CALENDAR YEAR	COUNT OF CLAIMS	TOTAL LEGAL EXPENSES	TOTAL SETTLEMENTS
2008	11	\$290,338	\$207,000
2009	13	\$317,681	\$153,500
2010	8	\$103,365	\$113,600
2011	5	\$108,182	\$143,500
2012	1	\$4,796	\$12,500
2014	3	\$77,201	\$97,500
2015	1	\$4,112	\$0
2016*	2	\$8,646	\$13,500
2017*	1	\$15,571	\$5,000
<b>TOTAL</b>	<b>45</b>	<b>\$929,891</b>	<b>\$746,100</b>

\* Due to a two-year statute of limitations and the time at which this data was obtained, these figures represent immature totals.

Source: Insurance Reserve Fund

Compared to all other IRF-insured state agencies for employee tort claims, the IRF paid the highest amount in legal expenses and settlements on behalf of SCDC. Table 5.10 lists the five IRF-insured state agencies with the highest expense and settlement totals for employee tort claims paid for calendar years 2008–2017.

**Table 5.10: Five IRF-Insured State Agencies With the Highest Employee Tort Liability Costs, Calendar Years 2008–2017**

	DEPARTMENT OF CORRECTIONS	DEPARTMENT OF MENTAL HEALTH	COLLEGE OF CHARLESTON INSURANCE SVS/ LEGAL AFFAIRS	SC STATE UNIVERSITY	DEPARTMENT OF HEALTH AND ENVIRONMENTAL
Total Expenses Paid (Percentage of IRF-Insured Agencies)	\$929,891 (9.24%)	\$799,228 (7.94%)	\$626,381 (6.22%)	\$538,813 (5.35%)	\$541,154 (5.38%)
Total Settlements Paid (Percentage of IRF-Insured Agencies)	\$746,100 (11.66%)	\$568,500 (8.89%)	\$651,264 (10.18%)	\$704,500 (11.01%)	\$379,000 (5.92%)
<b>TOTAL</b> (Percentage of IRF-Insured Agencies)	<b>\$1,675,991</b> <b>(10.18%)</b>	<b>\$1,367,728</b> <b>(8.31%)</b>	<b>\$1,277,645</b> <b>(7.76%)</b>	<b>\$1,243,313</b> <b>(7.55%)</b>	<b>\$920,154</b> <b>(5.59%)</b>

Source: Insurance Reserve Fund

### Closed Non-Employee Tort Claims

For calendar years 2008–2017, the IRF closed 1,421 claims by non-employees against SCDC, totaling \$21.3 million in legal expenses and settlements. Table 5.11 summarizes the claims by calendar year. For comparison, our 2009 report found that the IRF closed 745 inmate tort claims and paid \$4.4 million in legal expenses and settlements for calendar years 2000–2007. Generally, the count of claims and legal expenses decreased over time. Annual settlements, however, fluctuated.

**Table 5.11: Closed Non-Employee Tort Liability Claims Against SCDC, Calendar Years 2008–2017**

CALENDAR YEAR	COUNT OF CLAIMS	TOTAL	
		LEGAL EXPENSES	SETTLEMENTS
2008	186	\$1,981,954	\$779,444
2009	190	\$1,672,402	\$129,700
2010	203	\$2,540,924	\$1,806,222
2011	182	\$1,572,861	\$699,319
2012	221	\$2,667,310	\$1,144,427
2013	178	\$1,629,625	\$549,246
2014	99	\$1,085,556	\$381,594
2015	78	\$538,724	\$1,234,631
2016	56	\$364,146	\$426,554
2017	28	\$63,360	\$8,440
<b>TOTAL</b>	<b>1,421</b>	<b>\$14,115,968</b>	<b>\$7,159,576</b>

Source: Insurance Reserve Fund

Compared to all other IRF-insured state agencies for non-employee tort claims, the IRF paid the highest amount in legal expenses and the third highest amount in settlements on behalf of SCDC. Table 5.12 lists the five IRF-insured state agencies with the highest legal expense and settlement totals for non-employee tort claims paid for calendar years 2008–2017.

**Table 5.12: Five IRF-Insured State Agencies With the Highest Non-Employee Tort Liability Costs, Calendar Years 2008–2017**

	DEPARTMENT OF TRANSPORTATION	DEPARTMENT OF CORRECTIONS	DEPARTMENT OF SOCIAL SERVICES	DEPARTMENT OF PUBLIC SAFETY	CLEMSON UNIVERSITY OFFICE OF RISK MANAGEMENT CONTROL
Total Expenses Paid (Percentage of IRF-Insured Agencies)	\$13,372,088.89 (29.38%)	\$14,115,968.00 (31.02%)	\$3,418,293.59 (7.51%)	\$1,803,896.03 (3.96%)	\$1,232,912.44 (2.71%)
Total Settlements Paid (Percentage of IRF-Insured Agencies)	\$36,414,599.89 (49.13%)	\$7,159,576.00 (9.66%)	\$7,678,464.73 (10.36%)	\$3,962,923.16 (5.35%)	\$1,387,681.78 (1.87%)
<b>TOTAL</b> (Percentage of IRF-Insured Agencies)	<b>\$49,786,688.78</b> <b>(41.68%)</b>	<b>\$21,101,298.33</b> <b>(17.66%)</b>	<b>\$11,096,758.32</b> <b>(9.29%)</b>	<b>\$5,766,819.19</b> <b>(4.83%)</b>	<b>\$2,620,594.22</b> <b>(2.19%)</b>

Source: Insurance Reserve Fund

### Closed Professional Medical Liability Claims

From calendar years 2008–2017, the IRF closed 438 professional medical claims against SCDC, totaling \$14.3 million in legal expenses and settlements. In our 2009 report, professional medical claims from January 1, 2000 through January 31, 2008 totaled \$4.3 million. Table 5.13 summarizes the claims for calendar years 2008–2017. While the total number of claims and legal expenses generally decreased annually, total settlements varied.

**Table 5.13: Closed Professional Medical Claims Against SCDC, Calendar Years 2008–2017**

CALENDAR YEAR	COUNT OF CLAIMS	TOTAL	
		LEGAL EXPENSES	SETTLEMENTS
2008	71	\$1,275,165	\$1,232,250
2009	60	\$919,181	\$514,500
2010	61	\$758,697	\$1,556,500
2011	60	\$703,290	\$801,500
2012	62	\$794,579	\$1,645,500
2013	55	\$538,880	\$900,000
2014	44	\$469,753	\$1,690,000
2015	13	\$68,689	\$500
2016	7	\$53,147	\$400,000
2017	5	\$19,373	\$0
<b>TOTAL</b>	<b>438</b>	<b>\$5,600,755</b>	<b>\$8,740,750</b>

Source: Insurance Reserve Fund

Compared to all other IRF-insured state agencies for professional medical claims, the IRF paid the highest amount in expenses and the second highest amount in settlements on behalf of SCDC. Table 5.14 lists the five IRF-insured state agencies with the highest expense and settlement totals for professional medical claims paid for calendar years 2008–2017.

**Table 5.14: Five IRF-Insured State Agencies With the Highest Professional Medical Liability Costs, Calendar Years 2008–2017**

	MEDICAL UNIVERSITY OF SOUTH CAROLINA RISK MANAGEMENT	DEPARTMENT OF CORRECTIONS	UNIVERSITY OF SOUTH CAROLINA MEDICINE (COLUMBIA)	DEPARTMENT OF MENTAL HEALTH	MEDICAL UNIVERSITY HOSPITAL AUTHORITY
Total Expenses Paid (Percentage of IRF-Insured Agencies)	\$4,250,349 (36.08%)	\$5,600,755 (47.55%)	\$571,436 (4.85%)	\$1,011,638 (8.59%)	\$148,845 (1.26%)
Total Settlements Paid (Percentage of IRF-Insured Agencies)	\$29,546,301 (53.19%)	\$8,740,750 (15.74%)	\$11,845,000 (21.33%)	\$2,180,250 (3.93%)	\$1,927,463 (3.47%)
TOTAL (Percentage of IRF-Insured Agencies)	\$33,796,650 (50.20%)	\$14,341,505 (21.30%)	\$12,416,436 (18.44%)	\$3,191,888 (4.74%)	\$2,076,308 (3.08%)

Source: Insurance Reserve Fund

## Prepaid Legal Defense Costs

The IRF offers a coverage called prepaid legal defense, which is for legal suits not covered under its tort liability insurance. Examples include:

- Breach of contract suits.
- Suits seeking injunctive relief, which is a court order to cease an action.
- Suits seeking return of property.

Only agencies with tort liability insurance are eligible to obtain prepaid legal defense coverage. Coverage automatically includes limits of \$15,000, and the following additional coverage limits are available:

- \$35,000
- \$85,000
- \$235,000
- \$485,000
- \$985,000

The rate is 10% of the coverage, less the included \$15,000.

For calendar years 2008–2018, SCDC consistently obtained \$500,000 in coverage. From 2008–2017, 10 other state agencies obtained prepaid legal coverage at the same level as SCDC, and, in 2018, 11 agencies obtained prepaid legal coverage at that level. The following 11 agencies obtained prepaid legal coverage at \$500,000 in 2018:

- Department of Corrections
- Department of Administration—General Services Administration
- Department of Administration—Office of Executive Director
- Office of the Governor
- Department of Social Services
- South Carolina Education Lottery
- State Fiscal Accountability Authority—Office of Executive Director
- South Carolina House of Representatives
- South Carolina Senate
- University of South Carolina

For claims under this coverage, the IRF pays the first \$15,000 at 100% and then all claims after that are reimbursed at 80% until the insured’s coverage limit is reached. The insured is responsible for the remaining 20%. Table 5.15 summarizes the number of claims and the costs incurred by the IRF on behalf of SCDC under this coverage. For most of the years, SCDC used approximately half or less of its prepaid legal coverage limit. In addition, the number of claims generally decreased from year to year while total legal expenses varied.

**Table 5.15: SCDC Prepaid Legal Defense Claims and Expenses Reimbursed by the IRF, Calendar Years 2008–2018**

CALENDAR YEAR	COUNT OF CLAIMS	TOTAL
2008	159	\$264,227
2009	150	\$245,693
2010	156	\$229,598
2011	167	\$279,052
2012	99	\$264,928
2013	39	\$44,215
2014	25	\$134,655
2015	15	\$85,265
2016	40	\$340,903
2017	34	\$134,441
2018*	8	\$16,286
<b>TOTAL</b>	<b>892</b>	<b>\$2,039,263</b>

\*As of September 7, 2018

Source: Insurance Reserve Fund



## Open Tort Claims

We also obtained the IRF’s data on open tort claims against SCDC from January 1, 2008, through September 7, 2018. These cases have not been settled, so legal expenses and settlements were not available. Table 5.16 lists the number of open tort cases by types and calendar year.

**Table 5.16: SCDC Open Tort Liability Claims, Calendar Years 2008–2018\***

CALENDAR YEAR	EMPLOYEE TORT LIABILITY CLAIMS	NON-EMPLOYEE TORT LIABILITY CLAIMS	PROFESSIONAL MEDICAL LIABILITY CLAIMS	TOTAL CLAIMS
2008	0	0	0	0
2009	0	2	0	2
2010	0	4	0	4
2011	0	3	0	3
2012	1	6	2	9
2013	1	13	3	17
2014	0	17	8	25
2015	1	45	22	68
2016	6	101	20	127
2017	4	98	17	119
2018*	0	19	3	22
TOTAL	13	308	75	396

\*As of September 7, 2018

Source: Insurance Reserve Fund

## SCDC Attorneys’ Fees and Settlements

We reviewed both the IRF’s claims data and SCDC case data for similar periods to determine the amount SCDC paid in legal expenses and in settlements. We asked SCDC for case data for the same period for which we reviewed the IRF’s claims data, but an issue with the agency’s legal case management system limited the review to cases closed from January 1, 2011 through August 17, 2018. Additionally, the IRF data claims data we reviewed covered an additional month, from January 1, 2011 through September 7, 2018.

In the nearly eight-year period, SCDC paid a total of \$320,436 in legal and settlement expenses. In 2009, we reported that, in the eight-year period from FY 00-01 through FY 07-08, SCDC paid approximately \$1.2 million in legal expenses and settlements.

### Legal Expenses

From 2011–2018, the IRF’s records indicate that SCDC paid \$294,936 in legal expenses not covered by the IRF’s prepaid legal coverage (the 20% required by the IRF’s policy). According to an SCDC official, the agency made no other payment for legal expenses during our review period. For comparison, in 2009 we reported that SCDC paid a total of \$781,044 in legal expenses not covered by the IRF—\$153,080 for legal expenses not covered by the IRF’s prepaid legal coverage and \$627,964 in legal expenses that were not covered by the IRF. Table 5.17 provides a breakdown of the agency’s legal expense for calendar years 2011–2018. As noted in Table 5.17, the legal expenses incurred by SCDC have fluctuated annually.

**Table 5.17: Costs Paid by SCDC for Prepaid Legal Coverage, Calendar Years 2011–2018\***

CALENDAR YEAR	PREPAID LEGAL EXPENSES PAID BY SCDC
2011	\$66,013
2012	\$62,482
2013	\$7,304
2014	\$29,914
2015	\$17,566
2016	\$81,476
2017	\$29,860
2018*	\$321
TOTAL	\$294,936

\*As of September 7, 2018

Source: Insurance Reserve Fund

### Settlements

SCDC’s case records show that the agency paid settlements for four cases, totaling \$25,500 from 2011–2018. One of the cases was an employee tort liability case in which the plaintiff won a settlement for lost wages. Since the IRF does not pay lost wages, SCDC was responsible for this cost. The remaining three cases were defended under the IRF’s prepaid legal coverage. Prepaid legal coverage, however, does not include settlement costs, rendering the agency responsible for these settlements as well.

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## Plaintiffs' Counsels

We were also asked to review whether members of the S.C. House or Senate served as plaintiffs' counsel in lawsuits against SCDC. We compared plaintiffs' counsels from SCDC's closed case records against listings of current and former legislators from 2011–2018. We also compared plaintiffs' counsels who filed on behalf of inmates who were injured or killed during the April 2018 incident at Lee against listings of current and former legislators from 2011–2018.

### **Legislators as Legal Counsel in SCDC Closed Cases**

In the eight-year period, we found one legislator who co-represented an inmate in a suit against SCDC. The suit was based on an incident that occurred in 2012 and settled in 2017. Litigation costs were approximately \$42,000. The legislator who co-represented the inmate was a member of the state Legislature while serving as co-counsel.

We found another legislator with the same name, except for a suffix, who also co-represented an inmate in a lawsuit against SCDC. This lawsuit was based on an incident that occurred in 2009 and settled in 2015. Litigation costs were approximately \$13,000. The legislator with the similar name as the co-counsel was a member of the state Legislature during the same time. We cannot say conclusively, however, that this legislator is the same individual as the inmate's co-counsel.

### **Legislators as Legal Counsel for Inmates Involved in Lee Incident**

On April 15, 2018, an incident at Lee resulted in the injury of 22 inmates and the deaths of 7 inmates. As of December 2018, 23 of those inmates or their families filed lawsuits against SCDC. Our review of plaintiffs' counsels for the 23 inmates or family members showed that one former legislator and two current legislators are representing or co-representing inmates or their families from this incident. None of these members are members of legislative standing committees that oversee SCDC. These cases are still open and, therefore, litigation costs and settlement amounts have not been finalized.



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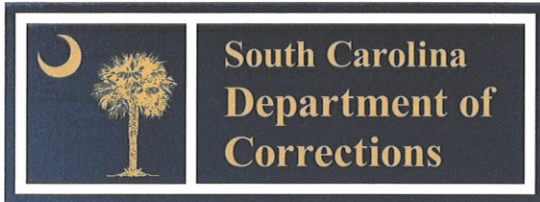
# Appendix

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Appendix  
Agency Comments

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HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

August 22, 2019

Mr. K. Earle Powell, Director  
Legislative Audit Council  
1331 Elmwood Avenue, Suite 315  
Columbia, South Carolina 29201

Re: Legislative Audit

Dear Mr. Powell:

I am in receipt of the draft audit dated August of 2019. First, I would like to thank you and your staff for their time dedicated to this audit. The audit process has verified and justified deficiencies that the South Carolina Department of Corrections (SCDC) needs to request through the budget process. Your auditors also identified deficiencies that SCDC previously identified and are in the process of correcting. The LAC also made recommendation for changes that SCDC needs to implement. The audit was conducted in a thorough, conscientious and professional manner and we are thankful to your staff for their efforts.

SCDC offers the following additional comments/clarification regarding the draft audit:

- Page 47, last paragraph, it is recommended that we submit the following clarification in writing to become part of the Agency's formal response: Actually, the jail and prison inspection staff consists of only two full time individuals at the present time, and one of them is in a temporary position. There is also a vacant temporary position, which is difficult to fill with a qualified employee due to the restrictions on this category. In addition to the site visit evaluations and report writing that is done by these two Inspectors, the administration and management of the program is currently being handled by the responsible Division Director, who is a senior official in the SCDC central office and who has various other responsibilities as well.
- LAC Recommendation 31 on Page 48, it is recommended that we submit the following comments: SCDC agrees that all Holding Cells should be identified and inspected along with the various other categories of local and state facilities. It is also agreed that it would be sufficient to inspect most Holding Cells only once a year. In order to make that distinction, the Minimum Standards for Local Detention Facilities in South Carolina and Agency policy must be amended. SCDC will contact the South Carolina Association of Counties and propose that the Minimum Standards be changed as recommended. Assuming that this effort is successful, the Agency will then automatically revise its own policy accordingly. The process of identifying all the Holding Cells statewide and inspecting them, as well as ensuring that all other local and state facilities receive the required inspections, will be implemented promptly after enough additional personnel are approved and funded.
- LAC Recommendation 89 on Page 139, it is recommended that we submit the following comments: SCDC agrees that the entire Management Review Program should be resumed. A plan is being developed that is less staff intensive but will nevertheless require the authorization of at least two additional positions to implement. The Agency intends to continue conducting the very important Security Audits in the meantime. It is anticipated that

the full Management Review Program can be underway again by this time next year if funding for the necessary employees is forthcoming.

- LAC Recommendation 91, the Deputy Director for Operations disagrees with this recommendation. The Division Director of Security develops and publishes Agency Post Orders to define the specific duties and responsibilities of staff assigned to a security post. The post order requires a section identified as "SPECIFIC INSTITUTIONAL PROCEDURES." This section simply allows each Warden to detail any duties or responsibilities specific to his/her institution under this section. These specific institutional duties shall not dilute the authority of the Post Order. They are to simply spell out nuances that apply to that institution for that post order. An example of this is the post order for "Towers". It requires that the Tower Officer maintains: One (1) revolver, One (1) shotgun, and One (1) mini-14. Lee CI does not have Mini-14s. They do not have a range that would support qualification. Therefore, the Specific Institutional Procedures indicates that the Tower Officer maintains: One (1) revolver and One (1) shotgun.
- LAC Recommendation 92, SCDC policy OP 21.10 requires that "specific institutional procedures" be archived. SCDC policy OP 21.10 "Agency Records Management" directs the retention of all records in the agency. The retention schedule #16730, directs that "Post Orders and Specific Institutional Procedures" are maintained for six (6) Years and then destroyed.
- LAC Recommendation 106, The Deputy Director for Operations disagrees with this recommendation. SCDC utilizes a master post chart to identify the ideal strength (identified by SCDC as authorized strength) for each institution. This number is generated through a staffing analysis that includes certifying posts and determining a shift relief factor. Institutions generally have FTEs at the following rates of authorized strength total: 95% - Level 1, 92% - Level 2, and 89% - Level 3. The disparity between authorized strength and FTEs occurred over the years due to budget cuts. In all actuality, the true vacancy rate should be determined by the following:  
$$\text{Vacancy Rate} = \frac{\text{FTEs} - \text{filled positions}}{\text{Available positions}}$$
- Vacancy rates must be based on FTE positions not by an ideal number of positions. SCDC cannot hire more staff than the allotted positions authorized by the state. It is clear and agreed that SCDC does not have enough FTE positions to meet our Authorized Strength Numbers, let alone the recommendations from the 2018 Staffing Study.

Should you have any questions or require additional information/documentation, please do not hesitate to contact me. Again, thank you.

Sincerely,

  
Bryan P. Stirling

BPS/ndh



## SCDPPPS Final Comments in Response to LAC Audit:

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### Legislative Audit Council Recommendations:

- (68) The S.C. Department of Corrections and the S.C. Department of Probation, Parole and Pardon Services should communicate regularly on methods to safely release eligible inmates into the public, in addition to sharing inmate records through the offender management system and the parole information system.
- (69) The S.C. Department of Corrections and the S.C. Department of Probation, Parole and Pardon Services should continue agency director meetings to facilitate communication about ways to prepare inmates for release and safely release inmates.
- (70) The S.C. Department of Corrections should develop a system that can track the completion of programs for current inmates and ensure that the S.C. Department of Probation, Parole and Pardon Services has user-friendly access to this system.
- (71) The S.C. Department of Corrections and the S.C. Department of Probation, Parole and Pardon Services should discuss the possibility of developing a victim-offender mediation program.
- (72) The S.C. Department of Probation, Parole and Pardon Services should communicate about how to handle cases where inmates eligible for parole are near their max-out dates.
- (73) The S.C. Department of Probation, Parole and Pardon Services should require that all new parole board members, prior to their service on the board, observe parole board hearings for both violent and nonviolent offenders.

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### **DPPPS Final Comments in Response to Recommendations (68) & (69): We concur.**

- The S.C. Department of Probation, Parole and Pardon Service's (the Department's) core mission is to prepare offenders under its supervision toward becoming productive members of the community; to provide assistance to crime victims, the courts, and the Parole Board; and to protect public trust and safety. The Department is in agreement that it must continue to communicate regularly with the S.C. Department of Corrections on methods to safely release eligible inmates into the public. The Department is also in agreement that Department Director Jerry Adger should continue agency director meetings with S.C. Department of Corrections Director Bryan Stirling to facilitate communication about ways to prepare inmates for release and to do this safely. As explained below, well before the commencement of the LAC audit, the two Directors and agencies recognized deficiencies in this area and mutually agreed to work on improving communication about the release of inmates into the public. However, the Department acknowledges an even more cooperative agreement may be essential to optimize and enhance communication so as to minimize the limited sharing of information. The release of inmates to the community will require a comprehensive plan of action founded on good communication. The plan will include supervision reentry strategies and applicable special conditions to facilitate inmate release in a timely manner, all of which will require regular, frequent, comprehensive communication about methods to safely release eligible inmates into the public.
- The Department's Release Services Section is specifically working to develop and implement strategies to safely release eligible inmates into the public, which include the following: (1) Requesting additional staff to conduct pre-release interviews for inmates scheduled to be released to Department release programs; (2) Dedicating personnel to ensure inmates are released to the county of supervision, with expected shelter assistance, upon release; and (3) Identifying and meeting with points of contact at the S.C. Department of Corrections regarding inmate releases.
- In January, 2019, during upgrades and enhancement testing of the Department's Parole Information Center (PIC), the Department initiated an internal audit of inmates who were scheduled for release to the Community Supervision Program (See S.C. Code § 24-21-560). Inaccuracies discovered during this internal audit revealed the need for improved communication and served as the catalyst for a series of in-depth meetings between staff members from the Department and the S.C. Department of Corrections, aimed at addressing all issues or concerns that could be identified related to the release of eligible inmates to the community. In early May of 2019, after several productive joint meetings which led to improvements in release processes and improvements to daily inter-agency communication, Department Director Jerry Adger and S.C. Department of Corrections Director Bryan Stirling decided to formalize this meeting arrangement by establishing the SCDPPPS/SCDC Task Force, naming four to five task force members from each agency, and scheduling meetings no less than quarterly going forward. The membership is comprised of specific representatives from the sections of each agency which are deeply involved in effecting

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inmate releases and in ensuring the integrity of release programs, including the respective Offices of General Counsel and Information Technology.

- The documented task force meetings include establishment of agenda items, discussion of those items, and notation of steps to be taken to resolve or address any issues raised. The task force also discusses the best methods for communicating critical information about inmate releases in a timely fashion. Summaries of task force action items are provided to each agency Director when requested, and the Directors meet to discuss as needed. The meeting officially establishing the task force was held on May 8, 2019, and the first meeting after the task force was formalized was held on June 19, 2019. The next meeting is scheduled for September 6, 2019.
- The Department's Strategic Plan includes the following objective: Increase the number of inmates released to supervision under mandatory release programs with an approved residence plan to 90% by June 2019. Strategic plan 2015-2020. (Objective 1.1.7).

### **DPPPS Final Comments in Response to Recommendation (70): We concur.**

- The S.C. Department of Probation, Parole and Pardon Services (the Department) agrees that the S.C. Department of Corrections should develop a system that can track the completion of programs for current inmates and ensure that the Department has user-friendly access to that system. This will require establishment and maintenance of an ongoing private system connection between the Department and the S.C. Department of Corrections which will allow employees from both agencies to access restricted business applications or systems. For this project to come to fruition, designated Department staff members will need access to the S.C. Department of Corrections' intranet interface/web based system.
- Once established, access to the tracking mechanism may need to be expanded to ensure the Department has the necessary user-friendly access to the tracking system to achieve the desired result.

### **DPPPS Final Comments in Response to Recommendation (71): We concur, but note that any victim-offender mediation program must comport with existing statutes and the South Carolina Victim's Bill of Rights, and, as explained below, should not attempt to eliminate every conflicting account between offenders and victims during parole hearings.**

The S.C. Department of Probation, Parole and Pardon Services (the Department) agrees that the S.C. Department of Corrections and the Department should discuss the possibility of developing a victim-offender mediation program; however, that program should focus on the healing process involved in opening lines of communication between victims and offenders and not on an attempt to secure agreement between offenders and victims when giving their often conflicting accounts of the

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crime at parole hearings. Further explanation in the context of the LAC draft report as a whole is given below.

### **A. SCDC and PPP Communication**

- Two specific sections of the Department communicate with the S.C. Department of Corrections on a regular basis in relation to inmate releases, such as the supervised reentry program (SRP), the community supervision program (CSP), parole, and split sentence releases. These sections, Paroles, Pardons and Release Services and the Office of Victim Services (OVS), coordinate with the S.C. Department of Corrections staff to ensure releases are timely and victims are notified. However, as explained above, in order to improve communication about evidence based strategies for incarceration and re-entry on a broader platform, the Department and the S.C. Department of Corrections have formed an interagency task force that will increase communication and give a multi-disciplined approach to the correctional portion of an offender's sentence.

### **B. Observation and Analysis of Parole Hearings:**

- The LAC notes there are often *"conflicting accounts from offenders and victims during parole hearings."*
- The Department acknowledges that the Board of Paroles and Pardons often hears different and sometimes conflicting information from the inmates and people speaking on their behalf, and from victims and others opposed to parole. The Department also acknowledges South Carolina law allows any person to attend and address the Board at parole hearings (S.C. Code § 24-21-50). Furthermore, the SC Victims' Bill of Rights provides victims the absolute right to "attend and comment" at any "post-conviction proceedings affecting the probation, parole, or release of the offender." (S.C. Code § 16-3-1650). Therefore, both victims and "concerned citizens" may attend parole hearings and may be heard. South Carolina law also prevents the inmates from having a right of confrontation at these hearings. (S.C. Code § 24-21-50).
- In order to preserve the rights of victims and provide them the least traumatic experience possible, inmates are removed from the presence of the victims so they can speak freely to the Board members. The only limitations on what and how many victims may present are due to physical space and time constraints.

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- The Department trains the Parole Board members to rely on the facts provided by the parole investigators and examiners in their case summaries, rather than the information provided by either inmates or victims, particularly if there is a conflict. The facts in the case summaries are drawn from a combination of incident reports, arrest warrants, and from the indictments themselves.

### **C. Recommendation (71)**

- On occasion, a crime victim whose offender is incarcerated will inquire as to how they could speak to the inmate, for any number of reasons. Currently, there is a Victim Offender Dialogue (VOD) program available at the S.C. Department of Corrections. The S.C. Department of Corrections has staff that are trained in this type of mediation which requires several steps which must be taken by both the inmate and the victim before any such meeting will happen. When the Department OVS staff member receives a request from a victim or victims who would like to find out if it is possible to speak to the inmate associated with their crime, the Department's OVS staff provides an overview of the VOD program and refers them immediately to S.C. Department of Corrections Victim Services staff.
- In addition, the Department's OVS Director, Debbie Curtis, has begun discussions with the S.C. Department of Corrections' Director of Victim Services, Karin Ho, to explore the possibility and the feasibility of a VOD program in a community supervision setting since the majority of VOD programs involve an offender who is incarcerated. An offender under community supervision adds another dynamic not accounted for in the VOD programs in correctional institutions which may be useful to address the healing process involved in opening lines of communication between victims and offenders.

**DPPPS Final Comments in Response to Recommendation (72): We concur to the extent the recommendation is that DPPPS should communicate with SCDC in efforts to clear up any confusion about what may or may not be happening with inmates close to their max-out dates who come before the parole board.**

- The S.C. Department of Probation, Parole and Pardon Services communicates significantly with the S.C. Department of Corrections regarding the scheduling, presentation, and releasing of parole-eligible inmates and conditionally paroled inmates. It agrees that programming which extends the inmate's incarceration is counterintuitive to the concept of parole and agrees that it should continue communicating effectively with the S.C. Department

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of Corrections. Parole conditions should not, and may not, require inmates to serve time past their max-out date. As a practice, programs such as the Addictions Treatment Unit are only recommended for inmates who are already enrolled in the program, or have at least one year remaining on the active incarceration and whose criminogenic needs indicate that substance abuse could be a factor hindering the inmate's successful re-entry. While the Department has adopted this practice, we also respect and fulfill orders of the Board of Pardons and Paroles.

- Recommendations to pre-release programs were made in less than ten percent of the cases presented to the Board of Pardons and Paroles. Please note, in no circumstance has an inmate been held past the maximum term of incarceration in order to complete Board-ordered programming. In cases where a pre-release program requirement has not been met prior to that maximum term of incarceration, the Board's order for parole is rescinded after the sentence is satisfied or the inmate is released from custody. Other than the aforementioned rescission, the Department does not have discretion to carry out the orders of the Board of Pardons and Paroles differently for inmates who are near their max-out dates than for those who are not.

### **DPPPS Final Comments in Response to Recommendation (73): We concur.**

- The S.C. Department of Probation, Parole and Pardon Services (the Department) agrees that to the extent possible under existing law, it should require that all new parole board members, prior to their service on the board, observe parole board hearings for both violent and nonviolent offenders. To this end, the Department will now include both violent and non-violent parole consideration hearing observation as part of the comprehensive training provided to each Board member within ninety days of his or her Senate confirmation, as described in section 24-21-10 of the South Carolina Code of Laws.

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