



SUMMARY

A Limited-Scope Review of the Department of Corrections



AUDIT RESULTS

INTRODUCTION

Members of the General Assembly requested the Legislative Audit Council to conduct a review of certain issues at the South Carolina Department of Corrections (SCDC). Our audit focused on agency expenditures, litigation costs, personnel practices, procurement practices, and agency internal controls.

SCOPE IMPAIRMENT

We conducted this performance audit in accordance with generally accepted government auditing standards, with one exception. As part of this review, we were asked to determine whether there is a perception by SCDC employees that a culture of harassment, intimidation, and favoritism pervade SCDC employment practices. We sent an e-mail notification to SCDC employees informing them that they may receive a survey. After our notification, SCDC's director sent an e-mail to staff raising objections to the survey. Our survey consultant stated that the e-mail would likely reduce the response rate and bias any resulting responses and recommended we not proceed with the survey. As a result, we concluded that we cannot fully address the audit objective concerning SCDC's personnel practices.

SCDC's FUNDING

We reviewed agency expenditures and appropriations for FY 99-00 through FY 07-08. We found that SCDC's total expenditures decreased between FY 00-01 and FY 03-04 and then began increasing in FY 04-05. SCDC's total expenditures for FY 07-08 were 10% higher than they were for FY 99-00, and were about equal to FY 00-01 expenditures. SCDC experienced a significant drop in state appropriated funding from FY 00-01 through FY 04-05. Between FY 99-00 and FY 07-08, SCDC's average daily inmate count increased from 21,028 to 23,958. Also, inflation for the U.S. south region between 2000 and 2008 was 24.8%.

Approximately two-thirds of SCDC's expenditures are for employees' salaries and benefits. Personal services (49%), employer contributions (19%), supplies and materials (10%), and contractual services (5%) were the top four expenditures for SCDC in FY 99-00 and in FY 07-08. However, case services (5%), which are comprised primarily of medical costs for inmates, surpassed purchase for resale (4%) to become the fifth highest expenditure for SCDC in FY 07-08.

PERFORMANCE MEASURES

We reviewed the performance measures included in SCDC's FY 06-07 accountability report and found that several of the measures were not accurate. SCDC reported its staffing ratio as one correctional officer for every 9.1 inmates. The agency compared that figure to the southeastern average of 5.4, stating that the ratio was "69% higher than the southern states' average" included in a report by the Southern Legislative Conference (SLC). However the SLC report showed that SCDC's ratio was not 1:9.1, but 1:6.1. Thus, using the 6.1 figure, SCDC's ratio would be 13% higher than the southern states' average, not 69%. The 9.1 figure is still included in SCDC's FY 07-08 annual accountability report, though no comparisons to other states are made.

SCDC's FY 06-07 annual accountability report also includes a chart showing cost per inmate day for 16 southeastern states. South Carolina's cost of \$27.87 was the lowest of the 16 states. SCDC's figures are derived from the "System Wide Average Operating Cost per Inmate Day" figures included in the 2006 SLC report. This figure excluded expenses for state central office, headquarters, capital outlay, and probation and parole expenditures. In calculating its figure, SCDC excluded approximately \$140 million, or one-third of its total expenditures in reaching the \$27.87 figure. SCDC stated they excluded their revenue funds and used only appropriated funding in making certain calculations because other states were doing so as well.

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PERSONNEL ISSUES

SCDC has almost 6,000 employees and, according to an agency official, averages hiring over 100 people each month. We reviewed SCDC's personnel practices and did not find a widespread pattern of favoritism or deviation from SCDC policies. In 2 (3%) of our random statistical sample of 71 job announcements, we found instances where SCDC did not adhere to its policies, which resulted in the incorrect applicant being selected for the position.

We also found that SCDC could improve its hiring process. We found instances where the selection panels did not properly calculate points for an applicant's related experience. We also found two examples of applicants who should have been screened out but were granted interviews, and three examples of applicants who should have been granted interviews but were screened out.

SCDC policy allows for "courtesy interviews" for applicants who are not qualified for a position. We found a case in which SCDC staff attempted to select an unqualified applicant who had been granted a courtesy interview. Eliminating courtesy interviews could prevent this situation from arising in the future.

LITIGATION COSTS

We were asked to review SCDC's litigation expenses and settlements to determine if there had been an increase in costs for lawsuits filed by both employees and inmates. Because individuals have up to two years to file a claim, and because of the time lag associated with the litigation itself, it is difficult to determine if litigation costs for cases insured by the Insurance Reserve Fund (IRF), on behalf of SCDC, have increased.

The IRF paid approximately \$1.2 million in legal expenses and settlements for 22 closed SCDC employee tort claims between January 1, 2000, and December 31, 2007, (based on data as of January 30, 2008). The IRF also paid \$4.4 million in expenses and settlement costs for 745 closed inmate tort claims.

There are certain claims filed against SCDC that are not covered by the IRF (examples include breach of contract suits; suits seeking injunctive relief; and suits seeking return of property). We obtained information from SCDC regarding all litigation in which the agency incurs attorney fees and settlements. SCDC attorney fees from July 1, 2000, to June 30, 2008, totaled approximately \$1.5 million. SCDC settlement costs were approximately \$400,000.

SCDC'S INMATE FEEDING POLICIES

We reviewed SCDC's practice of allowing inmates to miss meals as a result of violations of agency rules. An Attorney General's opinion found no state law prohibiting this practice but did suggest written guidelines be established in order to avoid possible constitutional violations.

ESCAPES

We were asked to review SCDC's policies and procedures regarding inmate escapes. Overall, the number of escapes from SCDC custody has decreased from 2004 to 2008. Our review of SCDC's reporting of escape data did not uncover any significant problems. We found that SCDC has complied with its escapee return policy. A limited review by the National Institute of Corrections found that all primary elements for escape prevention are present in SCDC policy. We were unable to obtain reliable data to be able to make a state-to-state comparison on the number of escapes.

DIRECTOR'S RESIDENCE

We reviewed the state-owned residence provided without charge to SCDC's director. We found no need to provide a residence to the director and that only two other states provide their directors with residences. In addition, the residence was used as office space for SCDC's programs and services division between 2000 and 2001. Also, SCDC spends state resources on utilities and maintenance of the residence. Between July 2007 and June 2008, SCDC paid approximately \$7,700 in utility costs (\$642 per month). Between 2002 and 2008, SCDC paid over \$42,000 in material costs for maintenance on the house. These costs are primarily material costs because, in most cases, inmates performed the labor. SCDC states that the residence provides a valuable recruitment tool for future agency directors and sends a message about the safety of the state's prisons. Further, SCDC states that selling the residence would provide no significant savings to the state, particularly in the current real estate market.

LIVESTOCK

We reviewed SCDC's policies, procedures, and internal controls for safeguarding agency cattle and other livestock. We found that SCDC, in response to the theft of two steer in December 2006, established several internal controls over its livestock operation. Some of the controls are effective at accounting for cattle transactions and should help to deter theft. However, other controls are either not sufficient to detect theft or are not being fully implemented.

PROCUREMENT OF TREE CUTTING SERVICES

We reviewed an incident where SCDC awarded procurement contracts to a tree cutting service that is owned by a former inmate of SCDC. We reviewed the procurement code and SCDC policies and did not find any language that would prohibit SCDC from contracting with a vendor who was a former inmate. We found that the amount of the procurement was below the \$1,500 threshold requiring competitive bids. We could not determine how the vendor was selected because the individuals who approved the contract are no longer employed by SCDC. According to SCDC officials, use of this vendor has been banned by the agency.

NATIONAL INSTITUTE OF CORRECTIONS REVIEW

In order to address certain audit objectives, we consulted with the National Institute of Corrections (NIC). The NIC is an agency within the U.S. Department of Justice, Federal Bureau of Prisons, which contracts with experts in corrections to provide technical assistance to state and local correctional agencies. The NIC reviewed SCDC's internal controls over keys, weapons, and ammunition, as well as agency policies and procedures covering escapes. The NIC also reviewed a hostage incident that took place at Ridgeland Correctional Institution in November 2006 and an incident involving SCDC staff at Lee Correctional Facility in August 2005. The full NIC report is available on our website.

HOSTAGE SITUATIONS

The NIC reviewed a hostage situation that took place at Ridgeland Correctional Institute in November 2006 to determine if the agency complied with policies and procedures regarding the handling of such situations. The NIC evaluated SCDC's written policies concerning emergency operations and compared them to similar policies of other entities. The NIC found SCDC's policies included all the organizational and response requirements needed to address emergencies that might arise.

The NIC also examined the issue of whether a tactical assault should take place when it becomes evident that a hostage is being harmed. In the Ridgeland hostage situation, the NIC concluded that SCDC's decision to rely on negotiations to resolve the situation was appropriate. The NIC also examined the assertion that the "command center" had directed that non-lethal force would be used to subdue the inmate.

AUDITS BY THE LEGISLATIVE
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According to the NIC: "It is not clear who specifically provided this direction or the context in which it was provided. Entries in this report indicate continuing concern for the safety of the hostage should a tactical assault be attempted. Since the SITCON Commander at the time is no longer with the agency and none of those present in the command center that we have been able to question recall this specific direction; its origin, etc., remain unclear and speculative."

The NIC also stated: "It is reasonable to conclude that all assault options were considered and that the small size and concrete block construction of the room where the hostage was held could have given rise to legitimate concerns about ricochet, shoot-through, etc. as well as the much abbreviated target acquisition time in such close quarters. Under such circumstances, establishing that a clear field of fire existed to rule out unintended injury to the hostage or to assault team members would be very difficult and precarious. These considerations could lead to effective non-lethal force options being preferred since their use would eliminate some of the concerns discussed previously and mitigate the seriousness of others when compared to the lethal weapon options."

KNIFE INCIDENT

The NIC reviewed an August 2005 incident at Lee Correctional Facility in which a supervisor provided an inmate with a homemade knife as part of a training exercise for two correctional officers. The NIC concluded that, while the supervisor's intent was to point up the importance of conducting appropriate searches, the supervisor's method for demonstrating the importance of proper searches was not acceptable. Chief among the problems was the decision to use a real weapon when another item could have been used. The NIC also stated that the use of an inmate as part of the test is generally not a good practice. The NIC recommended that SCDC develop a written policy concerning security system checks.

INTERNAL CONTROLS OVER KEYS, WEAPONS, AND AMMUNITION

The NIC conducted a review of the adequacy of agency internal controls for handling keys, weapons, and ammunition. In the area of key control, the NIC found very limited opportunities for improvement. The NIC found that, in general, SCDC's policies concerning weapons and ammunition were thorough and comprehensive. The NIC also reviewed an incident where a revolver and six rounds of ammunition were discovered missing. The NIC concluded that the incident resulted from staff performance failure and that staff involved were disciplined.

ADDITIONAL ISSUES

During the course of our review, requesters of this audit asked us to expand our audit scope to include a review of additional issues. We conducted some preliminary work and determined that other state agencies have the expertise necessary to appropriately evaluate some of these issues.

We were asked to compare the pay of SCDC correctional officers, wardens, and other operational staff to other states and to other agencies within South Carolina. The Budget and Control Board's (B&CB's) Office of Human Resources has the capability and expertise to conduct salary studies and has done so in the past for various state agencies.

We were also asked to review SCDC's use of confidential license plates to determine whether the agency has appropriately justified plate assignments. Ninety (10%) of SCDC's 950 vehicles have confidential plates. The B&CB's State Fleet Management Division has the statutory authority to approve the use of these plates and is the most appropriate agency to examine SCDC's use of confidential plates. During the course of our review, SCDC stated that it intends to remove confidential tags from 13 of its vehicles.