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May 1, 2007

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF CORRECTIONS
COMMUNITY JAILS PROGRAM

April 13, 2007

Audit Control Number

20-30040-07

The purpose of this audit was to review and assess the equity of funding allocated through the community jails program administered by the Department of Corrections (DOC). The program provides funding to 15 communities for the short-term confinement of persons detained under state law. As discussed in the report, funding inequities exist between the communities participating in the program, and we recommend DOC restructure the program through identifying and funding core operating functions.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we have conducted an audit of the Department of Corrections' (DOC) community jails program.

Objectives

Specific objectives of this audit were:

- To review changes in the funding level of the 15 community jails.
- To ascertain DOC's process for funding the community jails.
- To determine whether the community jails are funded equitably.
- To assess the utilization of community jails.
- To evaluate DOC's oversight of, and the communities' accountability for, jail expenditures.

Scope

The scope of the audit includes varied time periods depending on the audit objective.

- Change in funding level – The change in system-wide funding from FY 96 to FY 05 was calculated and compared to the change in Anchorage Consumer Price Index (CPI) for 1996 to 2005.
- Funding ratios – Funding ratios were calculated (comparing funding received to budgeted operating costs) and compared for four community jails for FY 04 to FY 07.
- Utilization rates – The average of FY 04 to FY 06 annual man-day counts was used to calculate utilization rates for the 15 community jails.

Methodology

We obtained budgetary and financial data for 13 of the community jails from the communities' finance officers or city managers. Based on similarity of staffing, expenditures, and jail functions, we selected four of the jails and calculated and compared the ratio of their contract amounts to budgeted expenditures for FY 04 to FY 07.

We conducted interviews by telephone with the 15 communities' local police chiefs and four city managers regarding their experiences with, and sentiments about, the funding process and rates.

We reviewed the following:

- Relevant state law, particularly AS 33.30.011, AS 33.30.031, and AS 33.30.071.
- Relevant state regulations related to community jails – 22.AAC.05.300.
- The legislative history and testimony related to the bill enrolled as Chapter 92, SLA 95.
- Relevant legislative committee minutes.
- 1996 audit by the Division of Legislative Audit.
- Correspondence between DOC and the communities.
- Community jail contracts for FY 02 through FY 07.
- A 1991 audit report prepared by the Office of Management and Budget, Division of Audit and Management Services entitled *Contract Jails Management.*
- Reports completed in 1993 and 1994 by a task force assembled by the Governor to review the contract jails program entitled *Governor's Task Force on Community Jails.*
- *Standards for Jail Operations, November 1994.* Standards manual for community jails prepared by the Governor's Task Force.
- Budget and financial information and websites of select community jails.
- *Community Jails in Alaska.* An article prepared by N.E. Shafer of the University of Alaska Anchorage Justice Center.
- *Community Jails Information 2003.* A report prepared by DOC.
- DOC man-day schedules.
- Select operational audit reports.
- *City of Kotzebue vs. State of Alaska Department of Corrections and State of Alaska Department of Public Safety* Superior Court Case.
- State contract with the Municipality of Anchorage for DOC jail services.
- Pertinent news articles.

Additionally, we interviewed the following individuals:

- DOC administrative director and staff.
- Current and former community jails coordinators.
- Select community finance officers and jail superintendents.
- Executive director of the Alaska Municipal League.
- Former members of the Governor's task force.

ORGANIZATION AND FUNCTION

The mission of the Department of Corrections (DOC) is to protect the public by incarcerating and supervising offenders who have been convicted of violating state law. To carry out these responsibilities, the department utilizes around 1,500 personnel and an operating budget of more than $240 million. The department operates 12 correctional facilities located in ten communities around the State. DOC contracts with an out-of-state private correctional facility to house some state offenders. Additionally, DOC administers the community jails program, which provides short-term confinement of prisoners in rural communities for violations of state law.

Community Jails Program

As set out in Exhibit 1, 15 communities operate jail facilities, primarily funded by the State, to confine individuals under state law. The facilities range from two to nine cells and system-wide provide a capacity of 153 beds.

Located in the larger rural areas, the community jails are operated by the local police departments. Many communities are transportation hubs for surrounding villages.[1]

Exhibit 1

Community Jail	Beds	FY 07 Contract
Barrow (North Slope Borough)	9	$1,019,728
Cordova	6	$134,936
Craig	7	$228,460
Dillingham	8	$428,963
Haines	6	$113,266
Homer	7	$416,244
King Salmon (Bristol Bay Borough)	4	$126,843
Kodiak	16	$605,335
Kotzebue	14	$879,929
Petersburg	12	$202,098
Seward	14	$449,472
Sitka	15	$419,450
Unalaska	10	$481,355
Valdez	13	$320,328
Wrangell	12	$283,926
System-wide	**153**	**$6,110,333**

The 15 community jails primarily serve as holding facilities for pre-arraignment, post-arraignment, and short-term prisoners who have violated state law. Additionally, the facilities may house prisoners arrested under municipal ordinance and individuals held under protective custody.[2]

[1] Schafer, "Community Jails in Alaska", *American Jails*, 14(3): 9-17, July/August 2000.

[2] Protective custody cases are held under Title 47 of the Alaska Statutes and include noncriminal substance abuse and mental health detainees.

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BACKGROUND INFORMATION

In 1973, the contract jails program was established within the Division of Corrections, Department of Health and Social Services (DHSS). Under the original program, the State contracted with six rural communities to operate local jail facilities. In 1984, administration of the program was transferred to the Department of Public Safety (DPS). This was done to ease the administrative burden on the newly created Department of Corrections (DOC) which was being established separately from DHSS. The mission of the contract jails program was to detain prisoners "*pending arraignment, commitment by a court, or admission to a state correctional facility.*"[3]

Over the years, the program grew to 19 contract jails.[4] The function of the jails also expanded to their present mission of detaining pre-arraignment, post-arraignment, and short-term prisoners and individuals held in protective custody.

The program was extensively reviewed and restructured in the early- and mid-1990s

In October 1991, the Division of Audit and Management Services, Office of Management and Budget (OMB), audited the program. The director of OMB requested the audit *"because of the large budget increases in previous years and the unknown actual costs of the contract jail services the state receives."*[5] Among other findings, the audit determined that DPS did not monitor expenditures and the communities believed they were treated inequitably due to differences in the level of funding between different facilities. The OMB report recommended that DPS audit community jail expenditures and establish standard costs.

In March 1993, Governor Hickel appointed a task force to review the program.[6] Although the program had been studied extensively in the previous 20 years, the prior operational recommendations had never been implemented. Governor Hickel's task force – made up of state administrators, legislators, municipal managers, local police chiefs, and state officials from the Department of Law and DHSS – was directed to perform a statewide assessment of the program and identify ways to correct identified deficiencies. Among other areas, the task force reviewed administration of the program, jail operating standards, correctional officer training, and the adequacy of state funding of the jails.

As part of their review, the task force developed a manual, *The Community Jail Standards*. The manual establishes the minimum standards for jail operation and provides guidance to community jail administrators. To verify compliance with the established standards,

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[3] *Governor's Task Force on Community Jails*, Final Report to Governor Hickel, November, 1994, Juneau Alaska, p.1.
[4] Subsequently, four jails were closed: Emmonak, Kake, Seldovia, and Whittier.
[5] OMB, *Contract Jails Management, Report 12-58*, October, 1991, p. 5.
[6] The task force was extended to December 1, 1994.

DOC conducts biannual audits of each community jail. Currently, the community jail coordinator and one other DOC employee perform the operational standards review. As part of the review, they meet with the jail administrators and review various areas of operation including staffing, training, health care, security, food service, and safety.

Additionally, in accordance with the operational standards, each community jail is rated for a maximum continuous length of incarceration. This rating varies from seven to 30 days.

On the recommendation of the task force, the contract jail program was transferred to DOC in 1995 and renamed the community jails program. Like the 1991 OMB audit, the task force's review found that detailed budgets were not required, making it impossible for DPS to determine actual expenditures related to jail operations. The task force recommended the department standardize costs, require annual budgets, and better monitor local jail expenditures.

Funding for each community stems from amounts set by the 1993-1994 task force

It has been more than ten years since the funding levels for community jails have been thoroughly reviewed. The last review was performed through the efforts of the task force in 1993-1994. The task force established the funding levels for each community that essentially have been brought forward annually ever since. With the exception of the FY 06 increase provided to Kotzebue, the most recent 10% raises were applied evenly across-the-board.

With the passage of time and turnover in personnel, DOC is not certain how the task force arrived at the funding levels for the various communities.[7] According to a former member of the task force, the funding level for each community was based on budgeted expenditures submitted by the community officials. The budgeted totals ostensibly represented direct costs involved with operating the jails. These totals were adjusted upwards by the task force to provide funding to cover indirect or overhead costs. According to a former task force member, there was an expectation, on the part of the task force, that communities were to be required to cover a small percentage of the total jail operating costs.

Although budgets are still referred to, and made part of, the current funding contract between DOC and various communities – the totals and amounts are essentially pro forma placeholders that do not reflect current budgets or actual costs. These outdated budgets, to which communities generally have made few if any changes, no longer represent either actual or budgeted expenditures of the community jails. Accordingly, these placeholder budgets provide no useful information for decision-making.

Community officials we interviewed were typically uncertain about how funding levels are determined. Several believe the funding is based on an established bed rate, another thought

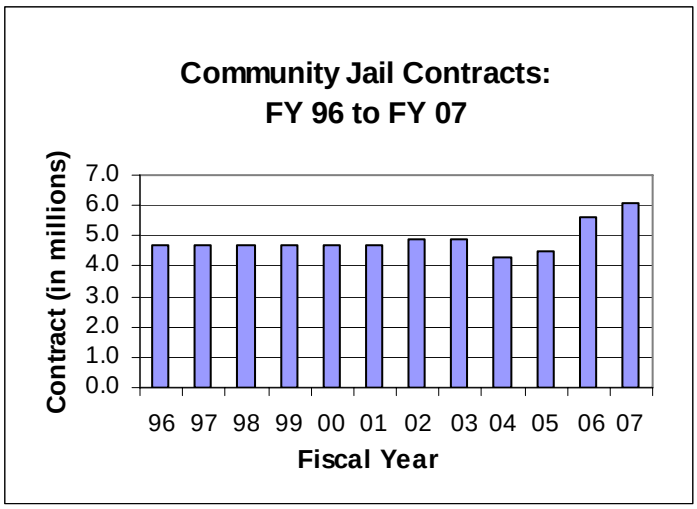
[7] When the program was administered by the Department of Public Safety, contract amounts were based on man-day counts.

it is based on a man-day[8] rate, one believes it is arbitrarily decided, still another thought it is politically-based, and several reported having no idea. Twelve police chiefs and city managers surveyed believe the funding process is inequitable; while six are uncertain or have no opinion.

Funding for community jails did not increase appreciably until the last two years

When the program was transferred to DOC in FY 96, contracts for the 15 community jails totaled $4.7 million.

Exhibit 2



As reflected in Exhibit 2, the program funding remained static for the next nine years. Essentially, the amounts for each community's contract – which were originally set by the Governor's task force – increased by only 4% over a ten-year span. By contrast, the Anchorage consumer price index increased more than 20% from 1996 to 2005. In FY 06 and again in FY 07, DOC increased the community jail contracts by 10%.[9]

Communities have been dissatisfied with contract administration and funding

Communities have expressed dissatisfaction over the program's contract process. Unlike many contracts a community may have with a state agency, local officials report there generally is no negotiation of the amount received for jail operations. According to two local officials, the extent of negotiations is "take it or leave it." Another official expressed frustration over the perceived imbalance of negotiating power. Other local officials commented that they recognized funding is limited, and DOC is providing what it can.

The most significant protest of funding stagnation and the contracting process came at the end of FY 03. After attempting to negotiate what they believed was a necessary and deserved funding increase, Kotzebue officials left the program, partially closing the community's jail facility at the beginning of FY 04. Near the end of FY 05, after negotiations with the State, Kotzebue reopened its jail after receiving an increase of more than 35% in FY 06, and another 10% in FY 07.

[8] A prisoner's stay of four hours or less is counted as half a man-day; more than four hours is one man-day.
[9] Kotzebue received a 35.7% increase in FY 06.

On a system-wide basis, community jails are utilized at less than half capacity

Exhibit 3 provides data on the extent that community jail beds are utilized.[10] More than two-thirds of the communities operate at less than 50% capacity. At almost 100%, the jail with the highest rate is Barrow. The three least utilized jails are Haines, Cordova, and Petersburg at 9%, 10%, and 11%, respectively.

Exhibit 3: Average Community Jail Utilization FY 04- 06

Community	Beds	Beds Annualized	Average Man-days	Average Utilization
Barrow	9	3,285	3,273	100%
Kotzebue	14	5,110	4,423	87%
Dillingham	8	2,920	2,373	81%
Kodiak	16	5,840	4,052	69%
Craig	7	2,555	1,290	50%
Homer	7	2,555	1,265	49%
King Salmon	4	1,460	628	43%
Unalaska	10	3,650	1,485	41%
Wrangell	12	4,380	1,786	41%
Sitka	15	5,475	1,675	31%
Valdez	13	4,745	1,162	24%
Seward	14	5,110	982	19%
Petersburg	12	4,380	495	11%
Cordova	6	2,190	212	10%
Haines	6	2,190	193	9%
Total	**153**	**55,845**	**25,294**	
System-wide Average				**45%**

While the utilization rate provides a measure of the facility's operation, it is an average and does not reflect daily fluctuations or that some community jails, such as Kotzebue and Dillingham, regularly operate at overcapacity at certain times of the year.

Larger communities pay the State for use of state-run jails

Larger communities, such as the Municipality of Anchorage (MOA), Juneau, and Ketchikan, have contracts or agreements with the State to reimburse DOC for caring for prisoners arrested by city police on violations of municipal ordinances. Currently, MOA pays $2 million[11] for the State's services under a Prisoner Care Agreement signed in 1999. The fixed-cost contract is a negotiated amount and, as such, does not reflect the actual costs of housing MOA prisoners. According to DOC officials, actual costs would be closer to $4 - $5 million.

Juneau and Ketchikan also reimburse the State for housing city prisoners. However, instead of a contractual agreement, Juneau and Ketchikan are charged a daily rate per prisoner. This is the same rate the federal government pays to DOC for housing federal prisoners. Both cities pay the same rate.

[10] Except for Kotzebue, which closed its jail from the beginning of FY 04 through the third quarter of FY 05, the utilization rates and man-days are the average of the FY 04 – FY 06 utilization rates and man-days, respectively. For Kotzebue, the utilization rate and man-days are for FY 06.

[11] The contract itself is for $2.5 million, but MOA retains $500,000 to fund programs aimed at providing alternatives to incarceration.

REPORT CONCLUSIONS

We were directed to review the administration of, and assess the funding distributed under, the community jails program administered by the Department of Corrections (DOC). As reflected in Background Information, various administrative issues involved with the program resulted in review of the basic program more than ten years ago. Some of the issues and concerns raised in the past reviews remain. One individual, interviewed, characterized DOC's administration of the program as one of "benign" neglect.

With the two recent 10% annual increases in funding, many of the communities' attitudes regarding the funding levels have improved. Half of the community officials report they are now somewhat or very satisfied with current funding levels, while another half are still somewhat dissatisfied. For the dissident communities, the reason for their dissatisfaction is they believe they are unfairly expected to subsidize their jails' operations although virtually all the individuals detained are arrested on state charges. Despite being dissatisfied with the funding, several commented that they were otherwise very satisfied with DOC and the technical assistance received from the department.

As discussed further in this section, we have developed the following conclusions:

- Most communities report that state funding is still insufficient to cover all operating costs;
- The extent of the funding shortfall varies substantially between communities;
- The current funding process does not require reporting or review of actual local jail operating expenditures; and
- Reimbursement for jail costs are generally not tied to actual costs.

Each of these conclusions is discussed further as follows:

<u>Most communities report that state funding is still insufficient to cover all operating costs</u>

We contacted all communities receiving jail funding and interviewed two former members of the Governor's task force. Two communities indicated that funding was sufficient to cover their operating costs; however, the other 13 communities reported that they were required to cover some of their jail costs.[12]

[12] Since several jails combine jail duties with dispatch, which is not paid for by the State, the number of communities subsidizing their jails' operating costs may actually be less.

While the jails are owned by the communities, they are operated primarily to house state prisoners. Two-thirds of the communities only make arrests for violations of state law; Kodiak and the North Slope Borough have arrestable municipal ordinances, but arrests under the ordinances are rare. Because the vast majority of detainees are state prisoners, ten of the 15 communities believe the State should fully fund all the costs involved with operating the jails.

In contrast, five of the local officials believe the communities should pay some of the operating costs. One local official commented it was only fair because the prisoners are the product of the communities. Although they see maintaining and operating a jail facility primarily as providing a service to the State, many local officials acknowledge that there are benefits to their communities. Exhibit 4, at the right, lists some of the ways that communities and their citizens benefit from having jails in the community.

Exhibit 4

Benefits to Communities from Operating Local Jails

- Better access to legal representation
- More timely hearings and trials
- Prisoners stay in community
- Safety and convenience is promoted by having a local intake facility for offenders
- DUIs and domestic violence offenders are kept off streets
- Broader range of law enforcement available

Source: Survey comments from local officials.

One former task force member we contacted recalled that the group's intent was to fully fund the community jails. However, as noted previously, according to another former member, the task force's intent was for the communities to contribute a small percentage of their jails' operating costs. Additionally, legislative committee minutes indicate that some legislators believed the communities should bear a portion of the costs.

<u>The extent of the funding shortfall varies substantially between communities</u>

Our initial analysis of local jail operating costs, compared to program funding, indicated that most of the communities were being required to bear some operating costs for their local jail. Additionally, the amount of the required local subsidy appeared to vary significantly among communities.

The lack of comparability between various communities in what types of activities are covered by local budget categories limits extensive analysis of this issue. For example, many communities include the local emergency services dispatch function in the same budget category as jail operations.

Exhibit 5, on the next page, compares funding received in FY 07 to the jail operating budgets for four communities participating in the program. We reviewed documentation and discussed the activities covered by each city's budget category to satisfy ourselves that the jail operating function supported by the budgeted expenditures was roughly comparable.

Exhibit 5

Community	FY 06 Man-Days	Community Budgeted Expenditures	Contract Jail Award	Funding Ratio of Contract to Budget
Barrow	3,504	$894,321	$1,019,728	114.02%
Dillingham	2,201	$419,999	$428,963	102.13%
Kodiak	4,540	$643,920	$605,335	94.01%
Unalaska	1,271	$651,768	$481,355	73.85%

As shown, Barrow and Dillingham appear to cover all the direct costs for jail operations from the community jail contract. Kodiak also appears to receive funding which covers most, if not all, their budgeted operating costs. Meanwhile, Unalaska is required to contribute over a quarter of the costs to operate their local jail.

While recognizing the limited nature of the analysis, we do believe the results emphasize the need to develop a standard set of costs and operating activities to be covered under the community jail program. As discussed in Background Information, this issue raised as far back as 1991, still has not been fully addressed. As discussed in Recommendation No. 1 identifying core allowable activities eligible for program funding must be an integral part of any effort to restructure the program.

Current process lacks sufficient oversight of jail expenditures

The detailed budgets attached to each year's contract do not represent the actual community jail budgets and expenditures. Additionally, DOC does not require contractors to report their actual expenditures. As a result, DOC is funding a program without knowing what the true cost is.

This was a prior concern with the program's operation under DPS. In 1991, the Office of Management and Budget, Division of Audit and Management Services, recommended that DPS require contractors to report expenditures. And again, in 1994, the Governor's task force recommended that detailed budgets be submitted annually noting *"[d]etailed budgets were not required, which made it impossible for the State to determine actual and necessary costs and percentage contributed by the community."*

Reimbursement for jail costs generally not tied to actual costs

There is no direct relationship between the funding provided and the actual operating costs to communities with local jails. Rather than an analysis of operating costs, the contracts are based on historical amounts with substantial increases in the last two years. There is a similar disconnect with MOA's contract with the State. Under the current contract, MOA pays the State $2 million to house individuals arrested and detained for violations of city ordinances. This amount was established in an agreement signed in 1999. As with the community jail program, this contract does not reflect actual usage of state facilities or the associated costs, but rather is a negotiated historical agreement.

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FINDINGS AND RECOMMENDATION

Recommendation No. 1

The Department of Corrections'(DOC) commissioner should restructure the community jails program to promote equity between communities.

The 1993 Governor's task force initiated work on standardizing costs for community jail operations as part of its restructuring effort. However, work in this area was never completed or fully implemented. We recommend DOC revisit this effort and identify what type of activities and associated costs are necessary, allowable, and reasonable to operate local jails consistent with security standards and staffing requirements.

The current allocation of funding for the community jails program is based on decade old financial information. The lack of current, relevant costs has resulted in an unequal distribution of funding to communities operating jails. To correct this situation, DOC should develop allowable standardized costs for jail operations. While this would not necessarily lead to full funding, it would provide a basis for correcting the inequitable distribution of funds between participating communities.

The department should then implement procedures to ensure the financial information submitted by local communities is accurate. The department could expand its existing operational standards reviews to include confirmation of some financial information. Alternatively, the department could modify its distribution of funds from contracts to grants.[13] This would bring the financial assistance provided to the communities under the State's single audit process. According to the Department of Administration, each community participating in the community jails program already is required to have a State single audit; therefore, the additional burden to the communities should be minimal.

Standardized and current financial information should allow the department to allocate the funds appropriated for the community jails program to participating communities on an equitable basis.

[13] The department would have to seek statutory authority to administer the community jails program as a grant program.

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STATE OF ALASKA

SARAH PALIN,
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August 2, 2007

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Dear Ms. Davidson:

Thank you for the opportunity to respond to your July 10, 2007, preliminary audit report on:

Department of Corrections, Community Jails Program, Community Jails Program, April 13, 2007

Recommendation No.1

The Department of Corrections' (DOC) commissioner should restructure the community jails program to promote equity between communities.

The Department of Corrections concurs with the need to standardize allowable costs for community jails in an attempt to achieve financial equity among various communities. DOC is prepared to revisit and expand on previous efforts made by the 1993 Governor's Task Force to identify cost activities necessary to perform required duties as stated in professional contract agreements. With the help of the participating community jails we will endeavor to understand and identify standard costs specific to their operations and strive to agree on an adequate and balanced distribution of funding for each entity.

The Department of Corrections looks forward to your final report and will assist in any way possible.

Sincerely,

Joe Schmidt
Commissioner
Department of Corrections

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