



#608
April 11, 2017

Report to the Mississippi Legislature

Mississippi Department of Corrections' FY 2016 Cost Per Inmate Day

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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The Mississippi Legislature

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PEER Committee

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April 11, 2017

Honorable Phil Bryant, Governor
Honorable Tate Reeves, Lieutenant Governor
Honorable Philip Gunn, Speaker of the House
Members of the Mississippi State Legislature

On April 11, 2017, the PEER Committee authorized release of the report titled *Mississippi Department of Corrections' FY 2016 Cost Per Inmate Day*.

A handwritten signature in cursive script that reads "Richard Bennett".

Representative Richard Bennett, Chair

This report does not recommend increased funding or additional staff.

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Mississippi Department of Corrections' FY 2016 Cost Per Inmate Day

Executive Summary

Background

During its 1994 special session, the Legislature passed Senate Bill 2005 (now codified as MISS. CODE ANN. Section 47-5-1201 et seq. [1972]) to address short- and long-term bed capacity within the state's correctional system. The bill created the State Prison Emergency Construction and Management Board to expedite the contracting and construction of proposed public and private prison facilities authorized by the bill.

MISS. CODE ANN. Section 47-5-1211 (3) (a) (1972) states:

No contract for private incarceration shall be entered into unless the cost of the private operation, including the state's cost for monitoring the private operation, offers a cost savings of at least ten percent (10%) to the Department of Corrections for at least the same level and quality of service offered by the Department of Corrections.

The law also required that the state cost per inmate day be certified annually by a certified public accountant and that the certified cost be used as the basis for verifying the 10% savings required for private contractor costs. Historically, MDOC has taken the cost of operation of similar units and adjusted them to recognize economies of scale to arrive at a cost of operation of a 500- or 1,000-bed facility.

During its 2012 Regular Session, the Legislature passed H.B. 440 (amending MISS. CODE ANN. Section 47-5-1211 [1972]), which requires the cost per inmate day calculation to occur every two years instead of annually and to require development of a current cost-based model for the calculation. This report serves as the model for the basis of the cost per inmate day calculation.

The cost-based model was applied utilizing average MDOC costs, security requirements, and medical needs of MDOC's inmate population housed in state-operated facilities. The cost-based model provides MDOC management with the ability to determine MDOC's costs for any current or proposed privately operated prison, which can be used in the negotiation of private prison rates and achieve at least the 10% savings required by statute.

Cost Per Day Determination

For FY 2016, MDOC's cost per inmate day for a model facility totaled \$49.79 based on the average costs, security requirements, and medical needs of MDOC's inmate population housed in state-operated facilities.

MDOC's FY 2016 cost per inmate day for a model facility based on the average costs, security requirements, and medical needs of inmates housed in state operated facilities totaled \$49.79 and included the following components:

Allocated Costs	
Parole Board	\$ 0.11
Operating Costs of the Unit	
Security personnel	16.72
Nonsecurity personnel	7.60
Other costs	
Food	3.22
Medical	10.30
Utilities	2.18
<i>Subtotal: Operating Costs</i>	<i>\$40.02</i>
Other Costs*	
All Other Costs	9.66
Total Per Day Cost	<u>\$49.79</u>

* Includes MDOC administrative costs, such as the Office of the Commissioner of Corrections, the Division of Community Corrections, the Division of Finance and Administration, the Division of Institutions, and the Corrections Investigative Division. Also includes other costs, such as facility management and maintenance, payroll and human resources, clothing, bedding, equipment, officer training, officer uniforms and supplies, and inmate education and training.

Negotiating Private Prison Payments

PEER believes MDOC should negotiate private prison contracts to yield savings significantly greater than the 10% required by law.

PEER cautions the reader that, as required by law, the cost figures presented in this report represent actual costs to MDOC. State law also requires that private prisons represent *at least a 10% savings to MDOC's costs for the same level and quality of services*. It should be noted that cost savings offered by private prisons may exceed the 10% threshold. Therefore, when negotiating private prison payments, items borne solely by the state should be eliminated and due consideration given to reducing other costs in which the state bears additional or different costs than the costs incurred by private prisons. See "Schedule of Considerations for Private Prison Contract Negotiations," page viii of this summary, for areas where savings may be achieved by more efficient contracting.

Mississippi Department of Corrections
Schedule of Considerations for Private Prison Contract Negotiations
June 30, 2016

		<u>MDOC Facility</u>			<u>Private Facility</u>		
		<u>Minimum</u>	<u>Medium</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Medium</u>	<u>Maximum</u>
Infrastructure	¹	X	X	X	State Provided		
Food		X	X	X	X	X	X
Clothing		X	X	X	X	X	X
Medical and dental care	²	X	X	X	X	X	X
Education		X	X		X	X	
Records	³	X	X	X	State Provided		
Inmate classification and management	³	X	X	X	State Provided		
Offender services	³	X	X	X	State Provided		
Transportation		X	X	X	X	X	X
Parole boards	⁴	X	X	X	State Provided		
Probation	⁴	X	X	X	State Provided		
Restitution	⁴	X	X	X	State Provided		
Drug treatment		X	X	X	X	X	X
Handicap or invalid incarceration		X	X	X	X	X	X
Farming	⁵	X	X		Not Applicable		
Administrative costs	⁶	X	X	X	X	X	X
Monitoring costs	⁷				X	X	X

¹ Operating costs depend on facility design and security classification.

² Consideration should be given to the level of medical care to be provided and whether the burden of responsibility for extended medical care transfers to the State.

³ Costs associated with records, inmate classification and offender services are provided by the State.

⁴ The costs associated with services provided by the State should not be considered as a part of the contracted rate with a private facility.

⁵ Private facilities do not have farming operations.

⁶ Private facilities have fewer administrative responsibilities than the responsibilities of the State.

⁷ Private facilities reimburse MDOC for monitoring costs.

For More Information or Clarification, Contact:

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Long Beach, MS

Senator Videt Carmichael, Vice Chair
Meridian, MS

Senator Lydia Chassaniol, Secretary
Winona, MS

Independent Accountant's Report

Mississippi Joint Legislative Committee on
Performance Evaluation and Expenditure Review
Jackson, Mississippi

We have examined management of the State of Mississippi Department of Corrections' (MDOC) assertion that the accompanying Schedule of Average Daily Costs Per Inmate for a Model Facility (the Schedule) for the year ended June 30, 2016, is presented in accordance with the measurement and disclosure criteria set forth in the Cost Based Model Description (CBMD) dated June 30, 2012, on file with the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review. MDOC's management is responsible for the assertion. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the Schedule and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

The Schedule is based on the most accurate data and information available from MDOC staff at this time. However, should MDOC's management significantly alter the assumptions in the design, construction and operational concept for a model correctional facility as presented in this report, the daily costs per state inmate amount would change.

In our opinion, the Schedule referred to above presents, in all material respects, average daily costs for a model facility for the year ended June 30, 2016, based on the measurement and disclosure criteria set forth in the Cost Based Model Description dated June 30, 2012, on file with the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review.

BKD, LLP

March 31, 2017

Mississippi Department of Corrections

Schedule of Average Daily Costs

Per Inmate for a Model Facility

Year Ended June 30, 2016

Allocated Costs

Parole Board	\$ 0.11
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Operating Costs of the Unit

Security personnel	16.72
Nonsecurity personnel	7.60
Other operating costs	
Food	3.22
Medical	10.30
Utilities	2.18
Total operating costs	<u>40.02</u>

Other Costs

All other costs	<u>9.66</u>
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Total per day cost	<u><u>\$ 49.79</u></u>
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Mississippi Department of Corrections

Notes to Schedule of Average Daily Costs

Per Inmate for a Model Facility

June 30, 2016

Note 1: Organization

Description of Entity

The State of Mississippi Department of Corrections (MDOC or the Department) has the responsibility for the care, custody, training, supervision and treatment of offenders committed to the Department and to plan, develop, coordinate and manage a statewide comprehensive correctional system.

MDOC includes the following entities:

- ***Mississippi State Penitentiary (MSP)*** – MSP is a correctional facility located in Sunflower County, Mississippi which had the capacity to incarcerate 3,590 adult male felons as of June 30, 2016.
- ***Central Mississippi Correctional Facility (CMCF)*** – CMCF is a correctional facility located in Rankin County, Mississippi that houses minimum, medium and maximum security inmates. CMCF serves as the central receiving and classification center for MDOC and had the capacity to incarcerate 3,506 offenders, including female offenders, as of June 30, 2016.
- ***South Mississippi Correctional Institution (SMCI)*** – SMCI is located in Greene County, Mississippi which had the capacity to incarcerate 3,082 medium and maximum security adult felons as of June 30, 2016.

MDOC also administers correctional operations through other facilities. These other facilities are as follows:

- MDOC operates restitution and work centers throughout the state which house inmates.
- MDOC also contracts with privately operated prisons and regional correctional authorities to incarcerate inmates. Inmates are also incarcerated in county operated jails. MDOC is responsible for certain administrative functions and medical care related to inmates incarcerated by others.

During its 1994 special session, the Legislature passed Senate Bill 2005 (now codified as Miss. Code Ann. Section 47-5-1201 et seq. [1972]) to address short- and long-term bed capacity within the state's correctional system. The bill created the State Prison Emergency Construction and Management Board to expedite the contracting and construction of proposed public and private prison facilities authorized by the bill.

Mississippi Department of Corrections
Notes to Schedule of Average Daily Costs
Per Inmate for a Model Facility
June 30, 2016

Miss. Code Ann. Section 47-5-1211(3)(a) (1972) states:

No contract for private incarceration shall be entered into unless the cost of the private operation, including the state's cost for monitoring the private operation, offers a cost savings of at least ten percent (10%) to the Department of Corrections for at least the same level and quality of service offered by the Department of Corrections.

This section also requires the Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) to contract annually with a certified public accounting firm to establish a state cost per inmate day for a comparable state facility. Originally, cost was to be established for medium security inmates only. In subsequent years, MDOC has planned the housing of different classifications of prisoners, and PEER has provided cost estimates for those classifications as well.

The law further requires the state cost per inmate day be certified annually by a certified public accountant and the certified cost be used as the basis for verifying the 10% savings required for private contractor costs.

Chapter 964, Laws of 1996 (Local and Private) established the East Mississippi Correctional Facility Authority (the Authority). The bill authorized such authority to contract with MDOC for the private incarceration in a psychiatric facility of up to 1,000 prisoners in compliance with the provisions of Miss. Code Ann. Sections 47-5-1211 through 47-5-1227 (1972). During the 2007 regular session, the Legislature passed House Bill 1764, which amended Chapter 964, Laws of 1996 (Local and Private), to allow MDOC to contract with the Authority for the private incarceration of not more than 1,500 in the psychiatric facility in Lauderdale County.

As MDOC's methods of incarceration have evolved over the period since 1994, these changes have resulted in increasing challenges to identify and isolate operations at MDOC, which provide representations of actual operations at MDOC similar to those which exist at private incarceration facilities. These challenges are primarily in relation to the size of facilities, as well as the mission of the facilities. For example, MDOC presently contracts with a private enterprise for the care and custody of approximately 1,125 psychiatric needs inmates at the East Mississippi Correctional Facility. No similar unit of any significant size exists within MDOC. Historically, MDOC has taken the cost of operation of similar mission units and applied adjustments to recognize economies of scale, either positive or negative, to arrive at a cost of operation of a 500 or 1,000-bed facility. Such adjustments attempt to consider the cost behavior of similar facilities, but resulting costs are highly sensitive to changes in inmate days if the model facility is very small.

In 2012, in recognition of the challenges of identifying pure historical cost models of facilities subject to privatization, PEER recommended certain changes to the Miss. Code Ann. §47-5-1211 to provide more flexibility in the development of cost per day calculations.

Mississippi Department of Corrections

Notes to Schedule of Average Daily Costs

Per Inmate for a Model Facility

June 30, 2016

During the 2012 regular session of the Mississippi Legislature, House Bill No. 440 (HB440) was passed and signed by Governor Phil Bryant. This bill amended Miss. Code Ann. Section 47-5-1211 to require the cost per inmate day calculation to occur every two years instead of annually and to require PEER and MDOC to develop a current cost-based model for this calculation. HB440 did not change the intent of this law, as Section 47-5-1211(3)(a) was not changed. It states, “No contract for private incarceration shall be entered into unless the cost of the private operation, including the state’s cost for monitoring the private operation, offers a cost savings of at least ten percent (10%) to the Department of Corrections for at least the same level and quality of service offered by the Department of Corrections.” Under Section 47-5-1211(3)(c), PEER, in conjunction with MDOC, has developed a cost-based model (CBM) to serve as the basis for the cost per inmate day calculation and report. The model is updated by PEER and MDOC for contractual or other changes which may affect the calculation methodology and disclosures of the inmate cost per day.

Note 2: Basis of Presentation

The Schedule of Average Daily Costs for a Model Facility (the Schedule) was developed in accordance with the aforementioned CBM and is based on the historical cost of MDOC. The model facility used for this presentation is a 1,000-bed facility. The inmate population demographics are based on hypothetical assumptions and facility layouts but the average cost of all MDOC managed facilities was used for cost purposes in this hypothetical cost based model.

Allocated Parole Costs – Allocated parole costs per state inmate day for the model facility are derived by dividing the cost of operations for all inmate facilities included in MDOC by the total inmate days incurred at all inmate facilities included in MDOC during the fiscal year ended June 30, 2016. The number of inmate days used in this calculation was obtained from census reports prepared daily on a system-wide basis. Parole costs were determined from MDOC’s internal accounting records, which reflect final adjusted costs by fund.

Operating Costs – Costs of basic confinement and prison programs are presented separately to facilitate an understanding of the operating costs. In arriving at amounts presented in the accompanying Schedule, certain reclassifications and allocations were necessary. Explanations of certain operating cost categories presented, together with explanations of the significant reclassifications and allocations, are as follows:

Personnel Costs – Salary costs include costs directly associated with incarceration and are included based on needs for the specific hypothetical model facility.

Food Costs – For its state run facilities, MDOC has contracted with Valley Services, Inc. (Valley). Valley charges MDOC a per diem for meals served inside the prison. The per diem is based on the number of inmates per day and serves as the basis for the cost per day in the model.

Mississippi Department of Corrections

Notes to Schedule of Average Daily Costs

Per Inmate for a Model Facility

June 30, 2016

MSP maintains a prison operated farm in Sunflower County, Mississippi. Farming costs include operating costs net of revenues derived from sales to outside parties and the value of food produced, which is consumed by MDOC inmates. Net losses generated from farm operations are allocated to units to which the farm operation provides inmate work opportunities. Net proceeds generated from farm operations are retained by MDOC to be used for future farming operations. No costs were allocated during the year ended June 30, 2016, because the farm did not incur a loss. The MDOC system receives credit for food produced and consumed by inmates in conjunction with its contract with Valley. For this model, there is assumed a cost in producing such food approximately equal to that value and as such no adjustment is made to the Valley contract price per inmate.

Medical Costs – For its state run facilities, MDOC has contracted with Centurion of Mississippi, LLC (Centurion). Centurion charges MDOC a per diem for basic medical care for inmates provided inside the prison. MDOC is responsible for all specialty care, hospitalizations and security services when outside the prison.

Contractual basic care	\$ 7.65
Specialty care	2.35
Medical security for specialty care	<u>0.30</u>
Total medical cost per day	<u>\$ 10.30</u>

Utilities – Utility costs include costs to maintain lighting, heating and water services to each operating unit. These costs include electricity, natural gas, water and sewer services that are billed by local utility providers. In the presentation of the model facility, actual costs by an approximate 1,000 bed facility for the year ended June 30, 2016 have been utilized.

Costs Not Included – Operating costs for MDOC have been adjusted to exclude capital expenditure and capital improvement costs, including costs applicable to debt service, construction and renovation of facilities. Additionally, costs for commissary/canteen services, along with the inmate welfare fund, are not included in the model, as they are considered self-supportive.

Note 3: Personnel Costs

Security Personnel Costs

A security post is an employment position within the facility responsible for security, oversight and guarding inmates. The number of security posts required to be staffed is based on an assessed need by either MDOC or facility management to sufficiently oversee the inmate population and provide a safe environment for both inmates and officers. Security posts are often manned for different

Mississippi Department of Corrections
Notes to Schedule of Average Daily Costs
Per Inmate for a Model Facility
June 30, 2016

intervals of time (around-the-clock, one position per day, etc.) and can fluctuate based on inmate security level and are subject to a relief factor.

A security post cost is defined as the average salary of each position that will staff a post multiplied by a relief factor for the number of employees required to staff that position for a defined amount of time per day. A security post is expected to be staffed by a mixture of correctional officer positions, based on job responsibility, inmate security level and other requirements.

For purposes of this model, the facility Superintendent/Warden, Deputy Warden for Operations, and Correctional Captains, Lieutenants, Sergeants and Officers are included as security personnel.

Nonsecurity Personnel Costs

Each facility has a number of nonsecurity positions that should be considered in the model. The number of these nonsecurity positions can be either a fixed or variable number. The fixed positions are determined on a per facility basis and are independent on the number of inmates, the number of security posts or other factors. The variable positions can fluctuate, depending on other factors such as the number of inmates, the number of officers, etc. Generally, the fixed positions in the model will be the same from facility to facility, and the variable nonsecurity positions are determined and designed for the model on an as applicable basis.

The positions classified as nonsecurity personnel in the Schedule will include programmatic positions such as Deputy Warden for Programs, Case Managers, Chaplains, Records Department Personnel, Recreations Specialists and other nonsecurity personnel.

Note 4: All Other Costs

All other costs in the accompanying schedule include MDOC administrative costs such as the Office of the Commissioner of Corrections, the Division of Finance and Administration, the Division of Institutions, the Division of Community Corrections, and the Corrections Investigative Division. Additionally, all other costs category includes facility management and maintenance, costs related to warehousing, payroll and human resources, clothing, bedding and various supplies, some travel costs, vehicle and other equipment costs, officer training, officer uniforms and supplies as well as inmate education and training.

Independent Accountant's Report on Supplementary Information

Mississippi Joint Legislative Committee on
Performance Evaluation and Expenditure Review
Jackson, Mississippi

Our report on our examination of the Schedule of Average Daily Costs for a Model Facility appears on page 1. Our examination was conducted for the purpose of forming an opinion on this Schedule. The accompanying Schedule of Considerations for Private Prison Contract Negotiations is presented for purposes of additional analysis. Such information has not been subjected to the examination procedures applied to the Schedule and, according, we express no opinion on it.

BKD, LLP

March 31, 2017

Mississippi Department of Corrections
Schedule of Considerations for Private Prison Contract Negotiations
June 30, 2016

		<u>MDOC Facility</u>			<u>Private Facility</u>		
		<u>Minimum</u>	<u>Medium</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Medium</u>	<u>Maximum</u>
Infrastructure	¹	X	X	X	State Provided		
Food		X	X	X	X	X	X
Clothing		X	X	X	X	X	X
Medical and dental care	²	X	X	X	X	X	X
Education		X	X		X	X	
Records	³	X	X	X	State Provided		
Inmate classification and management	³	X	X	X	State Provided		
Offender services	³	X	X	X	State Provided		
Transportation		X	X	X	X	X	X
Parole boards	⁴	X	X	X	State Provided		
Probation	⁴	X	X	X	State Provided		
Restitution	⁴	X	X	X	State Provided		
Drug treatment		X	X	X	X	X	X
Handicap or invalid incarceration		X	X	X	X	X	X
Farming	⁵	X	X		Not Applicable		
Administrative costs	⁶	X	X	X	X	X	X
Monitoring costs	⁷				X	X	X

¹ Operating costs depend on facility design and security classification.

² Consideration should be given to the level of medical care to be provided and whether the burden of responsibility for extended medical care transfers to the State.

³ Costs associated with records, inmate classification and offender services are provided by the State.

⁴ The costs associated with services provided by the State should not be considered as a part of the contracted rate with a private facility.

⁵ Private facilities do not have farming operations.

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