

oppaga Progress Report

November 2002



Report No. 02-56

Lake City Correctional Facility Added Programs and Saved 6.5%; Intermediate Sanctions Still Needed

at a glance

The Lake City Correctional Facility has added a Culinary Arts and a Prison Industry Enhancement (PIE) program to its curriculum for youthful offenders. In addition, the private facility currently provides the state's only in-prison substance abuse treatment for male youthful offenders.

Based on the prison per diem workgroup's method of comparison, the Lake City facility provided a savings of 6.5% for the 2000-01 fiscal year. The Correctional Privatization Commission could achieve additional savings by restructuring the contract's marginal rate to reflect actual costs of housing inmates in excess of the contract guarantees.

In Fiscal Year 2001-02, the commission penalized Corrections Corporation of America \$43,813 for employee vacancies that exceeded contract requirements at the Lake City facility. The commission executive director is exploring additional ways to ensure vendor compliance, including the use of intermediate sanctions.

Purpose

In accordance with state law, this progress report informs the Legislature of actions the Correctional Privatization Commission has taken in response to the findings and recommendations of our 2000 report on the Lake City Correctional Facility.^{1,2}

Background

The Legislature established the Correctional Privatization Commission in 1993 for the purpose of entering into contracts for the design, construction, and operation of private prisons.³ In December 1995, the commission contracted with Corrections Corporation of America for the construction and operation of the Lake City Correctional Facility, a 350-bed youthful offender prison.

Youthful offenders are inmates under age 25 who have a sentence of 10 years or less and have not been previously sentenced to prison.⁴ Florida law requires special facilities for

¹ Section 11.45(7) (f), *Florida Statutes*.

² *Lake City Correctional Facility Experienced Start-Up Problems, But It Has Improved*, OPPAGA [Report No. 99-33](#), February 2000.

³ Chapter 93-406, *Laws of Florida*.

⁴ Youthful offender eligibility is defined in Ch. 958, *F.S.*

youthful offenders to prevent their association with career criminals, protect them from victimization, and promote their rehabilitation. The law also requires that youthful offenders under age 19 be housed separately from youthful offenders age 19-24. Lake City serves male youthful offenders in the 19-24 age group.

To ensure that vendors emphasize programs, the Legislature exempted private youthful offender facilities from the 7% cost savings required of adult private prisons.

Previous Findings

Performance

We concluded in 2000 that the rehabilitative programs provided by the Lake City Correctional Facility were comparable to those provided at the public youthful offender prisons.⁵ However, we also noted employee vacancies and non-compliance issues that undermined the quality of Lake City's educational and substance abuse programs during its first year and a half of operation. We found that the contract lacked adequate provisions to ensure that the vendor addressed non-compliance and performance issues in a timely manner.

- We recommended that the Correctional Privatization Commission renegotiate its contract with Corrections Corporation of America to provide explicit sanctions for noncompliance and non-delivery of the contracted level of services.

Per Diem Rates

Our prior report compared the costs of the Lake City Correctional Facility to the costs of the four state-run male youthful offender prisons. We found that Lake City Correctional Facility's per diem costs were consistent with the costs of the

two similarly sized public youthful offender prisons. However, we noted that by restructuring the marginal per diem rate paid to the Corrections Corporation of America, the state could realize considerable cost savings.

The Correctional Privatization Commission structures the private prison contracts to pay vendors a guaranteed per diem rate for inmates up to 90% of capacity. For each inmate in excess of 90% capacity, the vendor is paid a marginal per diem rate to cover the variable costs associated with additional inmates. At the time of our review, the marginal rate for the private youthful offender facility was approximately 95% of the guaranteed base per diem. In comparison, the marginal rate for South Bay Correctional Facility, the adult private prison operated by the Wackenhut Corrections Corporation, was 15%. We determined that by reducing the marginal rate for the Lake City facility to 15%, the state could achieve an annual savings of \$743,122.⁶

- We recommended that the Correctional Privatization Commission restructure the marginal rate for the Lake City facility.

Recent Developments

Lake City Provides More Program Opportunities for Male Youthful Offenders

In Fiscal Year 2001-02, the Department of Corrections eliminated many of its inmate programs due to budget reductions made necessary by state revenue shortfalls. Public prison substance abuse programs were reduced from \$11 million to \$3.6 million. As a result, the department no longer offers substance abuse treatment at any of its male youthful offender prisons.

In contrast, the Corrections Corporation of America recently increased the level of programs

⁵ Lake City provided fewer vocational programs than three of the four public prisons, but more levels of substance abuse treatment than the public prisons. The academic programs provided by Lake City and the public prisons were similar.

⁶ *OPPAGA Recommendations Total \$2.5 Billion in Potential Fiscal Impact; \$270 Million Implemented by the Legislature and State Agencies in the Last Year*, [OPPAGA Report No. 01-47](#), October 2001.

Progress Report

it provides at the private youthful offender prison. The Lake City Correctional Facility currently provides the state's only in-prison substance abuse treatment for male youthful offenders. In addition, Corrections Corporation of America has expanded Lake City's vocational programs to include a Culinary Arts and a Prison Industry Enhancement (PIE) program.⁷

Consensus Per Diem Comparison Shows 6.5% Savings, but Marginal Rate Still High

In 2001, the Legislature revised Florida law to provide a process for using annual public prison per diem rates as an index for setting private prison appropriations.⁸ Chapter 2001-379, *Laws of Florida*, established the prison per diem workgroup. The workgroup developed consensus per diem rates that can be used to compare the costs of public and private prisons.⁹ Based on the workgroup's method of comparison, the Lake City facility provided a significant savings to the state in Fiscal Year 2000-01.

The workgroup determined a consensus per diem rate for public youthful offender prisons of \$54.29. However, the workgroup consensus per diem is based on an average that includes the costs of public prisons that are much larger than the 350-bed Lack City facility. Due to fewer economies of scale, smaller prisons tend to operate at a higher per diem rate.

To allow for differences in facility size, the workgroup developed adjusted per diem rates. The Indian River Correctional Institution is the public facility closest in size to the Lake City

facility. Using the workgroup's lowest adjusted per diem rate, based on Indian River's costs, Lake City's per diem operating cost of \$62.01 achieves a 6.5% savings.¹⁰

We believe that additional savings could be achieved if the commission restructured and decreased the marginal rate to reflect the actual costs of housing inmates in excess of the contract guarantees. Lake City's marginal rate is still approximately 95% of the guaranteed base per diem, compared to the much more economical 15% marginal rate at the Wackenhut Corrections Corporation's South Bay Correctional Facility. The commission executive director has noted the need to reduce inconsistencies across the commission's contracts, including differences in the marginal rate paid to providers.

- We recommend that the commission restructure the marginal rate provided in its contract for the Lake City facility.

The commission has begun to address vacancy and non-compliance issues

The current Lake City contract allows the commission to make per diem deductions for extended employee vacancies.¹¹ In Fiscal Year 2001-02, the commission withheld \$43,812 for vacancies exceeding the contract requirements. However, the contract still lacks intermediate sanctions for other kinds of noncompliance, such as the vendor's repeated failure to meet corrective action plan deadlines.

The commission should have recourse to a range of remedies for ensuring that its vendors correct

⁷ Prison Industry Enhancement Program (PIE) allows a private company to establish an industry at the prison and use inmates working for lawful wages to work in the industry. Inmates keep a portion of the wages that they earn; other portions go toward paying restitution to victims and reimbursing the state for the cost of incarceration. The PIE program at Lake City is a print shop.

⁸ See recommendation in *South Bay Correctional Facility Provides Savings and Success; Room for Improvement*, OPPAGA [Report No. 99-39](#), March 2000.

⁹ [Report on Consensus Per Diem Rates: Final Draft](#), Prison Per Diem Workgroup, June 7, 2002.

¹⁰ The workgroup developed a low, average, and high adjustment for facility size. Using the low adjustment, based on Indian River's per diem rate, Lake City provides a savings of 6.5%. Using the average and high adjustments, Lake City achieves a greater savings, 13.7% and 19.9%, respectively. However, both these adjustments are skewed by the per diem for Hillsborough Correctional Institution, the most expensive public youthful offender facility.

¹¹ The Lake City contract stipulates that "if the contractor has less than the required number of employees for more than the specified time, an amount equal to the salary for the position(s) pro-rated for the number of days vacant in excess of the specified times may be deducted from the monthly per diem paid by the commission until such time as the position is filled."

deficiencies in a timely manner. The commission's executive director recently consulted with the Department of Management Services and the Office of the Attorney General to discuss the inclusion of intermediate sanctions in its new contracts, which will be negotiated in April 2003. The executive director anticipates providing his recommendations on intermediate sanctions to the commission within the next few months.

- We recommend that the commission revise its contract for the Lake City Correctional Facility to include intermediate sanctions for noncompliance and non-delivery of the contracted level of services.

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