

Preliminary Research Plan: State Prisoners in County Jails

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Deputy Executive Director Approval:

Initial: MMB

Date: 10-11-16

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Date: 10/11/16

Purpose

To examine the financial burden and other effects on county governments from housing state prisoners in county jails. This will be accomplished by studying

- 1) the number of state prisoners being held in county jails and whether the number is increasing,
- 2) capacities and overcrowded conditions in county jails,
- 3) the cost borne by counties for medical care (including addiction treatment) of state prisoners held in county jails,
- 4) whether the current amount the state reimburses a county for housing a state prisoner is reasonable,
- 5) how the state chooses which prisoners are sent to county jails,
- 6) how state prisoners are assigned jobs like cooking or laundry service, and
- 7) contractual obligations and limitations to housing state prisoners in prisons operated for counties by private contractors.

Background

In March 2007, the Commission released *Beyond Capacity: Issues and Challenges Facing County Jails* in response to House Bill 3747 by Fitzhugh (Senate Bill 3698 by Kyle), which was referred by the Budget Subcommittee of the 104th Tennessee General Assembly's House Finance, Ways and Means Committee. The bill would have required the state to pay the daily cost of a local jail housing probationers earlier convicted of a felony and awaiting a probation revocation hearing after their arrest for probation violation. The report expanded on and updated information from previous reports, including two published by the Tennessee Comptroller of the Treasury, Office of Research and one published by the Tennessee County Services Association. In the 2007 report, the Commission made two recommendations:

The General Assembly should require the Tennessee Department of Correction to reimburse county jails for the daily costs of housing state prisoners who are awaiting probation revocation hearings. The time lag between the probation violating offense and the probation revocation hearing is lengthy, and the number of prisoners placed on probation is increasing.

The Tennessee Department of Correction should set \$35 as the flat daily reimbursement rate for local jails housing state prisoners. Additionally, TDOC should simplify the reporting process for local jails holding state prisoners, to include eliminating the cost sheets counties currently complete to be reimbursed. Completing the cost reports requires a large portion of staff time and regardless of the daily cost reflected in the report, the daily reimbursement cap is \$35.

The General Assembly did not implement the first recommendation related to probation revocations, but did increase the reimbursement rate to \$35 in Public Chapter 603, Acts of 2007. Each year the legislature sets the rate in the appropriations bill; it has been set at \$37 a day since an increase set out in Public Chapter 1029, Acts of 2012. This is a maximum rate, unless a county contracts with the state for more, and in fact, some counties end up receiving less than \$37 per day when actual costs are settled. The General Assembly passed Public Chapter 229, Acts of 2011, which removed the requirement of counties to submit a final cost settlement after they received the maximum amount allowed per prisoner per day as reasonable allowable costs for three or more continuous fiscal years.

At the May 2016 Commission meeting, Commission member Louisville Mayor Tom Bickers brought concerns from Blount County that increased numbers of state prisoners there are putting significant strain on the county and requested that the Commission consider adding a study of the effect of state prisoners on county jails to its work program. Senator Tracy and Mayor Waters also acknowledged problems in the counties they represent. After the draft research plan was presented at the August 2016 Commission meeting, it was amended to address requests by Mayor Bickers and Representative Parkinson. Mayor Bickers said he would like staff to also examine how the state chooses which inmates are sent to county jails and how inmates are chosen in jails for jobs like cooking and laundry. Representative Parkinson said he would like the study to include an examination of contractual obligations and limitations to housing state prisoners in prisons operated for counties by private contractors.

Step 1. Define the Problem

To determine whether the state, by housing convicted state prisoners in county jails for extended periods as part of their effort to reduce overcrowding in state prisons, is placing an undue burden, financial or otherwise, on county governments, and determine whether the amount the state reimburses counties adequately covers all costs the counties incur.

Step 2. Assemble Some Evidence

- Review TACIR's 2007 Commission Report, *Beyond Capacity: Issues and Challenges Facing County Jails* and update information based on changes in laws, costs, jail populations, etc.
- Review reports published in 2003, 2005, and 2006 by the Comptroller's Office of Research and the Tennessee County Services Association and seek out subsequent reports on this topic.
- Review 2010 regional jail feasibility study for Clay, Fentress, Overton, and Pickett Counties prepared by CRS Incorporated for TACIR.
- Review related statutes and regulations.
- Review any recent legislation and committee hearings addressing these issues and summarize comments and concerns of committee members.
- Interview local and state stakeholders to determine what is driving this issue.
- Interview the management of the Tennessee Department of Correction.
- Interview a sample of county sheriffs.
- Interview Corrections Corporation of America officials.
- Review similar policies and laws in other states.
- Review relevant literature and data sets.

Step 3. Construct Alternatives

Alternatives will be based on

- current policy,
- previous Commission and staff-recommended changes in the current policy,
- recommendations from Comptroller and Tennessee County Services Association reports, and
- any additional alternatives drawn from the research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

- Cost (direct and indirect)
 - To the state
 - To counties (including costs from federal and private lawsuits)
- Safety and security of jail facilities

- Safety of correctional officers
- Safety of inmates
- Public safety
- Relief of overcrowding
- If data permits, effect on recidivism

Step 5. Project Outcomes

- Estimate cost
 - To the state
 - To counties
- Estimate effect on overcrowding

Step 6. Confront Trade-offs

- How will the differences between the current policy and the other alternatives affect the public?
- What are the pros and cons of the potential solutions?

Step 7. Decide which alternatives to present to the Commission

Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem.

Step 8. Produce the Draft Report

Develop and present a draft for review and comment to the Commission.

Revisit Steps 5 through 8.

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives.
- Revise and edit the draft to reflect comments of the Commission.
- Submit final report to the Commission for approval.

