

**OKLAHOMA BOARD OF CORRECTIONS
REGULAR MEETING**

Oklahoma Department of Corrections
3400 N Martin Luther King Avenue
Oklahoma City, Oklahoma
January 8, 2015

1. Call to Order and Roll Call

Kevin Gross, Chair

Chair Gross called the regular meeting of the Oklahoma Board of Corrections (BOC) to order at 1:00 p.m. on Thursday, January 8, 2015, in the North Conference Room of the Oklahoma Department of Corrections at 3400 N Martin Luther King Avenue, Oklahoma City, Oklahoma. The final agenda was posted at 10:00 a.m. on Wednesday, January 7, 2015, at the Oklahoma Department of Corrections, which is at least twenty-four hours prior to the commencement of the meeting. Chair Gross asked the clerk to call the roll:

Steve Burrage, Secretary	Present	Linda Neal, Member	Present
Kevin Gross, Chair	Present	Michael Roach, Vice Chair	Present
Gene Haynes, Member	Present	Earnest Ware, Member	Absent
Frazier Henke, Member	Present		

Calling of the roll reflected a quorum was present.

2. Old Business

Kevin Gross, Chair

There was no old business to discuss.

3. Discussion and Approval of Board of Corrections Meeting Minutes

Kevin Gross, Chair

- Regular Meeting on December 4, 2014

Chair Gross stated the minutes from the regular meeting on December 4, 2014, were provided to the Board for review prior to the meeting this date. He requested a motion to approve the minutes as presented to the Board.

Motion: Mr. Haynes made a motion to approve the minutes and Ms. Neal seconded the motion. The results of the roll call were: Mr. Burrage – yes; Mr. Gross – yes; Mr. Haynes – yes; Mr. Henke – abstain; Ms. Neal – yes; Mr. Roach – yes.

The minutes were approved by majority vote.

4. Director's Comments with possible discussion on the following:

Robert Patton, Director

- Employee Awards and Training Event
- Upcoming Executions
- Meeting with Commissioner Terri White to Discuss Joint Concerns
- Prison Rape Elimination Act (PREA) Audits

Director Patton stated the Employee Awards and Training Event was held in December to honor the agency's outstanding employees. The event was well-attended by staff as well as Board of Corrections members Ms. Neal and Mr. Roach. Governor Mary Fallin was also able to attend and gave the keynote address.

Prison Rape Elimination Act (PREA) Audits were initiated in December. Five audits have been completed and the report for Dr. Eddie Warrior Correctional Center was received, showing full PREA certification. Audit reports for the other four facilities should also be received within the next few weeks. Additional PREA Audits will also be completed at another four facilities prior to the end of the fiscal year.

Director Patton and members of his executive team met with Commissioner Terri White and members of her executive team to discuss concerns affecting both agencies in regards to substance abuse mental health. Both agencies will continue to meet monthly to maintain and strengthen the partnership.

Executions are scheduled in January 2015 for offenders Charles Warner and Richard Glossip. Director Patton stated ODOC staff has worked very hard for these executions and he will provide a briefing to the Board at the next meeting.

There was no further discussion on the director's comments.

5. Discussion and Approval of Board Policy

Robert Patton, Director

- P-120100, Management of State Funds and Assets

Director Patton stated P-110100, Uniform Personnel Standards, had two wording changes for the Board's approval. Throughout the policy, the term "personnel" was replaced with "human resources" and "department" was replaced with "agency." These changes did not alter the intent of the policy and Director Patton recommended approval of the changes as presented.

Motion: Mr. Henke made a motion to approve the policy as presented and Mr. Roach seconded the motion. The results of the roll call were: Mr. Burrage – yes; Mr. Gross – yes; Mr. Haynes – yes; Mr. Henke – yes; Ms. Neal – yes; Mr. Roach – yes.

The policy was approved by majority vote and there was no further discussion of this item.

6. Agency Budget Update with Possible Discussion

**Ashlee Clemmons, Chief Administrator
Business Services**

Ms. Clemmons provided the following budget update as of November 30, 2014:

FY2014 Budget Work Program		
Appropriated		\$472,639,727
200 Fund		\$17,036,030
205 Fund		\$4,802,152
280 Fund		1,500,000
Total – BWP		\$495,977,909*
<i>*Excludes Prison Industries funds not part of the ODOC operating budget, Community Sentencing and Federal funds</i>		
Y-T-D Expenditures		\$(180,897,176)
Appropriated	\$(178,229,881)	
200 Fund FY 14	\$(2,012,347)	
205 Fund FY 14	\$(654,948)	
Encumbrances		\$(144,065,863)
Committed		\$(20,242)
Remaining Payroll		\$(145,367,069)
Available Balance		\$25,627,559
Appropriated Operating Funds		
Budgeted		\$472,639,727
Expenditures Y-T-D		\$(178,229,881)
Encumbrance Y-T-D		\$(134,133,814)
Total Committed Y-T-D		\$(20,226)
Available Balance		\$160,255,806
Less:		
Payroll		\$(145,367,069)
Available Balance		\$14,888,737
200 Revolving Fund		
Beginning Cash Balance 7/1/2013		\$180,636
Revenue Received Y-T-D		\$6,993,380
Expenditures Y-T-D		\$(5,021,158)

Adjustments Y-T-D	\$0.00
Ending Balance	<u>\$2,152,858</u>
205 Revolving Fund	
Beginning Cash Balance 7/1/2013	\$1,721,954
Revenue Received Y-T-D	\$2,713,644
Expenditures Y-T-D	\$(3,908,883)
Adjustments Y-T-D	\$0.00
Ending Balance	<u>\$526,715</u>
280 Revolving Fund	
Beginning Cash Balance 7/1/2013	\$3,972,741
Revenue Received Y-T-D	\$10,901,844
Expenditures Y-T-D	\$(10,903,485)
Adjustments Y-T-D	\$0.00
Ending Balance	<u>\$3,971,100</u>

There was no further discussion of the budget update.

7. Discussion and Approval of Average Daily Rate Per Inmate

**Ashlee Clemmons, Chief Administrator
Business Services**

Ms. Clemmons stated the agency is required by statute to present to the Board the actual daily cost per inmate. Operational costs are required at each major security category: maximum, medium, minimum, and community. HB 2877 added further instructions to 57 § 561.1 effective November 1, 2014, to report direct as well as indirect costs of incarceration. Per the statute, the Board shall adopt the average daily cost per inmate per facility category each January for the immediate preceding year.

Public Only			
Facility Type	FY 2014 Budgeted	FY 2014 Actual	FY 2015 Budgeted
Maximum Security	\$82.68	\$100.80	\$85.15
Medium Security – Male	\$42.05	\$47.18	\$47.94
Medium Security – Female	\$38.64	\$49.10	\$47.95
Medium Security – Combined Average	\$41.56	\$47.47	\$47.94
Minimum Security – Male	\$38.31	\$44.61	\$44.73
Minimum Security – Female	\$36.27	\$39.72	\$41.92
Minimum Security – Combined Average	\$38.08	\$44.01	\$44.36
Community Correction Centers – Average	\$38.00	\$46.44	\$45.20
Community Work Centers - Average	\$31.05	\$41.49	\$37.57

Mr. Burrage stated the Board is reviewing a summary of data prepared by Ms. Clemmons, Mr. Tom James and their staff. The data represents indirect and direct costs and is as close as they can get to a true reflection of the average daily costs in the various categories within the agency. Mr. Burrage stated there was nothing mysterious about the numbers and the documentation is readily available from the agency. He noted there may appear to be inefficiencies within the data provided but some of the things the agency deals with are out of their control. If the agency had the ability to operate at optimal efficiency the numbers might be different. Mr. Burrage stated he appreciated the staff who worked on the report and the willingness to be transparent for the public and the legislators.

Chair Gross noted that according to the information provided, the FY 2014 Budgeted was \$82 and the FY 2014 Actual was \$100 with the anticipated FY 2015 Budgeted hovering around \$85. He inquired how the FY 2014 Actual could be \$100 and the FY 2015 Budgeted could be lowered to \$85. Ms. Clemmons stated the calculations are based on facility

capacity when it is budgeted compared to offender count for the actual amounts.

Motion: Mr. Burrage made a motion to approve the average daily rates as presented and Mr. Henke seconded the motion. The results of the roll call were: Mr. Burrage – yes; Mr. Gross – yes; Mr. Haynes – yes; Mr. Henke – yes; Ms. Neal – yes; Mr. Roach – yes.

The average daily rates were approved by majority vote and there was no further discussion of this item.

8. Population Update with Possible Discussion

**Laura Pitman, Ph.D., Division Manager
Field Support**

Dr. Pitman provided the population update as of November 26, 2014:

Total System Offender Population = 28,425	EMP = 20
DOC Facilities = 19,179	PPCS = 1
Private Prisons = 5,811	Probation Supervision = 21,567
County Jails with Contracts = 563	Parole Supervision Offenders = 3,180
Halfway Houses = 1,474	Total System Population = 53,172
Out Count (jails, hospitals, etc.) = 719	County Jail Backup = 249
GPS = 658	

There was no further discussion of the population update.

9. Discussion and Approval of Facility Capacity Changes/Modifications

**Laura Pitman, Ph.D., Division Manager
Field Support**

Robert Patton, Director

Director Patton stated the State Auditor’s Report, released late in 2014, recommended the agency review its report on capacity and how capacity was defined. He noted it was an issue staff were already reviewing prior to the release of the State Auditor’s Report to accurately capture the number of beds which have been added to the facilities throughout the years and the true capacity of each facility. Director Patton stated Dr. Pitman, the wardens, and numerous staff had worked extremely hard over the last few months to prepare the final report being presented to the Board this date. He noted that Dr. Pitman’s report would provide definitions of Rated and Temporary beds and operational capacity.

Dr. Pitman stated that historically, facility capacities have been increased or decreased as housing units were opened or closed or as the number of offenders in open dorms or day rooms were increased or decreased. Changes to facility capacities involved approval from the state Fire Marshal’s office, the chain-of-command, the director and the Board of Corrections. In effect, this resulted in ever-increasing capacities and an understatement of crowding within facilities. Changing the way the agency reports operating capacity will accurately reflect crowding within the system and make reporting consistent with other states. Going forward, Operating Capacity will be the sum of Rated and Temporary beds. Rated beds are based on the design capacity of the facility and include general population and medical/mental health beds. Temporary beds are those that exceed the original design capacity and also include general population and medical/mental health beds. Special use beds, that is Restricted Housing Unit and Transit Detention Unit beds, will not be counted in operating capacity as these are high security beds used for offenders serving disciplinary sanctions or those awaiting transfer.

To determine the number of Rated versus Temporary beds a review of the changes in facility capacities from 1996 to the present was undertaken. Facility staff was asked to identify whether changes were due to the opening or closing of a housing unit, the addition or removal of beds in a day room, and/or the addition or removal of beds in an open dormitory setting. If beds were added within a dormitory setting, staff was also asked to determine whether the physical plant (e.g., showers, sinks, toilets) had been modified to accommodate the increased number of beds. Staff was also asked to provide the source of their information and documentation, if available.

To get to the final Rated versus Temporary bed numbers, the capacities as they existed in 1996 were taken as a baseline. All beds in existence in 1996 were counted as Rated. Any beds that were added after 1996 that involved the addition of housing units and/or modifications to the physical plant were counted as Rated. Any beds that were added that involved placement of offenders in unsecure space (e.g., dayrooms) and/or an increase in the number of beds within an open dorm without modifications to the physical plant were counted as Temporary. Dr. Pitman provided an example by detailing the changes at Bill Johnson Correctional Center (BJCC).

TIMEFRAME	ACTION	RATED BEDS	TEMPORARY BEDS	OPERATING CAPACITY
01/01/1996	Baseline capacity	+300		300
01/1996 – 03/2000	Double-bunked some beds in Housing Units 1 and 2. No modifications were made to the physical plant.		+128	428
04/2010	Added beds to Housing Units 1 and 2 to accommodate more of the delayed sentencing program offenders. No modifications were made to the physical plant.		+122	550
06/2011	A multipurpose building was renovated and became Housing Unit 3.	+64		614
11/2012	A CareerTech building was renovated and became Housing Unit 4.	+100		714
03/2014	Added beds to Housing Unit 3. No modifications were made to the physical plant.		+20	734
01/2015	CAPACITY TOTALS	464	270	734

Dr. Pitman stated changes to the count sheet would now reflect the operating capacity versus the offender population and provided an example of the count sheet only using BJCC data. She noted the full count sheet would list every facility within the system. Dr. Pitman stated the count sheet will identify the beds as general population (GP), medical/mental health (M/MH), restrictive housing (RH or RHU), and transit detention (TDU). The first three columns of the count sheet will note the custody level, the facility name, and the use of the beds. The next nine columns will provide the operating capacity of the facility, noting the number of beds that are Rated, Temporary and special use. The next seven columns would reflect the inmate committed population, showing the number of offenders currently housed at that location and their bed assignments in one of the three areas of Rated, Temporary or special use. The section on inmate committed population also includes data on those offenders who are currently out of our custody for court hearings or hospital stays but still included on our total count.

Dr. Pitman stated one of the columns on the count sheet will be for the inside total. Inside total is the number of offenders within a facility or the system who currently occupy a bed and does not include offenders who are out to court, out to the hospital, or other offenders the agency is obligated to house once they return to this system. She noted that Rated beds are based on the design capacity of the facility and include general population and medical/mental health beds. Inside Total as a percent of Rated beds provides a good measure of crowding within a facility or system. Dr. Pitman stated it was a way of looking at the number of offenders housed at a facility or within a system compared to what the facility or system was designed to accommodate. Dr. Pitman then provided the agency's current Inside Total as a percentage of Rated beds as of December 1, 2014.

TYPE OF BED	INSIDE TOTAL	RATED BEDS	INSIDE TOTAL / RATED BEDS
Assessment and Reception Centers	607	620	98%
Institutions	16,101	13,537	119%

Community Corrections Centers	1,222	1,223	100%
Community Work Centers	1,231	1,149	107%
Total State Beds	19,161	16,529	116%
Private Prisons	5,814	5,846	99%
County Jails	563	585	96%
Halfway Houses	1,467	1,532	96%
Total Contracted Beds	7,844	7,963	99%
GRAND TOTAL	27,005	24,492	110%

Chair Gross queried which facilities comprise Institutions in the type of beds. Dr. Pitman responded it was comprised of the seventeen state institutions. Dr. Pitman provided a point of comparison, stating that in September 2014, the Bureau of Justice Statistics published a bulletin where 48 states reported their system capacity, number of inmates in custody and the percent of inmates to capacity. Twenty-seven states reported being over 100% capacity. Oklahoma reported being less than 100% capacity based on the counting rules in place at the time.

Dr. Pitman stated that in addition to the changes to the new count sheet, Temporary beds that had already been in use and not added to the count sheet have now been included in the count. Several other vendors' capacities were also modified based on their ability to accommodate offenders. For example, Oklahoma Halfway House was decreased by 25 beds at their request. Changes were also made to Oklahoma State Penitentiary's (OSP) capacity. In the past, the count sheet has shown that OSP has consistently had more beds available than have been filled. On December 1, 2014, the capacity was shown as 901 on the count sheet and the number of offenders housed at OSP was 710. OSP houses offenders in general population beds, administrative segregation/restricted housing beds, medical/infirmarary beds, mental health beds, high-max beds and death row. Many of these offenders cannot or should not be double-celled due to the risk they present to themselves, other offenders and to staff. In an effort to more accurately reflect the use of single-cells and the housing of offenders at OSP, the count will be reduced from 901 to 764 plus 4 special-use cells which are used as holding cells prior to executions. OSP will have 251 single cells and 248 double cells, 17 infirmarary cells and the 4 special-use single cells.

Mr. Haynes queried if the changes discussed this date was to put the agency more in compliance with national standards according to the Bureau of Justice Statistics. Dr. Pitman responded it was more consistent with how other states report their capacities and counts. She noted it was also a more accurate reflection of crowding within the system. Traditionally, ODOC increased the facility's capacity as more beds were added to a space as opposed to reflecting what the facility was actually designed to hold. Mr. Haynes inquired if those beds termed as Temporary beds were in compliance with national standards for space and bathrooms. Dr. Pitman responded the addition of beds was in compliance with standards set by the Fire Marshal, American Correctional Association, and with various construction codes.

Ms. Neal stated she wanted to ensure everyone understood the numbers of offenders compared to staffing percentages and asked for information to be shared on those numbers. Director Patton stated he would like the facilities to be funded at 100%; however, the agency is currently funded at 67% for over 100% capacity in state facilities. Ms. Neal stated she wanted to ensure everyone understood that funding the state facilities at 67% while over 100% capacity is a formula for disaster.

Director Patton requested the Board's approval of the new definitions of Rated and Temporary beds as well as the adoption of the new count sheets.

Motion: Mr. Roach made a motion to approve the facility capacities and count sheet as presented and Mr. Burrage seconded the motion. The results of the roll call were: Mr. Burrage – yes; Mr. Gross – yes; Mr. Haynes – yes; Mr.

Henke – yes; Ms. Neal – yes; Mr. Roach – yes.

The changes were approved by majority vote. Chair Gross inquired of Dr. Pitman if she would present each state institution's capacity at the next Board meeting and Dr. Pitman affirmed she would. There was no further discussion of the capacity changes.

10. Committee Reports

Committee Chairs

Chair Gross asked the committee chairs for their reports.

- **Audit/Finance Committee**
Mr. Burrage stated there was no report.
- **Female Offender Committee**
Ms. Neal stated there was no report.
- **Public Policy/Public Affairs Committee**
Mr. Haynes stated there was no report.
- **Population/Private Prisons Committee**
Ms. Neal stated the committee met earlier this date and reviewed the information that was presented this date.
- **Executive Committee**
Chair Gross stated the committee met on December 31, 2014, to review the agenda for the meeting this date.

11. New Business

Kevin Gross, Chair

There was no new business.

12. Announcements

Kevin Gross, Chair

There were no announcements.

13. Approval to Adjourn for Executive Session

David Cincotta, General Counsel

- Discussion of Investigation
 - Suicide of John Broadway #447953 (IG 14-0239)
 - Homicide of Eric Grimm #524903 (IG 14-0241)
- Discussion of Pending Litigation:
 - *Oklahoma Observer et al v. Patton et al*, Western District Court, case number 2014-CV-00905
 - *Warner et al v. Gross et al*, Oklahoma Western District Court, case number 2014-CV-00665

Mr. Cincotta advised the next items on the agenda would require adjournment to Executive Session for engaging in confidential communication between the Board and its attorney. He recommended Chair Gross entertain motions to adjourn.

Motion: Ms. Neal made a motion to adjourn for Executive Session and Mr. Burrage seconded the motion. The results of the roll call were: Mr. Burrage – yes; Mr. Gross – yes; Mr. Haynes – yes; Mr. Henke – yes; Ms. Neal – yes; Mr. Roach – yes.

The adjournment was approved by majority vote and the Board adjourned at 1:33 p.m. to Executive Session.

14. Approval to Return from Executive Session

David Cincotta, General Counsel

The Board returned to the meeting room at 2:39 p.m. Mr. Cincotta advised the Board of the approval needed to return from Executive Session.

Motion: Mr. Roach made a motion to return from Executive Session and Mr. Henke seconded the motion. The results of the roll call were: Mr. Burrage – yes; Mr. Gross – yes; Mr. Haynes – yes; Mr. Henke – yes; Ms. Neal – yes; Mr. Roach – yes.

The return was approved by majority vote and the Board resumed the meeting at 2:41 p.m. Chair Gross advised there were not any actions to take after Executive Session.

16. Adjournment

Kevin Gross, Chair

There being no further business to come before the Board, Chair Gross requested a motion to adjourn the meeting.

Motion: Ms. Neal made a motion to adjourn the meeting and Mr. Roach seconded the motion. The results of the roll call were: Mr. Burrage – yes; Mr. Gross – yes; Mr. Haynes – yes; Mr. Henke – yes; Ms. Neal – yes; Mr. Roach – yes.

The adjournment was approved by majority vote and the meeting ended at 2:42 p.m.

Submitted to the Board of Corrections by:

[signature on file]

Kimberley Owen, Minutes Clerk

Date

I hereby certify that these minutes were duly approved by the Board on the twelfth day of February, 2015, in which a quorum was present and voting.

Approved by:

[signature on file]

Frank X. Henke IV, Secretary of the Board

Date