

TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



3

Suite 508
226 Capitol Boulevard Building
Nashville, Tennessee 37243-0760
Phone: (615) 741-3012
Fax: (615) 532-2443
www.tn.gov/tacir

MEMORANDUM

TO: TACIR Commission Members

FROM: Harry A. Green
Executive Director

DATE: September 8, 2010

SUBJECT: Regional Jail Feasibility Study

At the June 2010 TACIR Commission meeting, Commissioners were presented with the findings and recommendations of the regional jail feasibility study for Clay, Fentress, Overton, and Pickett Counties. Commissioners declined to take action on the report until feedback was obtained from stakeholders.

- Commissioners requested feedback from the Select Oversight Committee on Corrections, the Tennessee Department of Corrections (TDOC), the Tennessee Corrections Institute (TCI), and the four counties included in the study.
- Written feedback from the Select Oversight Committee on Corrections, TDOC, and TCI is presented on the following pages.
- Select Oversight Committee on Corrections Director Bob Mckee and TDOC Commissioner Gayle Ray and will address the TACIR Commission.
- TACIR received feedback from one of the four counties. John B. Mullinix, who was the County Executive of Fentress County at the time of the study, stated that the study provided his county with much valuable information. County Executive Mullinix stated that the Fentress County Commission has voted to build a new county jail and that the county would be grateful if a portion of the remaining appropriation funds were issued to help Fentress County with jail planning.

SELECT OVERSIGHT COMMITTEE ON CORRECTIONS

Suggested Committee Comment

August 11, 2010

Regional Jail Feasibility Studies

Clay, Fentress, Pickett & Overton Counties

Tennessee Advisory Commission on Intergovernmental Relations (TACIR)

The total anticipated thirty year cost for the regional jail was estimated at approximately \$169,000,000. The study then determined the thirty year cost for each county based on their anticipated usage of the facility and then compared that cost to the thirty year cost of individually operating their own facility.

On page 11 of the report the costs percentage for each county in the four county regional concepts varies from an additional cost of 35% for Overton County to a savings of 57% for Pickett County, savings of 24% for Clay County and a savings of 12% for Fentress County. This formula was arrived at by allocating the cost based on each county's usage as a percent of detention days. Also, when compared to the cost of each county building a new jail and considering future costs the savings for Clay and Fentress were less than 10%, substantially more for Pickett and negligible for Overton. (page 2)

It was also pointed out that the counties are not all in the same judicial district, which would most likely create scheduling problems, however the legislature could resolve that by redrawing the judicial boundaries, if that does not create other problems. Additionally Overton County is not in need of more beds for up to ten years, which would make the expenditure of several million dollars a very difficult decision for them. Although a regional facility would certainly be more efficient and effective.

The conclusion is that the counties would be more likely to pursue a four county regional partnership when Overton needs to expand. Clay, Pickett and Fentress have more immediate needs for a new facility and that is the apparent reason the authors of the report suggested that those counties may want to consider other partners for the project or consider a three county partnership. TCI (Tennessee Correction Institute) and CTAS (County Technical Assistance Service) and the Oversight Committee could possibly identify other counties as potential partners.

Exploring different options: Another approach that could make this regional proposal more equitable would be to separate the construction cost from the operational cost. Then calculate each county's contribution to construction based on their individual cost of building a new facility. The construction cost of new facilities at each county totals \$51,100,000 collectively. No county would pay more for their share than their cost of a new jail if built separately

The regional jail has an estimated cost of \$47,500,000 for a savings of \$3.6 million and they would share the savings of consolidation accordingly. Operational cost sharing could be calculated on a formula that includes detention days used by each county and travel cost and cost of a local lockup if needed, by the non-host counties, and other costs that might

be unique to any county. Also Clay, Fentress and Pickett Counties could build a three county regional jail for \$26,296,000. If these counties desire to pursue the regional concept, there needs to be resolution of the funding needed for the project and the commitment to provide the funds from each county assuming a mutually agreed funding formula is accepted

The obstacles encountered in this process are consistent with the TACIR finding, that only eleven new regional jails have opened in the past ten years. However, there are advantages of a regional facility, especially for smaller rural counties if the various obstacles can be overcome.

Two options for committee consideration:

1. Leave the program in place as is so that a regional jail authority could be created when two or more counties/municipalities with more common needs and resources can better align themselves.
2. The General Assembly could consider a statewide study to determine which counties would be candidates for a regional jail over a given time span and determine if there is an optimum size to receive the most effective economic benefit. Then determine which of the counties could logically group together for their mutual benefit to create a regional jail, considering needs, costs, geography, judicial district, resources, etc. The study would consider the aspects of the TACIR report.

In either case the state should enact adequate *per diem* rates that would pay for and require treatment and programming for the state offenders housed in the facility. Also in either case there may be a need for state participation in construction cost as most other states have done.

Additionally the TACIR study made several recommendations concerning TCI jail standards and TDOC's policy and *per diem* rate for housing state inmates in local jails. These issues have been before the Oversight Committee in the past and it now appears there may be a need to revisit them. A response from TCI is attached.

REVISION TO ORIGINAL SUGGESTED AT SOCC MEETING 8-11-2010

Oversight Committee comment was revised by the committee at the 08/11 meeting to recommend option 2 for the continued study of the regional jail concept and to send a copy of the revised comment to the membership of the General Assembly.

Option 2 –

The General Assembly could consider a statewide study to determine which counties would be candidates for a regional jail over a given time span and determine if there is an optimum size to receive the most effective economic benefit. Then determine which of the counties could logically group together for their mutual benefit to create a regional jail, considering needs, costs, geography, judicial district, resources, etc. The study would consider the aspects of the TACIR report.

PHIL BREDESEN
GOVERNOR



GAYLE RAY
COMMISSIONER

STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
SIXTH FLOOR, RACHEL JACKSON BUILDING
320 SIXTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0465
Office (615) 741-1000 • FAX (615) 532-8281

August 18, 2010

The Honorable Harry A. Green
Executive Director
Tennessee Advisory Commission on
Intergovernmental Relations
226 Capitol Boulevard Building, Suite 508
Nashville, TN 37243-0760

Dear Mr. Green:

Thank you for inviting me to comment on the Regional Jail Feasibility Study funded by the Tennessee General Assembly and administered by TACIR.

I believe the methodology and findings to be well conceived and to take into account the many considerations necessary for a sound regional jail project. I would like to offer some comments under the Recommendations section of the report.

- 1) Tennessee Corrections Institute (TCI) should be provided with the authority to enforce jail standards. Although jail conditions and availability of beds have generally improved over the last few years, there are still some non-certified jails. TCI should have the authority to close those jails. Many county commissioners do not understand the constitutional conditions of confinement issues associated with sub-standard jails. I also agree that TCI should update its standards to adopt American Correctional Association's Core Jail Standards which have been determined to be the minimal acceptable standards for jails.
- 2) Regarding inmate programs and services, I am in full agreement that inmate programs, activities, and services should be improved in each county. The Tennessee Department of Correction's **Recidivism Study, Felon Releases 2001-2007**, available on our web site, shows that recidivism has dropped in our prisons from a high of 42% in 2001 to 38.8% in 2005 and is still trending downward. However, 60% of felons

August 18, 2010

- 3) released in Tennessee are being released from county jails, some under the authority of TCA §40-35-104, *Sentencing Alternatives for Locally Sentenced Felons*, and the remainder being state felons waiting for a bed in the Tennessee Department of Correction (TDOC) system. Recidivism for state felons released from county jails, on the other hand, was 47.7% in 2001 and went up to 50.9% in 2005. Recidivism is based on a return to custody after three years of release. During that time TDOC has implemented evidence-based programs, including a validated risk and needs assessment, to better address the deficits offenders may have. This may help to explain the double digit difference between TDOC recidivism rates and that of county jails.
- 4) The recommendation about the continuum of services and settings being deficient in most counties is also accurate. Judges in most counties do not have graduated sanction alternatives to incarceration available such as pre-trial diversion, mandated alcohol and drug treatment, drug and mental health courts, and day reporting centers to name a few. Most counties could benefit from consultation from the National Institute of Corrections or other jail/criminal justice system consultants which would likely result in fewer people in jail and better outcomes.
- 5) As far as TDOC reviewing its policies about housing state inmates in local jails, I believe there is justification for the recommendation because of the differences in recidivism rates between jails and prisons. The Department has already implemented a policy of prioritizing intakes from non-certified jails as well as felony offenders with the most serious charges and serving the longest sentences. A minimum of three new prisons, two male and one female, would have to be built today to take all state inmates out of local jails. That is an admirable goal but not one likely to be reached for many years to come with the current cost of a new prison being \$170 to \$200 million and with operating costs on top of that.
- 6) I agree that the state should be prepared to assist counties financially for any counties prepared to move forward with regional jails. In addition to this, however, possibly a more productive use of funds would be to require that counties receiving jail reimbursement go through a process that includes all stakeholders in that county's criminal justice system, to examine who is in jail, why, and receive technical assistance and funding to set up pre-trial services, graduated sanctions, and to receive training on how to reduce recidivism. Another idea is that counties could receive an increased rate for jail reimbursement if they offered evidence-based programs with appropriate outcome measures monitored by the state. This could save state funds in the long run by intervening earlier in an offender's criminal career and prevent a portion of them from coming to

The Honorable Harry A. Green

3

August 18, 2010

the state prison system. A 1% drop in recidivism equates to a saving of \$1.6 million in the state prison system.

I may have gotten out of the boundary of commenting on the regional jail report, but these are some thoughts I along with others in the Department have had about ways to improve the entire system. I am pleased to offer some comments and hope you will find them beneficial.

Sincerely,

A handwritten signature in black ink that reads "Gayle Ray". The signature is written in a cursive, flowing style.

Gayle Ray, Commissioner
Tennessee Department of Correction

GR:PC



STATE OF TENNESSEE
TENNESSEE CORRECTIONS INSTITUTE
8TH FLOOR, ANDREW JACKSON BUILDING
500 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1420
(615) 741-3816 FAX: (615) 532-2333

PHIL BREDESEN
GOVERNOR

JERRY ABSTON
EXECUTIVE DIRECTOR

August 6, 2010

Dr. Harry A. Green
Executive Director, TACIR
Suite 508
226 Capitol Blvd Building
Nashville, TN 37243- 0760

Dear Mr. Green:

This letter is written in response to the findings of the TACIR draft report dated May 2010.

There is an error in the findings reference to certification of the four counties. (Clay, Fentress, Overton and Pickett.) The report stated that Clay County is certified by TCI. It is not certified and hasn't been for years. Let me clarify that Fentress and Overton have been certified at least since 2006 or earlier. Clay and Pickett have not been certified since 2006 and probably years earlier.

I can't comment on the findings of deficiencies by the consultants until I can see the list. I support the thoroughness of the TCI inspections. By law TCI has to give the counties 60 days from the initial inspection to come into compliance. A reinspection is conducted at the end of the 60 days and if the jail is in compliance TCI recommends to the Board of Control that the facility be certified. During the 60 day time frame, the facility may not be able to comply but may develop a plan of action to comply. The plan of action must be approved by the TCI Board. Also worth considering is the fact that the TCI inspections find compliance or non compliance on that particular day and that status could change as the year goes by.

It would be very difficult for an outside consultant to determine deficiencies without being familiar with the process. However, I will address this issue when I see the list. With that said, it is obvious to all involved that these four facilities could be considered sub standard and in need of some relief.

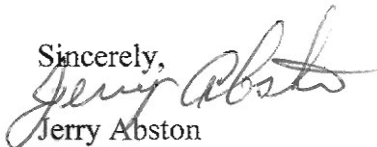
TCI's authority: It has been discussed for years that TCI needs some enforcement authority. We agree.

Core Standards vs. TCI Standards: TCI's Minimum Standards for Local Correctional Facilities have also been upheld by the courts to be constitutional. However, we are not opposed to considering a revision to include the Core Standards.

Non- Certified Facilities Holding State Inmates: It is my opinion that it would be a hardship on TDOC to implement a policy that would not allow state inmates to be housed in county jails that aren't certified. It is correct that in some cases, the state inmates do create an overcrowding situation in the local jails. However, this could be a way to enforce TCI's authority. (County leaders may be more inclined to meet TCI standards if they feel that by not doing so will result in the lost of the revenue brought in by housing the state inmates.)

I hope I have addressed TCI's portion of the report to your satisfaction.
I am available to you for further discussion if needed.

Sincerely,



Jerry Abston
Executive Director, TCI

JA/pas