

Response to Intent Language
*Feasibility of Privatizing the Bureau of Clinical Services
Within the Utah Department of Corrections*

May 20, 2003

**Report to the Executive Appropriations Committee
Of the Utah State Legislature**

**Prepared by
The Office of the Legislative Fiscal Analyst**

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Introduction

As part of the 2003 Appropriations Act, the Legislature directed the Office of the Legislative Fiscal Analyst to examine costs within the Bureau of Clinical Services program within the Utah Department of Corrections:

It is the intent of the Legislature that the Office of the Legislative Fiscal Analyst supervise a study of the Medical Services Department within the Utah Department of Corrections. The study shall provide an analysis of costs (short and long term), liability issues, quality of service, and accreditation standards compared to industry standards for private providers. The Office of the Legislative Fiscal Analyst will present its findings to the Executive Appropriations Committee on or before July 1, 2003, with copies distributed to the members of the Executive Offices and Criminal Justice Appropriations Subcommittee.¹

The language continued with direction for the Department of Corrections in regard to use of any cost containment recommended by the study:

It is the intent of the Legislature that any savings identified in the study of the Medical Services Department within the Utah Department of Corrections be used for institutional operations beginning in FY 2004...²

The language also provided latitude for the Legislative Fiscal Analyst to request funds for costs incurred through outside consulting, travel or research services, albeit such funding would have to be balanced against future budget conditions.

...The Legislative Fiscal Analyst may request reimbursement in the 2004 General Session for any cost incurred in relation to this study.³

Before incurring additional expenses, the Analyst presents this preliminary report to offer information on the cost of providing medical services within the Utah Department of Corrections. The goal of this document is to provide the Executive Appropriations Subcommittee with information that may guide the Committee to a decision regarding the nature of any future reporting. The report asks questions in three areas:

1. What are the costs of providing inmate care?
2. Does the BCS program create increased liability issues?
3. How does state accreditation compare with private sector standards?

¹ Item 24, House Bill 1, 2003 General Session

² Ibid.

³ Ibid.

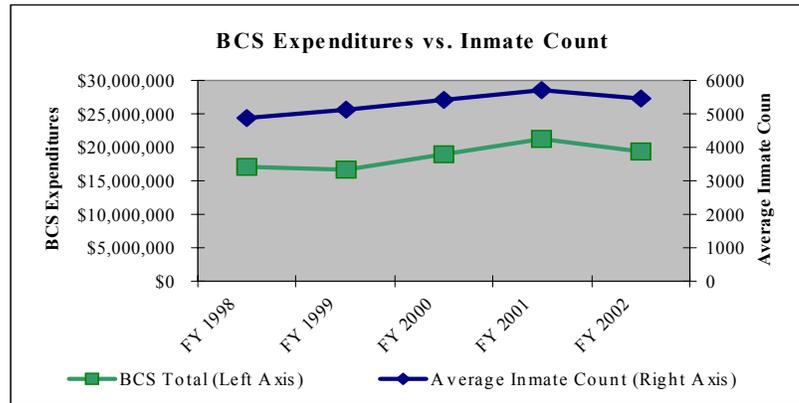
What are the costs of providing inmate care?

The Bureau of Clinical Services provides programming in addition to direct inmate care. Inmate programming functions such as substance abuse treatment and sex offender counseling are housed within the BCS. The two cost centers for inmate care include the Bureau of Clinical Services at the Draper Prison and the Medical Services Program within the Central Utah Correctional Facility (CUCF). Over the past five years the program grew by an average of 2.7 percent

How does spending within BCS compare to inmate counts and overall Department expenditures?

Total expenditures for inmate health services are driven primarily by the number of inmates in the system. From 1998 to 2002 expenditures within the Bureau of Clinical Services (including CUCF) mirrored that of overall expenditures for incarceration.

Figure 1



Program Categories: How is spending spread across programs, functions and types of care?

One of the difficulties in determining a per diem cost comparable to other states involves comparing similar levels of care. To calculate true per diem rates for medical services requires adjustments for non-medical programs that are funded through the Bureau of Clinical Services. Table 1 shows expenditures by type that go into the per diem calculation.

Table 1

	<i>Expenditures by Type</i>				
	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Administration	\$950,732	\$613,410	\$565,469	\$293,940	\$575,403
Direct Medical Care	7,222,220	7,942,176	9,082,034	10,137,641	9,499,972
Mental Health (Includes Inpatient)	4,764,665	3,348,116	3,618,511	4,560,136	3,562,255
Dental	863,080	815,257	852,341	891,836	990,909
IPP (Contracting)	367,190	389,792	549,190	538,091	644,087
Transportation	140,120	153,317	160,932	146,061	0
Grants	735,717	733,681	798,420	1,338,889	1,383,874
Sex Offenders	549,753	521,918	595,699	695,215	743,560
Subsidiary Operations	0	86,646	335,094	533,467	104,861
CUCF	1,493,200	2,003,438	2,370,310	2,215,734	1,889,297
	\$17,086,677	\$16,607,751	\$18,927,999	\$21,351,009	\$19,394,217

Source: Utah Division of Finance Data Warehouse

Expenditures per inmate for medical/dental are up by approximately twenty percent since 1998 but are down from FY 2001 levels.

Table 2

	<i>Medical/Dental Expenditures</i>				
	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Direct Medical Care	\$7,222,220	\$7,942,176	\$9,082,034	\$10,137,641	\$9,499,972
Dental	863,080	815,257	852,341	891,836	990,909
CUCF	1,493,200	2,003,438	2,370,310	2,215,734	1,889,297
Total Medical/Dental	\$9,578,500	\$10,760,871	\$12,304,684	\$13,245,211	\$12,380,178
<i>Medical/Dental Per Diem</i>	<i>\$5.40</i>	<i>\$5.76</i>	<i>\$6.23</i>	<i>\$6.37</i>	<i>\$6.23</i>

Source: Utah Division of Finance Data Warehouse

Costs driven by medical, pharmaceutical and personnel costs

Any attempt to achieve substantial savings in Clinical Services must focus on medical contracts, personal services and prescription management. Over the course of five years, personal services costs averaged fifty-eight percent of total expenditures, medical contracts took up another seventeen percent, pharmaceuticals comprised another nine percent – meaning that the three largest single items (overhead is an aggregated category) account for eighty-four percent of the BCS budget. Table 3 shows that FY 2002 mirrored the five year average.⁴

Table 3

<i>BCS: FY 2002 Expenditures Less Grants</i>		
Program	FY 2002	% of Total
Personal Services (Medical)	\$9,625,300	55%
Medical Contracts	\$3,133,600	18%
Overhead/Other Expenses	\$2,202,317	13%
Drugs	\$1,863,500	11%
Labs	\$328,000	2%
Med. / Surg. & Lab Supplies	\$391,300	2%
Total	\$17,544,017	

Source: Utah Division of Finance Data Warehouse

Are medical contract costs appropriate?

The Department contracts with the University of Utah Hospitals and the University of Utah Doctors and Clinics for services that can not be provided within the prison. UDC pays the University of Utah \$1,920,800 per year for medical services that normally would be billed at a rate of \$2.8 million (a negotiated rate of 68.6 percent of customary charges). If the Department does not use the full amount of services, a refund is provided at the 68.6 percent rate – full cost recovery for the Department of Corrections. If additional services beyond the \$2.8 million amount are needed, the University Hospital applies a fee equal to 68.6 percent of the customary rate.⁵

⁴ Figures compiled by combining Data Warehouse statistics and UDC internal management documents. Data reaches only to 1999 due to system upgrades completed for UDC that make comparison to 1998 difficult.

⁵ Utah Department of Corrections. UDC File #90A-621-IO

Staff salaries include added cost of twenty year retirement

The BCS program carries more professional staff than other parts of the Department of Corrections. Professional providers include nurses, doctors, social workers and mental health experts. Salaries are normally distributed and average \$44,262. Retirement benefits average \$8,163 - an amount higher than would be found in a standard state agency due to the disproportionate number of POST-certified (law enforcement) employees eligible for twenty year retirement.⁶

Prescription Management

Pharmaceutical costs averaged nine percent of the BCS budget over the five year study period. Total expenditures for drugs dropped in 2002 but are still up significantly over 1999 levels.

Table 4

<i>BCS: Pharmaceutical Expenditures</i>					
	FY 1999	FY 2000	FY 2001	FY 2002	<i>5 Year Increase</i>
Drugs	\$1,292,566	\$2,035,296	\$2,006,000	\$1,863,500	44%
Inmate Count	5,116	5,410	5,694	5,448	6%
Cost per inmate	\$252.65	\$376.21	\$352.30	\$342.05	35%

Source: OLFA and Utah Division of Finance Data Warehouse

Does the BCS program create increased liability issues?

The affirmative responsibility of correctional facilities to provide health care dates to the 1976 Supreme Court decision in *Estelle v. Gamble*. The case focused on “acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs.”⁷ Since the *Estelle* decision, the Courts have not ruled on quality of care, choosing instead to focus on denial of care as being constitutionally impermissible.⁸

According to the Department claims are down seventy percent since 1997 and are now averaging 3.2 claims per year. Over the last three years all expenditures went to costs associated with defense, no money was spent on settlements arising from claims.

As a source of exposure, the BCS is only a small part of total UDC liability insurance. Over the past five years the Department of Corrections liability premiums remained flat. For management purposes UDC assigns a portion of the premium to the clinical operation, but that is an internal matter not driven by actual claim history.

How does state accreditation compare with private sector standards?

Many organizations provide corrections facilities health care accreditation, and do so as part of a larger mission to grant professional accreditation to a wide variety of activities apart from corrections health care. The National Commission on Correctional Health Care (NCCCHC) focuses entirely on correctional facilities health care accreditation and was the first organization created with this unique mission.

⁶ The move to POST Certification came at the behest of the Auditor General. See: Utah Legislative Auditor General (1998). *A Digest of A Performance Audit of the Utah Department of Corrections*. http://www.le.state.ut.us/audit/98_08rpt.pdf

⁷ *Estelle v. Gamble* (1976). 1976.SCT.3988, at 30.

⁸ United States Department of Justice (2001). *Correctional Health Care: Guidelines for the Management of an Adequate Delivery System*. Quoted in *State of New Hampshire Department of Corrections Inmate Health Care Performance Audit Report*, Office of the New Hampshire Legislative Budget Assistant (January 2003).

NCCHC accredits more than 500 correctional facilities nationwide, including the Utah Department of Corrections (DOC) Medical Services Program. UDC first received accreditation from NCCHC in 1996⁹ and earned renewal in 2002 at both the Draper Facility and the Central Utah Corrections Facility (CUCF) in Gunnison.

Summary

This brief review by the Office of the Legislative Fiscal Analyst focused on the areas within the BCS that have potential for generating cost savings. It appears that current operations have maintained a level of efficiency and effectiveness over the course of the last five years. If this proves to be the case when compared to other states or private operations, the Analyst does not believe the savings may be as significant as originally thought. However, in order to make a more detailed comparison, the Analyst recommends that an independent consultant be selected through an RFP process with costs to be reimbursed to the LFA during the next General Session of the Legislature. Such an analysis may lead to specific recommendations for the Department to incorporate in its daily operations or to the development of an RFP to allow private vendors to offer services to the state.

⁹ Given the costs associated with receiving accreditation from multiple organizations the Department of Corrections Medical Services Program has not sought for nor received a certification or accreditation beyond the NCCHC certification.