

REPORT OF THE SPECIAL COMMISSION
on the
SUFFOLK COUNTY SHERIFF'S DEPARTMENT

October 15, 2002

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By Appointment of the Governor of the Commonwealth of Massachusetts

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ACKNOWLEDGMENTS

I first want to acknowledge the tremendous work of the Commission members. Each made a significant and unique contribution to what was a time-consuming and, at times, difficult task. And, since the Commission members served without compensation, I want to thank their respective law firms (as well as my own law firm, Bingham McCutchen LLP) and employers for supporting this pro bono effort.

One Commission member deserves special mention, however, because of his particular background and because he had to travel from his home in Colorado for meetings. In making recommendations to the Governor, when she was selecting the members of the Commission, I was determined to get an expert with a national reputation in local jails and with no particular ties to Massachusetts, to ensure an added measure of objectivity. It was soon apparent that Mike O'Toole was the right person. I and other members of the Commission are grateful for Mike's very helpful contribution. His career-long commitment to improving local corrections was evident throughout.

We were also greatly assisted by the "staff," which was a patchwork of different persons and entities. First and foremost, Pulitzer/Bogard & Associates, LLC served as our corrections consultant. A nationally recognized firm with considerable experience in local jails, they conducted much of the field interview, data collection and technical work, and assisted in the drafting of the Report. David Bogard, Karen Albert and Michele Deitch were unfailingly professional and knowledgeable, careful and balanced. We simply could not have completed our work without them.

We also received the assistance of an experienced team of state employees, assembled at our request by then Secretary of Administration and Finance Stephen Crosby and led by Linn Torto, Assistant Secretary. This team reviewed many of the administrative (non-corrections) policies of the Sheriff's Department, and did so with impressive expertise and dispatch. We greatly appreciate their efforts, which are set forth in a separate report.

Sabita Singh, an associate at Bingham McCutchen LLP, and Maura Healy, an associate at Hale & Dorr LLP, did everything from legal research to drafting portions of the Report to making sure we had food at the Commission's evening meetings (paid for, by the way, by their respective law firms, not with public funds). They became indispensable and fully participated in Commission deliberations.

We also want to thank Sheriff Richard Rouse, who requested that the Commission be established and provided full cooperation throughout with his staff, particularly Gerard Horgan, who acted as liaison to the Commission. We are thankful as well to Governor Jane Swift, who asked us to serve and gave us an opportunity to contribute to the public safety of the Commonwealth.

Finally, we are grateful to the scores of men and women (ranging from officers to inmates to interested citizens) who provided us with information and their views. Some did so willingly, anxious to have their voices heard, and some did so reluctantly, perhaps fearful of criticism or even retaliation. All educated us on the issues and the challenges facing the Sheriff's Department.

We believe the Suffolk County Sheriff's Department can become a national model. We hope this Report will help the new Sheriff and the entire staff achieve that goal.

Donald K. Stern

I. EXECUTIVE SUMMARY

A. Introduction

In the fall of 2001, at the request of Suffolk County Sheriff Richard Rouse, Governor Jane Swift appointed the Special Commission to investigate and report on the operations and management of the Suffolk County Sheriff's Department (Department) in the wake of serious allegations of inmate abuse, political patronage, lack of leadership and mismanagement. The most shocking incidents involved physical assaults on inmates at the Nashua Street Jail (Jail) and the impregnation of an inmate at the South Bay House of Correction (HOC), after several officers had sexual relations with her at that facility.

On September 27, 2002, as the Commission was concluding its review, Sheriff Rouse announced that he would accept a buyout of his employment under an offer made to city and county employees. To take advantage of the offer, he must resign from his position not later than November 30, 2002. Joining him in accepting the buyout were the Special Sheriff (the only employee in the Department to report directly to the Sheriff), the Superintendent of the Jail and the HOC, the Deputy Superintendent of the Sheriff's Investigative Division (SID), the Training Director and the Deputy Superintendents of Operations and Programs Services at the Jail.

Governor Swift will now appoint a new Sheriff, who, in turn, will have the opportunity to appoint senior staff. As this Report details, the incoming Sheriff will face serious challenges in a Department with fewer resources. The Commission hopes that its findings and recommendations will provide the Governor with information useful to her appointment decision and will assist the new Sheriff in taking steps necessary to transform the Jail and HOC into model institutions.

B. Background

The Department has the responsibility to manage the Jail, which houses pre-trial detainees, and the HOC, which houses persons convicted of crimes and sentenced to terms of incarceration of 2½ years or less. For almost 150 years, the Jail was located at Charles Street, while the HOC was located on Deer Island. In 1919, the City of Boston took over the management of the HOC.

Both the Charles Street Jail and the Deer Island Penal Colony shared a history marked by instances of political scandal, riots, escapes, overcrowding, brutality, and court-ordered reforms. In 1990, the Charles Street Jail closed and was replaced by the newly-constructed Nashua Street Jail. The following year, the South Bay House of Correction opened, resulting in the closure of the Deer Island Penal Colony. At the same time, Suffolk County once again assumed control of the HOC, in addition to the Jail.

With control over both the HOC and the Jail, the Department became responsible for the 30th largest jail system (out of more than 3000) in the country. Both the HOC and the Jail were state-of-the-art facilities under the control of a new Sheriff. With the new facilities, came the hope that a new era of modern corrections had finally arrived. Regrettably, within a decade, renewed calls were sounded for investigation of the Department.

In May 2001, the U.S. Attorney's Office for the District of Massachusetts unsealed indictments charging seven officers at the Jail with conspiracy, criminal civil rights violations, obstruction of justice and perjury in connection with the deliberate use of excessive force and assaults on pre-trial detainees.

The incidents allegedly occurred between 1998, after Richard J. Rouse had been appointed to fill a vacancy in the position of Suffolk County Sheriff, and 1999, when the Federal Bureau of Investigation (FBI) began investigating the incidents. As the FBI investigation continued, the media focused its attention on other aspects of the Department.

The press reported that an inmate was impregnated while incarcerated at the HOC, after several officers had engaged in sexual relations with her there. One female corrections officer spoke publicly about the Department's failure to take action after she had reported a fellow officer's inappropriate conduct with inmates. Another inmate died due to an overdose of heroin while incarcerated. Further, there were reports that criminal misconduct in both institutions had not been prosecuted. The amount of money the Department paid, to inmates and employees alike, in legal settlements, also received significant publicity.

Subsequently, the press reported on political patronage within the Department. Ever-increasing expenses for officers working overtime, notwithstanding budget increases, also resulted in increased scrutiny of the Department's financial management.

Public criticism of the Department came to a head in the summer of 2001, after a series of feature articles in *The Boston Globe* chronicled the Department's troubles. In response to this media attention, the Sheriff requested that the Governor appoint an independent commission to review his Department. The Governor responded by appointing this Commission. She appointed Donald K. Stern as chair and named as its other members: Mauricia Alvarez, Ralph I. Fine, Karen F. Green, Michael W. Neighbors, Michael A. O'Toole and J. Owen Todd.

C. Scope of Investigation

The Commission has conducted an extensive review of the operations of both the Jail and the HOC. The Commission did not investigate or make findings with respect to specific incidents of physical or sexual abuse, which are, in some instances, the subject of criminal charges or civil litigation. Rather, the Commission focused its work on identifying deficiencies in the operations of the facilities that might have resulted in such serious incidents, and on making recommendations directed at preventing such abuses in the future.

As the investigation progressed, the Commission expanded its work to include various other areas not directly related to the incidents of abuse, but crucial to the operations of the Jail and the HOC. In the course of its investigation, the Commission reviewed:

- Organizational structure and management
- Policies, procedures and practices
- Physical plant and security issues
- Hiring, promotions and other human resource issues
- Labor-management relations
- Financial management and fiscal controls
- Training
- Internal and external accountability measures

All of these areas came within the Commission's mission to review the policies, procedures and practices of the Department and to make recommendations to improve the management of the Jail and the HOC.

D. Methodology

The Commission has met regularly throughout the past year. At the outset of its investigation, the Commission met with the Sheriff and his senior staff, toured both the Jail and the HOC, and met with representatives of each of the major employee unions. The Commission received a briefing from the U.S. Department of Justice National Institute of Corrections (NIC) on modern corrections practices and investigations that had been conducted elsewhere.

The Commission also met with a host of different constituencies, including union representatives from both the Jail and HOC, Massachusetts Correctional Legal Services, current and former Department employees (both custody and non-custody), members of the management teams of prior administrations, former inmates, families of inmates, attorneys and their clients with pending lawsuits against the Department, the American Friends Service Committee, community and religious leaders, the FBI and the Suffolk County District Attorney's Office. Additionally, the Commission reviewed correspondence from current inmates and various court pleadings.

The Commission also engaged a corrections consulting firm, Pulitzer/Bogard & Associates, LLC, which conducted interviews of Department executives, managers, investigators, attorneys, union leaders, and inmates; reviewed hundreds of documents; attended Commission meetings; and provided valuable support and advice.

At the Commission's request, the Commonwealth of Massachusetts' Executive Office of Administration & Finance (A&F) also assembled an extensive and experienced team of state employees to examine administrative operations of the Department. This group met with numerous Department personnel, and reviewed a large number of written policies and procedures. The A&F team then briefed the Commission on its preliminary findings. Its final report is being issued contemporaneously with this Report.

Throughout the entire investigation, the Commission received the full cooperation of the Sheriff and his staff.

E. Major Findings

The reported incidents of physical abuse and sexual misconduct, while not widespread, were egregious. Though responsibility lies with the individuals involved, the incidents did not take place in a vacuum. They occurred in a deeply-troubled institution, where conditions were ripe for officers so inclined to abuse their authority.

The Commission found no single factor responsible for the numerous problems faced by the Department. It did, however, identify a characteristic that has allowed problems to persist in both institutions. Despite changes in organizational structure, personnel, inmate populations and financial resources, the Department continues to be a disturbingly closed system in which outside input and internal and external accountability are limited. In addition to the Department's closed culture, which, to his credit, the Sheriff has begun to change, many other factors contributed to the Department's operational problems, including:

- The failure of leadership
- Hiring and promotion practices
- The strain in labor/management relations and poor staff morale
- The absence of fully merged institutions
- Inadequate training
- The disconnect between seemingly well-conceived policies and actual practice
- A lack of internal and external accountability

➤ *The Failure of Leadership*

The Sheriff bears overall responsibility for the myriad of problems at the Jail and the HOC. During his tenure, the Sheriff has demonstrated a lack of leadership and involvement in the operations of his facilities and has focused, to a large extent, on community and legislative relations.

In a climate that required strong leadership, proactive measures and openness, the Sheriff has remained disengaged from the core operations of the Department. Among other things, the Sheriff has maintained his office outside of either facility and thereby has remained operationally and symbolically distant from the festering problems. While involved in setting broad goals and objectives, including an admirable commitment to inmate programs, treatment and community corrections, the Sheriff has failed to monitor their implementation and delegated too much responsibility to subordinates.

Lacking any corrections experience prior to assuming his job, the Sheriff appointed as the Special Sheriff, and his only direct report, a person who also lacked corrections experience. The absence of corrections experience at the top has contributed to a climate of distrust, resentment and lack of respect from staff.

➤ *Hiring and Promotion Practices: Patronage*

Further compounding the lack of leadership is patronage. Many of the staff at all levels owe their jobs to well-connected politicians. Because the Sheriff made promotions without clearly-defined criteria (or even an employee evaluation process), many staff members concluded that their own advancement depended on politics, rather than merit.

In this environment, staff became cynical of policies introduced by top management without their input. Supervisors, a group of employees critical to the proper functioning of the facilities, abdicated their responsibilities and well-formulated policies were not uniformly or consistently implemented.

The Sheriff has responded to problems and crises once identified. Indeed, the Department has lately shown a willingness to accept constructive criticism and to modify its policies and procedures as necessary, thereby setting the stage for some opening of the system. For example, the Department has taken measures, including restricting staff access to female inmate units, installing surveillance cameras, and videotaping planned uses of force, which are designed to reduce the likelihood of sexual abuse and excessive uses of force. It has also improved its ability to discover and investigate abuses by strengthening its internal investigations division.

However, to date, the Department has not developed a comprehensive, internal program for identifying problems and immediately and proactively addressing them, which is obviously critical to preventing further instances of abuse. Nor has it developed the necessary relationships or procedures with the District Attorney's Office which would result in aggressive prosecution.

➤ *Management/Labor Relations: Poor Morale*

Labor/management relations at the two facilities have become severely strained. At times, they have been openly hostile. Aggravated by recent layoffs, morale among many employees, including administrators, is poor. Without staff loyalty to the Department, the common tension between labor and management has developed into full-scale polarization. With some unions seeking to undermine the Sheriff at every turn, this situation has the potential to compromise safety at the institutions.

➤ *Separate Unions/Separate Facilities*

Although they are managed by the same Department, the Jail and HOC have never fully merged their operations. Prevented from doing so by separate, uniformed officer unions at each facility, this organizational structure presents complex and difficult management challenges.

➤ *Inadequate Training*

The content and length of the Department's in-service training program fails to conform to the minimum professional requirements of the American Correctional Association (ACA). Importantly, current training fails to train personnel in the use of force continuum, pursuant to which different degrees of force are used depending on the circumstances – training that is now viewed by correction professionals as important to the effective and appropriate use of force. Similarly, despite the previous incidents of sexual misconduct, staff members still do not receive any in-service training relevant to the issues of cross-gender supervision or sexual misconduct.

➤ *Disconnect between Policies and Practice*

For the most part, the Department now has well-conceived, written policies in place. However, many of these policies have not been uniformly implemented throughout the Department. For example, a recent policy change requires the videotaping of all planned uses of force; yet the practice is inconsistent. The lack of policy implementation results from a variety of factors, including an ineffective organizational structure, inadequate training, lack of buy-in by staff, and the absence of internal controls to monitor and evaluate performance and compliance with Department policies.

➤ *A Lack of Accountability*

The Department has voluntarily sought accreditation from the ACA and from a national association that accredits jail health care. However, there are few, if any, formal systems for internally monitoring implementation of, or auditing day-to-day compliance with, written policies and procedures. This lack of internal controls results in an ongoing failure to implement policies and monitor performance.

Moreover, the Department operates in a sort of fiscal netherworld, funded by the State and County, and yet not fully accountable to either. For example, the two “canteen” funds discussed later in this Report generate millions of dollars of revenue and operate as an off-budget fund, a situation ripe for abuse.

F. Major Recommendations

In an effort to make the Department more open, to limit the possibility for abuse of inmates, and to provide a blueprint for improving overall operations at both institutions, the Commission recommends:

- *The Sheriff should lead the Department, assuring a sound organizational structure and effective management systems.*

While certain responsibilities can be delegated, the Sheriff must lead the Department. He should involve himself in all major decisions, and assure that policies and procedures are uniformly implemented and followed. Among other things, he should: (a) move his office into one of the facilities; (b) regularly attend management team meetings; (c) set an example for supervisors by regularly visiting the facilities on all shifts; and (d) convey interest in Department operations by meeting with staff at their posts.

- *Department managers should strengthen their relations with staff.*

The chain of command, with high-level, decision-making authority concentrated at each facility, should be respected. Supervisors should have the support of the administration, but also be held accountable for any failure to exercise their responsibilities. The administration should regularly obtain staff input before implementing policies and procedures and devise uniform methods for monitoring their implementation. Ongoing operations meetings, including uniformed and civilian staff, training staff, and supervisors, should provide an ongoing means of two-way communication between administrators and staff.

- *The Department should develop clear standards for the hiring, evaluation and promotion of employees.*

Standards for the hiring, evaluation and promotion of employees should take precedence over politics. The Department should develop a formal and objective recruitment process to attract a more diverse applicant pool, including more female and minority candidates. An objective performance appraisal system should be implemented for all employees. Promotions should be based on merit, not politics or friendship. In addition, the Sheriff should adopt a policy that does not permit political contributions to his campaign from Department employees or members of their immediate families.

- *Both the Department and the officer unions urgently need to improve the current state of labor/management relations.*

The present situation is unacceptable and a barrier to improved operations at the Jail and HOC. The Department and the officer unions should eliminate conduct that perpetuates the strained relations between them and immediately start to cooperate for the good of the entire Department.

- *The Sheriff should take all feasible steps to merge the Department's operations.*

The Sheriff should work to merge the operations of the Department. Most importantly, he should seek one uniformed officer union for both facilities and thereby obtain needed flexibility in the staff assignment process. The Commission recognizes that this recommendation will be difficult to implement given the attitude of many staff members, who identify more with their own union and individual facility than with the Department as a whole. Indeed, we detected some outright hostility between employees assigned to the Jail and employees assigned to the HOC, with each group viewing the other negatively. Until the institutions are fully merged and management has the ability to move staff seamlessly between facilities, it will be difficult for the Sheriff to resolve many of the operational problems at the Jail and the HOC. Legislation may be required to accomplish this important change.

- *The Department should improve training programs for personnel.*

Many improvements in the content and amount of training provided to Department staff remain to be implemented. Facing budgetary constraints, it will be difficult for the Department to meet the requirements of the ACA. However, training and retraining are essential to the effective operations of any correctional facility. Therefore, among other things, the Department should: (a) at a minimum meet the in-service training requirements of the ACA; and (b) provide new or enhanced inservice training on the appropriate use of force, the prevention of sexual misconduct, and cross-gender supervision.

- *The Department should assure that all substantive policies are fully and uniformly implemented.*

The Department should take steps to ensure that seemingly well-conceived, written policies are uniformly and fully implemented. To accomplish this objective, the Department needs to address other issues, including: (a) an inadequate organizational structure, (b) insufficient training, (c) poor morale and lack of buy-in to policies by affected staff, and (d) the absence of internal controls to monitor and evaluate performance and compliance with Departmental policies.

- *The Department should encourage the support of custodial staff for inmate programs.*

Modern corrections recognizes the importance of inmate programs to the overall mission of the Department; the custodial staff of the Department does not. While the Sheriff has demonstrated his commitment to such programs, further steps need to be taken to gain the support of custodial staff for such programs so that they can accomplish their objectives.

- *The Department should continue to institute policies and procedures to minimize the possibility of sexual misconduct and physical abuse.*

While the Department has taken several steps to address the issues of sexual misconduct and physical abuse, further action is necessary. For example, the Department should have a stand-alone policy prohibiting sexual misconduct, and corresponding training designed to prevent it. Likewise, the Department should include the concept of, and training on, a continuum of force in its use of force policy, including alternatives to force and measured responses to inmate conduct.

The Commission also recommends that the new women's modular facility intended to house 300 women inmates at the HOC not be used for that purpose. Its design is inappropriate for the housing of women and may facilitate, rather than reduce, the opportunities for the type of sexual misconduct that has occurred in the past.

- *The Department, together with others, should ensure that allegations of physical and sexual abuse and other serious criminal misconduct are properly investigated and prosecuted.*

The Department responded to the alleged incidents of physical abuse and sexual misconduct by terminating those employees directly involved. Many of these employees, however, were reinstated after successful union grievances, despite the existence of federal indictments against them. Others were not prosecuted at all, though there were state court findings of probable cause to believe that the officers had committed crimes. The Department can, and has, taken steps to

strengthen its internal investigations and, therefore, its ability to defend against union grievances. The Department needs the cooperation of others, however, to ensure that allegations of criminal misconduct by staff are properly investigated and, where appropriate, prosecuted. The Commission urges unions, arbitrators and state prosecutors to consider the corrections implications of their decisions. Continued employment and non-prosecution of officers charged with sexual misconduct and physical abuse sends a dangerous message to staff and inmates alike – there are no consequences for staff misconduct, even when it is alleged to be criminal misconduct.

- *The Department should take steps to become more open and increase its internal and external accountability.*

The Commission urges an aggressive attack on the code of silence that prevents staff members from reporting the misconduct of fellow staff members. The Commission also believes that the Department could benefit from greater fiscal accountability and urges the State to assume control of the Department's fiscal operations, as it has assumed control for the fiscal operations of some other county sheriff's departments. The new Sheriff should work towards making the Department more open. Among other things, the Sheriff should consider forming a citizens advisory group.

G. Overall Conclusion

As noted in the Commission's Report, the Department has made strides in improving policies, procedures and operations since revelation of the allegations of abuse, patronage, lack of leadership and mismanagement. Yet there remain many areas in which significant improvement is essential. These improvements must be made at a time of severe budgetary constraints and under new leadership. However, with leadership committed to excellence, the cooperation of the unions and staff, appropriate technical assistance and internal and external mechanisms to monitor Department operations, the Commission believes that the Jail and the HOC could become model correctional facilities.

II. SPECIFIC FINDINGS & RECOMENDATIONS

A. ORGANIZATIONAL STRUCTURE AND MANAGEMENT

FINDINGS

- The Sheriff has delegated too much of his authority and has too little direct involvement with staff and operational issues.

Since the Sheriff has the ultimate legal and political responsibility for safe operation of the two facilities, it is not surprising that he would play the leading role in dealing with the external environment and setting the vision for the Department. The Sheriff's relationships with the community and the Legislature are important to the Department's success. It is apparent, however, that the Sheriff has delegated too much of the operational authority.

While he has concentrated on the job of establishing a clear vision, goals, and objectives, the Sheriff has not played an active role in monitoring the implementation of that vision. He rarely walks through the facilities (including housing areas and other functional areas inside the facilities). Moreover, while the Sheriff could play a much more active role in management of the Department through his management team meetings, he attended only about a third of these meetings in 2001. The absence of the Sheriff at management meetings reinforces the perception that the Sheriff is not the primary decision-maker in the Department and reduces his opportunities to monitor operations. Likewise, the practice of having general counsel sign all policies and procedures may well contribute to the perception of the Sheriff as a hands-off manager.

A prime example of the degree to which the Sheriff is removed from daily operations is the actual geographic location of his office at a courthouse rather than at either of the two institutions. While this location serves to facilitate the Sheriff's proximity to lawmakers important to the Department, he is physically remote from his executive staff as well as from the Jail and the HOC.

- The Department's organizational structure insulates the Sheriff from any involvement in operations and fosters the perception that he is an absentee executive.

The current organizational structure has all management and operational units reporting up to the Sheriff through the Special Sheriff. This serves to insulate the Sheriff from any direct decision making. Although delegation is an important administrative skill, the size of the Department does not warrant the level of delegation that has occurred. The current structure also places institutional operations – the very heart of what the Department is about – one step removed from the Sheriff. This undermines the importance and stature of the operating units – the HOC and the Jail.

- The Sheriff's early failure to respect the chain of command undermined the authority of first-line supervisors and middle managers.

When he first took office, the Sheriff implemented an open door policy for his staff. This practice resulted in staff bypassing the chain of command in favor of obtaining an immediate decision from the top. This period of intense executive-level responsiveness to line-staff undermined the supervisory authority of first-line supervisors and middle managers. Some staff expressed their belief that the use of force and sexual misconduct incidents were a direct result of middle managers' failure to be proactive in their supervision, due to the perception that their decisions would not be respected by top management.

Although it is not necessarily inappropriate to meet with staff on an individual basis, it is important that the employee be referred to the appropriate staff member in the chain of command in the first instance, unless the issue is one that must be addressed outside of the normal reporting relationship. In addition, efforts to formally solicit information from all staff should be incorporated into the Department culture. Though the Sheriff is now respecting the chain of command, the reversal from his earlier open door policy left some staff feeling betrayed.

- The staff resents the administration due to the lack of corrections experience at the top.

The lack of previous corrections experience on the part of the Sheriff and Special Sheriff, the two leaders of the Department, suggests to line staff that the ultimate decision makers do not have a sufficient understanding of – and, therefore, do not value – the correctional staff and their contribution to the Sheriff's mission. Staff members have concerns about institutional security and personal safety, and these concerns have become more pronounced with the Sheriff's focus on community corrections and recent staff layoffs. Staff resentment is compounded by the fact that the Superintendent and Deputy Superintendents, who do have corrections experience, are not viewed as decision-makers and that they are required or predisposed to bump important issues up to the Special Sheriff.

- There is a disconnect between administrative management and management of the institutions, which hinders institutional implementation of administrative policy.

The administration has excelled at putting into place certain management systems that are necessary to operate a professional governmental unit. According to the review conducted by the team assembled by A&F, the Department's human resources, procurement, budgeting, and information technology systems are adequate and satisfactory, and most support functions have been administratively consolidated.

The difficulty resides in the translation from central office policy to implementation in the institutions. Good policy ideas do not always translate into sound practices for a variety of reasons, including the fact that the vast majority of interactions between central office and the institutions occur through a single individual, the Superintendent. In fact, the Superintendent is sufficiently removed from day-to-day operations so as to make it impossible for him effectively to translate policy into practice, and to bring ideas from the institutions to the central office. By way of example, while there is extensive participation by central office staff at the Sheriff's management team meetings, the Deputy Superintendents, who are charged with day-to-day operational responsibility for the institutions, are never represented.

Once policies are formulated, there is no system to measure whether they have been properly implemented and are working as intended. The net result is that some policies are not implemented or not working as intended.

- Many staff owe their employment to political sponsors and believe that assignments and promotions are tied to political support for the Sheriff.

There is a widespread belief among staff at all levels that middle managers are "political hacks" who were hired because of their connections and sponsors. Many middle managers were, in fact, hired after being sponsored by an influential politician. Many others were hired due to previous associations with the Sheriff and Special Sheriff in their prior capacities. Sponsorship is not, however, limited to middle managers or those with high paying positions. Indeed, the standard employment application requests information concerning the applicant's family members' employment, thereby soliciting information concerning each applicant's connections.

A significant percentage of staff believed that their careers would be adversely affected if they spoke unfavorably of the Sheriff or members of his immediate staff. Although a perception exists that personnel who support the Sheriff politically have better opportunities for advancement, there was no indication that political support guaranteed advancement or that lack of support prevented advancement.

Relatively high-ranking staff described an unstated expectation that staff should contribute to the Sheriff's campaign and even to the campaigns of other politicians supported by the Sheriff. Staff reported feeling pressured to contribute, although there was no explicit pressure applied. The Sheriff's employees make up the majority of his contributors (approximately 60%), as well as provide the major share of financial contributions (approximately 55%), to the Sheriff's political campaign. During orientation training, staff are informed of the legal limits on political contributions by public employees. Staff are also invited to fundraising events.

This politically charged atmosphere is destructive to morale and generates cynicism among the ranks, disrespect for authority, and ultimately a lack of overall professionalism.

- The employment of a single Superintendent to supervise both facilities may place undue demands on the Superintendent.

In 1999, the Sheriff decided to have a single Superintendent supervise both facilities to promote consistency in terms of correctional operations, staff discipline, and union relations. This decision was criticized by the ACA auditors in June 2001. While recognizing the need to unify the two facilities, the auditors believed that one person could not effectively meet the daily demands associated with providing top-level management at both facilities, especially given the size and geographical distance between them. Despite the Sheriff's efforts, the two facilities have not been unified. The issues that separate the facilities are too complex to be resolved by a single position. Each facility continues to have its own culture, and the administrative demands of supervising both facilities are significant.

- The schedule worked by top-level institutional security managers does not provide adequate management presence and serves to limit staff access to management.

One of the chief concerns present in any jail relates to the inconsistency of operations among the three shifts. While there is typically a strong management presence on the day shift, the very busy evening shift and somewhat slower night shift still require a measure of quality assurance beyond that which can be provided by a shift commander. In fact, especially on the evening shift, the shift commander can be so involved in dealing with critical incidents and institutional logistics that very little time is left for walking around the housing areas, supervising subordinate staff, and ensuring that policies are being implemented.

Top managers typically are required to be available during daytime hours during the week, because that is when most administrative activities and when administrative support staff are available to the managers. The struggle to ensure the performance of administrative duties during normal business hours and operational supervisory responsibilities around the clock is one that is difficult to reconcile with a work schedule that is typically 40 hours per week.

One measure taken by the Department to address this conflict was assigning Assistant Deputy Superintendents to a 1 p.m. to 9 p.m. shift with additional on-site responsibilities during weekends. Since implementation in 1999, the Assistant Deputy Superintendents on the 1-9 shift at each facility have been primarily responsible for the employee uniform exchange process – an aspect of operations that does not require someone at this level – rather than to enhanced off-hour operational supervision.

- Despite recent layoffs, large numbers of supervisors, with relatively small spans of supervisory control, remain at each facility.

At the HOC, there are currently 10 captains, 27 lieutenants, 48 sergeants, and 452 correctional officers. The Jail has 11 captains, 24 lieutenants, 29 sergeants, and 250 jail officers. In comparison to that of other facilities nationwide, the ratio of captains to lieutenants, and lieutenants to sergeants at the Jail and the HOC is extremely low (i.e., each higher level supervisor has a large number of subordinate supervisors).

The number of lieutenants and sergeants is the subject of negotiations with the unions, which actively seek to increase the number of these covered employees. Sometimes supervisors are assigned to functions that do not necessarily require such high-level staff. For example, mid-managers and first-line supervisors work posts where there is only minimal staff supervision required (e.g., control booths and central control). Many corrections agencies assign one supervisory-level employee to posts such as central control so that decisions can be made in the event of an emergency. At the Department, however, two or more employees at the sergeant or higher level worked in central control. Given the recent layoffs, the importance of having supervisory staff moving throughout the facilities and talking with staff cannot be overstated.

It is difficult to determine the extent to which management of the facilities has been enhanced by the large numbers of supervisory staff. For example, given the numbers of supervisors, one might have thought that the incidents of sexual misconduct and excessive force would have been more readily detected, either through direct observation during routine rounds or by other indirect methods. This did not happen, in part, because supervisors were directly implicated in some of the cases.

While there are certainly many devoted and competent individuals in these supervisory positions, the evidence of such lapses also raises questions about the competence, training, and authority of all supervisors. A promotional examination process for sergeant and lieutenant positions was only implemented during the past two years; prior to that time, promotions were made, in the absence of any criteria, at the complete discretion of the Sheriff.

Recommendations

- 1. The Sheriff needs to make clear that merit, not patronage politics, will govern personnel decisions.**

The Sheriff is an elected official, so it is inevitable that, to some degree, Department staff would see politics and patronage as relevant to decision-making. But, the Commission believes that this perception is unusually deep and broad throughout all levels of the Department. The new Sheriff must break this

cycle, which has no place in an organization sworn to protect public safety. One concrete step that the Sheriff could take to communicate his interest in a merit-based system would be to adopt a rule that he will not accept political contributions from Department employees or their immediate families.

2. The Department should be reorganized so that heads of all major divisions report to the Sheriff directly.

All major division heads – administration, correctional operations, field operations and investigations – should report to the Sheriff directly. All support functions should come under administration, including standards and compliance, employee relations, legal affairs (including general counsel), finance, personnel, budget, MIS, capital planning, and community affairs. The head of correctional operations should oversee a superintendent for each facility, training, and contract correctional operations (e.g., medical services). The head of field operations should oversee community corrections and civil process. The head of investigations should handle Jail investigations, HOC investigations, and employee background checks.

One effect of this reorganization would be to place the Sheriff in a direct reporting relationship with each of the major functional areas of responsibility in the Department and to make him more directly accountable for operations. There is still a sufficiently small span of control such that the Sheriff will be able to spend the requisite time performing liaison activities with the outside community. Placing correctional operations as a direct report to the Sheriff serves to elevate its perceived and actual importance to the necessary level. Elevating those officials with correctional expertise will help deflect criticism that the top officials in this correctional agency do not have correctional backgrounds.

3. The Sheriff, rather than general counsel, should sign Departmental policies.

Although the Sheriff may delegate certain statutory authority, he may not delegate responsibility for overall Departmental policy-making, as the practice of having the general counsel sign all Department policies implies. While the general counsel should still prepare and review policies, the Sheriff should be actively involved and should satisfy himself that the policies are consistent with the Department's mission.

4. The Sheriff should close his courthouse office and consolidate all administrative offices at either the Jail or the HOC.

This will enhance the ability of his direct reports to work collaboratively, keep him in immediate proximity to one of two major correctional operations, and allow him to communicate more effectively with his direct reports.

5. The Sheriff should take extraordinary steps to convey his commitment to the institutions and the corrections staff.

Despite the animosity between management and correctional staff, the Sheriff's commitment to involve correctional staff both in the exchange of ideas and the implementation of new programs will aid in the development of improved correctional staff-management relations.

6. A superintendent should be assigned to each facility, each supported by a deputy for operations and a deputy for programs and support services.

This will provide for a single point of accountability and responsibility at each facility, while also enhancing administrative and operational supervision. It is critical, however, that these positions not be limited to business hours, and that there be high-level administrative presence during evening hours and weekends. The proposed head of correctional operations would provide quality assurance, consistency, and leadership to the two facility superintendents, while also coordinating training and operations. In addition, the individual in this position would need to be an active participant in labor-relations activities, and in top-level Department administrative functions.

7. The Department should immediately reevaluate the responsibilities of the Assistant Deputy Superintendent.

These positions should be assigned solely to provide operational supervision in the facilities during evening and weekend hours, and those holding the positions should not be distracted by other job duties (with the exception of some limited special assignments from time to time). Responsibilities associated with these positions should be in written form, with performance indicators and expectations reflecting the primary responsibility for operational quality control (as opposed to shift operations responsibilities that must remain the province of the shift commanders). Tasks such as uniform exchanges need to be assigned to other lower-level staff.

8. A high-level supervisor, at the rank of captain or higher, should be assigned as a "unit manager" for the women's units at each facility.

These positions should have complete, 24-hour accountability for the women's units, relying on specially-assigned shift supervisors to keep them informed of activities at all times. Responsibilities associated with this position should include: reviewing and approving all staff assignments and personnel rosters; responding to (or reviewing) any grievances filed by female inmates; coordinating program and treatment activities with other staff responsible for those duties; initial investigation of staff misfeasance or malfeasance (unless, per established

criteria, such matters need to be addressed by Investigations staff); maintaining an ongoing dialogue with inmates and officers (to ferret out operational concerns, including potential sexual misconduct at an early stage); reviewing all incident reports emanating from the women's units; coordinating with shift commanders; taking necessary corrective action or follow-up measures; and maintaining a presence during nights and weekends. The Department may also want to consider implementing this unit management approach throughout the system (i.e., not just limiting it to the women's units) in an effort to improve consistency among shifts and to enhance cooperation between custody and treatment staff.

9. Managers at all levels and disciplines must be more visible in the institutions.

When managers take the time to communicate with staff at their posts, it conveys an appreciation for the operational issues and allows staff to exchange ideas with management freely. The Sheriff should set the example for his managerial staff.

B. OPERATIONAL POLICIES, PROCEDURES AND PRACTICES

Findings

- The Sheriff's Department has a comprehensive policy manual.

The Department has generated a professional and current policy manual. Moreover, the Department has not simply mimicked the ACA standards, but rather has put substantial effort into tailoring policies as needed. In addition, there is a Policy Review Committee in place to review and revise policies on an ongoing and systematic basis. Such a process is required by ACA standards.

- Drafts of new procedures are not consistently shared with staff prior to adoption, nor are there sufficient management controls to ensure that staff actually receive copies of new procedures.

The Policy Review Committee is comprised primarily of middle and upper-level managers, some of whom lack correctional experience and may not be sufficiently aware of operational realities within the institutions to understand the impact of the policies. Although these members do solicit the input of subject matter experts within the institutions when reviewing specific policies and procedures, the absence of formal involvement in the committee process by lower-level supervisory or line officers fuels the perception that they lack any role in the development of these procedures. Moreover, their lack of involvement in policy development diminishes their sense of ownership in these procedures, and may even lessen the likelihood of successful implementation. Staff input acts as a reality-check on the viability of new policies and reduces the tendency of staff to second-guess an administration that is viewed as lacking correctional experience.

- Supervisors often overlook staff violations of Departmental policy, viewing the rules as nonsensical or unimportant.

There is a general willingness among supervisors to overlook minor violations of the Department's policies, procedures, and practices, because they do not view the violations to conflict with the overall operation of the facility. In fact, supervisors view many policy violations as inevitable given the administration's ever-changing procedures. This should be of serious concern to the Department.

First, if staff are permitted to violate policies and procedures with impunity, it establishes an accepted practice that may be cause to overturn disciplinary actions later. Second, staff may perceive that the policies and procedures are not sound correctional practice, and are instead designed solely to protect management by establishing a paper record. As a result, staff may begin to perform based on their own understanding of sound correctional practice. This leads to an erosion of authority and a willingness to ignore more significant violations.

- The Department's written policy governing the use of force does not reflect the critical and accepted principle of "continuum of force."

Many correctional agencies have predicated their use of force policies and training on the "continuum of force" concept. This approach calls for an escalation of levels of force based on the degree of risk and the resistance encountered by the officer at each level, and typically sets forth the allowable techniques that can be employed in each instance. Through the use of such a continuum, an agency can define when force is reasonable in many different circumstances. The continuum of force is now a standard feature of sound correctional training and policy but is absent from the Department's current use of force policy.

- Though the Department's use of force policy now provides for videotaping of planned uses of force, the policy has not been properly implemented.

In December 2001, and again in March 2002, the Department changed its policy to require the videotaping of all pre-approved uses of force, including forced cell moves. However, the policy has still not been properly implemented.

Interviews with various high-level security and internal investigation officers revealed inconsistent understandings about what types of incidents are required to be videotaped. While all agreed that forced cell moves needed to be videotaped, a lack of unanimity was found regarding the definition of a forced cell move (although the policy defines it) and whether other pre-approved applications of force are to be similarly documented. As a result, statistics concerning forced cell moves – and the implications for how often videotaping

should be occurring – are unreliable. An annual incident summary for the HOC, for example, indicated that there was only one forced cell move over the course of the year, a statistic that unreliable.

A training program on use of the video equipment has been provided to a significant number of officers on the three shifts at the HOC and for two of three shifts at the Jail. Shift commanders, however, have not received any scenario-based training to provide clear operational guidance about the policy. Nor do clear, written procedures or detailed operational protocols exist, even to address such mundane, yet critical questions, such as who is responsible for maintaining the cameras and keeping the batteries charged.

- The Department has adopted several reasonable measures to reduce opportunities for staff to abuse female inmates.

Female inmates at the HOC are currently housed on the 10th and 11th floors. Access to those floors is now limited to staff who have prior permission to be on those floors. In the women's units, closed circuit television (CCTV) with constant recording capacity has been installed in stairwells, multipurpose rooms, and contact visiting rooms and monitors have been installed in two locations. There are also more controls and documentation requirements applicable to those staff members who access the units via the sallyports. These are all sound measures and will clearly make it more difficult for staff to abuse female inmates.

- The Department does not have a stand-alone policy prohibiting sexual misconduct.

Despite the incidents and allegations of sexual misconduct, the Department has not developed a stand-alone policy prohibiting sexual misconduct. Although the Employee Code of Ethics does prohibit sexual contact with inmates, it does not define sexual misconduct and other prohibited behaviors in a sufficiently direct manner. Moreover, it does not lend itself to training, as would a stand-alone policy, and it cannot be effectively disseminated to all staff, contractors, volunteers, and others.

- The Department does not have a written policy addressing cross-gender supervision.

Cross-gender supervision (supervision of male inmates by female officers or female inmates by male officers) presents complex operational and legal issues. The Department's current practice is to assign female officers to female units. Though arguments can be made that male officers should not supervise female inmates, there are an insufficient number of female officers (just under 12% at each facility) to support this staffing model. Moreover, the de facto assignment of female officers exclusively to female inmate units could present potential employment discrimination issues for the Department.

- The Sheriff has shown a commitment to inmate programs, treatment, and community corrections.

Modern corrections recognizes the importance of inmate programs, treatment and community corrections in helping inmates return to the community effectively. The Department adheres to this principle by offering a variety of programs inside the facilities that are designed to provide basic skills and education to inmates. While no doubt more can and should be done to prepare inmates for a return to the community, it is clear that the Sheriff, despite resistance from many, has moved in this direction. Moreover, since 2001, the commitment to re-entry programs has grown substantially, and the Department has begun to construct the basic components of a true community corrections capacity. The Sheriff has made community corrections a high priority and has organized it under a newly-created position of Superintendent for Community Corrections (making this division an equal of institutional corrections).

Separate halfway houses now exist for men and women released from the HOC. A women's resource center day reporting program provides services to female offenders in the halfway house in such areas as substance abuse counseling and education, life skills training, referrals for post-release care, and job readiness training. The center also performs drug testing and works with probation and parole staff, as well as with state officials, to address public safety concerns. These efforts by the Sheriff are commendable and consistent with the Department's mission. Budgetary cut-backs regrettably have slowed these measures. Even more regrettable is the strong opposition to inmate programs from the officers' unions.

Recommendations

- 1. The Department should revise its use of force policy to include the concept of a continuum of force.**

This continuum should set forth each acceptable level of force, describing the types of inmate behavior that may occur and the range of acceptable techniques for responding to that behavior. The continuum should include provisions for escalating levels of force and for skipping levels, depending on the threat or behavior of the inmate. It also should tie techniques relating to the use of force to specific training provided to Department officers. The revised policy and procedure should clearly establish that non-forceful alternatives – including talking to the inmate and displaying a show of force – are required whenever possible and constitute an important part of the continuum, but do not constitute “force” (and, therefore, do not create any need for the issuance of a use of force report).

2. The Department should form a task force, comprised of SERT members, shift commanders, SID investigators and training staff, to review the policy of videotaping incidents.

This task force should draft revisions to the procedure to clarify the types of incidents that will be videotaped, provide detailed protocols or post orders governing such situations, and develop a scenario-based training program for incident commanders and SERT officers designed to ensure a common understanding of the procedural requirements (i.e., when videotaping is required).

3. The Department should develop a stand-alone policy concerning sexual misconduct.

This policy should, at a minimum, include:

- a clear definition of prohibited conduct (this should not be limited to situations involving male staff and female inmates) and a statement of zero tolerance for such conduct
- a statement reiterating the Massachusetts statute prohibiting sexual contact between correctional employees and inmates and the criminal penalties for violation of that law
- a clear prohibition of overt or covert retaliation against inmates or staff in response to their filing of complaints, cooperation in investigations, or the taking of other legal action
- prohibitions against interfering with sexual misconduct investigations, refusing to cooperate in investigations, or breaching confidentiality requirements
- consequences for staff who fail to report witnessed or suspected sexual misconduct
- required employee training, and notice of, or orientation on, the policy to volunteers, contractors, interns, and professional visitors
- required education and written notice for inmates regarding prohibited activities, methods of reporting sexual misconduct, protections for victims and witnesses, and consequences for falsifying complaints or testimony
- investigative protocols, including multi-agency cooperation

A number of correctional agencies that have experienced serious problems related to sexual misconduct have taken this approach, as opposed to addressing it within a larger policy governing, for example, employee ethics or staff-inmate interactions. The Department may want to consult with the Washington, D.C. Department of Corrections, which has a comprehensive, stand-alone sexual misconduct policy.

4. The Department should develop a policy on the cross-gender supervision of inmates.

This policy should be developed with significant input from staff and supervisors, and should include:

- a definition of cross-gender supervision
- an identification of posts for which the officer's gender is a Bona Fide Occupational Qualification
- clearly-delineated expectations concerning when cross-gender supervision is allowed, expected, or prohibited in housing units, program areas, transportation situations, court holding, and other situations
- any limitations on cross-gender supervision such as modified procedures or post orders addressing searches, cell inspections, supervision and/or allowances for additional privacy during bathing, changing, and toilet use

5. The Policy Review Committee should continue its comprehensive review of the Department's policies and procedures.

The review should include a multidisciplinary group of staff members that includes input from supervisory and line staff on an ongoing basis.

6. The Department should establish ongoing operations meetings that include uniformed and civilian staff, training staff, and supervisors.

At these operations meetings, staff should address operational issues that create frustration for line staff (e.g., policies and procedures that may be difficult to implement due to a lack of resources or scheduling conflicts). This group should be responsible for making recommendations to upper management regarding operations.

C. PHYSICAL PLANT AND SECURITY

Findings

- Crowding at the HOC is severe and triple bunking is the norm in many areas.

Triple bunking is now a standard feature at the HOC, especially in Buildings 3 and 4, where as many as 144 to 180 inmates are housed in a single unit. Most of these rooms were designed for double bunking. The large numbers of inmates in these units present a host of supervision problems and staff have expressed concern about their ability to respond properly to inmate issues. To help manage the population, officers are frequently resorting to permitting only half of the unit's inmates to be outside of their rooms at one time. This contributes to inmate idleness, increases tensions among inmates sharing a room, and only makes management of these crowded areas more difficult.

- The new 300-bed facility is an inappropriate design for its intended female population.

The newly-constructed women's facility is an inappropriate design for this population. The entire facility is designed around congregate bathrooms and six-bed dormitories situated on either side of a corridor that leads to a dayroom area in which the officer will be stationed. The housing environments provided for female inmates of different custody or programmatic classifications are not differentiated in any way, and staff will have to circulate from the dayroom area down a corridor to look into each of the 13 dormitory-style rooms, which have no toilets or sinks (dry rooms)

Neither the layout of the dormitory rooms nor that of the congregate bathrooms provide any individual privacy. In fact, the design will make it inadvisable to assign male staff to these units without unduly compromising the privacy of the female inmates while dressing and bathing, which will raise some of the same staffing and legal concerns addressed elsewhere in this report.

In addition, because all the dormitories will be dry (cells without toilets), it will neither be possible nor practical to lock the rooms at night. Thus, inmates routinely will be out of their dorms after "lockdown," and opportunities for staff to be alone with inmates in office areas and other isolated areas outside the coverage of cameras.

The facility may be better used to house minimum or low-medium custody male inmates and thereby to reduce the substantial crowding and triple-bunking of men at the HOC. Use of the new facility to ease male overcrowding may, in turn, allow the Department to identify a more appropriate location for housing female

inmates that presents new opportunities for self-contained, gender-specific programming.

- The closed circuit television systems at the Jail and HOC do not provide adequate security and documentation.

With the exception of the newly installed closed circuit television (CCTV) in the women's units, the existing CCTV systems do not provide the level of surveillance and monitoring that is required in correctional facilities. The cameras are black-and-white, with no real-time recording capability, and too few in number.

Previous incidents, especially those involving sexual misconduct at the HOC, were not "caused" by the lack of a sound CCTV system; and CCTV will not guarantee that such incidents will not occur again. Although CCTV is not a substitute for surveillance, it can still be a valuable tool to deter and document incidents.

CCTV, especially with color cameras/monitors and digital recording capability, can be extremely helpful in defending the Department and individual officers against unfounded claims by inmates of excessive force or other serious transgressions. At the same time, when officers do violate policy, they provide a record which can be used for internal administrative procedures or for criminal prosecutions. Although the state Department of Corrections completed a survey of the HOC's CCTV requirements this past spring, no action has been taken based on that assessment. No assessment has been made of the CCTV needs at the Jail, despite that facility's limited number of cameras and outdated, ineffective system.

- Practices relating to the operation of "dry" housing units are leading to many inmate complaints about denied access to toilets.

Inmates and their counsel expressed many concerns about the operation of HOC units housing several hundred inmates that have dry rooms. The use of dry rooms for lower custody inmates is not an atypical feature of direct supervision jails built in the last fifteen years. It serves as a reasonable, cost-saving alternative to open dormitories, offering inmates more privacy and control over their belongings, and giving staff some limited ability to secure inmates in their rooms when necessary.

The operational imperative that accompanies the use of dry rooms, however, is a procedure and practice that affords inmates unfettered access to toilets at all times. In fact, ACA standards for jails and prisons require that inmates be "able to use toilet facilities without staff assistance when they are confined in their cells/sleeping areas." Many inmates complained about lack of access to toilets, especially during morning shift changes, when it could be as long as one hour

from the time they are awakened to the time that they are allowed out of their rooms to use the bathrooms. Some inmates claimed that officers retaliate against them for filing grievances or simply harass them by denying them access to toilets. It is difficult for inmates to prove that they have been denied access, or for that matter, for staff to prove that they provided access on a timely basis.

Whether inmates are being denied access to toilets because of schedule-based logistics or as harassment or retaliation, the complaints present, at a minimum, an issue of compliance with ACA standards. At worst, they raise serious concerns about the potential mistreatment of inmates, as well as health questions, where bodily fluids are reportedly stored in open containers for prolonged periods of time.

Recently revised (June 15, 2002) post orders for the housing units in Building 4 at the HOC do not contain any provision requiring officers to allow inmates access to bathrooms. As post orders provide officers with detailed instructions on how to operate their units, this is an omission that may be contributing to this problem.

- Drugs are available in the institutions.

Although it is difficult to assess the magnitude of the problem, interviews with law enforcement investigators and former inmates revealed that drugs are available in the institutions. In some cases, the drugs are brought in by visitors. In others, they are brought in by correctional officers. The drugs not only are being used in the institutions but also are being dealt from the institutions. The availability of drugs is a persistent problem in many correctional institutions throughout the country. Because officers and inmates can use drugs to manipulate each other, the availability of drugs in the facilities presents serious security concerns.

Recommendations

- 1. The Department should use the new 300-bed facility to ease male overcrowding at the existing facilities, and not for the purpose of housing women inmates.**

The new 300-bed facility should not be used to house women. It is not an appropriate environment for women and its configuration may make it difficult to prevent the types of sexual misconduct that have been encountered in the past. The facility should be used for minimum or low-medium custody male inmates to reduce the substantial overcrowding of the male inmate population at the HOC and new housing options for female inmates should be identified. Though budgetary constraints may make it difficult to staff this facility, it is important for the Department to find the resources to do so in order to reduce overcrowding.

2. The Department should develop an assessment of CCTV requirements for the Jail and should act on the assessment performed at the HOC a month ago.

This assessment can be performed by an objective outside entity, or perhaps by the state Department of Corrections which recently assisted in a similar assessment for the HOC. It should be a deliberative process, beginning with clear statements of policy, intent, performance criteria, and objectives and should recognize that CCTV should be used to supplement, and not replace, staff. The assessment then should identify all required camera locations, types of cameras (fixed, pan-tilt zoom, etc.), locations of monitors, use of color versus monochromatic (color is strongly encouraged for clarity of images and operator eye strain reduction), recording requirements, etc. After the hardware requirements are identified, cost estimates, procurement plans, staff training requirements, funding methods, and implementation schedules should be developed. The already completed HOC assessment should be implemented as soon as possible.

3. Post orders for HOC units that have cells without toilets should be revised to provide bathroom access requirements.

Clear requirements for officers to allow bathroom access must be incorporated into post orders and procedures, and officers should receive appropriate training. Officer and supervisor input into these post orders is critical to ensure that the requirements are workable and realistic. Training should emphasize that officers' denial of access to toilets may constitute harassment of inmates.

4. The perimeter should be reinforced to prevent drugs and other contraband from entering the facility.

Several initiatives should be considered. The Department should adopt a policy specifying the items that can be brought into the facility, setting out the rationale for the rules and the expectation that all staff will comply with and enforce the rules fully. A team of drug-detecting canines should be used to inspect all persons entering the facility from a single point of entry and should be followed by x-ray scanning of personal property. More frequent shakedowns also could be implemented.

D. LABOR-MANAGEMENT RELATIONS

Findings

- The separate, uniformed officer unions at the two facilities complicates labor-management relations, encourages separate cultures, creates significant management problems and limits operational flexibility.

While there is a single, unified union for civilian staff and another for captains, there are two separate unions covering line officers through sergeants (lieutenants at the HOC are in the officer and sergeant union while those at the Jail are in the union with captains). Having separate unions fosters the continued separation of the two staffs and interferes with the sharing of ideas and experiences between the two facilities.

To the extent that the HOC is perceived to have a long-standing “culture” dating back to the Deer Island Penal Colony, the complete separation between the two facilities, through their unions, only reinforces that perception. Moreover, if staff shortages occur in one facility, but not the other, staff cannot be relocated from one facility to the other due to contractual requirements. As a result, the Department is forced to pay overtime to staff in the facility experiencing the shortage. Additionally, while staff from one facility apparently will respond to a facility-wide emergency at the other facility, they may be hampered by a lack of familiarity with the facility and its operations.

Many staff members do not view the separate bargaining units as a concern and, in fact, prefer the separation to minimize the likelihood of intra-facility assignments. They tend to identify far more strongly with their individual facilities than with the Department as a whole. Moreover, hostility exists between the two sets of employees, each of which views the other with negativity and derision.

- Some supervisors are in the same union as their subordinates, creating significant management challenges.

Having lieutenants at the HOC in the same union as the sergeants and line officers is also a significant problem. Although a lieutenant is a high-ranking supervisor obliged to serve as the eyes and ears of management, he or she will be under inevitable pressure to avoid taking corrective action against a subordinate in his or her own union.

- Relations between the uniformed officer unions (Locals 1134 and 419) and management are extremely strained.

Relations between the uniformed officers unions and management have been strained for some time. The unions allege that management intentionally

commits unfair labor practices, knowing that the extended delay until a grievance is heard means the Department can postpone any repercussions from its action. In contrast, management believes that the unions grieve virtually every management decision, regardless of the merit of the grievance or the union's ability under the contract to contest the action.

After the promising start of the labor-management relationship in 1996, a number of factors adversely affected this relationship. In particular, the unions reacted badly to the stepped-up discipline of union members (especially in response to the highly publicized sexual misconduct and physical abuse incidents in 1999), the selection of a new Special Sheriff with no corrections experience, security post reductions in the secure facilities while community corrections was being expanded, high numbers of vacancies; cutbacks in training, and unilateral promotions of seven sergeants to lieutenant positions while a promotional exam was being created. Perceptions of political favoritism in connection with the assignment and promotion process also diminished confidence in management.

The recent layoffs brought the tension between these unions and management to a boiling point. Rather than work with management to effectuate layoffs in a fair manner consistent with the need for institutional security, the unions insisted on layoffs for all "non-essential," meaning non-custodial, personnel before any of its officers were laid off. This hostility contributed to the crisis atmosphere surrounding the layoffs and the consequent failure to minimize harm to operations.

- Relations between the union representing civilian program, treatment, and administrative personnel (Local 285) and management are positive.

The union was notified in October 2001, and then again in January 2002, of the Department's concerns. The goal of Local 285 was to minimize layoffs and protect its senior members. The process of implementing layoffs was clearly facilitated by the fact that the current contract has a negotiated layoff and recall clause. The union's leadership and management were able to cooperate with respect to determining the "bumping rights" process and decisions, in order to reduce the negative impact of the layoffs and to ensure that the organization was left in the strongest position possible to maintain necessary services to the inmate population.

Local 285 recognized the benefit to be gained by negotiating with management to solve the problem. This union declined to participate in the coalition of the unions formed to respond to the possible layoffs. Additionally, this union did not participate in some of the other initiatives designed to demonstrate a lack of support for the current administration. Union officials believe that this form of cooperation resulted in opportunities for improved negotiations during the layoffs.

- The Department's utilization of the Office of Employee Relations to manage all communications between management and labor has impeded communications and increased animus within the Department.

Department policy provides that all communications between management and labor should be conducted through the Office of Employee Relations. In general, it is sound labor relations practice to put forward negotiators who do not have the final authority to make major decisions. This allows for decision-makers to gauge the pulse of negotiations through their intermediaries and reduces the time that top administrators need to spend in sometimes long and unfruitful discussions. There are times, however, when the gravity or timing of the issue – or simple perceptions about who is making decisions and why – demand a departure from standard procedures. Some direct communication would have allowed for unfiltered information to be received by the Sheriff or Special Sheriff regarding the unions' operational concerns and willingness to accept furloughs and deferred compensation.

Similarly, the Sheriff, Special Sheriff, and the Superintendent do not appear to attend regularly-scheduled labor-management meetings on a routine or even occasional basis. The complete lack of formal contact with these officials is a sore point for the unions and contributes to animosity.

- The officers' unions, particularly Local 419 at the HOC, consistently undermine the Sheriff's efforts to improve morale.

The Department presents management challenges due to its size and the complexity of managing two completely separate facilities. Any efforts to improve communication are, therefore, extremely valuable and contribute to overall coordination, as well as to morale, within the Department. The Sheriff has attempted to do just this with an internal staff newsletter, staff appreciation luncheons and staff awards ceremonies.

Regrettably, the union leadership of the officers' unions, especially Local 419 at the HOC, has not supported these efforts. The luncheons were used by the unions to demonstrate "wastefulness" on the part of the Sheriff. Union leaders picketed a recent award ceremony in an effort to demonstrate a lack of support for the Sheriff. Some employees elected to forego attendance even though they were to receive awards. Other employees felt intimidated by the union actions and chose not to attend. In the process, any efforts to improve morale were undermined.

Recommendations

1. Locals 1134 and 419 should be merged into a single bargaining unit for the overall benefit of the Department.

The primary benefit would be to remove the artificial barriers between the Jail and the HOC. This would benefit employees by enhancing promotional opportunities, increasing opportunities for preferred assignments, and allowing for reassignments when needed for personal reasons. Staff could bid on their preferred facility. At the same time, the merger would provide management with more flexibility in making work assignments. The cross-fertilization of staff at all levels hopefully would discourage some long-standing negative practices and encourage the exchange of ideas between facilities.

The Department should investigate how the state Department of Corrections dealt with similar issues. Legislation may be necessary to force a change if the situation is not resolved. At a minimum, in the event that consolidation of the two officers' locals is not possible in the short run, the Department should fully explore the legal boundaries of its own authority to transfer officers between facilities.

2. Lieutenants at the HOC should not be in the same collective bargaining unit as the sergeants and officers whom they are charged with supervising.

All necessary legal steps should be taken to adjust the bargaining unit composition to move the HOC lieutenants into a single, unified unit representing all lieutenants and captains.

3. The new Sheriff must immediately and personally reach out to the officer unions in an effort to promote labor peace within the organization.

Only through the demonstration of a genuine desire for a partnership will the current animus between management and labor be diminished. This effort requires the Sheriff to have a hands-on approach to labor relations, while not undermining the efforts of the Office of Employee Relations. This balance can be achieved, if the new Sheriff establishes himself publicly as the policy-maker, articulates his vision, establishes what he needs from the unions and, in general terms, what he is prepared to negotiate, and then allows his staff to bargain directly over the details with the union's leadership. This limited hands-on participation should extend to attendance at regularly scheduled labor-management meetings as well as to collective bargaining and contract negotiations.

4. The officers' unions should cease their destructive efforts and instead work with the Sheriff for the good of the Department.

The Department needs to make some difficult financial and operational decisions. The officers' unions need to recognize that additional, budget-driven layoffs may be necessary in the future. This should be addressed in collective bargaining agreements so that a reasonable and disciplined approach to staff reductions may be taken. What is needed is cooperation and trust, not divisiveness and negative public relations.

The officers unions, and in particular Local 419, must recognize the risks they create when they make public pronouncements that union members fear HOC inmates, as they did earlier this year. Regardless of the actual degree of risk that the reduction in positions may have created (the actual risk was minimal given the actual layoffs), it can never be considered sound practice to announce to inmates that officers are afraid. Rather than publicly calling attention to these safety risks, the responsible approach would have been for the leadership of the unions to discuss with the Superintendent those reductions that caused particular concern, and cooperatively to identify alternative approaches.

5. Both officers' unions and management should stop taking extreme positions.

In light of the current animus that exists between management and labor, it is imperative that each side avoid the extreme tactics employed in the days prior to the most recent layoffs. It is not productive for the Department to refuse to release copies of the current budget, insisting that it be obtained by way of a Freedom of Information request. It is also counterproductive for the officer unions to take positions such as insisting that "all non-essential personnel [meaning non-officers] within the Department go before there is any further discussion regarding [layoffs of officers]." Again, each side needs to understand the bigger picture and to work collaboratively with the other to achieve their common goals.

6. The head of correctional operations should actively participate at labor-management meetings.

The individual responsible for corrections operations should be an active party to labor-management meetings. Administrators in top positions at each facility should also be included (even if only as observers) to enable them to understand better the positions taken by each party, to allow them to shed light on the accuracy of statements made, and as a development tool for their careers.

7. The Sheriff's top management team and the leadership of the unions should participate in off-site activities designed to foster effective communications and joint vision.

One such activity could be a two to three-day retreat, led by a professional facilitator with labor relations experience. This could be held at a government-owned facility to reduce the associated costs. Another option is to arrange visits to other urban jail facilities to observe direct supervision operations (with a single officer in the pods) and to learn more about how labor peace can be achieved in a correctional environment. The National Institute of Corrections, part of the U.S. Department of Justice, frequently provides full or partial funding for such "hosted visits."

E. STAFFING

Findings

- The personnel division continues to improve the hiring process.

Job descriptions are provided for virtually all positions in the Department and sufficiently describe of the general tasks and the knowledge, skills, and abilities necessary to perform the duties of each position. The hiring process begins with a formal application, which requires candidates to list their relatives and their relatives' employers. Additionally, the process includes a facility tour, written test, interview, and background investigation. The standards for hiring staff may have been lowered in the early 1990s as a result of the facility openings and the concomitant significant increase in need for new staff. The criteria for selection have been strengthened, however, following the investigations for sexual misconduct and excessive use of force.

- The Department is not effectively using the probationary period to identify and discharge employees who will ultimately prove to be poor performers.

During the one year probationary period, management can weed out those employees who do not possess necessary skills, or who act in such a way as to implicitly or explicitly show they will not be good officers. This can be done without fear of grievances being filed on the employee's behalf. ACA standards recommend evaluation of the probationary employee at least every two months and termination for those who do not perform satisfactorily.

The Sheriff's Department does not employ the use of ongoing formalized probationary period evaluations of staff performance or a standardized checklist to ensure staff are able to perform at the required level of proficiency. It is only during the one-week field training and as the probationary period is coming to a close that these performance is evaluated. The field training, however, is not

comprehensive enough to take advantage of the opportunity to effectively evaluate new employee performance during the probationary period. On some occasions, the probationary period has been extended because new employees were not scheduled for basic training within the one-year period. Generally this extension is used only when there is a large influx of new hires in a one-year period.

Despite the inevitability that a poor performer will be granted union protection at the conclusion of the probationary period, training and uniformed staff at all levels assist new employees to make it through the probationary period, even telling them that they must be especially careful during this period. Over the past several years, only 12 probationary employees out of 515 were separated prior to the one year probationary period. Without standardized employee evaluations, it is doubtful that the Department can recognize a good employee from a bad one and therefore, it loses the opportunity to weed out poor performers without consequence.

- The Department has no employee performance appraisal system.

Despite the fact that ACA standards require annual written performance appraisals for all employees, they are currently provided for a small subset only – staff completing their probationary period, staff seeking promotions, and some support staff. Nor are there performance appraisals for middle management staff up to and including the Special Sheriff. Furthermore, there are no policies and procedures that address the circumstances and process under which performance appraisals are to be completed. Performance appraisals are not a substitute for the day-to-day interactions that should occur between supervisors and staff – review of work, praise for good work and correction for poor performance. However, the absence of an annual standardized performance appraisal system reduces accountability, limits opportunities for staff to receive feedback and deprives the Department of a critical management tool.

- A lack of any planned interaction between custodial and non-custodial staff members fosters misunderstanding.

Some tension exists between the uniformed and civilian staff. Both categories of staff have a distinct primary function that must be balanced with their responsibilities to support the seemingly conflicting function of the other group. In other words, uniformed staff focus on security and custody concerns, which they believe must be met in order for treatment and programming to occur, while civilian staff must find ways to meet inmates' treatment and programming needs within the confines of a secure facility. Opportunities for productive interaction and "cross-fertilization" between uniformed and civilian staff are limited to training programs and multi-disciplinary assignments of staff to housing units operating as therapeutic communities. The interaction does occur with upper management

staff, particularly in the context of policy and procedure development and ongoing management meetings.

- The Employee Assistance Program lacks necessary independence.

The Employee Assistance Program (EAP) is operated by Sheriff's Department personnel who have been with the Department for many years. The EAP coordinator works to establish programs to address employees' financial, emotional, alcohol, and drug-related problems. Most EAP efforts focus on alcohol-related issues, job stress mandatory interventions, and peer support.

As it is currently structured, the EAP lacks independence, since the EAP coordinator is a Department employee, rather than a contractor from another agency. This could lead to a concern about the sharing of confidential information. Moreover, although the Department's policies and procedures, as well as the employee handbook, provide assurance of confidentiality, staff noted that the EAP office is located just beyond the investigators' office. Under these circumstances, it is difficult for staff to be assured of the sincerity of confidentiality claims. Although the office will be relocated in the near future, it likely will take time to regain the confidence of staff in the system.

- Women and minorities are significantly underrepresented among the line staff and management.

The introduction of a diverse staff can bring a different set of skills and values to the institution. For this to happen, however, there needs to be a critical mass so that the minority does not become overwhelmed by the existing institutional culture. The current number of female and minority officers is not sufficient to break down those barriers, and the number of female and minority supervisors makes it even more difficult.

Since the sexual misconduct allegations arose, the female housing units at the HOC and the Jail have been staffed primarily by female employees. Additionally, the Department selected one female captain, purportedly to oversee the operation of the women's units at the HOC. This captain works primarily during day shift on the weekdays, however, she does not serve as a true "unit manager" for these units (i.e., with 24 hour responsibility). While these practices partially address the sexual misconduct concern, it exacerbates the shortage of female officers available to work throughout the facilities in assignments that can serve to breakdown the institutional culture and where their different approach to confrontations with male inmates could prove beneficial.

Within the last several years, there has been a more concerted effort to hire female, as well as minority, uniformed officers. Unfortunately, many of these officers were recently laid off due to the Department's decision to lay off

employees on a last-hired, first-fired policy. Women currently comprise only 10% of all uniformed staff while all minorities represent only 20%.

- Direct supervision principles, designed to increase staffing efficiencies, have not been implemented.

The direct supervision approach to inmate management is based on the belief that the facility staff must control the housing units through continuous and direct supervision of inmates without barriers to separate the two. It is the responsibility of the housing officer to control the behavior of the inmates in his/her unit, keeping negative behavior to a minimum by reducing tension and encouraging positive interactions. To ensure that the officer retains control, challenges by an inmate to the officer's leadership must be dealt with quickly and effectively, and may result in the inmate's removal from that area to a higher level of custody. The number of inmates in a housing unit is based on the ability of one person to manage a group of inmates while performing myriad administrative and operational tasks as required (e.g., conducting searches, documenting movements and activities, etc.). Well-trained and motivated staff are essential to ensure a professional, safe, consistent, and positive approach to the operation of the facility.

The Jail and the HOC were originally designed to operate under direct supervision principles and concepts. Despite the importance of ensuring that staff understand the operational significance of a direct supervision model, little, if any, information on the subject was included in the training staff received at the beginning of operations in the new facilities. In addition, most current staff do not have an accurate understanding of the concepts and principles of direct supervision, including the importance of having a single officer in a housing unit. Without a clear delineation of responsibilities, more than one officer diminishes the benefits of inmate accountability and supervision (e.g., inmates play one officer against the other).

While a number of the staff are currently disturbed at the prospect of managing units of 32, 48 or 64 inmates on their own, direct supervision facilities typically operate at a ratio of one staff to 48-72 inmates, or in some cases, even higher. Another significant benefit of direct supervision, particularly with regard to staffing, is the ability to rely on a secure perimeter, thus allowing for fewer internal controls (e.g., staff escort of lower custody inmates). Despite the direct supervision design and the secure perimeters at both facilities, all inmates are escorted to virtually all areas in each facility. This inefficient practice results in the need for additional (and unnecessary) staff.

- No written procedures exist for the selection, training, assignment, supervision, evaluation, and removal of officers on the Sheriff's Emergency Response Team.

The Sheriff's Emergency Response Team (SERT) is a team of officers specially selected to respond to emergency situations in the facilities. Given their role, SERT members are more likely than most other staff to be involved in use of force incidents such as cell extractions and planned forced moves. Due to the importance of the SERT members and the liability associated with their more frequent applications of force, most corrections agencies establish formal written procedures for selection, training, assignment, supervision, evaluation, and removal of SERT team officers. In the Sheriff's Department, the selection process is quite informal and there are no set policies that govern other aspects of membership on the team. Staff see this as another invitation for "political" considerations to come into play.

- The absence of any written policy concerning shift swapping causes staffing problems.

The Department allows officers to swap shifts with the approval of shift commanders. This practice became a problem as employees were delaying the return swap for many months (and sometimes the employee who was supposed to work had left the employ of the Sheriff's Department), as it was harming the consistent assignment of staff on a given shift, and as it was causing substantial administrative paperwork for the shift commanders. While limitations have now been placed on the practice, they have not been codified in procedure. As a result, supervisors do not receive policy guidance about the criteria for approving such swaps and the need to ensure that certain posts are covered before agreeing to the change. For example, no effort is made to ensure that there are a certain number of officers assigned on a given day who are SERT qualified, or that there are a sufficient number of female officers.

- The disproportionate layoffs of program staff members and other associated program reductions could affect operations and safety.

Program staff layoffs, combined with cutbacks in contracted program and treatment services, will force cancellation and reductions in education services, treatment programs, vocational preparation, and other programs affecting several hundred inmates at the HOC and a smaller number at the Jail. This will result in increased idleness, and may indirectly impact the number of use of force incidents as idleness frequently leads to inmate behavior problems. Caseworker caseloads at the Jail will increase from an already high 112 detainees per caseworker to an even higher 128 detainees per caseworker. Although specialized unit caseloads will remain the same or only slightly higher at the HOC, approximately two-thirds of the inmates in "non-program" housing will have

a more difficult time accessing a caseworker as the ratio goes from a relatively high 74 inmates per caseworker to a very high 94 inmates per caseworker.

Reductions in caseworker and social service positions will limit the opportunity for inmates to seek assistance for personal matters, which may negatively impact on their behavior. These cuts may also increase frustration by both inmates and officers, with the latter now being required to field additional complaints and time-consuming inquiries that previously would have been directed to caseworkers. The peer program for HIV/AIDS, which is well received by both staff and inmates, will be substantially reduced. Recreation positions have also been eliminated at both facilities, which raises a concern about a potential lack of supervision and organization during exercise periods and a potential increase in altercations. These programmatic cut-backs may ultimately affect institutional operations and staff and inmate safety far more than the relatively small percentage of uniformed staff layoffs.

- The Department has a disproportionate number of management-level positions.

Unlike many jail systems throughout the country, the Sheriff's Department is largely independent of external government support infrastructure. As a result, the Sheriff's Department needs to employ staff to handle functions typically handled by county or city government. Examples of these functions include: General Counsel (12 employees – responsible for legal affairs, including all litigation and arbitrations); Personnel (14 employees); Employee Relations (5 employees – responsible for dealing with six unions and all collective bargaining and grievance/arbitration matters as well as for preparation and monitoring of budgets to both the City and the State); Procurement (7 employees); Training (10 employees); and MIS (10 employees). As a quasi-state agency and political entity, the Sheriff's Department is also directly responsible for lobbying the legislature for its budget. While some of these offices may be over-staffed, it is difficult to draw conclusions without a detailed job task analysis and staffing plan.

Recommendations

- 1. The Department should develop a formal and objective recruitment process that attracts a diverse pool of applicants.**

The Department should increase efforts to recruit women and minorities, given the diverse make up of the inmate population. Recruitment efforts should be expanded beyond just colleges and universities, and should include women's civic groups, minority law enforcement groups and community organizations. By teaming up with other public safety agencies to attend recruiting drives, the Department can be assured that their literature will be available even if a representative is not able to attend. Coordination with other public safety agencies can also extend into the applicant process (e.g., scheduling testing at

the same location, etc.) The Department should remove questions from the application which request information about the candidate's family and connections.

2. Background investigations should be more thorough and include a psychological component.

Given the unique dynamics of interpersonal relationships between corrections staff and inmates, a thorough background investigation is required. This should include interviews with neighbors and others, as well as psychological testing, in order to identify applicants who may be vulnerable to inmate manipulation or who may have a propensity toward inappropriate interaction with inmates and staff.

3. The Sheriff should use an employee's probationary period to determine whether the employee is well suited for corrections work.

Given the size of the Department, it is no longer the case that this determination can be made on an informal basis, or at the opposite extreme, only following formal disciplinary action. A formalized probation process provides ongoing documentation as well as continuity, should supervisors or the employee change shifts. The documentation illustrates when improvement has/has not been noted as well as whether remedial training has been effective. A formal review should occur at regular intervals (every 2-3 months), at which time the supervisor and employee would meet to discuss the employee's performance and progress. The review document could easily take the form of the field training evaluation or the performance appraisal form.

4. An objective performance appraisal system should be implemented for all Department employees.

Annual written performance reviews are required by ACA standards, and are essential tools for identifying performance expectations and then letting employees know how they are performing in relation to those expectations. Additionally, written performance appraisals help to highlight improvement areas and training needs for individual employees and agency wide. The performance appraisal must be as objective as possible, so that all supervisors would rate an employee similarly. A reward system can also be tied to the performance appraisal to recognize staff who are meeting or exceeding the Department's expectations. Implementation of a formal performance appraisal system for all employees up through management will also help address negative perceptions that might be held by the unions of a double standard of accountability, i.e., that this process is aimed only at holding accountable line and lower level supervisory employees.

5. The Department should establish policies to address the qualifications, selection, training, and responsibilities of SERT members.

A formalized selection process, with selection based on objective criteria, will allow all staff the opportunity to be considered for the team. In addition, the individual's performance appraisals should be reviewed as an integral component of the selection process. Once on the team, staff must receive the requisite training, and continue to meet the standards or be removed from the team. The screening process for SERT membership should include recommendations from supervisors and a review by SID to ensure there are no ongoing investigations or allegations that would reflect on the appropriateness of the individual to serve on SERT (especially with respect to use of force). Final determinations concerning assignment should be made exclusively by the Superintendent (or the proposed head of correctional operations), without regard to political affiliations or sponsorship.

6. The Department should take advantage of the podular housing design and implement direct supervision principles as soon as possible.

The principles are the foundation for managing groups of inmates. The implementation of these principles will require training and perhaps tours of other facilities that have successfully implemented direct supervision. Once direct supervision is implemented, line staff will better understand the benefit of a single officer managing a housing unit. This proactive management of inmates will likely reduce vandalism and the incidence of use of force, as has been demonstrated in other direct supervision facilities. Additionally, more staff will have ownership for their housing pods and would likely be more attuned to irregularities in the pod. Direct supervision audits and training are available through the NIC Jail Center.

7. A comprehensive staffing analysis, including both institutions and central office functions, should be conducted by an entity outside of the Department.

While the overall staffing complement at the HOC is in line with accepted ratios of staff to inmates, the Jail's staffing figures appear to be excessive. Moreover, the overall number of supervisors appears to be very high for the number of people to be supervised. An objective staffing analysis should be done for both facilities as well as for central office support functions. A staffing analysis should be conducted by an outside agency to minimize Department influence over the analysis. The analysis should also specifically address the supervisor to subordinate ratio, given the apparently high number of supervisory staff to subordinates. The institutional analysis should include a calculation of the shift relief factor that reflects actual absences. Given the higher percentage of

program staff layoffs, the staffing analysis should consider the impact of such reductions and make recommendations prioritizing program staff callbacks when the budget improves.

8. The Department should form task forces of staff and union representatives to recommend solutions for staffing issues arising out of unplanned absences and shift swapping.

Work teams and task forces are an effective means of soliciting input from a multidisciplinary group of staff. The Department should use work teams of staff at various levels and different disciplines (e.g., custody and treatment) to meet, discuss, and recommend solutions to operational issues. Once these teams are in place, staff who have participated often find that they are more tolerant of other disciplines and the management team. Although several positive initiatives are already in place, sick leave continues to be a significant issue and so further measures are necessary. An inclusive approach to resolving the problem, with the onus on the staff itself, is more likely to have an impact on the staff than policies handed down by administration. Likewise, a task force approach would be helpful in identifying specific criteria for shift swapping. The criteria may include, for example, whether a SERT member must swap with another trained SERT member, or a female officer must swap with a female.

9. The Employee Assistance Program (EAP) should be located outside of the institutions, but should remain reasonably accessible to employees.

The Department should also consider having an outside therapist or psychologist coordinate the EAP program on a contract basis, as is frequently the case with EAP programs at other agencies. This practice significantly reduces the perception that confidential information will be shared with the employer.

F. FISCAL ISSUES

Findings

- The Department's current overtime rules contribute to excessive overtime expenditures and are susceptible to employee manipulation.

Contractual overtime rules in the Sheriff's Department provide for time and a half pay for any hours worked beyond 8 in one day or 40 in one week. Hours worked includes time off for vacation, sick days or other reasons. These rules contribute to the high levels of overtime because of the inflexibility and the degree to which employees can manipulate the provisions to earn more overtime. For example, an employee can call in sick or use a vacation day on a Monday, and then volunteer for overtime on his day off. He will have worked only five days, but will

be paid time-and-a-half for the fifth day because the day off counts toward the 40 hours of straight time. The Fair Labor Standards Act, however, allows for overtime calculations for law enforcement and corrections personnel using a far more flexible set of calculations, taking into account total hours worked over a set period of time.

The Sheriff's Department was under external pressure to reduce overtime in the past year. This pressure came as a result of critical newspaper articles and from the County Government Finance Review Board, which insisted on reductions. According to the Sheriff's Department, in FY01 (from July 2000 – June 30, 2001), the Department spent \$5.9 million in overtime. That figure was the culmination of a four-year trend in which overtime expenses increased from \$.957 million in FY97, to \$1.8 million in FY98, to \$2.5 million in FY99, and \$4.8 million in FY00. The Department projects that overtime expenditures will be approximately \$4.3 million in FY02 (the fiscal year ending June 30, 2002), a 27% reduction in one year. The reduction in overtime does lead to a morale problem. While there are occasional complaints regarding working long hours, some staff begin to rely on the overtime money, and must make considerable adjustments once it is no longer available. This is not a justification for maintaining the high levels of overtime; it does suggest that the reduction must be well managed.

- Excessive overtime costs largely stem from the Department's use of overtime to staff unfilled vacancies and an unbudgeted community corrections program.

Approximately 24% of its overtime expenditure resulted from the Department's use of overtime to create temporary posts for community corrections and to backfill posts in the two institutions. Due to the uncertainty of the funding for community corrections, the Department reportedly sought to contribute the necessary resources for the program, through overtime of current employees, without making long-term commitments to new employees that might not be sustainable. Approximately 70% of its overtime expenditure resulted from the Department's use of overtime to staff unfilled vacancies. In FY01, there were 50 unfilled vacancies – these alone accounted for \$4.125 million in overtime expenditures. Large numbers of vacancies can cause a spiraling effect on overtime in two ways: (1) officers are required to work a lot of overtime to cover the vacancies, and (2) they then get tired or sick and do not come to work, causing others to cover for them on an overtime basis. Additionally, overtime was used for the unusually large number of staff out on suspension, disability and family leave. There was also a higher relief factor due to increased time off for staff, increased length of academy and increased longevity. The Department did not make proactive adjustments for this increased relief factor.

- Significant overtime expenses are attributable to the high amount of sick leave used by staff.

The Sheriff's Managing Attendance Policy is a relatively good tool to reduce abuse of sick leave benefits, relying on progressive discipline to provide employees an opportunity to correct leave abuse. Fifteen employees have been terminated since 1996 for violations of this policy. Such policies have inherent limitations, however, as the amount of allowable sick leave is subject to collective bargaining (15 days per year are allowed for non-probationary employees) and therefore can focus only on undocumented sick leave and absenteeism beyond the generous allotment. Given the ease with which many employees can obtain medical letters, the policy can realistically try to limit only substantial abuses.

In 2000, officers averaged nearly 10 days of sick leave (a high amount, but not unusual for corrections). Staff continue to use sick leave at this level despite a sick leave buy back program – an incentive to reduce the use of sick leave.

- The administration of the inmate canteen funds is seriously deficient, and a significant amount of the funds are spent in ways that violate the intent, if not the letter, of the relevant statute.

Inmate canteen funds derive revenues from canteen sales to inmates of items such as toiletries, food and clothing, fees assessed for certain inmate services and pay phone commissions generated from collect calls made from the facility by inmates. Years ago, these funds were relatively insignificant. By statute, funds were to be spent for the "general welfare of all the inmates." Inmates had input into the way in which the funds were spent (generally through a committee). The funds were generally used to augment programs and recreational activities within the facility for which funds were not available from operating budgets. Since the advent of commissions from pay phones, canteen funds at the facilities have grown enormously. With the substantial increase in funds deposited into the accounts, the statutory provision requiring approval by inmates on expenditures from the funds was eliminated and the funds are now under the sole control of the Sheriff.

The Jail and HOC canteen funds together have deposits of approximately \$3 million a year. While about half of the deposits are used to purchase the items for the canteen, substantial funds remain to be expended "for the general welfare of all the inmates at the discretion of the superintendent." G.L. c. 127, § 3. It should be noted that the financial records of the canteen funds are maintained on a cash basis. Revenues are recorded when cash is received, and expenses are recorded when cash is disbursed. This type of accounting is not in accordance with generally accepted accounting principles where expenditures, for example, would be recorded when incurred, not actually paid. Maintenance of the records on a cash basis may result in distortions in the financial statements.

The Commission has identified numerous issues regarding the administration of the canteens and the canteen funds.

- Excess funds are not invested in a manner to maximize interest earned. Given the magnitude of the cash balances, this deficiency most certainly results in lost income to the funds.
- There are no written guidelines regarding the actual use of the funds, including how the statutory phrase “for the general welfare of all the inmates” is to be defined and interpreted.
- There is no budget for these accounts by which revenues and expenses are budgeted on an annual basis.
- A significant amount of the money in the canteen funds is used for essential items for inmates. For example, all uniforms and toiletries given to inmates are paid for from canteen funds. While one could argue that such expenditures benefit the general inmate population, the Commission believes that expenditures for essential items are contrary to the legislative intent (and to sound practice). The Commission believes that essentials should be paid for out of the Sheriff’s normal budget and not out of canteen funds.
- Other expenditures (to compensate religious, social and educational personnel, to purchase sports and maintain sports equipment, educational supplies and legal services, for example) are made from the canteen funds on an ad hoc basis. The various divisions within the Sheriff’s Department make a request for an expenditure (at times suggesting payment from the canteen funds). The Budget Director approves the expenditure and determines the account to charge. Contrary to the statutory requirement, the Superintendent does not approve expenditures from the canteen funds.
- Since canteen funds are not included (or as far as the Commission is aware disclosed) in the Sheriff’s normal budget, the expenditure of canteen funds for essentials distorts the true operating costs of the Department.

- Officers staff the actual canteens. The filling of inmate orders could be performed by less highly trained and lower compensated personnel. Such staffing would result in the assignment of officers to the security role for which they were hired.
- There is no meaningful oversight of the canteen funds. While there is an annual outside audit of the accounts, the audit is not intended to look into the actual use of the funds.

The absence of a written policy on the use of canteen funds, the absence of a budget and the lack of oversight create a situation that is ripe for abuse.

Recommendations

- 1. The Department should consider changing the overtime system to make it consistent with the requirements of the Fair Labor Standards Act.**

The Fair Labor Standards Act provides that employees engaged in fire protection or law enforcement may be paid overtime on a "work period" basis. A "work period" may be from 7 consecutive days to 28 consecutive days in length. For example, law enforcement personnel must receive overtime after 216 hours worked during a 28-day period. For work periods of at least 7 but less than 28 days, overtime pay is required when the number of hours worked exceeds the number of hours which bears the same relationship to 216 as the number of days in the work period bears to 28. This would provide additional flexibility to schedule personnel in a manner that does not increase working hours but does reduce overtime payments, and would reduce the opportunities for manipulation inherent in the 8-hour day/40-hour week approach.

- 2 The Department should exercise fiscal restraint and not fund unbudgeted initiatives with overtime payments when sufficient personnel cannot perform the function during regular hours.**

Regardless of their merit, absent an emergency, major programmatic initiatives must be planned for the normal budget cycle or through grant funding, and if those initiatives are rejected by the funding body, they should be deferred until such time that funding is available.

- 3. The Department should be vigilant in its efforts to avoid staff shortfalls such as those that occurred in 2001.**

Large numbers of vacancies will always have a deleterious impact on overtime expenditures as the available complement of staff must work at higher rates of pay to compensate for the unavailable staff. As it is not feasible to immediately

fill every vacancy as it occurs due to the training requirements and other logistical and practical issues, one potential practice that may help in this regard is the notion of “over-hiring,” if permitted with applicable budgetary authorizations. This entails hiring a small percentage of employees beyond the approved number of personnel to allow for normal attrition to occur without depleting available staff and causing the expenditure of overtime expenses.

4. The Department and the unions should explore alternative shift configurations beyond the current 5-day/40-hour per week schedule.

There are various 10-hour and 12-hour shift alternatives used by correctional agencies with great success in terms of enhancing employee quality of life, reducing sick calls, enhancing operations, and reducing overtime costs. Although this is a subject of collective bargaining, the unions and management could pursue this jointly, as an effort designed to address the needs of both the organization and its employees.

5. The Department should develop written policies governing the use of inmate canteen funds, expend the funds consistent with statutory intent, take steps to improve administration and increase accountability.

The canteen fund policy should require a spending plan for use of the funds and investment of funds not used. The superintendent should be involved in developing the spending plan, which should adhere to the statutory requirement that the funds be used for the general welfare of all the inmates, rather than items that only benefit a few inmates. The funds should not be used for normal overhead or operational costs, unless the Legislature makes clear that it is appropriate to do so. Purchasing guidelines should be followed as with other public funds.

In order to improve the administration of the funds, the Department should consider outsourcing the running of the canteens to a third party. While there are security issues to consider with regard to such outsourcing, the Commission urges the Department to pursue that possibility to determine if this would result in a reduction of costs. Whether or not the Department decides to outsource the running of the canteens, the Commission recommends that the Department seek to staff the canteens with non-security personnel at the earliest possible time in order to reduce costs and reassign security personnel to their intended role.

The Department should publish reports on the activity of the inmate canteen funds to add a measure of accountability and deter misuse of funds.

6. The Legislature should consider transferring control over the Department's budget and oversight of its fiscal management to the Commonwealth.

One of the concerns that led to the Governor's appointment of the Commission was the lack of oversight of the Department's fiscal management. The Department has sought supplemental state funding, beyond that originally awarded to it through the state's general appropriations process, in each of the last four years. Meanwhile, the amount of money the Department actually expended on employee overtime grew from \$957,000 in FY97 to \$5.9 million in FY01. These concerns prompted the Commission to review the Department's current fiscal and budgetary structure.

The Suffolk County Sheriff's Department is one of seven sheriff's departments that remain under the control of the counties in which they are located. Control of the other seven sheriff's departments has been transferred to the Commonwealth of Massachusetts through state legislation abolishing their respective county governments. For those state-run departments, the sheriff remains an elected official and is responsible for the day-to-day administrative and operational control of the abolished county's jail and HOC. However, for fiscal purposes, the state-run sheriff's departments are considered state agencies subject to state oversight and control, and both the sheriff and employees of the sheriff's department are state employees.

Although the Department remains a county corrections program, approximately eighty-five percent (85%) of its funding already comes from the state. Its remaining funding comes from the City of Boston and revenue generated from deeds and excise taxes on property sales within Suffolk County. Because the Department receives annual funding from both the City of Boston and the state, the Department must prepare and submit separate budget requests to both city and state officials each year. To receive state funding, the Department submits a proposed budget to the state-run County Government Finance Review Board ("CGFRB"), which is the state entity responsible for overseeing and distributing state funding to county agencies across the Commonwealth. The CGFRB reviews the Department's proposed budget and includes it as part of a larger proposed budget for all "county corrections programs" across the Commonwealth. The CGFRB then submits this budget to the House Ways and Means Committee for inclusion in the state's General Appropriations Act for the next fiscal year. At or about the same time that the Department submits its budget for state funding, the Department also applies for funding from the City of Boston by submitting a separate budget to the Boston City Council.

Despite funding from two different sources, the Department's spending during each of the past four fiscal years has exceeded existing funding levels. As a result, the Department has been forced to seek supplemental state funding outside the normal general appropriations process. In contrast, state-run sheriff's

departments have maintained spending within original funding levels and have not had to seek additional funds.

A principal benefit of transferring the Department to the state may be an increased degree of efficiency, accountability and predictability with respect to the Department's budget. The current system of preparing and presenting two separate budgets to the city and the CGFRB may be administratively inefficient for the Department. In addition, due to its reporting obligations to two separate entities (the City and the CGFRB), the Department presently lacks a clear and direct line of fiscal accountability.

Other potential benefits of transferring the Department to the state may be increased efficiency and better pricing in connection with the procurement of goods and services. Currently, the Department procures goods and services (for items such as food, medical and office supplies, and inmate personal items) through the City of Boston's Procurement and Purchasing Department. The Department has experienced frustration caused by delays in receiving requested goods and services. If the Department were transferred to the state, it could take advantage of state bulk purchasing contracts with state vendors.

The Commission recommends that the Legislature consider transferring fiscal management and oversight of the Department from the county to the state. In so doing, the Legislature should evaluate whether access to state vendors for goods and services would result in a more timely and cost-effective procurement of goods and services by the Department and the logistical feasibility of such a transfer. The Legislature should particularly consider the effects any such transfer would have on Department employee health and dental benefits, employee contributions for those benefits, unemployment insurance, and existing and future employee retirement and pension plans.

G. TRAINING

Findings

- The Department's use of force policy does not adequately incorporate the use of force continuum.

Given the lack of policy and procedure concerning a use of force continuum, it is not surprising that the basic training curriculum does not emphasize the use of such a continuum. Typically, a use of force continuum begins with officer presence and communication with an inmate, and then proceeds to escalated degrees of force depending on the circumstances presented. While the use of force and defensive tactics lesson plans do refer to a force continuum, it is not a central tenet to the training and is certainly not presented in a comprehensive fashion. The emphasis of these lesson plans seems to be on the technical aspects of use of force and legal criteria, and not the alternatives to physical

force coupled with examples, scenarios, and practical exercises designed to teach where alternatives to use of force would be appropriate. The Sheriff's Department does provide communication skills training during basic training in the context of the complexities of communication, dangers associated with misinterpreted communication and the importance of being perceptive/observant in daily interactions. It does not, however, highlight communication as a means of deescalating a potentially violent incident, and is not clearly tied to the use of force continuum.

- Both the content and the duration of the Department's in-service training program are inadequate.

The ACA's standards outline various training requirements for staff in all capacities and levels within the agency. These standards address issues such as topics to be covered in a training curriculum and the minimum number of hours of training to be provided.

The Sheriff's Department currently provides employees with approximately 24 hours of in-service training. A plan to increase the training program to 40 hours annually (as required by ACA standards) was rejected by the Department because of the potential increase in overtime funds.

The Department is seeking to comply with ACA standards by implementing a creative initiative to develop a training program that credits staff for procedure review. Under this initiative, staff would be credited one hour of training after having reviewed a procedure and then discussing the procedure with a supervisor. In order to be considered "training" for ACA's purpose, this training plan would likely require sufficient documentation to verify that the credited time was in fact used for training purposes, and documentation verifying that "learning" took place (e.g., checklist, log entries, etc.).

The training program is not as comprehensive as it could or should be according to both ACA standards and generally accepted practices. The focus of the current training program includes subjects such as emergency response, use of force, and CPR. While these are critical areas, issues such as sexual misconduct, internal investigations and the inmate grievance system are not covered, all of which represent aspects of the operation with which employees should be familiarized. Nor does the in-service curriculum teach employees about cultural diversity, communication skills, or inmate supervision techniques.

Field training is a specialized function that is a component of a comprehensive training program. It provides staff with the opportunity to practice the skills and concepts they learned during orientation/classroom instruction, in a structured and safe environment. Although the Sheriff's Department provides a basic form of field training with its assignment of an officer to "shadow" a trainee for a day,

this approach does not allow the new employee to learn by progressively increasing his or her responsibilities under a trainer's eye.

A focus on performance-based training was noted in several skills areas (particularly critical incident skills), but not in subjects more representative of day-to-day operations such as searches or responding to inmate requests. Performance-based training provides criteria for evaluating acceptable performance, and requires documentation that the employee mastered the skill.

- Because the training curriculum focuses on meeting management needs rather than staff needs, a gap exists between the training required and the training provided.

The Training Advisory Committee, which meets quarterly to review the Department's training program, has representation of high-level staff from various divisions, including: Director of Staff Training, Superintendent, Sheriff's Executive Assistant, General Counsel, and Chief Financial Officer. These staff are representative of the major functional divisions in the Sheriff's Department, and they have a significant role in the oversight of the training function. This oversight is especially critical to ensure that the Sheriff's initiatives, potential liability issues, and general systemic issues are addressed.

The Training Advisory Committee does not include supervisory or line staff. Their presence would help to ensure that operationally-based issues are addressed. Examples of training issues that may be raised by line staff include practice scenarios for videotaping forced cell moves, questions about how to respond to inmate requests, and concerns about how to respond to inmates who attempt to intimidate staff in light of the staff reductions. Similarly, supervisory staff may raise issues regarding skills to motivate staff and to address staff performance issues. Line and supervisory staff can also provide input as to effective training techniques. For example, they may learn more from a guided discussion about ethical issues rather than from a lecture on this subject.

While the Sheriff's Department does compile an "annual training needs assessment," this is simply an informal review done by the training division, with minimal formal provision for staff input. The needs assessment is not intended to be a survey of specific needs not currently addressed by the curriculum. Rather, it focuses primarily on the amount and types of training provided the previous year, and how the training program can be expanded (in terms of hours and/or content) for the upcoming year.

The training program, which is described by training staff as "highly prioritized," focuses primarily on training that is mandated by statute or standards, those requiring annual re-certification (e.g., CPR and First Responder), and high-liability issues. It is basically a "canned curriculum," relying heavily on the Massachusetts Sheriff's Association's basic training plan. Training, therefore,

appears to take on a management-focused direction (e.g., preventing Department liability), and not a focus on meeting the Department's or the employees' actual training needs.

The lack of a formalized, comprehensive needs assessment is particularly significant for the Sheriff's Department because of the extent of use of force and sexual misconduct allegations.

- Despite serious incidents concerning sexual misconduct, the Department does not provide any in-service training about sexual misconduct or cross-gender supervision.

The Sheriff's Department has not yet developed its own lesson plan for sexual misconduct. Basic training – available only to new employees – is offered instead through the Massachusetts Department of Corrections and therefore the Sheriff's Department's ability to conduct the training relies on the availability of another agency. The Ethics and Professionalism program offered through basic training addresses appropriate interaction with inmates on a very general basis. This lesson plan was last revised in 1994 and does not incorporate contemporary material surrounding such issues as sexual misconduct and excessive force and codes of silence among officers. In addition, a neighboring county's name is reflected on several of the training materials, suggesting that the materials may have been incorporated into the Sheriff's Department program without benefit of review for local issues and initiatives.

None of the training described above is provided during new employee orientation or during in-service training. The absence of a strong training curriculum to address sexual misconduct during the orientation period and on an ongoing basis through in-service training could be misinterpreted by staff who may perceive that the issue of sexual misconduct is not as important as other training issues. Not only does this fail to send a message that this behavior will not be tolerated, the Department also misses an opportunity to teach employees about the dynamics that can lead to sexual misconduct. For example, research suggests that sexual misconduct often surrounds issues of exerting power/authority, or emotional transference. Training programs intended to address sexual misconduct issues generally focus on cross-gender supervision, appropriate staff-to-inmate relations, ethics, and avoiding emotional transference. The comparable programs offered at the Sheriff's Department are provided during basic training, which staff typically attend between the eighth and twelfth month of their initial year of employment, by which time it may be too late to avoid the dynamics that get them into trouble.

Recommendations

- 1. The Department should include staff of all disciplines and levels in the training advisory committee.**

Supervisory and line staff involvement will help ensure that training is relevant and addresses the problems encountered at the line level.

- 2. The Department should institute training on the use of force continuum.**

Once the use of force policy is modified to include the continuum, practical/scenario-based training should be developed to respond to each level in the continuum. Both new and veteran staff must be trained about the continuum within the use of force policy.

- 3. The training program should continue to meet state standards and mandates and to address high risk issues.**

The training programs that require re-certification should continue as necessary. The limited training space has been one reason that the training program has not expanded. Additional appropriate training space must be located so that re-certification training can occur on an ongoing basis. Potential space may include local schools, other government training space, or even a business that may be willing, for example, to trade slots in a CPR program for training space.

- 4. Training should be tailored to meet the needs of the Department.**

“Canned curricula” are used by many agencies and are, in fact, a reasonable starting point for lesson plan development. To the degree possible, however, all training programs should be tailored to meet the specific needs of the Department and, when appropriate, the specialized needs of individual program staff (e.g., housing staff, treatment staff, SERT members, etc.). Tailoring allows for clarification of procedures and a focus on areas where training previously has been deficient.

A comprehensive formal training needs assessment, including a survey of specific training needs not currently addressed by the training curriculum, should be conducted by the Department. The need for a formalized, comprehensive needs assessment is particularly significant for the Department because of the extent of allegations about excessive use of force and sexual misconduct. The needs assessment may highlight the need for additional training in areas such as cultural diversity, communication techniques, ethics, the grievance system, SID operations and inmate supervision techniques (as well as issues like sexual misconduct, cross-gender supervision, and the use of force continuum).

5. The in-service training program should be increased to at least 40 hours, as required by ACA standards.

Forty hours of training is consistent with ACA standards, as well as the number of training hours included in the current shift relief factor. Additionally, at least 40 annual hours of training will be necessary to accommodate the additional subject areas that will be identified through the training needs assessment.

6. Sexual misconduct is a priority issue for this Department and the prevention and reporting thereof should be incorporated into the in-service training program.

Although training from outside providers are generally favored for variety and opportunities to network, the importance of this issue dictates that it be taught by in-house instructors. Department of Corrections staff could continue to teach the academy training block of instruction; however, the Department needs to be in a position to conduct this training without having to rely on external resources. The sexual misconduct training should also be available as needed for staff who require remedial training, such as those staff who are observed to be breaching boundaries or demonstrating undue familiarity with inmates.

7. The Department training program should include the components of a comprehensive field training program.

These components include formal checklists, daily evaluations by the Field Training Officer, and a formal selection process for these officers. Field training is most effective following academy training, by showing new employees how to apply the theoretical information taught at the academy. Field training is also effective, however, following an orientation program such as the one that currently exists. The NIC Jail Center would be one source of excellent information about the components of a comprehensive field training program.

8. The Department should ensure that training meets Department goals and objectives, and is tailored to meet the requirements of the positions.

The Department should develop a follow-up survey for participants in the training program to assess whether training meets these objectives.

9. The training division should expand the annual training plan.

The annual training plan should include a breakdown of the total training hours anticipated, a tentative schedule (e.g., will CPR re-certification be held on a monthly basis?), how staff will be scheduled, and the anticipated location of the training. Once this detailed training plan is developed, planning for subsequent years will be much easier.

10. The in-service training curriculum should be developed following the analysis of the training needs assessment.

It likely will be the case that staff assigned to different work areas may require different training. The training should focus on the training each work group requires. To avoid extreme measures of providing individualized training at a significant cost to the Department, some training could be designed to overlap more than one work group (e.g., some of the use of force training will apply to all staff).

11. The Department should also address individual training needs.

Remedial training should be provided as a preventive measure and not just when there has been formal disciplinary action against an employee. Once implemented, the performance appraisal system is an effective tool to identify individual training needs. Additionally, supervisory staff must be informed about the training resources available to them as well as the upcoming training schedule so that they may refer their subordinates to appropriate and necessary training.

H. ACCOUNTABILITY

1. INMATE GRIEVANCES

Findings

- It appears that far fewer inmate grievances are filed at the Jail than at the HOC, but record-keeping deficiencies make this issue difficult to assess.

Statistics provided by the Department were reported differently in each document reviewed and covered varying time periods, making true comparisons and double-checking of information almost impossible. Also, there appear to be inconsistencies in the available statistics. Despite these record-keeping shortcomings, it appears that there are far fewer inmate grievances filed at the Jail than at the HOC, even accounting for the greater population at the HOC.

During FY01, there were 1043 inmate grievances filed at the HOC, an average of 87 grievances per month. By far, the largest numbers of complaints in the first half of the year fell into the following categories: lost/damaged/general property claims (142); custody (137); earned good time (121); and medical (50). Every other category (for example, classification, food, mail, legal access, housing, and complaints against staff) had relatively few complaints. This could mean that inmates truly have fewer concerns about these issues, or there could be a reluctance or fear about filing grievances on certain topics, but not on others. At the Jail, for the period of August 1, 2001 through April 30, 2002, a nine-month

span, there were 157 grievances filed, an average of 18 grievances per month. The statistics are not compiled in a way that allows them to be categorized.

Taking into account the fact that the HOC is 2½ times the size of the Jail, the HOC still has double the rate of inmate grievances filed at the Jail. Generally, more complaints are expected to arise in a facility holding longer-term inmates, and the number of complaints at the HOC is within the norm of other similar facilities. At the Jail, there are as few as 18 complaints a month for approximately 621 inmates. While it is certainly possible that there are simply very few issues that inmates feel they have to grieve, the number of complaints at the Jail is low enough to raise questions as to whether inmates are not filing grievances because they do not know how to do so, are unable to do so, or are unwilling or afraid to do so.

- The Department's policy for determining which cases should be referred to internal investigations results in underutilization of the inmate grievance procedure and overuse of internal investigations.

The Sheriff's Department has implemented a policy of referring all allegations of employee misconduct to internal investigation. While the impetus for doing this was appropriate – the desire to ensure that claims of excessive force or sexual misconduct are not overlooked – this practice has not been entirely successful for a number of reasons. First, internal investigations has been overwhelmed with complaints of a nature that do not require their investigatory expertise. Second, there are no clear guidelines as to what constitutes an allegation worthy of referral. The referral policy has resulted in an inmate grievance system that handles almost exclusively minor complaints. As a result, the grievance system is not truly functioning as an important component of the triage system for inmates' complaints against staff.

- The Department's practice of channeling complaints of staff misconduct from the inmate grievance procedure may prejudice the right of inmates to seek damages in court for actual wrongdoing by officers.

The Prison Litigation Reform Act (PLRA), enacted by Congress in 1996, limits inmates' ability to file civil rights lawsuits about violations of their constitutional rights. Among the PLRA's provisions is a requirement that inmates exhaust the correctional institution's grievance process before their claims can be heard in federal court. Massachusetts recently enacted a state version of the PLRA, which similarly restricts access to state courts. Although inmates who fail to exhaust administrative procedures prior to filing are subject to having their lawsuits dismissed without prejudice, as a practical matter they cannot go back and file grievances after the fact, because they are time-barred from so doing. In effect, the PLRA and the grievance process, operating together, create a 10-day statute of limitations for inmates regardless of the seriousness of their claim.

The way the Sheriff's Department's grievance system currently operates, an inmate who files a complaint about a sexual misconduct or use of force incident will have his or her grievance referred to internal investigations, without further involvement of the grievance investigator. The grievance is never really closed because it is not being handled at this level, and so the inmate never formally exhausts administrative procedures as required by the PLRA. Nor is an inmate informed that if he or she files a complaint directly with internal investigations, a formal grievance is still required. The Department has adopted no policy explicitly stating that for legal purposes, the filing of an internal investigations complaint satisfies the Department's administrative procedures.

In short, inmates who present the most serious complaints about the department are likely to face potentially significant hurdles in filing civil rights lawsuits about these claims, given the current structure of the Department's grievance procedures.

- There are inexplicable differences in inmate grievance procedures, policies, and forms between the Jail and HOC.

The Jail relies upon policy S491J while the HOC relies upon policy S491H for operation of its grievance procedures. The policies differ in a number of key respects, including statements as to who is to conduct the investigation; the existence of a Grievance Committee at the Jail but not the HOC, the requirement that allegations of staff misconduct be referred to internal investigations at the Jail but not the HOC; and the Superintendent's ability to conduct an investigation of an appeal at the Jail but not the HOC. Moreover, the two facilities even use different grievance forms. While the different practices can perhaps be justified by the number of grievances handled in each facility, it is hard to rationalize the different policies or forms. The distinction between pretrial and sentenced inmates is not relevant in this context. Moreover, there is little coordination between the two processes; the two could benefit from an increased sharing of information and techniques.

- The inmate grievance tracking system is rudimentary, inefficient, and does not allow for the sorting or cross-referencing of complaints.

Each facility maintains an inmate grievance logging and tracking system, although the two systems are very different. At the Jail, the grievance coordinator enters all complaints in a handwritten log, maintained chronologically. A "back-up" spreadsheet is maintained on a computer, but the coordinator does not rely on this system and is not familiar with the program. Because the overall number of complaints at the Jail is so low (approximately 160 per year), all statistical reports are done by hand. At the HOC, the coordinator enters all inmate grievances in a computer database, rather than maintaining a handwritten log. This allows for a print-out of all grievances that have been filed. The

computer's capabilities have not been tapped, however, and the coordinator has not used the database for sorting or cross-referencing purposes.

Despite improvements in the grievance tracking system, it still fails to be an effective management information system. The grievance forms are not only different at both facilities, they are also inadequately designed to provide officials with the kinds of information they need for adequate tracking and review. As it currently exists, it is too reliant upon the memory and interpretation of the individuals handling the complaints for it to serve as an effective tool that allows officials to look for patterns in complaints. Grievance coordinators at the two facilities have no current means of efficiently sorting complaints by categories, housing area or officer's names.

As an example of the deficiencies in the system, the Jail's statistics are radically inconsistent with the statistics reported on the Department's annual Incident Summary. The former provides that a substantial percentage of all Jail grievances were resolved in the inmates favor, while the latter provides that only one grievance was resolved in the inmate's favor all year. This raises concerns about the trustworthiness of the statistical information provided to Department managers, and about the care with which the managers review these statistics.

The Jail now has a Grievance Review Committee, set up in the fall of 2001, whose purpose is to review all open grievances. This group meets once a month and tries to assess the reasons for any delays in responding to complaints. There is no indication that this group is tapped to discuss anything beyond the issue of whether timelines are observed. There is no equivalent group at the HOC. The coordinator at the HOC knows a complaint is open because it is in a file on his desk.

- Although the features that define a good inmate grievance system exist in the Sheriff's Department, the quality of response to grievances is inconsistent.

The grievance process represents an excellent opportunity for corrections officials to resolve complaints informally before they reach the stage of a lawsuit or result in behavioral problems or disturbances. The grievance coordinators at both facilities indicated an interest in seeking informal resolutions wherever possible, and see their role as trying to "keep the peace." They look for creative solutions to complaints and described several instances where they went the extra mile to find out what would satisfy the inmate when there was a reasonable request. The coordinators also expressed concerns about serious allegations and making sure they are investigated by internal investigations.

The grievance procedures, as set out in policies S491J and S491H, for the most part describe appropriate grievance practices. They provide for written responses to all grievances, reasonable time limits for filing complaints (10 days

after the incident) and appeals (30 days after response), and a good time frame for response to the grievance (10 days after filing). There are also explicit “escape valves” providing officials with ways of avoiding hyper-technical requirements as necessary (e.g., allowing inmates to file after the deadline).

These policies are typically followed, and even in those instances in which grievances are denied, inmates are usually given a substantive response explaining the reasons for the denial. Statistics indicate that the grievance process is not a sham. Roughly 27% of the grievances at the Jail in the first 4 months of 2002 were resolved in the inmates’ favor (or at least to the inmate’s satisfaction), as were roughly 25% of the HOC grievances during 2001. This is not to say that every response to a grievance was of uniformly high quality. As a general matter, the more minor the type of complaint, the more effective and appropriate the response at both facilities. Since the most serious complaints are forwarded to internal investigations, this leaves the mid-level complaints as the ones in need of improved handling.

- The grievance process is not sufficiently accessible to inmates and there is a lack of both accurate information about the system and controls to prohibit retaliation by staff.

In order to file a grievance, an inmate in either facility must request a form from a caseworker or housing officer. The completed form must be returned to either the caseworker or the officer, who then brings it to the grievance coordinator. Although we heard no complaints that inmates were denied access to these forms or that they had difficulty filing complaints, this system is, at best, unnecessarily cumbersome, and at worst, subject to abuse. For example, an inmate might wish to file a grievance about the very caseworker or officer on whom he depends to process his grievance paperwork. Moreover, the current system does not promote confidentiality, and delays are possible in the event a caseworker is absent or on vacation.

Inmate handbooks at the Jail and the HOC provide outdated and inaccurate descriptions of the grievance process. This misinformation contributes to inmate confusion. Since the grievance system is tantamount to a legal process, and there is a heightened need to safeguard inmates’ rights to access this process, the failure to provide inmates with accurate information could have legal ramifications. Several inmates reported that they had used the grievance system and had received timely responses. A significant number of inmates perceived the grievance system as biased against inmates and felt that it was not worth their while to file complaints, or feared retaliation.

Whether or not grievances actually result in retaliation, the Department does little to reduce inmate fear. For example, there is no policy against harassment or retaliation against inmates in response to a grievance (or for any other reason). There is no statement in the inmate handbook that reprisals are not allowed and

violate Department policy. There is no effort made to check (either randomly or in the case of those expressing concerns) the disciplinary records of inmates who have filed grievances to ensure that they are not improperly disciplined. In fact, in the past, inmates have been disciplined for filing “false” allegations against staff. Grievances are kept in the inmate’s central personal file, which may lead to a fear that administrators or others will learn about the grievance and will use it against them. And finally, there is no training of officers about the grievance process and about the need to avoid any behavior that can be construed as retaliation.

Recommendations

- 1. The Department should continue its practice of referring all grievances raising allegations of serious staff misconduct (such as sexual assault and excessive use of force) to the SID.**

There should be a clearly drafted policy governing this practice that includes guidelines for assessing when an allegation is serious enough to warrant such referral. Those guidelines should also clarify which grievances are not appropriate for referral, and should clearly distinguish between those allegations that can be handled by supervisors and those needing the specialized expertise of SID investigators. The grievance system is capable of responding to a larger array of issues than it currently handles.

- 2. The Department should adopt a written policy explicitly providing that the SID investigations process constitutes an alternative administrative mechanism for meeting legal exhaustion requirements.**

In other words, the policy should make clear that an inmate whose grievance is referred to the SID or who files a complaint directly with the SID has exhausted the available administrative remedies as required by the state and federal PLRA, assuming that the substance of the complaint is within the scope of the SID’s responsibilities. It is meaningless at best to require an inmate to file a grievance about a subject that is outside the bounds of the grievance system’s authority, simply to meet statutory requirements. Additionally, it presents unnecessary barriers to inmates attempting to access their rights, and potentially compromises the confidentiality of serious complaints.

- 3. The Department should adopt a single policy to govern grievance procedures at both facilities.**

That policy should also require uniformity in the forms used and the tracking mechanisms, and should more closely track requirements in Massachusetts’ regulations. For example, there should be procedures governing the handling of emergency grievances. Greater efforts should be made to coordinate the

grievance programs at the two facilities, by sharing information and investigation techniques. The grievance form should be revised to be more effective, including, for example, a place to check if the grievance represents an emergency and a place to indicate the resolution of the grievance..

4. The Department should make it a priority to improve its system for tracking grievances.

The system for tracking grievances still needs significant improvement. The grievance coordinators at both facilities need training in database management and should learn how to sort complaints by a variety of factors. The computerized tracking system rather than the handwritten log should become the primary source of information.

5. The role of the Grievance Review Committee should be expanded.

While it is important that this committee continue to ensure that procedures are followed and timeframes are met, it should also look for patterns in complaints and ensure that inmates receive appropriate and non-perfunctory responses. This kind of proactive effort serves management needs at the same time that it provides accountability for the grievance system. The Grievance Review Committee should pay particular attention to the quality of responses to grievances handled by custodial supervisors.

6. The Department should make inmate grievance forms readily available and provide for their handling on a confidential basis.

Inmates should not have to request grievance forms from staff. They should be readily available for inmates to pick up in all housing and program areas at both facilities. There should be locked drop-boxes in each of these areas in which inmates can place their completed grievances, and these drop-boxes should be checked by the grievance coordinators at least once a day. In addition, adoption of a multi-part form would enable the inmate to retain a record of the grievance that was filed.

7. The Department should adopt a policy explicitly forbidding harassment and retaliation against inmates in response to the filing of a grievance, an SID complaint, or a legal action.

This policy should be covered in the training curriculum and should be referenced in the Inmate Guidebook. Grievance coordinators should periodically check to ensure that inmates who file grievances are not subjected to retaliatory disciplinary charges. Officers need training about the grievance process and the need to avoid any behavior that can be construed as retaliation.

2. INTERNAL INVESTIGATIONS

Findings

- The Department's internal investigation capacity has improved significantly in the last year.

In July of 2001, the Sheriff's Department hired two seasoned investigators to lead the Sheriff's Investigative Division (SID), although one will be leaving the Department soon under the early retirement program. The experience they brought to their new positions made a clear difference in the quality of SID operations. The primary improvement involved the implementation of a tracking and filing system for all investigations. All incoming complaints are assigned a number, entered into a computer system, assigned to an investigator, and have a file created. It is possible to get a print-out summary of both open and closed investigations, and any file is easily accessible for review.

The Sheriff's Department has drafted a new policy (although it had not been adopted at the time of our interviews) designed to govern SID operations. The new Deputy Superintendent of SID has developed an investigations and report-writing protocol for investigators. The protocol has resulted not only in a more uniform approach for all investigators, but also in more thorough report-writing. Adherence to the protocol adds an element of reliability to the investigations because it ensures and demonstrates that certain steps are taken. All investigations are reviewed by SID administrators before they are considered completed, and investigators are frequently asked to rewrite their reports or to follow-up on another lead. The Department's general counsel reviews completed investigations that deal with potentially criminal violations.

The new SID operation has the confidence and trust of the Sheriff's Department administration. Although relations between SID staff and line staff are improving, there continues to be a strong element of distrust of SID by line staff, who view SID as "the enemy."

- The Sheriff's Investigative Division (SID) lacks sufficient staff as well as important investigative tools.

Review of SID files involving allegations of excessive force and sexual misconduct reflected a thorough investigation by SID staff in most instances. The files include a list of all interviews conducted (as well as the statements of everyone interviewed), copies of all documentary evidence relevant to the case, and a set of "deductive conclusions" for each claim investigated (this is a bulleted list of evidence supporting the investigator's finding).

Still, we are concerned that SID is not equipped with all the staff, tools, and resources it needs to enhance its investigative capabilities. Due to the

inappropriate referral of inmate grievances, its workload is too great for the staff. Most of the surveillance cameras in the facilities do not automatically record, which makes them almost useless in investigations. Additionally, although cases have been tracked for the last year, the computer system apparently is not capable (or the staff simply lacks the knowledge) of sorting cases by a variety of factors, including by name of officer, name of inmate, type of claim or housing area. This limits the staff's ability to look for patterns in complaints, a critical aspect of proactive investigations.

SID investigators all receive basic training in investigative techniques (except for two newer investigators who still need to be scheduled for these classes), and many have received specialized training in a number of areas relevant to their work, including investigation of sexual misconduct cases. Some of the specialized training, however, is not focused on investigations in context of correctional setting, and is therefore less than ideal.

- SID is overburdened with inappropriate cases while more appropriate avenues for dealing with these cases are not utilized.

In order to ensure that SID was aware of all potential wrongdoing by staff, the Department instituted a practice of referring all allegations of staff misconduct to SID. The result is that virtually every complaint against a staff member that hints of an intentional misdeed is referred to SID by either the grievance coordinator or a staff member who learns of the complaint. So, for example, a complaint about lost property would continue to be handled by the grievance coordinator, but a claim that an officer took that property would probably get referred to SID. The number of complaints referred to SID is beginning to overwhelm the limited number of investigators, and reduces the time they can devote to more serious investigations involving, for example, sexual misconduct, excessive use of force, or drug use inside the institutions.

SID is responsible for far more than the investigation of inmate complaints. SID also investigates claims against inmates, including, for example, allegations that an inmate has drugs, or assaulted another inmate. Indeed, the vast majority of investigations done by SID involve inmate wrongdoing. Moreover, SID staff conduct background investigations of the Department's new hires; they serve process on staff and inmates; they conduct all drug tests; they handle all records concerning other states' fugitives in the Jail; they keep all incident summary records; they prepare the daily "highlights" forms, which list all significant incidents at the Jail and HOC; they investigate all emergency furlough requests; they process employee identification cards; and they serve as the Sheriff's Department's liaison to all other law enforcement agencies. Many of these responsibilities would not typically fall to this office's counterpart in other correctional systems.

Because SID has investigative capabilities, it is tempting for supervisors to refer to that office even minor allegations (e.g., mildly harassing behavior or inappropriate language by an officer) against their subordinate staff. This has led to some tension between SID and security supervisors, because the SID staff believe that these cases are more appropriately handled as a management issue, not as a matter worthy of a full-blown investigation. Supervisors have the ability to look into these sorts of claims, but shift that responsibility to SID to avoid tension with their subordinate staff. Similarly, SID is often asked to look into disciplinary charges against inmates for offenses that would not rise to the level of a criminal violation. A high percentage of investigations in 2002, for instance, involved cases of inmate-on-inmate fights, possession of contraband, inmate theft of another inmate's property, and destruction of property.

The Sheriff's Department has no written protocol detailing the appropriate circumstances under which complaints by or against inmates should be referred to SID. Complaints are not triaged in any way, with the grievance office, the disciplinary office, SID, and the District Attorney's office seen as steps along a continuum depending upon the seriousness of a complaint. As a result, the SID staff is overwhelmed and understaffed, and there are inconsistencies in the ways different types of complaints are handled at both facilities.

- SID records indicate few recent complaints regarding sexual misconduct and more complaints relating to excessive use of force.

For the period of July to December 2001, at the HOC, there were a total of 95 investigations opened by SID. Of these, there were 9 complaints filed about sexual misconduct, 10 cases of assault and battery by staff against inmates, and 7 claims of excessive force. Unfortunately, the statistics provided by the Sheriff's Department are insufficiently detailed to distinguish between sexual misconduct cases involving staff against inmates, those involving inmates against inmates, and those involving sexual harassment of staff by other staff, and so the number of complaints filed about this issue is misleading.

Two sexual misconduct cases were sustained; only one of these involved an inmate's claim against an employee, and in this case, the staff member's employment was terminated. Although two other sexual misconduct cases were left unresolved and one was still open, none of these appeared to involve staff actions against inmates. One assault and battery case was resolved in the inmates' favor, while three other claims were left "not resolved," meaning that there was insufficient evidence to prove or disprove the allegations. In three cases involving an allegation of excessive force, the officers' actions were shown to be lawful even though the incident occurred as alleged. A total of 14 cases in the categories described above involved allegations that were shown to be false or not factual.

During this same period at the Jail, out of 136 investigations, there were 5 complaints about excessive force, 3 claims of assault and battery by staff, 4 charges of undue familiarity between staff and inmates, 3 general harassment charges (not clear whether brought by staff or inmates), and 1 sexual harassment case (again, not clear whether brought by staff or inmate). Of these, a total of three cases were sustained and two were “not resolved.” Officers were exonerated in three use of force cases.

Between January 1 and May 20, 2002 in the HOC, there were 16 complaints filed alleging assault and battery by an officer against an inmate. There were no claims of sexual misconduct by an officer against an inmate. The Jail’s print-out for the first part of 2002 reveals a minimal number of cases involving either excessive use of force or sexual misconduct. Of the five complaints that seem to involve allegations that an officer acted inappropriately towards an inmate, only one involves a claim of assault, two involve sexual misconduct, and one involves sexual harassment (this case was sustained).

Although there was no particular pattern of complaints about sexual misconduct, two aspects of the use of force complaints are of concern. First, many cases (including those determined to be “unfounded”) appear to have at root the fact that officers and inmates did not speak to each other respectfully, resulting in an escalating tension. This is consistent with the fact that officers receive minimal training on communication skills and interpersonal relationships. Secondly, SID investigations revealed that several of the use of force complaints indeed occurred as alleged by the inmate; however, the officers were exonerated because their actions were “lawful, proper, and in compliance with Sheriff’s Department policies.” The fact that so many inmates perceived the force they received as inappropriate may suggest that officers jumped quickly to an aggressive response (such as one that included pain compliance techniques) without first trying other steps along a use of force continuum. Again, this interpretation is consistent with the fact that neither the Sheriff’s Department’s policy on use of force nor the training received by officers provides for a continuum and lesser alternatives to the application of force.

Figures regarding the number and type of grievances are probative but in no way dispositive of whether the Sheriff’s Department is currently experiencing problems with either excessive use of force or sexual misconduct by officers. The current figures are not out of line with those found at similar institutions. However, it is difficult to measure whether the figures reflect overreporting of frivolous complaints or underreporting of serious complaints.

Regardless, there remains an unhealthy mix of inadequate supervision, hands-off administration, incomplete training, a “code of silence,” and inmate skepticism that SID is effective. These are the very same conditions that permitted past abusive behavior by a few officers to go undetected.

- The Department does not provide adequate information to inmates.

Each facility has an “Inmate Guidebook” that contains basic reference information for inmates about the rules and procedures of the institution. This document contains no information about what inmates should do if they are sexually or physically abused by a staff member. The guidebooks do not even make clear that this kind of employee behavior violates state and federal law, as well as institutional rules. Other than word of mouth, it is unclear how an inmate would know to file an allegation with SID against an officer. If inmates know only what the guidebook tells them about SID, they would have every reason to avoid filing a complaint, as the document informs them that SID investigates criminal wrongdoing by inmates.

Because the interplay between the grievance system and the SID investigation process is so complicated legally, it seems extremely unlikely that inmates would understand the importance of filing a grievance, if they do happen to know that SID handles investigations against officers for violating inmates’ rights. The reference materials for inmates fail to explain the connection or relevance of the two processes.

Inmates at the Sheriff’s Department, like their counterparts in other correctional systems, indicate a lack of trust in the internal affairs process. A standard comment was: “why would I complain to the police about the police?” Even if the fear that their complaints would not be taken seriously is unjustified, it is understandable when one considers that for inmates, SID is the “police.” SID investigators are charged with investigating crimes committed by inmates, including assaults on other inmates or on staff. SID is seen as an entity to avoid, not to seek out for protection.

Similarly, inmates are given little formal reassurance that they will not face retaliation or harassment for filing a complaint against an officer. The Inmate Guidebook does not discuss this issue; there is no clear statement in policy forbidding retaliation; and this is not a subject covered in training. Inmates face the intimidating prospect of walking to SID offices for an interview down a long corridor past the office of the shift commander and past the mailroom. They fear that everyone will “know their business.” SID staff are sensitive to this concern. Investigators stress with inmates that all information they provide is confidential, and they make special efforts to accommodate inmates who are afraid to come in for an interview. They offer to arrange for an inmate to be moved, either to another housing unit or even to another facility; they can arrange for interviews by telephone; and they can arrange to have the inmate brought to a neutral area (such as the infirmary) to allow for an unobserved meeting with SID. Investigators also call to task any officer they hear announcing loudly to an inmate “SID wants to meet with you.” But all of these sorts of reassurances are designed for reluctant witnesses; none would be sufficient to encourage a victim to come forward with a complaint in the first place.

SID staff appear to understand the need to develop more trusting relationships with inmates, in order to gather better information from an intelligence perspective as well as to ensure that they are apprised of all incidents of serious wrongdoing by officers.

- Proactive investigation by SID is currently being hampered.

SID staff receive all use of force reports and videotapes, and review them the same day. These documents and tapes are reviewed for evidence of inappropriate actions and may be used as for staff training in the future. Despite the requirement that videotapes be made of all planned use of force incidents, since December 2001, there were less than five tapes at the HOC and less than ten at the Jail, indicating that all planned use of force incidents were not being taped. When SID administrators note use of force reports without the requisite videotapes, they have started to bring the issue to the attention of supervisors. This is an excellent example of proactive attention to a very important issue.

It is absolutely appropriate and important that SID monitor these routine reports and tapes. Not every inmate is willing to file a formal complaint against an officer, and this may be the only way that an incident of excessive force will be discovered. Nevertheless, there are limitations on the probative value of this documentation. Questions have been raised in the context of at least one of the highly publicized excessive force incidents about the veracity and independence of reports filed by officers, especially after use of force incidents. The current practice surrounding report writing is unstructured and presents opportunities for staff to communicate with others who may or may not have been directly involved in the incident, including union officials. Staff are expected to complete incident reports before the conclusion of their shifts. There is no formal system of supervisors assigning report writing responsibility and separating staff while the reports are being written. Some union representatives counsel employees to write incident reports as lacking in detail as possible.

- Staff maintain a code of silence due to concern about retaliation.

Staff consistently expressed concern that if they reported misconduct of fellow staff, they could expect retaliation from their peers in the form of a slower response time by the emergency response team in the event the officer required back-up. Although there was no indication that this has occurred, the fear is very real. The Department has taken steps to minimize the opportunities for staff to maintain a code of silence. For example, the department has implemented a practice of photographing inmates following a use of force. Also, the composition of SERT teams is constantly changing, which reduces the bonding that can lead to a code of silence.

- The range of findings available to SID staff is too limited.

If a serious allegation is investigated by SID and that allegation is not borne out by the investigation, SID will make a finding of “not resolved” or “unfounded.” In some of these cases, significant policy violations are discovered, however, they are not the originally alleged charge. For example, an officer may not have used excessive force on an inmate, but did fail to file a use of force report. Or a SERT supervisor may have failed to make a videotape of a planned forced cell move, even though the incident may not have been an assault as alleged by the inmate. These violations are not revealed in SID statistics which only note the result of the investigation on the originally allegation. This limits the Department’s awareness of staff problems that need attention.

- SID managers are not routinely and proactively given information or opportunities for input.

SID staff meet regularly with facility grievance coordinators, the General Counsel, the Superintendent, and the Special Sheriff to discuss cases under investigation. Custodial supervisors and caseworkers also seem to be increasingly willing to refer inmate complaints to SID investigators. In addition, SID staff are developing the kinds of working relationships with other divisions in the Department that allow them to work more effectively and creatively.

Despite these improved dynamics and level of trust between Sheriff’s Department administrators and SID staff, the fact remains that SID is still marginalized when it comes to input into Department operations. For example, SID staff would know better than almost anyone else whether certain staff members applying to be a member of SERT have the kind of trouble-free records one would want to see for an officer assigned to such potentially explosive work. Yet SID administrators are not asked to review the list of SERT candidates.

Another problem is that SID does not get access to certain information that could aid them in their work. Reports of disciplinary actions taken against officers for administrative violations, for example, are not provided to SID despite the fact they could be extremely useful. If an officer charged with sexual misconduct has a prior record of numerous lesser charges that never amounted to the filing of a complaint (e.g., undue familiarity with an inmate), that information could be very probative.

Given the importance of SID’s role within the Sheriff’s Department, it is troubling that officers receive no training about SID and the investigations process. Nor does the Department tap SID staff to contribute ideas to enhance the training officers receive, despite the fact that SID staff are well-positioned to identify specific training needs of employees based on deficiencies they observe in the course of investigations.

- No protocol has been implemented for the referral from the Department to the District Attorney's Office of cases alleging serious criminal misconduct.

The Commission received conflicting accounts of the level of cooperation between the Department and the District Attorney's Office. Further, it appears that no clear protocol is in place for the handling of cases alleging staff-on-inmate sexual abuse, staff-on-inmate physical abuse or other felonious conduct.

The District Attorney's Office provided the Commission with a 2001 memorandum of understanding between itself and the Department. That MOU provided that the Department would immediately refer (1) all cases of staff-on-inmate sexual misconduct, (2) all cases of staff-on-inmate physical assault resulting in serious bodily injury and (3) all felonies to the District Attorney's Office for investigation. The purpose of the MOU was to enhance prosecution of serious offenses by the District Attorney's Office. It seems, however, that the protocol has not been implemented. The Department reported that it refers any cases which have the potential for criminal liability to the District Attorney's Office. The District Attorney's Office reported that it typically receives completed SID reports as many as six months after the incidents have allegedly occurred.

- The continued employment and non-prosecution of officers charged with criminal misconduct sends a dangerous message to staff and inmates alike that no consequences will follow from staff misconduct, even when it is allegedly criminal.

While the Commission did not attempt to make factual findings with respect to specific incidents of alleged excessive force or sexual abuse and misconduct, it did review how allegations of such misconduct by staff have been handled by the Department and by other relevant authorities.

The Department eventually terminated those involved in the alleged incidents of physical and sexual abuse, and the unions grieved each termination. Some were overturned when arbitrators put the Department to a standard of proof beyond a reasonable doubt on the theory that the terminations were based on the commission of criminal offenses. This resulted in the anomalous situation in which employee discipline for minor violations was upheld, but discipline for more serious violations was overturned. Those accused of less serious offenses were thus held accountable, while those accused of more serious offenses were not.

The federal authorities obtained indictments in the excessive force cases. Some of the alleged victims pursued claims through administrative and civil proceedings. The District Attorney's Office decided not to prosecute two cases that had been referred to it by the attorney of two alleged victims. As a result, the alleged victims eventually applied for criminal complaints. In one of these cases, an inmate alleged that she was raped by a corrections officer, while incarcerated.

In the other, a female corrections officer complained that a male corrections officer assaulted her in retaliation for reporting his inappropriate conduct with female inmates to Department supervisors. In 2001, after a magistrate had found probable cause and had bound both matters over for trial, the District Attorney's Office decided to dismiss or otherwise not to prosecute the cases. The complainants believe that the District Attorney's Office should have prosecuted. The District Attorney's Office states that the cases were handled appropriately.

While we do not attempt to assess the evidence in these or other cases, it is clear that allegations of serious criminal misconduct should be timely investigated and, where appropriate, prosecuted. The continued employment and non-prosecution of officers charged with criminal misconduct sends a dangerous message to staff and inmates alike that there are no consequences for staff misconduct.

The net result of the arbitrators' reversals and prosecutors' decisions not to prosecute is that some employees alleged to have engaged in sexual misconduct and excessive use of force remain employed at the facilities. Unions, arbitrators and prosecutors should consider the corrections implications of their decisions. Accountability for allegations of criminal misconduct by both staff and inmates alike is critical not only to ensure the safety of those working and those incarcerated at Department facilities, but also to institute needed cultural changes there.

Recommendations

- 1. The Department should adopt a final policy governing SID operations and should transfer responsibility for many SID functions to other areas.**

For example, security staff could be expected to maintain records about incidents and prepare incident summaries. Outside vendors could conduct hair and urine tests for drugs. The Department's records department could manage documentation and files relating to the "fugitive from justice" cases, and could process employee identification cards. Civil deputies could serve process. If these responsibilities were removed from the SID workload, investigators could devote more time to investigations, which should improve both the quality and speed of their work. If SID maintains its current range of responsibilities, a staffing analysis should be done to assess the need for additional investigators.

- 2. SID should develop the computer capability to sort cases by a range of factors and should be given additional resources to assist in its investigative work.**

The ability to sort cases by different factors will aid in proactive investigations. Additionally, the Department should create an electronic archive of files completed prior to the revamping of SID, so that prior complaints against particular officers can be considered in current investigations. The installation of more state-of-the-art surveillance cameras with automatic recording capability will significantly aid SID in its work.

- 3. The Department should ensure that all SID investigators receive basic and specialized training.**

The Department should seek out additional training opportunities that focus specifically on investigations in the correctional setting, especially with regard to investigation of excessive use of force and sexual misconduct cases. The National Institute of Corrections offers some intensive training in these areas at little or no cost to the Department.

- 4. The Department should analyze the costs and benefits of having SID continue to investigate both employee misconduct and inmate misconduct.**

Additionally, the Department should consider the possibility of restructuring SID so as to separate these functions. To the extent those functions continue to be merged, the Department should develop a policy setting forth clear guidelines as to which disciplinary cases against inmates will be referred to SID. As with grievances, far too many minor charges are referred to SID investigators and could remain in the hands of disciplinary officers.

- 5. SID should maintain more detailed statistics relating to its cases.**

The statistics should be able to distinguish between complaints by and against officers and complaints by and against inmates, particularly in the context of sexual misconduct and sexual harassment. This would allow for more effective monitoring of these issues by Department managers.

- 6. The Inmate Guidebooks should be updated to provide accurate and updated information so that inmates can protect their own rights.**

The guidebooks should provide accurate and more detailed information concerning the grievance process. It should also explain the role of SID and how SID can be an inmate resource. It should explicitly state that sexual or physical

abuse of inmates by staff violates federal and state laws, as well as institutional rules and should clarify that retaliation by staff is forbidden. Unless the Department adopts a policy explicitly providing that SID investigations constitute exhaustion of remedies, the guidebook should also inform inmates that if their complaint is investigated by SID, they need to also file a grievance to protect their rights to recover in court.

7. The Department should adopt a policy requiring that all participants and witnesses to an incident or use of force prepare individual reports without prior consultation with others.

The purpose of incident reports is for staff who participated in or who observed incidents to document their actions and observations as they recall them. Inconsistencies in various reports regarding the same incident can be used by supervisors to evaluate the situation. Reports written after consultation or cooperatively with other staff result in sanitized documents, giving supervisors nothing to evaluate. The preparation of incident reports should not give cause for officers to consult with union officials as supervisors should be able to respond to staff questions in this regard.

8. The Department should attempt to penetrate the existing code of silence at every turn.

The Department should emphasize at the earliest point in training and orientation for new employees (not just uniformed staff) the difference between loyalty to the department and loyalty to their co-workers. It must be emphatically stated that while loyalty to co-workers can be a desirable trait, it ceases to be a good thing when it extends to covering up misfeasance and malfeasance by falsifying reports, lying to or refusing to cooperate with supervisors and other investigators, and simply keeping silent when information needs to be brought to the fore.

The Department should conduct a full-day training and orientation session that is scenario-based, with discussions of various actual and hypothetical ethical situations that employees could encounter. It should include everything from what the employee should do with respect to minor transgressions (e.g., observing a co-worker providing a minor but unauthorized favor for an inmate or bringing an item to work that is prohibited), as well as the obviously more major ones (e.g., knowledge that a fellow officer is having a sexual relationship with an inmate or is bringing drugs into the facility). It should also explain how inmates can manipulate officers to break minor rules, and then use this knowledge of their minor wrongdoing to coerce the officers into more substantial violations. Further training should be geared towards veteran staff.

Although the goal is for staff to recognize the harm that misbehavior, illegal actions, or policy violations can cause the institution as a whole and therefore to be preventative, the disciplinary consequences of participating in a code of silence must be emphasized as well. For example, there could be reference to the disciplinary action recently taken against an officer who said that he would not provide information even if he did know something about the situation being investigated. It should also be emphasized that consequences for minor transgressions, if admitted to supervisors at an early stage, will be geared to corrective action and counseling, whereas the potential harm and consequences will be far greater if the issue is not dealt with early on. The Department must ensure that employees who do come forward with information are fully protected from retaliation by other officers and are supported by the administration. Union officials should also publicly denounce the code of silence indicating that they will not support such cover-ups.

9. SID should expand its range of available findings.

SID records and statistics should indicate when policy violations are confirmed, even when the underlying complaint is not sustained. This practice would help managers to impose the appropriate discipline, allow SID to keep track of these officers in the event of future claims against them, and alert the administration and training divisions about the extent to which certain policies are not being implemented appropriately.

10. The Department should routinely provide to SID reports of disciplinary actions taken against officers for violating institutional rules.

This information should be computerized in a database and cross-referenced with current investigations. Department administrators should find ways to seek SID's input into operations, including giving SID managers some say into SERT assignments and into the training curriculum. The training program should incorporate information about SID's role, about staff obligations to bring complaints about employee wrongdoing to SID, and about the kinds of actions and inactions that can lead to investigations and discipline.

11. The Department and the District Attorney's Office should together establish a protocol for the timely referral for investigation, and, where appropriate, prosecution, of allegations of sexual abuse, serious physical abuse, and other felonious conduct.

The Department and the District Attorney's Office need to strengthen their relationship and establish a clear protocol regarding the referral of cases for investigation and prosecution. It appears that the 2001 memorandum of understanding on this subject has not been implemented. This protocol should

specify the types of incidents that will be referred, when referrals will be made, and who will be responsible for investigating them.

To avoid unnecessary delays which could result in stale evidence or undue pressure on potential witnesses, the Department and the District Attorney's Office should consider requiring in their protocol that all allegations of sexual abuse be memorialized in intake reports and immediately referred for investigation by the Sexual Assault Unit of the Boston Police Department and the District Attorney's Office. They should also consider using this protocol for cases of serious physical abuse and felonious conduct. Finally, the Department should consider increasing the District Attorney's access to relevant evidence, including daily correction officer logs and witnesses at the facility, on a timely basis.

12. The Department, together with others, should assure that there are consequences for staff misconduct.

The Department terminated the employment of those involved. All of the terminations were challenged by the unions and many were reversed by arbitrators, despite the existence of federal indictments against these officers. Moreover, some officers were not prosecuted at all, though there were state court findings of probable cause to believe these officers had committed crimes. Accountability for corrections officer misconduct is critical not only to ensure the safety of those working and those incarcerated at Department facilities, but also to institute needed cultural changes there. Vigorous investigation and, where warranted, appropriate prosecution of cases involving alleged incidents of sexual assault or inappropriate sexual conduct is imperative. The Commission urges unions, arbitrators and state prosecutors to consider the corrections implications of their decisions.

3. INTERNAL AUDITS AND EXTERNAL CONTROLS

Findings

- The Department has few, if any, formal systems of internal auditing of compliance with policies or evaluation of performance measures.

Program audits are an important component of a quality assurance plan. They help to measure whether the Department is actually performing in a manner consistent with policies and procedures. This is especially important when those who draft the policies and procedures are removed from daily operations of the institutions.

The Sheriff's Department does not routinely evaluate the performance of its institutional managers, either in the form of standard performance appraisals, or in terms of more sophisticated systems that are in place at other large correctional and law enforcement agencies. Deputy Superintendents and

subordinate security and program managers are not held accountable in any formalized process for performance measures related to their areas of authority and responsibility.

One limitation is that the current statistical indicators do not appear to be particularly useful or reliable. Many top managers interpreted the statistics in different ways, and certain statistics were facially implausible. There were numerous questions about data on statistical reports and no evidence to suggest that administrators routinely or formally referred to this data, questioned its accuracy, or analyzed it to determine whether there were trends that warranted attention.

- The Department has voluntarily opened itself up to several forms of external accountability and oversight, however, they are inadequate to discover deeply rooted problems.

Audits of the facilities are performed semi-annually by the Massachusetts Department of Corrections, which reviews compliance with both physical plant and operational standards. In addition, the Sheriff's Department has been a voluntary participant in the accreditation process of the ACA with respect to the Nashua Street Jail since 1991 and is in the final stages of entering the process for the HOC. The Jail and HOC have been ongoing participants in the health care accreditation process of the National Commission on Correctional Health Care (NCCHC). The Department of Public Health conducts annual inspections of the facilities, as does the Boston Fire Department.

Each of these auditing and accreditation processes can be a valuable tool for improvement and monitoring of operations in the facilities. The three auditing bodies do provide a measure of checks, although they tend to emphasize process and form over practice and results. They are focused heavily on policies and procedures, but less so on measurable performance indicators and tend not to delve into institutional operations. For example, as was correctly pointed out in the June 2001 audit, the ACA does not have standards that govern internal investigations. ACA, DOC, and NCCHC audits do include file and chart review components and attempt to verify that practice mirrors written policy and procedures. All three, however, are limited by the amount of time the auditors spend on site (audits are typically two to three days long).

Once initially accredited, ACA and NCCHC audits occur only once every three years. The Massachusetts DOC audits facilities every six months, although given the size of the facilities, all standards are not audited each time and it actually takes approximately four years for a complete audit of the facilities. In the case of the ACA, there are requirements for ongoing reporting of certain types of incidents and the organization monitors press accounts of the department as well. Despite the limitations of these auditing processes, they are nevertheless valuable tools for external (and internal) accountability.

Recommendations

- 1. The Department must develop and implement a process for conducting internal audits of compliance with policies and procedures.**

The Standards and Compliance Unit should be charged with the responsibility of developing and implementing an internal policy/procedure audit program, with a certain number of policies and procedures audited each quarter. These audits should assess the degree to which actual operations reflect policy and procedures, evaluate compliance with standards, and determine whether there are opportunities to improve upon compliance and/or the procedures themselves. The New York City Department of Corrections and the District of Columbia Department of Correction are two local correctional agencies that have implemented sound audit programs of this type.

Existing groups such as the Policy Review Committee and the Grievance Review Committee could have their roles expanded to involve monitoring responsibilities in their substantive areas. This type of ongoing monitoring of a subject area constitutes an important aspect of internal compliance auditing and will strengthen the Department's internal accountability.

- 2. The Department should develop performance measures to help officials assess whether policies and procedures are directed at achieving the desired outcomes.**

Although the Department has relied largely on the performance indicators supplied by the ACA as part of its accreditation process, a far more elaborate and tailored system is required to increase accountability, help pinpoint performance problems, and support effective management. These measures may address such areas as security, living and safety conditions, inmate health, programs and services, and staff culture. The feedback raises questions, encourages people to explain the patterns revealed in the data, and stimulates conscious decisions about what needs improvement. The performance indicators should be incorporated into a management information system.

- 3. Key managers should regularly review and analyze important statistics about the Department.**

These statistics are a critical part of the Department's performance measures – incorporating such issues as numbers of forced cell moves, number of sustained grievances, and numbers of allegations of sexual misconduct – constitute an important management tool for administrators. No internal auditing process can be effective unless these statistics are accurate and are reviewed regularly and critically.

4. Facility administrators should be held accountable for performance at their institutions.

A number of correctional agencies, including the NYC Department of Correction and the Broward County, Florida Sheriff's Department, have adapted the highly successful practices employed by the NYC Police Department whereby unit (precinct) commanders are called to task on a regular basis to present performance indicators and explain to top management irregularities based on statistical analysis of operations. According to the NYC Department of Correction, its internal accountability program (called "TEAMS") is an affirmative and goal oriented management system that has created an ongoing process of self-evaluation and strategy development. Real-time indicators allow managers to measure their performance and respond immediately to internal and external challenges and opportunities. At monthly TEAMS meetings, senior management are questioned about their performance, judged on their knowledge of their commands, and commended, or corrected, on their skill and problem solving.

5. The Sheriff should establish an ongoing inspection program for each facility.

Weekly or bi-weekly inspections should be led by the Sheriff personally whenever possible (the proposed head of correctional operations or the superintendent could lead the inspections in the Sheriff's absence) and should include both executive-level administrators and facility managers. The team would inspect and meet with staff working in each housing pod. The benefits of this type of inspection process are many. First, it makes the Sheriff more visible and ensures that he has planned opportunities for comprehensive inspections. Second, it allows housing unit staff to discuss issues with representatives of each facility component with executive-level staff hearing the issue as well (e.g., line staff reporting that maintenance staff have failed to respond to a broken cell door for an extended period of time). Third, it helps to meet ACA standards requiring ongoing facility inspections. Fourth, it allows staff at all levels to share common definitions of how a "clean" and "well-functioning" area should appear.

6. The Department should encourage more external influences.

The Sheriff should continue to seek and maintain ACA accreditation. Additionally, the Sheriff should encourage other external groups, like the state department of corrections, the state health department and the local fire department to tour the facilities and offer suggestions. Groups like these can identify state-of-the-art and cost-effective resources that would assist operations. The new Sheriff should also consider forming a citizens advisory group in order to obtain community input. Prisons and local jails around the country utilize such groups for a variety of purposes. Creation of such a group would satisfy ACA standards requiring citizen input and participation in policy development, work programs and overall inmate programs and volunteer efforts.

7. The Sheriff should report to the public on the Department's progress in addressing the Findings and Recommendations in this Report.

The new Sheriff should prepare a progress report every six months and report to the public on the Department's progress in addressing the Findings and Recommendations in this Report.

III. CONCLUSION

Although the Commission has identified many areas that need substantial improvement, it recognizes that the Sheriff has already undertaken many positive changes. The Department has many competent, motivated and well-intentioned employees who, under the right set of circumstances, could thrive and help to transform the Department into an exemplary model of corrections. The Commission thanks the Sheriff for his cooperation and that of his staff in this lengthy and difficult process and wishes the Department success in its continuing efforts at reform.

BIOGRAPHIES

Donald K. Stern, Chair

Don Stern is a partner at the law firm of Bingham McCutchen LLP in Boston, concentrating his practice in business litigation and white collar defense work, including internal investigations.

Most recently, Mr. Stern served as the United States Attorney for the District of Massachusetts (1993-2001). Under his administration, the U.S. Attorney's Office obtained indictments against seven Nashua Street Jail officers.

He has also served as Chief Legal Counsel to the Governor of Massachusetts (1987-1990), Chief of the Government Bureau in the Massachusetts Attorney General's Office and staff attorney at the Defender Association of Philadelphia. Mr. Stern has also taught criminal procedure and administrative law at Boston College Law School. He is currently teaching a course on the Government Lawyer at Harvard Law School.

Mauricia Alvarez

Mauricia Alvarez, is a licensed psychologist and licensed independent psychiatric social worker, practicing in the Boston area for almost the past 30 years. Her areas of clinical expertise include cross-cultural psychotherapy and treatment of survivors of family, social and political trauma.

After having developed and directed the Latino Mental Health Clinic (1985-1990), an adult outpatient clinic within the Department of Psychiatry at Cambridge Hospital, she co-founded Boston International Psychotherapy (1994), a clinical and consultative group private practice of Latino clinicians. She continues to work in both practices.

Dr. Alvarez has served on many community and professional boards and task forces and has done extensive training in cross-cultured, community and clinical conferences, workshops and courses. She has also served as a clinical instructor in psychiatry at Harvard Medical School. Over the years she has provided extensive counseling to families with members involved with the criminal justice system.

Ralph I. Fine

Ralph Fine is of counsel to the Boston law firm of Prince, Lobel, Glovsky & Tye. He also is principal of Fine & Associates, a consulting firm to businesses and nonprofit organizations. Mr. Fine has practiced corporate law for over 25 years, first in New York City, and then in Boston at the law firm of Fine & Ambrogne where he was head of the corporate department and served as managing partner for 10 years.

During much of the 1990's, Mr. Fine served as President and Chief Executive Officer of Integral Resources – a provider of telemarketing services to business, political, and nonprofit organizations. He founded and served as president of Hemisphere Initiatives, a nonprofit organization that focuses on the promotion of democracy and development in Central America. He also served as executive director of International Physicians for the Prevention of Nuclear War, a Nobel prize-winning nonprofit organization dedicated to the elimination of nuclear weapons; and Interim Executive Director of the Daniel Pearl Foundation and the Washington Office on Latin America.

In the early 1970's, Mr. Fine served as Chairman of the Finance Commission of the City of Boston, a watchdog agency charged with investigating the administration, operations, and finances of City and County government. During his tenure, the Commission conducted an extensive investigation into the finances of the Suffolk County Sheriff, after which the Sheriff resigned his office.

Karen F. Green

Karen Green is a partner at the law firm of Hale and Dorr LLP in Boston, where she is Chairman of the Litigation Department and a member of the Firm's Executive Committee. Her practice concentrates on complex business litigation, including the defense of white collar criminal investigations.

Ms. Green served in as an Assistant U.S. Attorney in the United States Attorney's Office for the District of Massachusetts in the mid-80's. From 1994-1996, she served as First Assistant U.S. Attorney, led the office's civil and criminal health care fraud enforcement program and served on the Department of Justice's National Health Care Fraud Working Group. Ms. Green also served as Chief of Staff to the former Governor of Massachusetts, William F. Weld, in 1993. She has been appointed to numerous committees, including the Massachusetts Supreme Judicial Court's Committee on Pro Bono Legal Services and the Executive Committee of the Massachusetts Judicial Nominating Council.

Ms. Green is a Director of Fiduciary Trust Company and a Trustee of the Massachusetts Eye and Ear Infirmary.

Michael W. Neighbors

Michael Neighbors is the Clerk-Magistrate of the Roxbury District Court Department of the Trial Court of the Commonwealth of Massachusetts, with jurisdiction to determine probable cause for alleged crimes arising out of the South Bay House of Correction.

Appointed in March of 2000, Mr. Neighbors is the chief administrator of a district that processes over 6000 criminal cases and 2700 civil cases annually. He is responsible for implementing management systems including quality control and public service standards at the court. In addition, he has initiated an intern program, giving high school and college students from the community an opportunity to participate in the criminal justice system. Previously, Mr. Neighbors served as Assistant Clerk-Magistrate of the Suffolk Superior Civil Court (1993-2000), where he managed a newly created prisoner session with a case-load of more than a thousand cases from penal institutions state-wide.

A native of Roxbury, Mr. Neighbors continues to be involved in many community activities.

Michael A. O'Toole

Mike O'Toole is the former Division Chief of the U.S. Department of Justice, Federal Bureau of Prisons, National Institute of Corrections Jail Center (1986-1997), where he developed, implemented, monitored and evaluated programs designed to improve state and local correctional systems and jail operations.

As Chief of the Jail Center, Mr. O'Toole participated in public hearings and consulted with federal, state and local elected officials and correctional professionals in order to determine program priorities. Under Mr. O'Toole's administration, the Jail Center was the premier information and technical resource for jail professionals, providing training and technical assistance programs supported by developmental work in jail administration, environmental design research and the management of crowded facilities.

Mr. O'Toole also served as Chief Deputy Sheriff for the Office of the Sheriff for the City of Alexandria, Virginia (1972-1984). In this position, he served in a variety of capacities including Administrative Officer, Coordinating, Planning and Programs Officer, Correctional Chief and Departmental Liaison Officer. He also served as Acting Sheriff in the Sheriff's absence.

After 30 years of work in corrections, Mr. O'Toole retired from government service and began teaching courses on criminal justice planning and evaluation and correctional management.

J. Owen Todd

Owen Todd is a founding member of the Boston law firm Todd and Weld LLP.

A graduate of Harvard University and Boston College Law School, Mr. Todd began his legal career as a law clerk to the Massachusetts Supreme Judicial Court. He is a Fellow of the American College of Trial Lawyers, President of the Massachusetts Trial Lawyers Association and a Commissioner of the State Ethics Commission.

Mr. Todd served as Associate Justice of the Massachusetts Superior Court (1988-1992), where he presided over a number of cases dealing with prison conditions.