

**OKLAHOMA  
COUNTY**

**DRUG COURT AND  
COMMUNITY  
SENTENCING**

**JULY 1, 2005 THROUGH  
MAY 31, 2007**

**PERFORMANCE  
AUDIT**



Oklahoma State Auditor  
& Inspector

**OKLAHOMA COUNTY-  
DRUG COURT AND COMMUNITY SENTENCING**

**PERFORMANCE AUDIT**

**JULY 1, 2005 THROUGH MAY 31, 2007**





**STATE OF OKLAHOMA**  
**OFFICE OF THE AUDITOR AND INSPECTOR**

Steve Burrage, CPA  
State Auditor and Inspector

July 16, 2008

**TO THE OKLAHOMA COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**

Transmitted herewith is the performance audit over Oklahoma County's drug court and community sentencing programs. The procedures performed were at the request of the former chairman of the Oklahoma County Board of County Commissioners pursuant to 74 O.S., § 213.2.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of the engagement.

The Office of the State Auditor and Inspector is committed to serving the public interest by providing independent oversight and issuing reports that serve as a management tool to the state to ensure a government which is accountable to the people of the State of Oklahoma.

Sincerely,

A handwritten signature in blue ink that reads "Michelle R. Day".

Michelle R. Day, Esq.  
Deputy State Auditor and Inspector



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## OKLAHOMA COUNTY – DRUG COURT AND COMMUNITY SENTENCING SUMMARY

**JULY 1, 2004 THRU MAY 31, 2007**

### OFFICE OF THE STATE AUDITOR & INSPECTOR

#### Why the audit was performed

This performance audit was conducted at the request of the former chairman of the Oklahoma County Board of County Commissioners in accordance with 74 O.S., § 213.2.

- Participants in the Oklahoma County drug court program have increased 14% over the past three fiscal years (July 1, 2004 thru May 31, 2007) – page 9
- Assuming 390 participants in the program (as of May 2007), there is an annual difference of approximately \$5,400,000 between the costs of drug court and state incarceration. Management indicates there are 617 participants in the program as of May 2008. - page 10
- Drug court providers appear to be complying with the terms of their contracts – page 14
- Drug court participants pay a \$10 monthly user fee, various other fees to the court, \$17 per urinalysis test (six to ten times per month), and various co-pays to treatment providers. As of August 2007, the urinalysis test fee was reduced to \$15. - page 15
- The recidivism rate for Oklahoma County drug court participants is 5.4% since 2001 – page 18
- Pre-program employment statistics of drug court participants appear questionable due to the data not being verified by program personnel – page 18
- Participants in the Oklahoma County community sentencing program have increased 15% over the past three fiscal years (July 1, 2004 thru May 31, 2007) – page 20
- Assuming 780 participants in the program (as of May 2007), there is an annual difference of approximately \$12,000,000 between the costs of community sentencing and state incarceration. Management indicates there are 888 participants in the program as of May 2008. - page 22
- Data related to recidivism rates of post-program community sentencing participants is not reported to Oklahoma County program management - page 22
- Community sentencing participants pay a \$40 monthly supervision fee, a \$20 monthly administration fee, and various other fees to the court - page 30

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**BACKGROUND**

Oklahoma County is governed by eight elected officials, three County Commissioners who form the Board of County Commissioners, as well as the Assessor, County Clerk, Court Clerk, Sheriff, and Treasurer.

<b>Name</b>	<b>Position</b>
Jim Roth <sup>1</sup>	District 1 Commissioner
Brent Rinehart	District 2 Commissioner
Ray Vaughn	District 3 Commissioner
Leonard Sullivan	County Assessor
Carolyn Caudill	County Clerk
Patricia Presley	Court Clerk
John Whetsel	Sheriff
Forrest "Butch" Freeman	County Treasurer

**Drug Court**

Drug court programs were established in Florida over 15 years ago as a local response to increasing numbers of drug-related cases and expanding jail and prison populations. Since that time, these programs have become popular nationwide in the criminal justice system. There are currently 39 drug courts operating in Oklahoma covering 59 counties. The intention of the program is to use the court's authority in directing qualified, prison-bound participants into a structured substance abuse program rather than state prison. The Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) is responsible for administering the program as well as allocating appropriated state dollars to the local drug courts. Oklahoma County's drug court team consists of an assistant district attorney, an assistant public defender, a drug court judge, a drug court coordinator, four probation officers, a representative from the Oklahoma City Police Department, a representative from the Oklahoma County Sheriff's Office, as well as personnel from various substance abuse treatment providers in the county.

To be considered for the program by the local drug court team, 22 O.S. § 471, requires the following to be met:

2. The offender has no prior felony conviction in this state or another state for a violent offense, except as may be allowed in a domestic violence treatment program authorized by the drug court program. It shall be sufficient for this paragraph that a criminal history records name search was conducted and indicated no apparent violent offense;

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<sup>1</sup> Jim Roth resigned his position in June 2007. He was replaced through a special election in September 2007 by Willa Johnson.

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3. The offender's arrest or charge does not involve a violation of the Trafficking in Illegal Drugs Act, Section 2-414 et seq. of Title 63 of the Oklahoma Statutes;
4. The offender has committed a felony offense; and
5. The offender:
  - a. admits to having a substance abuse addiction,
  - b. appears to have a substance abuse addiction,
  - c. is known to have a substance abuse addiction, or
  - d. the arrest or charge is based upon an offense eligible for the drug court program.

If the offender is determined eligible for the program, they have the option to participate. If they agree to participate, they must plead guilty to the charges with the understanding they may be sent to prison for non-compliance with the rules of the program. The program requires regular court appearances, random drug tests, individual/group counseling, specialized counseling (domestic violence, marriage and family), regular attendance at self-help meetings (narcotics anonymous, alcoholics anonymous, etc.), and unannounced home visits. The intensity of the program is gradually diminished as the participant progresses through the five phases. It is understood by the drug court team that participants will likely fail at some point during their probation. Therefore, a sanction matrix is used to punish non-compliance. This may include a verbal warning from the judge, X number of days in the county jail, community service (e.g., picking up garbage on the street), or being revoked to state prison. Upon completion of all five phases of the program, including paying all applicable fees and being gainfully employed, the participant will graduate from the program. Graduation from the drug court program includes having the original charges dropped.

**Community Sentencing**

Community Sentencing is a statewide program administered through the Department of Corrections and funded through appropriated state dollars. As of June 30, 2006, there were 36 local community sentencing councils covering 61 counties. Daily functions are administered by a program administrator and staff with assistance from a Department of Corrections local administrator. In Oklahoma County, a local community sentencing council of citizens and elected officials oversees this supervised probation program.

An offender is eligible for the program if they: have been convicted of a felony or have entered a plea other than not guilty to a felony offense, are prison bound, have a non-violent past, and scored in the moderate range (19 to 28) on the Level of Services Inventory<sup>2</sup> (LSI) assessment. The District Attorney may grant exceptions for entry if the score falls outside of this range.

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<sup>2</sup> An LSI assessment is a scoring tool used to gauge a person's criminal, educational, financial, family, and mental history as well as assessing their attitude, companions and living accommodations. The assessment is administered by a community sentencing probation officer and costs the offender \$75. If they are unable to pay, the program will cover the costs.

The following services are offered through the program:

1. **Substance Abuse (SA) and Mental Health Evaluation (MH) and Assessment-** Assesses the offender's need for SA or MH treatment.
2. **Residential Substance Abuse Treatment** - Assignment to a residential treatment facility is for 24 hours per day, seven days a week. Offenders receive no less than 24 hours of treatment per week. Usual length of stay is 30 days, with the possibility of longer periods if clinically indicated. Leave from the facility is considered for court-ordered obligation and family or medical emergencies. Urine drug screens are conducted.
3. **Halfway House Placement** – This is usually considered a "step down" level of care from residential substance abuse treatment. This care requires living at the facility while maintaining full-time employment away from the facility. Offenders receive no less than six hours of treatment per week. Usual length of stay is 30 days. Urine drug screens are conducted.
4. **Outpatient Group or Individual Mental Health and Substance Abuse Treatment** -Allows the offender to remain at home and maintain employment. Treatment is conducted weekly in two-hour sessions. Group sizes are limited to 12 participants in SA groups and eight participants in MH groups. Urine drug screenings are provided at the community sentencing office by a probation officer.
5. **Job Skills Development Training and Development Placement Assistance-**GED classes and adult basic education classes are available throughout the community at no cost. Offenders are referred to education classes as needed or per court order.
6. **Female Opportunity Group "FOG" Substance Abuse/Mental Health Treatment** - This substance abuse treatment program is a comprehensive program for women only. It offers daily treatment for 11 weeks followed by weekly treatment for 17 additional weeks. This program focuses on female issues and how they impact substance abuse. It also contains a mental health section.

Probation officers monitor the probation plans of the participants in the program. Probation plans are the court's order of tasks each participant is to complete while on probation. These tasks are carried out through three phases and may include maintaining employment, completing job readiness classes, substance abuse treatment, mental health treatment, completing an education, daily living skills, community service hours, drug tests or any other task that assists the participant in becoming a productive part of the community. A participant will normally not be supervised for longer than three years and may be considered for early release from the supervised portion of their probation after two years. As with the drug court program, it is understood the participant will likely fail at some point during their probation. Probation officers use various tactics (e.g., increased visitation, increased drug testing, community service) if a participant is not complying with the terms of their probation plan. The participant's behavior may also be reported to the judge. If the judge becomes involved, the participant will likely be revoked to prison.

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**SCOPE** This audit was conducted pursuant to 74 O.S., § 213.2 and was performed in accordance with *Government Auditing Standards*. The audit period is July 1, 2005 through May 31, 2007 unless noted otherwise in the body of the report.

**OBJECTIVES** The objectives of the audit were:

1. To determine if the number of offenders sentenced to drug court remained constant, increased, or decreased over the past three fiscal years and to determine the reason for the trend.
2. To determine the cost and benefits of the drug court program to the citizens of Oklahoma County:
  - What is the average, annual cost for an offender to participate in the drug court program?
  - How does this cost compare to the average cost to incarcerate an offender in a Department of Corrections facility for the same time period?
3. To determine if treatment providers contracted to provide services to drug court participants are complying with the terms of their contract. The treatment providers are contracted with the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS).
4. To determine the fee structure for the drug court program:
  - What fees are being charged by the court, the drug testing vendor, and treatment providers?
  - If fees are charged by treatment providers, how are the amounts determined and are they applied consistently?
5. To determine if certain drug court statistics prepared by the ODMHSAS are valid. The selected statistics should include but may not be limited to:
  - The number of participants sentenced to prison after completing the program and the crime they committed that led to imprisonment.
  - The employment status of participants before and after the program.
6. To determine if the number of offenders sentenced to community sentencing remained constant, increased, or decreased over the past three fiscal years and to determine the reason for the trend.
7. To determine the cost and benefits of the community sentencing program to the citizens of Oklahoma County.
  - What is the average, annual cost for an offender to participate in the community sentencing program?
  - How does this cost compare to the average cost to incarcerate an offender in a Department of Corrections facility for the same time period.
  - How many participants are sentenced to prison after being released from the community sentencing program and what crime did they commit that led to their imprisonment?
  - What is the employment status of participants pre- and post-supervision?
10. To determine if treatment providers contracted to provide services to community sentencing participants are complying with the terms of their

contract. The treatment providers are contracted with the Department of Corrections.

9. To determine the fee structure for the community sentencing program:
  - What fees are being charged by the court, the Department of Corrections and the treatment providers?
  - If fees are charged by the treatment providers, how are the amounts determined and are they applied consistently?

**KEY ACRONYMS AND/OR  
ABBREVIATIONS**

**ODMHSAS** – Oklahoma Department of Mental Health and Substance Abuse Services  
**DOC** – Department of Corrections  
**DC** – Drug Court  
**CS** – Community Sentencing  
**DA** – Oklahoma County District Attorney  
**ADA** – Oklahoma County Assistant District Attorney  
**PD** – Oklahoma County Public Defender  
**SA&I** – State Auditor and Inspector’s Office

*1. To determine if the number of offenders sentenced to drug court remained constant, increased, or decreased over the past three fiscal years and to determine the reason for the trend.*

**CONCLUSION**

The number of offenders sentenced to drug court over the past three fiscal years has increased 14%. There is no explicit reason for the increase, but the following may have contributed:

- More cases were filed over the past two years which may mean more offenders were eligible for the program;
- A new DA took office in January 2007.

**METHODOLOGY**

The following procedures were performed:

- We interviewed the Oklahoma County PD, the Oklahoma County DA, and the Oklahoma County DC coordinator;
- We obtained and tested summary level data of the number participants in the program provided by ODMHSAS;
- We obtained and tested the validity of monthly drug court rosters maintained by the PD’s office.

**OBSERVATIONS**

To enable us to compile the information necessary to meet this objective, we requested the following from ODMHSAS DC staff on June 7, 2007:

1. A beginning balance of participants in the DC program at July 1, 2004.
2. A detailed list of all new participants sentenced into the program from July 1, 2004 through May 31, 2007 with at least name, sentence date into the program, exit date from the program, and reason for exit.

This information was never provided by ODMHSAS even after numerous follow-up requests. Three months after the initial request, we received the summary level data presented in Table 1, which addressed the number of offenders sentenced to the program; however, no detail as requested in item 2. above was provided.

Table 1 – Offenders Sentenced to DC by Fiscal Year	
Fiscal Year	Offenders Sentenced
2005	208
2006	210
2007	238

SOURCE: ODMHSAS

To substantiate the summary level data, we performed data analysis on the monthly drug court rosters<sup>3</sup> maintained by the PD's office.

Based on the figures in Table 1, it is apparent that the number of offenders sentenced to the program was relatively flat until fiscal year 2007. According to analysis of the monthly drug court rosters for FY 2007, drug court admitted 84 offenders during the first six months of the fiscal year and 160 offenders during the last six months of the fiscal year. A new DA, who has publicly stated his commitment to DC, was elected and served during the last six months of that period, which may have impacted the increase.

*2. To determine the cost and benefits of the drug court program to the citizens of Oklahoma County.*

- What is the average, annual cost for an offender to participate in the drug court program?*
- How does this cost compare to the average cost to incarcerate an offender in a Department of Corrections facility for the same time period?*

**CONCLUSION**

It costs approximately \$3,500 a year for an offender to participate in the Oklahoma County DC program; it costs approximately \$17,000 a year to incarcerate an offender in a minimum security state facility. Assuming 390 participants are in the program; this is an annual difference of \$5,400,000 between state incarceration and DC. Additionally, without this program, Oklahoma County taxpayers would be funding an estimated \$170,000 to hold these prison-bound offenders in the Oklahoma County jail until they were transported to a state facility.

This analysis does not take into account many intangible factors associated with DC. Additional benefits/costs savings may include those derived from drug-free babies born to participants in the program. Estimates are that the medical and social costs required to care for a drug-exposed infant are around \$250,000 in the first year of life. Other potential sources of benefits/savings may include tax revenue generated from previously unemployed participants, cost savings in foster care, the federal and/or state savings from a reduction in DC participant reliance on Medicaid for treatment services, and lower public health costs (i.e., fewer emergency room visits, less medication for participants with co-occurring

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<sup>3</sup> The rosters were tested for validity by selecting three offenders from each month's roster and ensuring they were sentenced to the DC program by the courts. This was accomplished using the Oklahoma State Courts Network at [www.oscn.net](http://www.oscn.net).

disorders, less residential/inpatient/crisis intervention services) as well as an expected benefit of reducing mortality among participants<sup>4</sup>.

**METHODOLOGY**

The following procedures were performed:

- We reviewed a report of expenditures paid to outpatient/inpatient treatment providers;
- We reviewed an expenditure report identifying DC administrative costs at Oklahoma County;
- We reviewed and tested the validity of monthly drug court rosters maintained by the PD's office;
- We reviewed a report prepared by DOC identifying their fiscal year 2006 cost per inmate by facility type, interviewed DOC's Deputy Comptroller who prepared the report, and reviewed the financial data he used in preparing the report;
- We reviewed a U.S. Department of Justice report titled "Cost Sheet for Detention Services" prepared by the Oklahoma County Sheriff's Office which calculated its fiscal year 2006 cost per day to house an inmate, interviewed its finance manager who prepared the report, as well as reviewed a fiscal year 2006 expenditure report for the Sheriff's Office.

**OBSERVATIONS**

**How were expenditures of the program determined?**

We requested from accounting management at the Oklahoma County Clerk's office a DC revenue report as well as a DC expenditure report for the period. The revenue report identified funds provided to the county by ODMHSAS for DC, while the expenditure report identified DC administrative costs (fund 1280) incurred by the county. ODMHSAS pays the treatment providers directly; therefore, we requested a report from ODMHSAS for the same period identifying expenditures paid to nine DC providers in the county.

**It costs approximately \$3,500 a year to participate in the Oklahoma County DC program.**

The administrative expenditures included items such as unemployment, worker's compensation, travel, rent, etc. Some payroll is paid from fund 1280 including the DC coordinator, his administrative assistant, as well as partial salary reimbursements for various DA and PD office personnel. It should be noted, this

is Oklahoma County's representation of all expenditures associated with the DC program. This information is presented in Table 2 of this report.

While obtaining information for this audit objective, we noted that the information was fragmented between the County and the State and was difficult to obtain. As a program funded with taxpayer dollars, it is imperative all aspects of the program be transparent. At Oklahoma County, program personnel had limited knowledge of the financial operations of the program and were unable to provide financial data which we felt was complete. We realize the DC Coordinator position has an important task in monitoring participants in the program; however, it appears the program coordinator would be in the most suitable position to discuss and provide documentation related to all aspects of

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<sup>4</sup> Additional benefits/costs savings information provided by ODMHSAS.

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the program, including treatment expenditures paid by ODMHSAS. Additionally, a citizen, legislator, commissioner, or the media, should be able to readily obtain financial information.

**RECOMMENDATION**

We recommend program personnel at the county level (preferably the DC Coordinator) be familiar with the financial operations of the program. This should include, but not be limited to, having an understanding of all funding sources of the program, what types of expenditures are being incurred, as well as being able to obtain reliable, complete financial data when requested.

**VIEWS OF RESPONSIBLE  
OFFICIALS**

Oklahoma County also concurs with the auditor that any expenditure of taxpayer dollars should be as transparent as possible, but the statutes creating the Drug Court system provide that all expenses paid to treatment providers be paid for by the Oklahoma Department of Mental Health and Substances Abuse Services. The Oklahoma Department of Mental Health and Substances Abuse Services keeps track of all payments to treatment providers and is responsible for their accuracy. Contracts with these providers are solely the purview of this state agency.

Additionally, concern was noted that the Drug Court Coordinator does not have extensive knowledge of the financial operations of the program and was unable to provide financial data which was complete. Oklahoma County has safeguards regarding the supervision of funds for the operation of the Drug Court. The Oklahoma County Court Services Director and his Deputy comply with all County and State purchasing requirements regarding the Drug Court Fund. The Court Services Coordinator is the Drug Court Coordinator's supervisor. He is aware of all funds received and expended for Drug Court.

Additionally, an oversight board composed of the District Attorney, the Public Defender, the Chairman of the Board of County Commissioners, the Treasurer, and the Court Clerk have monthly meetings wherein a budget report is provided. Members of the Drug Court team attend and the Drug Court judge is an ex-officio member. At this monthly meeting, the Deputy County Court Services Director provides a budget report in writing showing all expenditures and all income received by the County. The Drug Court Coordinator attends the meeting and has knowledge of the process and fund expenditures. At the time of the audit, the Coordinator was transitioning to another job and may not have been aware of these procedures at the time when he spoke with the auditor. Oklahoma County believes that those moneys received and expended are totally transparent.

**OBSERVATIONS**

**How many participants are in the DC program?**

In order to determine an average cost to participate in the DC program, we determined the average number of participants in the program in a given month. We requested a monthly roster for each month of our period from the PD's office. July 2005 through October 2005 was not available as the preparer of these reports did not begin in her position until November 2005. From the rosters provided, we determined there were, on average, 390 participants in the program each month during our period. This information is presented in Table 2 of this report. To test these rosters, we agreed 57 participants from the monthly

rosters to the OSCN<sup>5</sup> system to ensure they were sentenced to DC and found no exceptions.

**How was the DOC cost per inmate calculated?**

DOC’s management prepares a report identifying their costs to incarcerate an inmate for one year. The schedule distinguishes the costs by maximum security, medium security, minimum security, community centers, and work centers. Since a DC participant must be a non-violent offender, we assumed the minimum security amount would be reasonable for our calculations. According to DOC management, the report is prepared using the Trial Balance report from the State of Oklahoma accounting system, as well as internal average population counts for DOC’s facilities.

**How was the Oklahoma County jail cost per day calculated?**

We interviewed the finance manager of the Sheriff’s Office regarding the cost of holding a prisoner in the Oklahoma County jail each day. According to a U.S. Department of Justice report (Form USM-243) “Cost Sheet for Detention Services”, the Sheriff represents it cost \$40.66 per day. The amount is determined by dividing the total fiscal year 2006 county jail expenditures (\$40,844,963.44) by the average daily population (2,752) divided by 365. The average number of inmates appears reasonable, as the jail will hold 2,700 inmates and county management’s concerns that the jail was running at full capacity.

**What is the average, annual cost to participate in the DC program?**

**How does that cost compare with incarcerating an offender in a DOC facility?**

**If the program didn’t exist, how much additional cost would the state and Oklahoma County incur?**

<b>Table 2 – Drug Court Costs Versus Incarceration Costs<sup>6</sup></b>		
<b>Expenditures</b>	<b>Fiscal Year 2006</b>	<b>Fiscal Year 2007 <small>(through May 2007)</small></b>
Fund 1280 - Administration	\$272,112	\$241,900
ODMHSAS paid to providers	747,744	843,994
DOC Probation Supervision <sup>7</sup>	282,578	282,578
TOTAL	<u>\$1,302,435</u>	<u>\$1,368,472</u>

<sup>5</sup> The rosters were tested for validity by selecting three offenders from each month’s roster and ensuring they were sentenced to the DC program by the courts. This was accomplished using the Oklahoma State Court’s Network at www.oscn.net.

<sup>6</sup> This analysis does not consider the long term prison costs of offenders who serve lengthy prison terms after failing treatment or costs at ODMHSAS such as claims processing and statewide program administration.

<sup>7</sup> MGT of America, Inc. *Performance Audit of the Department of Corrections for the Legislative Service Bureau of the Oklahoma Legislature Final Report*. Austin, Texas. December 31, 2007. page 5-18, Exhibit 5-13.

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<b>Table 2 – Drug Court Costs Versus Incarceration Costs<sup>8</sup> - continued</b>		
Average monthly roster during period	390	390
Cost per participant during period	\$3,340	\$3,509
DOC annual cost per inmate	\$17,343	\$15,898 <sup>9</sup>
Cost to the state if DC did not exist in Oklahoma County	\$6,763,770	\$6,200,123
Cost to Oklahoma County for holding time of inmates at county jail prior to transport to DOC facility <sup>10</sup>	\$169,533	\$169,533
<b>Difference between annual cost of drug court in Oklahoma County versus incarceration</b>	<b>\$5,461,170</b>	<b>\$4,831,613</b>

SOURCE: Auditor analysis

*3. To determine if the treatment providers contracted through the Department of Mental Health to provide services to drug court participants are complying with the terms of their contracts.*

**CONCLUSION**

It appears DC providers contracted through ODMHSAS are complying with the terms of their contracts.

**METHODOLOGY**

The following procedures were performed:

- We reviewed ODMHSAS policy titled “Site Review Procedure”;
- We reviewed the latest site review conducted on the nine DC providers in Oklahoma County as well as performed testwork on them;
- We reviewed the State of Oklahoma Single Audit procedures from fiscal year 2006 performed on ODMHSAS’s monitoring function;
- We performed procedures on a selection of expenditures paid to the nine DC providers in Oklahoma County.

**OBSERVATIONS**

ODMHSAS’s policy “Site Review Procedure” states that the Substance Abuse Division will conduct announced, site reviews of contractors at least once every two years. During these reviews, staff tests 10% of the providers’ invoices submitted to ODMHSAS ensures provider staff is adequately trained, as well as

<sup>8</sup> This analysis does not consider the long term prison costs of offenders who serve lengthy prison terms after failing treatment or costs at ODMHSAS such as claims processing and statewide program administration.

<sup>9</sup> Prorated to 11 months.

<sup>10</sup> A court order (CV-2006-11) issued February 8, 2007 stated DOC could leave an inmate sentenced to state prison no longer than 45 days in the county jail. Based on conversation with county management, it appears these inmates were being left at the county jail for more than 45 days prior to the issuance of this order; therefore, we believe using 45 days in this analysis is reasonable. DOC reimburses the county \$31.00 per day per inmate while they are awaiting transport to a state facility, while the Sheriff’s Office’s cost is \$40.66 per day to house an inmate. Therefore, the \$9.66 per day difference must be covered by the county’s general fund, which is funded by the taxpayers of Oklahoma County.

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visits with provider staff and patients. If deficiencies are noted, the provider is required to submit a corrective action plan within 30 to 60 days of receipt. Once the plan is received by ODMHSAS, they have 15 days to determine if the response is appropriate. If the response is adequate, a letter will be sent to the provider informing them of the acceptance. If the plan does not sufficiently address the issues, a letter will be sent to the provider detailing why the response did not meet the minimum requirements and what the provider must do to resolve the issues. If unallowable charges are noted during the review, ODMHSAS will recoup any funds that are not supported with proper documentation. SA&I also performed procedures on ODMHSAS's monitoring function for the fiscal year 2006 State of Oklahoma Single Audit. For this engagement, we relied on that assessment and tests of internal controls regarding billing for services provided.

According to ODMHSAS management, there are nine DC providers in the county. They are:

- Community Action Agency Turning Point
- Community Adolescent Rehabilitation Effort (CARE)
- Drug Recovery, Inc.
- Family Recovery Counseling Center
- Maximus
- North Care
- Specialized Outpatient Services
- Total Life Counseling
- Tri City Youth

We performed the following testwork on each provider:

1. Ensured a contract between the provider and ODMHSAS was signed by an approving official of the provider;
2. Ensured a site review was performed on the provider within the past two years;
3. Ensured a corrective action plan was submitted by the provider for those site visit reports where exceptions were noted;
4. Ensured funds were recouped or were in the process of being recouped for those site visit reports where exceptions noted that funds needed to be recouped.

Two providers were noted for which ODMHSAS attempted to recoup an overpayment. One request was made in September 2006 (\$456.95) while the other was made in February 2007 (\$680.00). As of the date our procedures were performed, ODMHSAS had not received these funds. After we notified ODMHSAS of the two instances, they were able to recoup the \$680.00 immediately.

**RECOMMENDATION**

Section 3.3 of Addendum B of the providers' contract with ODMHSAS states in part, "...If the report indicates an overpayment, contractor will have 10 days to repay or credit the Department for the identified services". We recommend ODMHSAS deduct the \$456.95 due from the provider's most current reimbursement request.

**VIEWS OF RESPONSIBLE  
OFFICIALS**

Management chose not to seek a response from ODMHSAS.

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**OBSERVATIONS** We randomly selected 33 payments made to the providers to ensure the payment was supported by sufficient documentation. Based on our procedures, the payments were adequately documented.

**4. To determine the fee structure for drug court:**

- *What fees are being charged by the court, the drug testing vendor, and the treatment providers? If fees are charged by the treatment providers, how is the amount determined and is it applied consistently?*

**CONCLUSION** The following fees are assessed to a DC participant:

- \$10.00 monthly user fee assessed by the court;
- Various court costs which are determined on a case by case basis;
- \$17.00 urinary analysis fee administered a minimum of six to ten times per month depending on the participant;
- Treatment provider co-pays ranging from zero to \$4.00 per session. One provider charged the participant \$100 per phase (five phases in the DC program). Responses provided by the providers indicated a variety of methods for determining these fees; the various amounts were based on:
  - eligibility criteria established by ODMHSAS (20% of the service rate),
  - the client's income,
  - the difference between actual costs and the amount reimbursed by ODMHSAS, or
  - treatment session attendance.

In an attempt to standardize the fee structure, all DC providers signed an agreement with Oklahoma County in April 2007 to charge no more than \$5.00 co-pay per treatment session.

**METHODOLOGY** The following procedures were performed:

- We reviewed 22 O.S. § 471.6 H;
- We interviewed the DC Coordinator;
- We interviewed personnel from the Management Services Division of SA&I;
- We reviewed the Oklahoma County DC participant handbook;
- We asked the DC providers in Oklahoma County to explain their fee scale methodology used on DC participants.

**OBSERVATIONS** Participants in the DC program are required to pay certain fees. If the participant is indigent, their treatment will not be denied due to an inability to pay; however, they will not graduate from the program if fees are outstanding.

**User Fees**

22 O.S. § 471.6 H requires every participant in the program to pay up to a \$20.00 per month user fee. Oklahoma County decided a \$10.00 fee would be sufficient. If the participant is unemployed upon entry into the program, those fees will be deferred until they are gainfully employed. The funds are remitted on "DC User Payment Form" to the Court Clerk's Office. We interviewed

personnel from the Management Services Division of SA&I and observed the procedures in place for the payment process.

### **Court Fees**

Participants in the program are assessed court fees depending on the charges brought against them, as well as for any new charges brought against them while they are in the program. The amount of fees charged is unique to each participant's case.

### **Urinary Analysis Fee**

Participants in the program are required to undergo frequent drug tests as this is a significant part of their recovery process. The testing is a random urinalysis given a minimum of six to ten times per month depending on the participant.

During our period, participants in the program were tested by Integrity Testing, Inc. and were required to pay \$17.00 for each test. If the participant is determined to be indigent, the DC program covers the cost of the test from the user fees mentioned previously. If the participant tests positive and contests the results, the participant may request the sample be sent to another laboratory for confirmation. However, to contest the results, the participant must pay an additional \$32.00.

**DC participants are tested a minimum of six to ten times per month at \$17 per test.**

During our procedures, we determined the urinalysis conducted by Integrity Testing, Inc. was being done without a contractual agreement with Oklahoma County. This indicates there was not a competitive bid process to provide drug testing services to participants in the program. This is in violation of the Purchasing Handbook for Oklahoma Counties policy 3-11 which states in part,

“When making purchases without bids, the Purchasing Agent must follow the procedure listed below: Makes all purchases...without bidding only under the following conditions: When the purchase does not exceed \$7,500...”

We assume that Integrity Testing, Inc. received more than \$7,500 in fees annually because, at \$17.00 per test, only 442 tests would have to be performed for them to receive more than \$7,500. We were unable to substantiate this as our requests to provide us data supporting the number of tests they administered during our audit period went unanswered.

During July 2007, the Oklahoma County purchasing department sent out an invitation to bid on the DC testing services. Four bids were received and evaluated. On August 15, 2007, the contract was awarded to Integrity Testing, Inc. for a price of \$15.00 per test.

### **Provider Co-Pays**

Conversations with the DC coordinator, ODMHSAS DC staff, and a review of the contracts between ODMHSAS and the providers indicate treatment providers have the authority to charge a co-pay when they provide a participant with treatment. This co-pay was in addition to the fee they were paid by

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ODMHSAS for the actual treatment provided (discussed previously in this report under Objective III). ODMHSAS staff stated this fee can not exceed 20% of the applicable ODMHSAS fee for the service rate. For example, if the service rate was \$20.00 for a 30 minute session, the co-pay could not exceed \$4.00. In April 2007, all DC providers signed an agreement with the county they would not charge a co-pay in excess of \$5.00.

Each provider explained the methodology behind the fee schedule they used during our period for DC participants. Table 3 summarizes their responses:

<b>Table 3 – Responses from DC Providers Regarding Co-Pays</b>		
<b>Provider</b>	<b>Method for Determining Amount of Co-Pay</b>	<b>Method for Handling Indigent Participants</b>
Tri City Youth	No co-pays are charged.	NA
Drug Recovery, Inc.	No response provided.	No response provided.
Community Action Agency	Compatible with ODMHSAS eligibility requirements ( <i>we assume this means 20% of the service rate</i> )	No action is taken. The client is allowed to progress through the program even if they are unable to pay their co-pays.
Total Life Counseling	Based on client's income as long as it does not create a hardship on client's family.	No action is taken. The client is allowed to progress through the program even if they are unable to pay their co-pays.
Family Recovery Counseling	The fee is determined by the client's attendance in group and individual sessions and is accumulative over time.	No action is taken. The client is allowed to progress through the program even if they are unable to pay their co-pays.
Care for Change	Each consumer is charged \$100 per phase and there are five phases of the drug court program. The amount was determined by the services that are not reimbursed by ODMHSAS.	Consumers are encouraged to pay whatever amount they can each month. They are not penalized for their inability to pay.
Maximus Counseling	No response provided.	No response provided.
Northcare	The amount of the fee was originally determined by the state ( <i>we assume this means 20% of the service rate</i> )	The client is allowed to progress through the program even if they are unable to pay their co-pays. However, we continually work with the clients to encourage payment before graduation.
Specialized Outpatient Services	Up to 20% of the total reimbursement rate from ODMHSAS. Determined based on client's income and ability to pay.	No clients are turned away for an inability to pay.

SOURCE: DC treatment providers

**5. To determine if certain drug court statistics prepared by the Department of Mental Health are valid. The selected statistics should include:**

- How many participants are sentenced to prison after completing the program and what was the crime they committed that led to imprisonment?
- Determine the employment status of participants before and after the program.

**CONCLUSION** Statistics prepared by ODMHSAS regarding recidivism appear valid. However, statistics related to the pre-program employment status of participants appear questionable due to this data being unverified by program personnel.

**METHODOLOGY** The following procedures were performed:

- We interviewed ODMHSAS staff responsible for calculating recidivism and employment statistics of the program;
- We reviewed a file prepared by DOC identifying prison receptions for the period January 1, 2001 through June 30, 2007;
- We interviewed the DC Coordinator;
- We interviewed two DC probation officers;
- We reviewed files maintained on DC participants to determine how the employment of a participant is documented.

**OBSERVATIONS** **What is the recidivism rate for DC graduates?**

DC staff at ODMHSAS provided us summary level statistics on recidivism<sup>11</sup> and employment rates for Oklahoma County DC graduates. Table 4 represents Oklahoma County DC graduates since July 1, 2001 which were matched with the DOC prison receptions from January 1, 2001 through June 30, 2007.

<b>Table 4 – Recidivism Rates of DC Graduates July 1, 2001 through June 30, 2007</b>			
<b>Group</b>	<b>Recidivism Number</b>	<b>Recidivism Percentage</b>	<b>Offenses for those returned to DOC</b>
Graduates between 7-1-04 and 6-30-07	3 of 146	2.1%	2 Burglary II 1 Distribution of CDS
Graduates between 7-1-01 and 6-30-04	10 of 95	10.5%	3 Possession of CDS 2 Obtain/Attempt CDS by Forgery/Fraud 1 Distribution of CDS 1 Forgery II 1 Distribution of CDS w/in 2000 ft of school 1 Conspiracy 1 Conceal Stolen Property

SOURCE: ODMHSAS DC staff

We observed a file prepared by a DOC Analyst and sent to ODMHSAS identifying 55,419 receptions at DOC during the period. This is DOC's

<sup>11</sup> Recidivism is defined as a habitual relapse into crime. For our purposes, the term is used as graduating from the DC program and being sentenced to prison at a later date.

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representation and ODMHSAS accepts it for their purposes. This file is matched with a file from ODMHSAS's DC computer system. Both files include certain participant information. Using data analysis software, ODMHSAS "cross-checked" key data fields from both files. Of the 241 graduates since 2001, this analysis determined there were 13 people who were sentenced to prison after graduation. This compares similarly to Tulsa County (5.4% - 15 of 279) and the state overall (5.1% - 105 of 2,048)

**Does the employment rate vary pre- and post-program?**

ODMHSAS determined that for participants who have been both admitted and graduated from DC since July 1, 2004, there is a 97.4% decrease in unemployment (53.6% unemployment at entry and 1.4% unemployment at graduation). These graduates also have a 210.7% increase in their average monthly income between admission and graduation (\$342.10 at entry and \$1,062.83 at graduation).

To determine these statistics, ODMHSAS DC staff use data input into ODMHSAS's DC web computer system. This data is input from a questionnaire a participant completes when they plea into the DC program. Although the DC coordinator is required by ODMHSAS to validate this information, no verification of the employment information is performed.

We found that while the employment information on the questionnaire is not verified by the DC coordinator, there does appear to be a way to perform this verification as probation officers already confirm employment. We interviewed two probation officers and based on our discussions and observation of participant files, both officers are verifying and documenting employment through various methods. However, as previously noted, when an offender pleads into the DC program, they complete an information sheet which contains a question about employment. The Assistant DC Coordinator confirmed if the participant was dishonest and stated they were employed yet the probation officer later found out they were not, there is not a mechanism in place for the DC coordinator to be aware of this and subsequently modify the data input into the DC web system.

**RECOMMENDATION**

We realize there are more important aspects to the DC program (curing addictions, curbing criminal behavior, etc.) than providing statistics on certain demographic information of the participant population. However, when the potential success or failure of certain aspects of the program may be judged on these statistics, it is essential the data be valid. Without ensuring its validity prior to input, inappropriate conclusions may be drawn from published statistics. We recommend ODMHSAS DC management, the DC Coordinator, and other applicable members of the drug court team combine their efforts to develop procedures to ensure any data being used to generate statistics related to the program has been validated.

**VIEWS OF RESPONSIBLE  
OFFICIALS**

Management chose not to provide a comment.

*6. To determine if the number of offenders sentenced to community sentencing remained constant, increased, or decreased over the past three fiscal years and to determine the reason for the trend.*

**CONCLUSION**

The number of offenders sentenced to CS over the past three fiscal years had a net increase of 15%. There is no distinct reason for the increase but the following may have contributed:

- Attorneys in the DA's and PD's office may be more aware of the program;
- More cases were filed over the past two years which could mean more offenders are eligible for the program;
- A new DA took office in January 2007;
- Case backlog over the past 18 months was cleared.

Regarding the decrease in fiscal year 2006, there is no definite reason but the following may have contributed:

- Judge "B" was a supporter of CS but did not hear cases during fiscal year 2006;
- Case backlog.

**METHODOLOGY**

The following procedures were performed:

- We interviewed the Oklahoma County PD, four Oklahoma County ADAs, and the Oklahoma County CS Administrator;
- We obtained and tested the validity of records identifying CS participants sentenced to the program on or after July 1, 2004.
- We reviewed local CS council board minutes for fiscal years 2005 through 2007.

**The number of offenders sentenced to CS over the past three fiscal years had a net increase of 15%.**

**OBSERVATIONS**

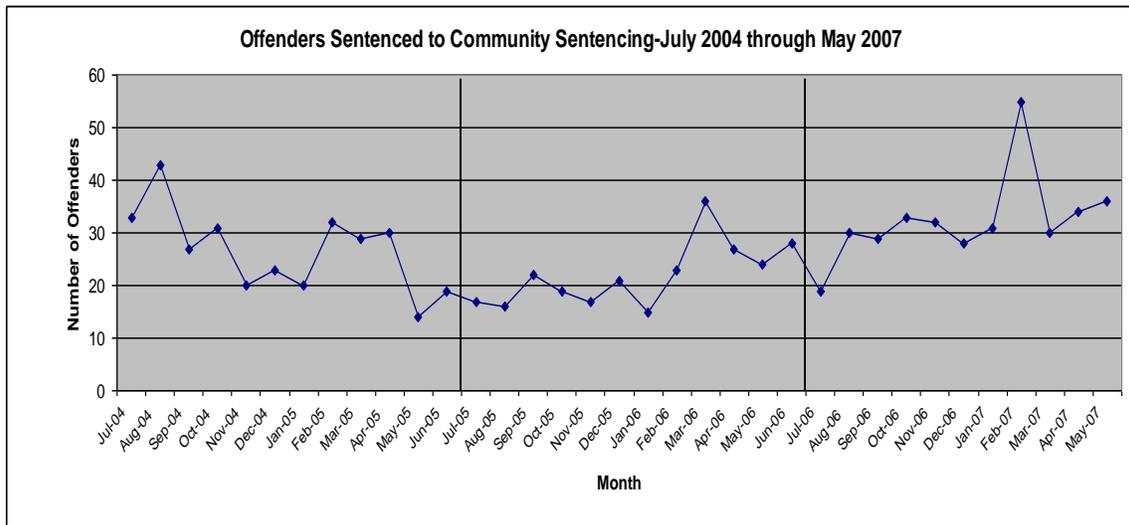
To enable us to compile the information necessary to meet this objective, we requested the following from the Oklahoma County CS Administrator:

- A beginning balance of participants in the community sentencing program at July 1, 2004. Management indicated this number was 951.
- A detailed list of all new participants sentenced into the program from July 1, 2004 through May 31, 2007 with at least name, sentence date into the program, exit date from the program, and reason for exit.

An analysis of the data provided revealed there were 942 offenders sentenced into the program during the period July 1, 2004 through May 31, 2007. To test the validity of the data, we randomly selected 100 participants and verified they were sentenced during this period by reviewing their files in the CS computer system. Although we noted six participants' sentence dates were incorrect and four participants could not be located in the computer system, we relied on the data based on extended procedures we performed which consisted of matching these 10 participants and their sentence date to records maintained on the

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Oklahoma State Courts Network. The graph below represents new sentences by month.



When divided into fiscal years, fiscal year 2005 had an average of 26.75 offenders sentenced per month, 2006 had an average of 22.08 per month, and the first 11 months of 2007 had an average of 32.45 per month. This equates to a net increase of 15% over the period.

We performed procedures to determine why the average would have decreased in fiscal year 2006 and then had a dramatic increase in fiscal year 2007. While no specific reason for the swing in numbers was determined, the following factors likely contributed:

- The CS program is still young enough that some private attorneys may not be aware of the program and may not recommend the CS program for their client;
- ADAs and judges must accept and believe in the effectiveness of the program or they may not go along with a plea agreement that includes sentencing the offender to CS;
- Clearing out a case backlog over the past 18 months;
- In late fiscal year 2005, DC requested an additional 300 offenders be recommended for that program. This may have impacted the number recommended for the CS program;
- One judge who was a proponent of the CS program was off the bench due to an illness. This may have affected the number of offenders sentenced to the CS program.

7. *To determine the cost and benefits of the community sentencing program to the citizens of Oklahoma County.*
- *What is the average, annual cost for an offender to participate in the community sentencing program?*
  - *How does this cost compare to the average cost to incarcerate an offender in a Department of Corrections facility for the same time period?*
  - *How many participants are sentenced to prison after being released from the community sentencing program and what crime did they commit that led to their imprisonment?*
  - *What is the employment status of participants pre-and post-supervision?*

**CONCLUSION**

It costs approximately \$1,600 a year for an offender to participate in the Oklahoma County CS program; it costs approximately \$17,000 a year to incarcerate an offender in a minimum security state facility. Assuming 780 participants are in the program; this is an annual difference of \$12,000,000 between state incarceration and CS. Additionally, without this program, the Oklahoma County jail would be holding these prison-bound offenders until they are transported to a state facility; this \$340,000 annual cost would be funded by the Oklahoma County taxpayers.

This analysis does not take into account many intangible factors associated with CS. Additional benefits/costs savings may include those derived from drug-free babies born to participants in CS. Estimates are that the medical and social costs required to care for a drug-exposed infant are around \$250,000 in the first year of life. Other potential sources of benefits/savings may include tax revenue generated from previously unemployed participants, cost savings in foster care, the federal and/or state savings from a reduction in CS participant reliance on Medicaid for treatment services, and lower public health costs (i.e. fewer emergency room visits, less medication for participants with co-occurring disorders, less residential/inpatient/crisis intervention services) as well as an expected benefit of reducing mortality among participants<sup>12</sup>.

Regarding the number of successful participants sentenced to prison after they completed the program, DOC calculates this data which indicates only 23% of successful participants eventually went to prison after leaving the program. Questions related to the validity of this data were noted; however, DOC did not acknowledge repeated attempts for clarification. Of the 23% of CS “graduates” who went to prison, 80% were sentenced for drug/alcohol related offenses.

Finally, management identifies an offender’s employment status when they enter the program; however, they do not monitor a successful participant’s status post-supervision. Of the successful participant population (entered the program on or after 7-1-04 but left prior to 5-31-07), procedures performed indicate 29 were employed when they entered the program while 23 were employed as of June 2007.

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<sup>12</sup> Additional benefits/costs savings information provided by ODMHSAS.

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**METHODOLOGY**

The following procedures were performed:

- We reviewed a report of expenditures paid to outpatient/inpatient treatment providers;
- We reviewed a report of expenditures paid to Oklahoma County CS for contractual services;
- We reviewed an expenditure report identifying CS administrative costs at Oklahoma County;
- We reviewed and tested the validity of CS monthly rosters maintained by DOC;
- We reviewed a report prepared by DOC identifying their fiscal year 2006 cost per inmate by facility type, interviewed DOC's Deputy Comptroller who prepared the report, and reviewed the data he used in preparing the report;
- We reviewed a U.S. Department of Justice report titled "Cost Sheet for Detention Services" prepared by the Oklahoma County Sheriff's Office which identified its fiscal year 2006 cost per day to house an inmate, interviewed its finance manager who prepared the report, as well as reviewed a fiscal year 2006 expenditure report for the Sheriff's Office.
- We reviewed and tested a report prepared by DOC identifying successful participants at June 30, 2003 and their incarceration status at June 30, 2006. If they were incarcerated, we determined the crime which put them in prison;
- We determined these participants' current employment status using management's criteria for a successful participant when exiting the program.

**OBSERVATIONS**

**How were expenditures of the program determined?**

The CS program is funded through appropriated state dollars to DOC with the exception of a supervision fee paid by the participant to the county. (This fee is discussed later in this report under Objective IX). We requested from DOC a report of expenditures paid to the Oklahoma County CS program. The total for the time period was \$2,445,606. Of this total, \$802,868 was for payments to treatment providers. The remaining funds were used to pay the Oklahoma County CS for multiple contracts they have in place with DOC:

- \$2.09 per day per client for supervision;
- \$5.00 per test for supervising a drug test;
- \$0.405 per mile to transport clients;
- \$75.00 per LSI assessment and report;
- \$37.50 per LSI reassessment (done prior to completing program or after completion) by someone other than Oklahoma County;
- \$18.75 per LSI reassessment by Oklahoma County.

Oklahoma County reports expenditures for administrative costs (travel, payroll, benefits) only. Accounting management for the Oklahoma County Clerk's Office provided us an expenditure report from the county's accounting system for fund 1270 (Community Sentencing Fund). The administrative data included items such as unemployment, worker's compensation, travel, rent, etc. Payroll information was provided by the Director of Payroll. This information is presented in Table 6 of this report.

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While obtaining information for this audit objective, we noted that the information was fragmented between the County and the State and was difficult to obtain. As a program funded with taxpayer dollars, it is imperative all aspects of the program be transparent. At Oklahoma County, program personnel had limited knowledge of the program operations performed by DOC. We realize the CS Coordinator position has an important task in monitoring participants in the program; however, it appears the program coordinator would be in the most suitable position to discuss and provide documentation related to all aspects of the program including treatment expenditures paid by DOC. Additionally, a citizen, legislator, commissioner, or the media, should be able to readily obtain financial information.

**RECOMMENDATION** We recommend program personnel at the county level (preferably the CS Administrator or designee) be familiar with the financial operations of the program. This should include, but not be limited to, having an understanding of all funding sources of the program, what type of expenditures are being incurred, as well as being able to obtain reliable, complete financial data.

**VIEWS OF RESPONSIBLE OFFICIALS** Management chose not to provide a comment.

**OBSERVATIONS** **How many offenders are in the CS program?**

In order to determine an average cost for an offender to participate in the CS program, we determined the average number of participants in the program in a given month. We requested a monthly roster for each month of our period. The roster is submitted by DOC to the CS Administrator identifying all participants in the program for that month. The Administrator and his staff complete certain status information on the roster in conjunction with their monthly invoice for supervision, drug testing, transportation, and LSI assessment.

We sorted the rosters by name and immediately noticed there were duplicate names in certain months. We called the Administrator and he was aware of this and has visited with DOC about it, yet had no explanation from them as to why it occurs.

**RECOMMENDATION** We recommend the CS Administrator obtain a clear understanding from DOC as to why duplicate names appear on the monthly rosters and the affect they may have on Oklahoma County's request for payment.

**VIEWS OF RESPONSIBLE OFFICIALS** Management chose not to provide a comment.

Once the rosters are complete and CS is paid by DOC for their services, written adjustments are made on the invoices accounting for the duplicates. We requested the adjusting entries made by DOC on the monthly invoices during our period. However, upon observation, we learned that the detail is no longer presented and it is replaced with a total number of participants under supervision multiplied by a rate. There are adjustments made by DOC to this total; however, there is no clear indication as to why they are being made.

Therefore, to determine the number of participants in the program, we:

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- Used the monthly rosters provided by DOC and subtracted six from each month to account for the average number of duplicate names in each roster;
- Selected three separate names from each month’s roster and traced them to the Oklahoma State Courts Network system to ensure the participant was sentenced to CS.

This information is presented in Table 6 of this report.

**How was the DOC cost per inmate calculated?**

DOC’s management prepares a report identifying their costs to incarcerate an inmate for one year. The schedule distinguishes the costs by maximum security, medium security, minimum security, community centers, and work centers. Since a DC participant must be a non-violent offender, we assumed the minimum security amount would be reasonable for our calculations. According to DOC management, the report is prepared using the Trial Balance report from the State of Oklahoma accounting system, as well as internal, average population counts for DOC’s facilities.

**How was the Oklahoma County jail cost per day calculated?**

We interviewed the finance manager of the Sheriff’s Office regarding the cost of holding a prisoner in the Oklahoma County jail each day. According to a U.S. Department of Justice report (Form USM-243) “Cost Sheet for Detention Services”, the Sheriff represents it cost \$40.66 per day. This is determined by dividing the total fiscal year 2006 county jail expenditures (\$40,844,963.44) by the average daily population (2752) divided by 365. The average number of inmates appears reasonable as the jail will hold 2,700 inmates and county management’s concerns that the jail was running at full capacity.

**What is the average, annual cost to participate in the CS program?**

**How does that cost compare with incarcerating an offender in a DOC facility?**

**If the program didn’t exist, how much additional cost would the state and Oklahoma County incur?**

<b>Table 6 – Community Sentencing Costs Versus Incarceration Costs<sup>13</sup></b>		
<b>Expenditures</b>	<b>Fiscal Year 2006</b>	<b>Fiscal Year 2007 (through May 2007)</b>
Administration <sup>14</sup>	\$99,202	\$86,629
Payroll <sup>13</sup>	592,177	565,276
Treatment	482,400	320,468

<sup>13</sup> This analysis does not consider the long term prison costs of offenders who serve lengthy prison terms after failing treatment or costs at DOC such as claims processing and statewide program administration.

<sup>14</sup> Administrative expenditures identified by Oklahoma County are a result of payments received from DOC for providing supervision, case management, drug testing, and transportation to program offenders.

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Table 6 – Community Sentencing Costs Versus Incarceration Costs-continued		
DOC expenditures not included in Admin/Payroll <sup>15</sup>	127,886	171,568
TOTAL CS	<u>\$1,301,665</u>	<u>\$1,143,941</u>
Average monthly roster during period	783	774
Cost per participant during period	\$1,662	\$1,478
DOC annual cost per inmate	\$17,343	\$15,898 <sup>16</sup>
Cost to the state if CS did not exist in Oklahoma County	\$13,579,569	\$12,305,052
Cost to Oklahoma County for holding time at county jail prior to transport to DOC facility <sup>17</sup>	\$340,370	\$336,458
<b>Difference between annual cost of CS in Oklahoma County versus incarceration</b>	<b>\$12,278,223</b>	<b>\$11,161,080</b>

SOURCE: Auditor analysis

**How many participants are sentenced to prison after being released from the community sentencing program and what was their crime?**

According to the CS Administrator, the Oklahoma County CS program does not monitor a participant after they leave the program. Therefore, they were unable to tell us how many participants eventually went to prison after leaving the program. However, DOC does monitor these participants as they believe the program has been in existence long enough to support longitudinal outcome studies that utilize the commonly held definition of recidivism<sup>18</sup>. Both DOC and the Oklahoma County CS define success as:

- **Transferred to State supervision (non-incarcerated)** —The participant was assigned to the CS program originally, but for some reason the judge decided to transfer supervision to DOC. The reason these transfers happen are numerous, i.e., the person was not eligible, the person was unable to complete the treatment requirements but was not deemed to be in violation of their probation period, or the person moved from Oklahoma County. CS management indicated this form of supervision is less rigid than CS.

<sup>15</sup> Expenditures paid to Oklahoma County for contractual services exceeded the amount expended by the County for administration and payroll. This amount represents the difference.

<sup>16</sup> Prorated to 11 months.

<sup>17</sup> A court order (CV-2006-11) issued February 8, 2007 stated DOC could leave an inmate sentenced to state prison no longer than 45 days in the county jail. Based on conversation with county management, it appears these inmates were being left at the county jail for more than 45 days prior to the issuance of this order; therefore, we believe using 45 days in this analysis is reasonable. DOC reimburses the county \$31.00 per day per inmate while they are awaiting transport to a state facility, while the Sheriff's Office's cost is \$41.66 per day to house an inmate. Therefore, the \$9.66 per difference must be covered by the county's general fund, which is funded by the taxpayers of Oklahoma County.

<sup>18</sup> According to DOC, recidivism studies identify a recidivist as an offender who is received as an inmate within 3 years of release from probation supervision or prison.

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- **Expired Sentences**—Includes those people that have completed the terms of their sentence, i.e., their sentence of probation has expired or they have completed all the requirements of supervision as spelled out by the court.
- **Court Ordered Unsupervised**—Includes those people that come into CS and have completed all of their treatment requirements and the court reviews their case and releases them early from the supervised portion of their probation period. Their probation period continues to run, but they are not required to report to a probation officer. Their period of probation is still subject to being revoked if the person is arrested for a new crime.
- **Deported**—Includes participants who were in the United States illegally.
- **Deceased**—Includes participants who died during their supervision period.

We reviewed a DOC file identifying Oklahoma County participants who were successful completions by June 30, 2003. There were 157 participants who met this criterion. These names and other identifying data were matched against DOC prison receptions through June 30, 2006. According to their analysis, 36 (23%) of the participants had entered prison by June 30, 2006 which equates to a 77% long-term success rate.

We attempted to test the validity of the data provided by DOC using the “Offender Search” on DOC’s website ([www.doc.state.ok.us](http://www.doc.state.ok.us)). Exceptions were noted in the data and DOC did not respond to our repeated requests for clarification. Therefore, for only the participants identified by DOC as completing the program and going to prison, we determined their crime using the “Offender Search”. This analysis revealed 29 of the 36 (80%) successful participants who were later imprisoned were incarcerated for drug/alcohol related offenses.

**RECOMMENDATION**

As discussed earlier, management of the Oklahoma County CS program was not aware that DOC monitored participants after they left the program. Consequently, they are not aware of the crimes successful participants who are later imprisoned have committed. We recommend Oklahoma County CS management request this type of data be provided to them on a continuous basis. If multiple participants who successfully completed the program are later committing drug related offenses resulting in prison sentences, management may wish to revisit their approach to determine if supervision and treatment options are operating as intended. Additionally, we recommend the CS program management reconsider the inclusion of deported/deceased participants in statistics related to success of the program as this appears to skew the results.

**VIEWS OF RESPONSIBLE  
OFFICIALS**

Management chose not to provide a comment.

**What was the employment status of participants pre-and post-supervision?**

**OBSERVATIONS**

We determined the number of offenders sentenced into CS on or after July 1, 2004 yet exited the program before May 31, 2007 as a success (transferred to state supervision, expired sentence, or court ordered unsupervised<sup>19</sup>). From the

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<sup>19</sup> There were 11 deported and/or deceased offenders which we did not consider a success for this analysis.

population of 76 successful participants identified, the CS Administrator identified for us if they were employed when they entered the program. This was determined based on information obtained during the participant's LSI assessment. If the participant does not provide proof of employment, their employment status is taken on their word. Based on LSI information, 29 (38%) participants were working when they entered the program and their supervision began. However, management does not monitor the successful participants' employment status post-supervision. Using unemployment payment information maintained by the Oklahoma Employment Security Commission (OESC), we noted 23<sup>20</sup> of the participants had unemployment payments made on their behalf during the quarter ending June 2007

**RECOMMENDATION**

We recommend CS management and DOC management explore options with the OESC to obtain access to certain data related to participants' past and current employment status. If an agreement is reached with OESC, this would enable management to have at least one mechanism to verify a participant's employment situation when entering the program, as well as give them a mechanism to monitor the participant's employment for a certain period of time post-supervision. This appears to be critical information to aid management and the providers in assessing if their supervision and treatment options are operating as intended. If positive results are identified, this would demonstrate accountability to the citizens that tax dollars are being spent effectively as well as help potentially gain additional leverage for state appropriations.

**VIEWS OF RESPONSIBLE  
OFFICIALS**

Management chose not to provide a comment.

*8. To determine if the treatment providers contracted through the Department of Corrections to provide services to community sentencing participants are complying with the terms of their contracts.*

**CONCLUSION**

Procedures were applied to expenditure claims associated with certain sections of contracts between DOC and specific treatment providers. From these procedures, we noted:

- Three claims' supporting invoices had the incorrect billing rate charged for a small portion of the services they provided;
- DOC does not consider the performance measures identified in Section 6.1 of their contract when processing payment requests from the providers;
- Two claims' supporting invoices had adjustments made by DOC management; however, there was no clear explanation and/or support as to why this occurred;
- No evidence to support DOC confirmed the staff of seven providers offering mental health service were qualified by education, license, certification, and/or training in accordance with Section 2 (I) B. 1 and 2 (II) B. 1 of the contract;
- DOC does not periodically evaluate a vendor's performance in accordance with Section 5.1 of their contract.

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<sup>20</sup> Of the 29 offenders who management identified as being employed when they entered the program, 10 of them were employed as of June 2007. Conversely, of the 47 offenders who were unemployed when they entered the program, 13 were employed as of June 2007.

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**METHODOLOGY**

The following procedures were performed:

- We interviewed the DOC local administrator for Oklahoma County;
- We reviewed a report of expenditures paid to outpatient/inpatient treatment providers;
- We reviewed and performed procedures related to the contracts between 10 providers and the DOC;
- We performed procedures on 55 payments made to 10 providers.

**OBSERVATIONS**

We requested a report of expenditures for the Oklahoma County (department 5252130) Community Sentencing program from DOC. Using data analysis software, we identified 22 different treatment centers receiving payment. All of these centers provided outpatient treatment with two centers also providing inpatient treatment. We selected 10 of these treatment centers for further analysis.

The providers selected were:

- Drug Recovery, Inc. (provided both inpatient and outpatient treatment)
- Southern Corrections System (provided both inpatient and outpatient treatment)
- Total Life Counseling
- Hope Community Services
- Northcare
- Open Options
- Pathways Professional Counseling
- New Day Recovery Youth and Family
- Cope, Inc.
- Community Learning Council

There were 325 payments made to these 10 vendors during the period which totaled \$616,420. We selected 55 payments for testing.

Using the contract between these 10 providers and DOC, we developed the following attributes to test:

- Was the correct billing rate being charged in accordance with Section 6.1 of the contract;
- Was staff providing mental health services qualified by education, license, certification, and/or training in accordance with Section 2 (I) B. 1 and 2 (II) B. 1 of the contract;
- For substance abuse services, was the provider certified by ODMHSAS in accordance with 43A O.S. § 3-415.A and did DOC maintain a copy of the certification in accordance with Section 2.2 of the contract;
- For substance abuse services, did the provider have a written description of the program and curriculum in accordance with Section 2 (III) B. 1 and (IV) B.1 of the contract;
- Did DOC periodically evaluate the providers' performance in accordance with Section 5.1 of the contract?

We found:

- Three claims' supporting invoices had the incorrect billing rate charged for a small portion of the services they provided;

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- DOC does not consider the performance measures identified in Section 6.1 of their contract when processing payment requests from the providers;
- Two claims' supporting invoices had adjustments made by DOC management; however, the there was no clear explanation and/or support as to why this occurred;
- No evidence to support DOC confirmed the staff of seven providers offering mental health services were qualified by education, license, certification, and/or training in accordance with Section 2 (I) B. 1 and 2 (II) B. 1 of the contract;
- No indication that DOC evaluates a vendor's performance in accordance with Section 5.1 of their contract.

**RECOMMENDATION**

We recommend:

- DOC exercise diligence in reviewing invoices submitted by providers to ensure they charge the correct billing rate for the service provided;
- DOC require providers to submit, in addition to their invoices, additional evidence to support the reimbursement request. This is currently occurring with various providers; however, the format and detail does not appear consistent. The documentation could include but not be limited to:
  - Sign in/out sheets indicating time of arrival/departure;
  - Progress notes completed by the counselor indicating dates the participant was in session, whether they participated in the session, items discussed during the session, behavior during the session, drug tests results from the month, etc. This would aid DOC in beginning to utilize the performance measures identified in Section 6.1 of their contract.
- DOC adequately document why adjustments to requested amounts are made with a clear link to the approved payment amount;
- DOC ensure the staff of all providers offering mental health services are qualified by education, license, certification, and/or training;
- DOC develop a process for monitoring the performance of their providers to ensure compliance with Section 5.1 of their contract. At a minimum, since ODMHSAS already performs site reviews on all substance abuse treatment providers, it would appear reasonable for DOC to initiate talks with ODMHSAS regarding examining these reviews. This may alert DOC to situations such as improper billing, changes in treatment philosophy, etc., which otherwise may go undetected.

**VIEWS OF RESPONSIBLE  
OFFICIALS**

Management chose not to seek a response from DOC.

***9. To determine the fee structure for community sentencing:***

- *What fees are being charged by the court, the Department of Corrections and the treatment providers? If fees are charged by the treatment providers, how is the amount determined and is it applied consistently?*

**CONCLUSION**

Based on the procedures performed, the following fees are assessed to a CS participant:

- \$40.00 monthly supervision fee;
  - \$20.00 monthly administration fee;
  - Various court costs which are determined on a case by case basis.
- Treatment co-pays are not charged to CS participants.

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**METHODOLOGY**

The following procedures were performed:

- We reviewed 22 O.S. § 988.9 A and 22 O.S. § 988.9 B;
- We interviewed the CS Administrator;
- We interviewed a CS probation officer;
- We interviewed an administrative assistant responsible for collecting fees, as well as her supervisor;
- We reviewed policy CS-1009—procedure I;
- We contacted the 10 providers identified under Objective VIII in the report to determine the amount, if any, of fees they charge a participant.

**OBSERVATIONS**

**What fees are charged by the court?**

22 O.S. § 988.9.A. requires any participant of the program to pay a supervision fee. The fee shall not exceed \$40.00 based on the participant's ability to pay. This fee is retained by Oklahoma County; however, they cannot deny the participant supervision services for the sole reason of the participant being indigent.

In addition to the supervision fee, 22 O.S. § 988.9.B. requires the participant to pay an administrative fee not to exceed \$20.00 to the DOC. In addition to the administrative and supervision fees, the court shall assess court costs, and may assess program reimbursement costs, restitution, and fines to be paid by the participant. The CS Administrator stated court costs vary from case to case and are paid directly to the Court Clerk's office. Reimbursements for incarceration and fines are included in the total of court costs owed.

Both of these fees are paid to CS personnel through money orders<sup>21</sup>. Checks and cash are not accepted. The participant can present their payment in person or mail it to their probation officer. Both types of fee are posted into the computer system by two administrative assistants. The money order submitted for the supervision fee is endorsed and deposited daily with the County Treasurer. However, money orders for the administration fee are mailed from the County to DOC without being endorsed.

CS policy CS-1001 I. G requires a log to be maintained in the CS2 system of all fees received including the participant's name, DOC number, amount paid, type of fee, receipt number and date paid. However, reconciliation between this log and the supervision fees deposited with the County Treasurer is never performed.

**RECOMMENDATION**

An effective internal control system provides for endorsement of checks/money orders upon receipt. We recommend CS management communicate with DOC to obtain an endorsement stamp which would allow money orders presented for payment for DOC administration fees to be endorsed prior to being mailed to DOC. Additionally, we recommend a monthly reconciliation be performed between supervision fees posted into the CS2 system and the fees deposited at the County Treasurer. This reconciliation should be reviewed in detail and approved by a supervisor.

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<sup>21</sup> If the money order is presented incomplete or one money order is submitted for both fees, it is returned to the payer in person or through their probation officer.

**VIEWS OF RESPONSIBLE  
OFFICIALS**

Management chose not to provide a comment.

**What fees are charged by the treatment providers?**

Based on discussion with the DOC local administrator and review of Section 6.5 of the DOC/provider contract, treatment providers are not allowed to charge CS participants co-pay for services they receive. Communications with the 10 providers identified on page 29 of this report indicate they did not charge any type of fee to a CS participant.

*Closing Comments*

Overcrowding at the Oklahoma County jail, as well as within the Department of Corrections prison system, has been an issue for many years. Concerned with this fact among others, Oklahoma County leadership requested us to ascertain how two of the county's diversion programs operate. We determined both DC and CS have different approaches with primarily the same goals: cure the addiction, thereby curbing criminal behavior and provide the opportunity for the participant to become a productive part of society. Key points noted were:

- Participants in both programs have increased over the past three fiscal years;
- Financial data related to both programs is fragmented between the county and the state, making it difficult to obtain;
- The cost per participant is considerably less than it would be to incarcerate the same participant;
- Multiple fees may be paid by the participants, covering certain program costs as well as encouraging the participant to take ownership in his/her recovery;
- Recidivism rates for both programs appear reasonable;
- Pre-program employment data is not verified for either program, but should be;
- Post-program employment for CS participants is not monitored, but should be;
- Data related to recidivism rates of post-program CS participants is not reported to Oklahoma County program management. This knowledge could assist management in determining whether their treatment methodology should be revised.



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