OFFICE OF PUBLIC ACCOUNTABILITY
Doris Flores Brooks, CPA, CGFM
Public Auditor

December 29, 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'Trentai Dos Na Liheslaturan Guåhan
155 Hesler Place
Hagatna, Guam 96910

Dear Speaker Won Pat:

Hafa Adai! Transmitted herewith is OPA Report No. 14-06, Department of Corrections (DOC) Prison Capacity Planning.

Our audit found that:

- According to the International Centre for Prison Studies, as of April 2013, Guam had the highest rate in the world with 272 pre-trial/remand population per 100,000 of the island's population;
- Design plans or official capacity rates are lacking for DOC facilities;
- DOC does not follow standards to support conversion of its facilities; and
- An effective management strategy to operate under higher capacity demand pressures is lacking.

Based on discussions with DOC, we recommend that:

- DOC Director:
  - To work with the Governor to reestablish a DOC task force and begin discussions to reduce the detainee population and develop a well-documented management strategy with short-term and long-term measures; and
  - To address capacity utilization for its current facility design capacity of a potential new ACF both intended to reduce the prisoner population housed at DOC.

Further, we urge senators, policymakers, and law enforcement officials to participate in an in-depth site visit of DOC's multi-satellite facilities to observe the adverse conditions

For your convenience, you may also view and download the report in its entirety at www.guamopa.org. Should you have any questions, please contact Llewelyn Terlaje, Audit Supervisor at 475-0390 ext. 211, or Clariza Roque, Auditor-In-Charge at ext. 216.

Senseramente,

Doris Flores Brooks, CPA, CGFM
Public Auditor

RECEIPT ACKNOWLEDGED:

By: _____

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Judith T. Won Pat, Ed.D

2351

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Department of Corrections
Prison Capacity Planning

Performance Audit
January 2013 through December 2013

OPA Report No. 14-06
December 2014

Distribution:

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EXECUTIVE SUMMARY
Department of Corrections Prison Capacity Planning
Report No. 14-06, December 2014

The Department of Corrections (DOC) lacks a prison capacity plan to effectively manage its growing prisoner (inmates and detainees) population. This occurred due to the lack of priority and lack of qualified individuals tasked to perform it. As a result, the department's facilities compromise the guard, prisoner, and community welfare, which may result in potential civil lawsuits and federal receivership.

Due to the lack of capacity planning, we found that:

- DOC facilities are dilapidated and in need of constant repairs;
- Some prisoners are housed in temporary canvas-like structures, where during inclement weather, the transfer of prisoners is needed;
- To house influxes of prisoners, spaces, such as the library, classrooms, and offices, were converted into an open-bay system;
- Additional structures were added to the original facility with different designs that do not provide optimal security;
- DOC stated that they may be above the Adult Correctional Facility (ACF)'s operational capacity by 192% as of December 2013 with an overall population of 706 prisoners. However, this number is not verifiable due to the lack of reliable data for its prisoner populations counts;
- For potential influx of overnighters/detainees at the ACF or Hagatna Detention Facility (HDF), management responded that they would need to shuttle prisoners back and forth or bring out cots and temporarily convert the HDF into an open-bay area; and
- As of April 2013, Guam had the highest detention rate in the world with 272 pre-trial/remand population per 100,000 of the island's population wherein DOC's prison population comprised of 449 detainees (65% of approximately 690 total prisoners).

Best practices depicts that it is essential a proper assessment and planning process take place before any construction is started to ensure that valuable resources are not wasted in the long run. A Master Plan should be drawn up to guide the overall construction and development of the prison system. It should describe all prison facilities, including their capacity, security level, and the state of existing infrastructure as well as the purpose of the prison system, its core values and any gaps in the system. In other words, proper planning is needed to ensure that DOC is in line with its mission of operating a safe, secure, humane and efficient corrections system. However, we found that DOC lacked design plans, standards, and a management strategy to address forecasted growth, reduce recidivism, and help with reintegration of prisoners to our island community.

Design Plans and Official Capacity Rates are Lacking for DOC Facilities

DOC was unable to provide original design plans of existing facilities (or official capacity rates) to show the architectural certification supporting its prisoner capacity per housing unit. Data reported by the NaviLine in regards to the prisoner population at any given point in time is unreliable. As a result, management cannot:

- Ascertain the number of prisoners their facilities were originally intended to house nor prisoner population thresholds wherein operational capabilities are not compromised in fundamental areas, such as health, safety, and security;

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- Accurately calculate the rate at which they are operating over or under the established capacity levels; and
- Prepare reasonable forecasts to allow DOC to make sound decisions on when a course of action, such as the expansion of a facility or construction of a new facility, should take place.

DOC Does Not Follow Standards and Has No Effective Management Strategy

As mentioned previously, in response to the growing population, DOC converted classrooms, offices, other buildings, and outside space in order to provide additional accommodation. At the HDF, we found that cells originally for one prisoner were converted to accommodate up to four prisoners. When we inquired as to the basis for these conversions, we found that DOC does not follow any standards (e.g. Department of Justice standards) relative to open-bay dormitory conversions and managing prisoner traffic. Instead, authorized bed space and prisoner capacity per housing unit is driven by the Warden's directives and guidance. Since the Warden of 22 years retired, information was not passed on and the basis for his directives were not documented. DOC continues to default to makeshift arrangements for influxes of prisoners because it lacks short-term as well as less long-term strategies.

To effectively address the growth in prison numbers, DOC needs to develop proactive strategies to determine when to build efficient and appropriate facilities, to address forecasted prisoner increases, and to reduce the growth in their current prison population. This would include measures to implement various approaches including social reintegration, rehabilitation programs, and home detention systems.

Guam has Highest Pre-trial Detention Rate in the World

According to the International Centre for Prison Studies (ICPS) *World Pre-Trial/Remand Imprisonment List*, as of April 2013, Guam had the highest rate in the world with 272 pre-trial/remand population per 100,000 of the island's population. There were 449 detainees (individuals awaiting judicial disposition) or 65% of DOC's approximate 690 prisoner population. According to the ICPS Director, this raises fundamental questions about the use of imprisonment and the need to focus our attention on alternatives, thereby reducing overcrowding in order to devote resources to improving the conditions in which prisoners are held. Besides often being unnecessary, with prisoners frequently being held for exceptionally long periods, such inappropriate use of detention is maintained at a great cost to the state. DOC should begin discussions with the Attorney General's Office and other pertinent officials of the criminal justice system to determine and implement strategies to help reduce the detainee population.

Conclusion and Recommendations

Given its present infrastructure, the growth in DOC prisoner numbers maybe unsustainable in the immediate future. It is imperative that DOC develop and maintain a Master Plan to guide the overall construction and development of its prison system. We recommend the DOC Director work with the Governor to reestablish a DOC task force to develop a well-documented management strategy with short-term and long-term measures to address capacity utilization for its current facility as well as the design capacity of a potential new ACF both intended to reduce the prisoner population housed at DOC. The task force should take into consideration reliable forecasting models and the potential use of non-custodial sanctions and rehabilitation needs of offenders and prisoners in an effort to reduce the prison population. We also urge senators, policymakers, and law enforcement officials to participate in an in-depth site visit of DOC's multi-satellite facilities to observe the adverse conditions.

On December 18, 2014, OPA met with DOC officials to discuss the audit report. DOC management concurred with the findings and recommendations and provided their official response on December 24, 2014.

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Introduction

This report presents the results of our audit of the Department of Corrections (DOC)'s prison capacity planning during Calendar Year (CY) 2013. The audit was conducted as part of the Office of Public Accountability (OPA)'s annual work plan and in line with OPA's overall strategic vision that the Government of Guam (GovGuam) is the model for good governance in the Pacific. Our objective was to assess the effectiveness of DOC's prison capacity planning.

The audit objective, scope, methodology, and prior audit coverage are detailed in Appendices 2 and 3.

Background

DOC is a GovGuam line agency mandated to protect the public from the destructive action of law offenders through control and rehabilitation. DOC provides staff services for the Judiciary, the Parole Board, probation officers, and interested agencies of the Executive Branch. These responsibilities are carried out by more than 200 employees who staff DOC's four divisions: Administration, Prison Security, Diagnostic Treatment Services, and Parole Services. DOC's staff consists primarily of corrections officers and guards.

The Director's Office is responsible for the general management of the prisoner population (composed of inmates, detainees, and federal prisoners). The Prison Security Administration division is responsible for the corrections officer and guard personnel structure. They conduct security checks, inspections, and various operations related to safeguarding the public from inmates and detainees. DOC noted that unlike other jails and correctional facilities, DOC has jurisdiction over both inmates and detainees since they are the only prison-like facility on Guam. For the purpose of our audit, we utilized the term "prisoners", which is comprised of both inmates and detainees.

DOC Facilities

DOC's facilities consist of three different housing units or posts in two different locations: the Adult Correctional Facility (ACF) in Mangilao and the Hagatna Detention Facility (HDF) and the Federal Detention Facility (FDF) in Hagatna. The Prison Security Administrator is responsible for the overall administration of these facilities.

Adult Correctional Facility

The ACF consists of 15 housing units which house immigration detainees, and minimum, medium, and maximum security inmates. ACF is also used to house the overflow of detainees from the HDF.

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Hagatna Detention Facility
The HDF houses local pre-trial detainees and U.S. Federal Marshal detainees. The facility is also used to house inmates who, for several reasons, need protection from the general population.

Federal Detention Facility
The FDF is under the auspices of the United States Department of Justice (USDOJ). An Intergovernmental Service Agreement (ISA) is used for the detention of persons charged with or convicted of violations of federal law or held as material witnesses (federal prisoners) at this facility. At all times, federal detainees and local prisoners are kept separate.

Consent Decree (No. 91-00020, U.S. vs. the Territory of Guam)

In February 1991, the USDOJ brought action against the Territory and determined the need for improved conditions at DOC's facilities. These requirements include providing fire retardant mattresses, installing alarm systems, establishing a rat and rodent extermination program, repairing kitchen equipment, and actively assessing internal conditions and needs for improvement or remedial measures. More than 20 years later, DOC is still under a Consent Decree to improve these mentioned conditions as a result of the Federal Court Case No. 91-00020 *U.S. vs. The Territory of Guam*. To achieve the standards of DOJ, DOC would be required to maintain higher guard-to-prisoner population thresholds than it currently mans.

As a result of the Consent Decree, Executive Order 96-35 issued in November 1996 established a DOC task force to investigate conditions at the department to determine the status of security systems; the status of enforcement of required laws, rules, and regulations pertaining to inmates; and if there is the presence of illegal drugs within the department. The Department of Law (Attorney General's Office) took the lead in the investigation of such matters. Since November 1996, there has been no task force to address matters relating to overcrowding or prison capacity planning and the increasing detainee population.

Bill No. 172-32 – DOC Construction Initiative Act of 2013

Bill No. 172-32 was introduced to construct "a modern, secure and safe correctional facility". A Public Hearing was held in December 2013. However, the 32nd Guam Legislature took no further action on this bill.

Results of Audit

DOC lacks a prison capacity plan to effectively manage its growing prisoner (inmates and detainees) population. This occurred due to the lack of priority and the lack of qualified individuals tasked to perform it. As a result, the department's facilities compromise the guard, prisoner, and community welfare, which may result in potential civil lawsuits and federal receivership.

Due to the lack of capacity planning, we found that:

- DOC facilities are dilapidated wherein the department states that they are in constant need of repairs;
- Some prisoners are housed in temporary canvas-like structures, where during inclement weather, the transfer of prisoners is needed;
- To house influxes of prisoners, spaces, such as the library, classrooms, and offices, were converted into an open-bay system;
- Additional structures were added to its original facility with different designs that do not provide optimal security;
- DOC stated that they may be above the ACF's operational capacity by 192% as of December 2013 with an overall population of 706 prisoners. However, this number is not verifiable due to the lack of reliable data for its prisoner population counts;
- For potential influx of overnighters/detainees at the ACF or HDF, management responded that they would need to shuttle prisoners back and forth or bring out cots and temporarily convert the HDF into an open-bay area; and
- As of April 2013, Guam had the highest detention rate in the world with 272 pre-trial/remand population per 100,000 of the island's population wherein DOC's prison population comprised of 449 detainees (65% of approximately 690 total prisoners).

Best practices depict it is essential that a proper assessment and planning process take place before any construction is started to ensure that valuable resources are not wasted in the long run. A Master Plan should be drawn up to guide the overall construction and development of the prison system. It should describe all prison facilities, including their capacity, security level, and the state of existing infrastructure as well as the purpose of the prison system, its core values and any gaps in the system. In other words, proper planning is needed to ensure that DOC is in line with its mission of operating a safe, secure, humane and efficient corrections system. However, we found DOC lacked design plans, standards, and a management strategy to address forecasted growth, reduce recidivism, and help with reintegration of prisoners to our island community.

Design Plans and Official Capacity Rates are Lacking for DOC Facilities

According to the International Committee of the Red Cross (ICRC)[1], a Master Plan should contain capacity planning that (1) conducts needs assessments to determine the capacity and capability of existing institutions; and (2) analyzes prison population and trends. Refer to Appendix 3 for best practices on prison capacity planning, Master Plan, and Management Strategy. DOC was unable to provide original design plans of existing facilities (or official capacity rates) to show the architectural certification supporting its prisoner capacity per housing unit. Furthermore, data reported by the NaviLine in regard to the prisoner population at a given point in time is unreliable. As a result, management cannot:

- Ascertain the number of prisoners their facilities were originally intended to house nor the prisoner population thresholds wherein operational capabilities are not compromised in fundamental areas, such as health, safety, and security;
- Accurately calculate the rate at which they are operating over or under the established capacity levels; and
- Prepare reasonable forecasts to allow DOC to make sound decisions on when a course of action, such as the expansion of a facility or construction of a new facility, should take place.

Management Cannot Ascertain Official Capacity Levels nor Operational Thresholds

The official capacity (or design capacity) of a prison is the total number of prisoners that it can accommodate while respecting minimum requirements including a full range of services and accommodation of space. The official capacity is generally determined when the prison is constructed. Where additional accommodations are built or the use of buildings changed, the capacity should be recalculated. The official capacity should take into account not only approved beds, but also the access to and adequacy of other prison infrastructure (services, programs, activities, etc.).

Over the years, management continued to approve the construction of additional buildings in Mangilao to supplement the capacity of the original building resulting, in a total of 15 buildings. Without the basis of a reliable design capacity, occupancy rates, or extensive consultation, these add-on buildings were erected to accommodate the steep increase of local detainees. DOC noted that the ACF was meant to hold a population of no more than 300 prisoners; however, we could not verify as no design plans with capacity levels were provided for our review.

Lack of Reliable Prisoner Data to Calculate Capacity Rates or Prepare Reasonable Forecasts

When defining overcrowding, the requirement is to first establish a maximum number of prisoners, which can be accommodated in a prison facility, otherwise known as the official capacity rate or population density. Secondly, DOC would also need to compare their prison population with the official capacity number. This is often referred to as the occupancy rate is determined by calculating the ratio of the number of detainees present on a given day to the number specified by the prison's official capacity. See Figure 1.

Figure 1: Occupancy Rate Calculation

$$\text{Occupancy rate} = \frac{\text{Number detainees present}}{\text{Official capacity}}$$

[1] The ICRC is an impartial, neutral, and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavors to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. https://www.icrc.org/en/who-we-are

For prisoner statistics, DOC utilizes data compiled based on DOC blotters inputted into the NaviLine system. NaviLine is a web-based jail management system that provides an efficient way to track and report on all aspects of a prisoner's confinement. Detailed and customized reports of NaviLine are created through a supplemental software called COGNOS. Some of its key features are tracking prisoner census, property management (intake and issuances), and prisoner classification and reclassification.

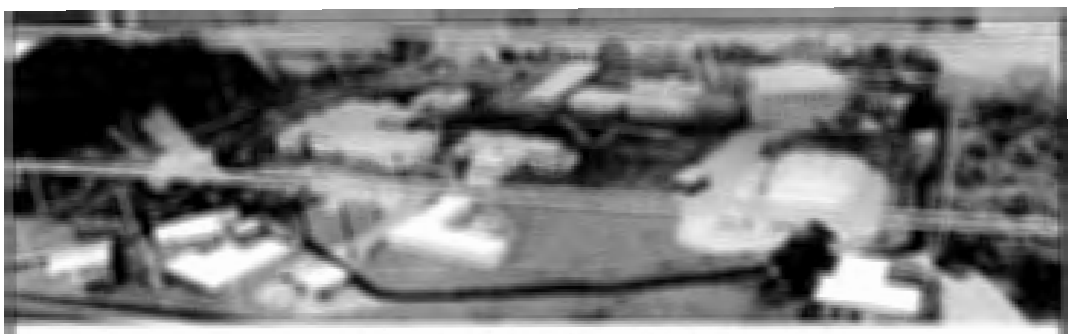
DOC stated that they may be above the ACF's operational capacity by 192% as of December 2013 with an overall population of 706 prisoners. However, this number is not verifiable due to the lack of reliable data for its prisoner population counts. Despite numerous requests to management, DOC was unable to provide valid data on a variety of overcrowding indicators, such as the prison population for each day of CY 2013, recidivism rates, average detainee length of stay by level of crime, and guard-to-prisoner ratios.

As identified in OPA Report No. 14-03 *DOC Cost per Prisoner Calculation*, the daily population figures reported by the NaviLine system did not reconcile to two other daily population statistics reports provided by DOC. We found the data to be unreliable due to the lack of a dedicated non-uniform staff to input data on a timely basis, perform periodic reconciliation, and maintain pertinent documents, such as activity blotters. As of the date of this report, DOC has not hired any non-uniform personnel to maintain and ensure the reliability of the data inputted into NaviLine as previously recommended. This data is essential for establishing historical trends, which is utilized as the basis for establishing reasonable forecasts.

DOC Does Not Follow Standards to Support Conversion of Its Facilities

In response to the growing population, DOC converted classrooms, offices, other buildings, and outside space in order to provide additional accommodation. However, when we inquired as to the basis for these conversions, we found that DOC does not follow any standards (i.e., DOJ) relative to open-bay dormitory conversions and managing prisoner traffic. Instead, authorized bed space and prisoner capacity per housing unit is driven by the Warden's directives and guidance. Since the Warden of 22 years retired, information was not passed on and the basis for his directives were not documented. DOC stated that any standards would be unattainable due to the overpopulation of DOC. As a result, DOC will continue to default to makeshift arrangements for influxes of prisoners.

Inefficient Facility Conversions and Expansion to Accommodate DOC's Growing Prisoner Population



Despite DOC's lack of capacity plan, which would have taken into account the standards to support the conversion and expansion of its facilities, and exigent operations (i.e. transfer of prisoners), the department underwent a number of expansions within its multi-satellite layout over the years. DOC's facilities are located in two different locations, Hagatna (HDF) and Mangilao (ACF). In the ACF, 15 posts are spread throughout its main compound and have different designs, which does not allow for optimal security.

This quick and rapid expansion and lack of capacity planning of DOC's facilities, has further exacerbated DOC's already dilapidated facilities and raises concerns for the safety and welfare of prisoners and guards. For example, due to DOC's decentralized facility, we observed that it is not uncommon for **only one guard** to staff an overpopulated housing unit. Overcrowding conditions and blind spots within the department's facilities also subject officers to adverse conditions and prolonged work hours. Based on walkthroughs conducted, we found that:

- Temporary shelters enclosed by canvas-like material are utilized to house prisoners;
- Areas, such as the prison library, have been converted to house prisoners in an open-bay system;
- For influxes of overnighters/detainees at the ACF or HDF, management responded that they would need to shuttle prisoners back and forth or bring out cots and temporarily convert the HDF into an open-bay area;
- Cells originally for one prisoner were converted to accommodate up to four prisoners; and
- Security mechanisms such as cameras and locking systems are non-functional and/or outdated.

These conditions and others (refer to Appendix 3 for the Women's Facility observations) occurred because: (1) no one within the department was tasked to enforce conversion standards; and (2) DOC does not conduct periodic assessments of its facilities to determine areas of deficiencies, which is essential to prison management. Periodic assessments of DOC's infrastructure can help prioritize maintenance requirements and should be incorporated in the department's capacity planning in determining which infrastructure needs to be upgraded as part of the contracts for expansion. DOC stated that they are in constant need of repairs, further draining financial resources as well as limiting its ability to provide adequate services and safely manage its prison population.

Because DOC does not use federal standards and lacks updated assessments, the department will continue to default to makeshift arrangements and conversions to house prisoners. The poor conditions of the satellite facility are not cost effective or adequate to handle the department's growing prisoner population. These arrangements compromise the welfare of prisoners and deprive them of their constitutional rights, such as the 8th and 14th Amendments.[2] This puts the department at risk of civil lawsuits and a possible federal receivership. Further, these adverse arrangements also compromise the safety and security of the guards and the general public. We

[2] 8th Amendment: Prohibits excessive bail, excessive fines, or the infliction of cruel and unusual punishments, including torture; 14th Amendment: Addresses citizenship rights and equal protection of the laws.

urge policymakers and criminal justice officials to participate in an in-depth site visit of DOC's multi-satellite facilities to observe these adverse conditions.

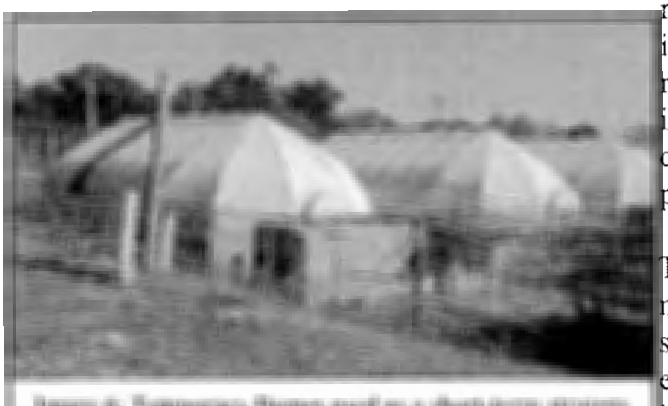
Non-Compliance with PREA Standards

The Prison Rape Elimination Act of 2003 (PREA) was signed into law on September 4, 2003. Public Law 108-79 seeks to eliminate sexual abuse in correctional facilities by setting standards for the physical space and for the training, assignment, and conduct of personnel in the facility. All public and private prisons, jails, lock-ups, community corrections, and juvenile detention facilities must meet the PREA standards. A state is in compliance when prison facilities under its operational control meet the PREA standards. Confinement facilities must be audited at least every three years to be considered compliant with the PREA standards, with one third of each facility type operated by an agency audited each year.

Pursuant to the PREA statute, the Governor has three options: (1) submit a certification that the state is in full compliance; (2) submit an assurance that not less than five percent of its DOJ funding for prison purposes shall be used only for the purpose of enabling the state to adopt and achieve full compliance with the PREA standards; or (3) accept a five percent reduction in such grants. In May 2014, the Governor signed an assurance for option two to adopt and achieve full compliance with National Standards to prevent, detect, and respond to prison rape. DOC states that the implementation of PREA from the federal government is crucial to operations and will dictate the department's staff composition. However, DOC does not have the manpower and funding.

An Effective Management Strategy to Operate under Higher Capacity Demand Pressures is Lacking

The lack of a management strategy can be attributed to the lack of prioritization and qualified personnel for the development of a Master Plan. The ICRC acknowledges that poor planning processes contribute to the major flaws that result in a deterioration in the conditions of imprisonment and treatment of prisoners. In addition, DOC's capacity is becoming unsustainable and compromises the safety and welfare of prisoners and guards. DOC cannot control the number of prisoners admitted to its facilities. With the influx of detainees, DOC is unable to provide prisoners with a sufficient range of work and rehabilitative programs that will help reduce recidivism and reintegrate offenders in our island's community. DOC is operating in a reactionary state where short-term strategies involve deploying temporary beds or defaulting to makeshift arrangements as previously mentioned.



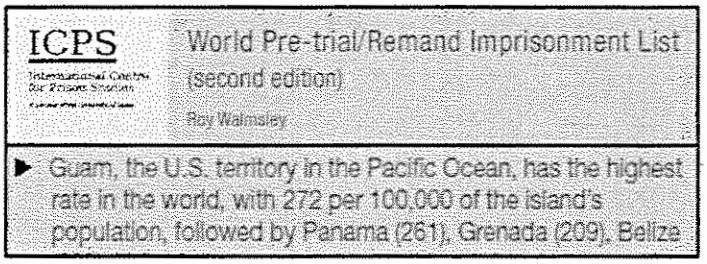
To effectively address the growth in prison numbers, DOC needs to develop proactive strategies to determine when to build more efficient facilities, address forecasted prisoner increases, and reduce the growth in prisoner numbers of which a majority are detainees. This would include measures to promote social reintegration and rehabilitation programs or home

detention systems. Refer to Appendix 4 for a best practice on prison capacity planning, Master Plan, and management strategies.

Guam has Highest Pre-trial Detention Rate in the World

According to a list by the International Centre for Prison Studies (ICPS),[3] as of April 2013, Guam has the highest rate in the world with 272 pre-trial/remand population per 100,000 of the island's population. DOC's prison population comprised of 449 detainees (65% of approximately 690 total prisoners). Guam's pre-trial/remand population rate is showing an upward trend from 108 in 2005, to 222 in 2011, and 272 in 2013. Detainees as opposed to inmates who have been convicted, are individuals who are awaiting judicial disposition. DOC should begin discussions with the Attorney General's Office and other criminal justice agencies to determine and implement strategies to help reduce the detainee population (e.g., ankle bracelets, bail systems, etc.).

Image 7: Excerpt from ICPS World-Pre-trial/Remand Imprisonment List



ICPS published the second edition of the *World Pre-Trial/Remand Imprisonment List*, which included 211 independent countries and dependent territories and is compiled by the national prison administration of the country concerned. This List refers to those persons who, in connection with an alleged offense or offenses, are deprived of liberty following a judicial or other legal process, but have not been definitively sentenced by a court for the offense(s). There are five stages, although not all legal systems and not all cases will involve all five stages:

- The "investigative" stage, when they are being interrogated to see if there is justification for bringing a court case against them;
- The "awaiting trial" stage, after the investigation has ended and a decision has been taken to bring a court case;
- The "trial stage", while the trial is actually taking place;
- The stage when they have been convicted by the court but not yet sentenced – the "convicted unsentenced" stage; and
- The "awaiting final sentence stage, when they have been provisionally sentenced by the court but are awaiting the result of an appeal process which occurs before the definitive sentence is confirmed.

The United Nations Human Rights Committee (HRC) has stated that detention before trial should be used only where it is lawful, reasonable, and necessary. According to the HRC, detention may be necessary in the following circumstances:

- To prevent flight;
- To prevent interference with evidence;
- To prevent the recurrence of crime; and

[3] THE ICPS was founded in 1997 for the purposes of conducting research on prisons and imprisonment; developing and disseminating knowledge about how imprisonment should be used; and contributing to improved policy and practice in prisons across the world.

- Where the person concerned constitutes a clear and serious threat to society, which cannot be contained in any other manner.

The ICPS noted that there may be close to three million held in pre-trial detention and other forms of remand imprisonment throughout the world. According to the ICPS Director, this raises fundamental questions about the use of imprisonment and the need to focus our attention on alternatives, thereby reducing overcrowding in order to devote resources to improving the conditions in which prisoners are held. Besides often being unnecessary, with prisoners frequently being held for exceptionally long periods, such use of detention is maintained at a great cost to the state.

According to the United Nations Office on Drugs and Crime (UNODC)'s *Handbook on Strategies to Reduce Overcrowding in Prisons*[4], non-custodial measures and sanctions used to replace imprisonment contribute directly to the reduction of the prison population. A further advantage of using alternatives to imprisonment is that they can help reduce reoffending, and thereby help reduce the prison population in the long-term. When assessing the impact of alternatives on the reduction of the prison population, the comparative rates of recidivism among offenders who serve prison sentences and those who are subjected to community sanctions, as well as the impact of having been imprisoned on future sentencing, should also be taken into account, even if these factors are difficult to measure. Refer to Appendix 5 for UNODC's key recommendations in reducing the use of pre-trial detention.

[4] Source: www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf

Conclusion and Recommendations

Given its present infrastructure, the growth in DOC prisoner numbers is unsustainable in the immediate future. It is imperative that DOC develop and maintain a Master Plan to guide the overall construction and development of its prison system. DOC's reactionary response to the rise of prisoner accommodation caused the department to expand and convert its facilities to only meet short-term needs. DOC did not take into account its accommodation needs for the infrastructure of its current facilities and prisoner population.

According to the ICPS Director, over the past 20 years, the growth of rates of imprisonment raises fundamental questions about the appropriate use of imprisonment and the need to focus our attention on alternatives, thereby reducing overcrowding in order to devote resources to improving the conditions in which prisoners are held. As more and bigger prisons are built to contain an increasing population, there is little evidence to suggest that conditions are improving or that high rates of imprisonment have an impact on reducing a country's level of crime. Besides often being unnecessary, with prisoners frequently being held for exceptionally long periods, such inappropriate use of detention is maintained at a great cost to the state. DOC should begin discussions with the Attorney General's Office and other criminal justice agencies to determine and implement strategies to help reduce the detainee population (e.g., ankle bracelets, bail systems, etc.).

We recommend the DOC Director to work with the Governor to reestablish a DOC task force to develop a well-documented management strategy with short-term and long-term measures to address capacity utilization for its current facility as well as the design capacity of a potential new ACF both intended to reduce the prisoner population housed at DOC. The task force should take into consideration reliable forecasting models and the potential use of non-custodial sanctions and rehabilitation needs of offenders and prisoners in an effort to reduce the DOC prison population. Further, we urge policymakers and criminal justice officials to participate in an in-depth site visit of DOC's multi-satellite facilities to observe the adverse conditions.

Management Response and OPA Reply

A draft was transmitted to DOC in December 2014 for their official response. We met with DOC officials on December 18, 2014 to discuss finding s and recommendations. The Director concurred with the findings and recommendations and provided their official response on December 24, 2014.

The DOC Director agreed with the audit findings and recommendations on the report of DOC Prison Capacity Planning. However, DOC will generally require additional funding to address most of the discrepancies cited. The DOC Director further added:

1. The audit findings will serve to legitimize the department's concerns and conditions of DOC's facilities and will be used to prompt the Guam Legislature to act on Bill 172-32. Should Bill 172-32 remain inactive through the legislative process, DOC will request funding to secure a consulting firm to complete a Master Plan. During the next budget plan, DOC lacks the expertise to develop one. Should the Bill be passed into law, an RFP will be issued for the new facility.
2. Regardless of any standards, DOC's precarious position and high overcrowding conditions are major impediments in the adherence of various incarceration standards.
3. DOC intends to staff and create the department's Management Information System section by the end of January 2015.
4. DOC will work with the Office of the Attorney General in the utilization of measures, such as ankle bracelets for non-violent/non-drug offenders and parolees.
5. DOC will request that the Governor to create a Blue Ribbon Commission on prison overcrowding at DOC, comprised of key members of the judicial, criminal justice, legislative, nongovernment, and other stakeholders.

See Appendix 6 for DOC's management response.

The legislation creating the Office of Public Accountability requires agencies to prepare a corrective action plan to implement audit recommendations, to document the progress of implementing the recommendations, and to endeavor to complete implementation of the recommendations no later than the beginning of the next fiscal year. We will be contacting DOC to provide the target date and title of the official(s) responsible for implementing the recommendations.

We appreciate the cooperation given to use by the staff and management of DOC.

OFFICE OF PUBLIC ACCOUNTABILITY

Doris Flores Brooks, CPA, CGFM
Public Auditor

Appendix 1:

Objective, Scope, and Methodology

The objective of this audit was to assess the effectiveness of DOC's prison capacity planning.

The period of review was from January 1, 2013 through December 31, 2013. The audit scope encompassed a review of population data maintained by DOC. In addition, we reviewed laws, rules and regulations, policies, prior audit findings, and other information pertinent to DOC's prison capacity planning. We interviewed the DOC Director, Administrative Services Officer, DOC Lieutenant, and a DOC Social Worker III. The audit was primarily conducted at the Adult Correctional Facility in Mangilao.

Methodology:

To accomplish our objective, we performed the following additional audit procedures:

(1) Conducted walk-throughs and interviews with key DOC personnel.
(2) Inquired with appropriate officials who were knowledgeable of a DOC task force.
(3) Requested the following:
    a. DOC's prisoner population data;
    b. Number of Guards/Corrections Officer to number of prisoners for each post;
    c. Recidivism rates; and
    d. Design plans for DOC facilities to determine percentage above capacity by facility.
(4) Identified, reviewed, and documented international standards and best practices related to capacity planning and reduction in pre-trial detainees.

Scope Limitation

We did not test the accuracy of the DOC population data. Data provided was based on data recorded in the NaviLine system, which was unreliable, and we were granted limited access. DOC was unable to provide original design plans (or official capacity rates) to show the architectural certification supporting its prisoner capacity per housing unit. DOC was also unable to provide prisoner statistics related to recidivism and guard-to-prisoner ratios per post; and the basis for the Warden's determination of cell space and capacity levels for DOC posts as requested.

We conducted this performance audit in accordance with the standards for performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United States of America. These standards require that we plan our audit objectives and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Except for the scope limitation noted above, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

Appendix 2:

Prior Audit Coverage

OPA Report No. 14-03 DOC Cost per Prisoner Calculation

OPA released an audit report of DOC's Cost per Prisoner Calculation to determine the accuracy and validity of DOC's cost per prisoner calculation. The audit scope included a review of expense transactions by DOC and the period of review was from October 1, 2010 through September 30, 2013. Due to the limited access the team was given to the NaviLine system, we were unable to verify the accuracy and completeness of the data provided in the Daily Population Statistics Report, which are compiled based on police blotters inputted into the NaviLine system. DOC was unable to reconcile NaviLine information from part of FY 2011 and prior. As a result, the data reported does not reconcile with manual and system counts contained in statistical reports. It appears data continues to be unreliable due to the lack of a dedicated non-uniform staff to input data on a timely basis, perform periodic reconciliation, and maintain pertinent documents, such as activity blotters.

DOC has an inadequate cost reporting and weak accounting infrastructures. To address these issues, the auditors recommended:

(1) DOC assign a dedicated non-uniform staff to ensure:
   a. Proper data entry, periodic reconciliation, and maintenance of DOC's NaviLine;
   b. Development of incarceration cost information, maintain a database by utilizing tools (such as Excel spreadsheets, QuickBooks, etc.), and identify fixed and variable cost; and
   c. Proper reconciliation of federal reimbursements by maintaining a database of expected deposits received versus actual deposits received on a monthly basis.

(2) DOC management to review and monitor cost per prisoner, reimbursements from the Federal Government, and billings to house off-island prisoners and collect all accrued interest on overdue payments, if needed. In addition, DOC should coordinate with DOA regarding the collectability of the $299K discrepancy.

As of the date of this report, DOC is still in the process of hiring the administrative staff needed to assist in the data collection. They hope to have personnel on board by this fiscal year. OPA will request a corrective action plan from DOC in January 2015 relative to the implementation of this audit recommendation.

Appendix 3:

Women's Facility Observations

ACF POST 8 (WOMEN'S FACILITY)

The Entrance to the Women's Facility (Gate 1) is locked with padlocks. According to the Consent Decree, the Territory was to provide remote control locks for all cells and egress doors in the ACF Women's Unit under the concrete roof.

The Women's Facility Library is not used for its intended purpose. Although there are some reading materials available, it has been converted as a storage for computer equipment and miscellaneous items. Further, its entrance is closed off.

Appendix 4:

Best Practice: Prison Capacity Planning, Master Plan, and Management Strategy[5]

Master Plan

A Master Plan should be drawn up to guide the overall development of the prison system. It should describe all prison facilities, including their capacity, security level, and the state of existing infrastructure, as well as the purpose of the prison system, its core values, and any gaps in the system. It facilitates the assessment of outstanding infrastructure needs.

The process for developing a Master Plan includes the following steps:

- Determining the core values on which the prison department bases its decisions about the system's management and development;
- Determining goals for the prison system and each prison;
- Conducting needs assessment(s) to determine the capacity and capability of existing institutions and analyzing prison population and trends; and
- Making a plan of the entire prison system to ensure that its structure provides a variety of prison functions and capacities which cater for different groups or classifications of detainees.

Management Strategy

The Master Plan is the basis for developing the management strategy, which underpins the design of a new or extended prison. The management strategy should be developed by a multidisciplinary team led by prison management practitioners and includes policy experts, psychologists, social workers, health professionals, prison program and industries experts, prison security experts, and architects/engineers with expertise in prison design and management.

The management strategy describes how the prison is to be managed. It should include:

- The purpose of the prison and the underlying prison philosophy;
- The services and facilities to be provided and the functional relationships between them;
- The key operational policies, including the regime and hours of operation, the supervisory approach and security;
- The number and type of detainees;
- The proposed range of programs and activities;
- The services and facilities within each accommodation block and cell;
- The total size of the prison within the external perimeter and the dimensions of the dormitories, rooms, and cells in the accommodation area;
- The project budget and planned construction schedule; and
- The management structure, the staff organizational structure and staff numbers (custodial, administration, programs, industries, health, maintenance, etc.).

[5] Source: https://www.icrc.org/eng/assets/files/publications/icrc-002-4083.pdf

UNODC Recommendations in Reducing the Use of Pre-Trial Detention[6]

KEY RECOMMENDATIONS

REDUCING THE USE OF PRE-TRIAL DETENTION

Reducing arbitrary arrests

To legislators, policymakers and law enforcement officials

- To ensure that legislation on arrests complies with international standards and specifically prohibits arbitrary arrests.
- To put in place measures to ensure transparency and accountability, requiring law enforcement officials to keep a custody register of all suspects detained, including the time of arrest and reasons for arrest, among other details.
- To set strict custody time limits and put in place measures to ensure that those arrested and detained are brought before a judicial authority, without delay, in order for the judicial authority to decide the legality of detention and to release the person, when detention is not based on legal criteria.
- To provide training to law enforcement officials on relevant international standards and domestic legislation.
- To review criteria to evaluate the performance of law enforcement officials, ensuring that the number of arrests in themselves do not constitute a positive factor in the evaluation of their performance; and to repeal any arrest quotas established for specific offences.
- To set up an independent monitoring system to monitor whether and to what extent custody time limits are being complied with, to identify problems encountered and to make recommendations.

Reducing Pre-trial Detention—Post-charge

To legislators, policymakers, prosecutors and the judiciary

- To ensure that legislation and practice reflect the requirements of international standards relating to the use of pre-trial detention, restricting its use to narrowly prescribed circumstances.
- To remove the obligation for pre-trial detention for any offence and to prohibit the use of pre-trial detention for certain offences.
- To increase possibilities for bail and put in place measures to ensure that bail amounts are fair, taking into account the economic circumstances of defendants, and to introduce other alternatives to pre-trial detention, such as release on personal recognizance, supervision or certain restrictions.

[6] Source: http://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf

UNODC Recommendations in Reducing the Use of Pre-Trial Detention[7]

REDUCING THE DURATION OF PRE-TRIAL DETENTION

To legislators, policymakers and the judiciary

- To set statutory time limits on pre-trial detention.
- If not already established by law, detainees should have the right for their detention to be reviewed at regular intervals by an independent judicial authority, to determine whether their continued detention is necessary, and to be released if this is not the case.
- To put in place a system of judicial inspection to monitor the implementation of legislation relating to detention, including statutory time limits.
- To consider employing cost orders against courts in case of unjustified and frequent adjournments, and against lawyers who fail repeatedly to turn up at court hearings.
- To consider introducing mobile courts, where appropriate, to ensure that pre-trial prisoners are tried without undue delay.

[7] Source: http://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf

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DIRECTOR

December 24, 2014

RECEIVED
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TIME: 11:45 ☒AM ☐PM

Ms. Doris Flores Brooks, CPA, CGFM
Public Auditor
238 Archbishop Flores Street
Hagåtña, Guam 96910

Dear Ms Brooks:

Aside from the minor recommendations for clarification on the draft audit report on our meeting at the Department of Corrections on December 18, 2014, I concur with the audit findings and report on the Department of Corrections Prison Capacity Planning.

Your audit's findings on the physical conditions of our facilities and its infrastructure were cited in the Legislative Intent of Bill 172-32 which was drafted by the Department of Corrections and introduced by Senator Brant McCredie in the 32nd Guam Legislature. These conditions were also stated by various personnel within our Department including myself during legislative public hearings and media reports.

The Guam Penitentiary was first constructed in 1966 and in a report to the Secretary of the Department of the Interior, then Governor Manuel F.L. Guerrero referred to this facility as the "island's first adequate prison" as it contained a "spacious dormitory, classroom, kitchen, and modern workshop". The Guam Penitentiary was later renamed the Department of Corrections and through various Directors additional housing units were constructed and various existing facilities were renovated to meet the immediate need for additional bed space. This immediate need however did not incorporate any in-depth capacity planning or master plan in conformance to the efficient and effective operation of a modern prison facility. After years of poor maintenance, run down conditions of buildings constructed in 1966 which remain in use today, and lack of adequate planning for security and growth concerns, the current faculties have dilapidated to its current conditions cited in your audit report. Since being appointed and confirmed as the Director of Corrections is has been my objective to reestablish our prison facilities to once again be the model prison system of its time and enhance and improve our rehabilitative programs.

To address this predicament the Department of Corrections for over a year did what it could to have the Guam Legislature act on Bill 172-32. Employees and their families even submitted written petitions to the Guam Legislature to act on Bill 172-32 which received a public hearing in December 2013. Bill 172-32 would have authorized the Director of Corrections working closely with the Guam Economic and Development Authority to issue a Request for Proposal (RFP) needed to address our structural and infrastructure deficiencies. Despite the

inaction of the Guam Legislature on Bill 172-32, I am confident that with the new incoming Legislature action on this proposed legislation will be successful. Your audit findings legitimize our Department's concerns and conditions of our facilities.

Our Department's timeline in commissioning a consulting firm to conduct an in-depth and well structured master plan for our facilities was initially linked with the passage of Bill 172-32. Since this issue has been cited as one of the major discrepancies within your audit report our Department will have a two pronged approach to addressing this discrepancy. Should the proposed legislation remain inactive through the legislative process, come the next budget process, I will request funding in our budget to secure a consulting firm to complete this master plan. If the mentioned Bill is passed into law, prior to the upcoming budget process it will be addressed before an RFP is issued for the new prison facility.

The Department of Corrections is in a precarious position when it comes to meeting conformance to national operational and administrative standards when it comes to the incarceration of prisoners. First off, all Department of Corrections within the United States do not house both inmates and pretrial detainees. Normally it is the Sheriff's Department that are responsible for pretrial detainees and the Department of Corrections will receive only individuals that have been convicted and sentenced by the Courts. The Department of Corrections nationwide is held to national standards established by the American Corrections Association (ACA) and pretrial detainees who are housed in facilities called jails are govern under national standards established by the American Jails Association (AJA). Second, regardless of any existing operational or administrative standards the extremely high overcrowding conditions at the Department of Corrections is a major impediment for the adherence of various incarceration standards be it from the ACA or AJA.

The development of a master plan for correctional facilities throughout the Nation has been accomplished through the usage of consulting firms that possess varying expertise that cover the whole myriad of operations and programs within a correctional facility. The Guam Department of Corrections like its counterparts throughout the United States does not have the staff expertise to develop a master plan. This being stated, any standards outlying what a master plan should be regardless if it's coming from the Committee of the Red Cross or more appropriately, the American Corrections Association, or the American Jails Association does not address the lack of professional know how and experience that our Department so desperately lacks in putting such a plan together. Again, this is not unique to Guam, it is a similar situation that other correctional facilities are in and for that reason it is why consultants are retained for this highly technical undertaking.

I do agree that the prison database being populated utilizing the NaviLine records management system lacks the desired accuracy and is being underutilized by DOC personnel. This shortcoming was brought to my attention by various members of our Department and the recommendation by command staff was to establish the first Management Information System (MIS) Section within our Department. I intend to initially staff and create the DOC MIS Section with existing personnel by the end of January 2015. For my next budget submittal, I will be requesting civilian staff support for this MIS Section.

The current Administration has committed 5% of various Department of Justice Grant funds to be used towards PREA compliance. The Administration is currently holding monthly

meetings by various stakeholders and the Department of Justice has been officially informed of our efforts in meeting PREA compliance. The operating budget depicting the expenditures of the mentioned 5% operating funds have also been reviewed and approved by appropriate Department of Justice administrators.

Aside from these issues and concerns mentioned above there are other mitigating factors that directly affect the operations and management of the Department of Corrections that are outside the direct influence and control of the Director of Corrections. The primary cause for our Department's overcrowding condition is the exceptionally large number of detainees that appear to rise with every passing year. As stated in your audit report, Guam has the highest rate in the world in the number of detainees per 100,000 of our island's population.

Shortly after the 2014 General Election, DOC Command Staff recommended that a meeting with Attorney General of Guam Elect Elizabeth Barrett-Anderson be established to discuss the issue of our Department's overcrowding dilemma and to include possible solutions. One such solution is the electronic monitoring device utilizing an ankle bracelet that can be electronically tracked from a central facility. This technology is being primarily used in other jurisdictions in the United States and Canada for pretrial and parole supervision. Our Department is hoping to work with the Office of the Attorney General in the utilization of this technology as a possible alternative to incarceration for non-violent/non-drug offenders and our parolees.

Utilizing the findings of your audit report, I will request that the Governor of Guam create and invites key members of our judicial, criminal justice, legislative, nongovernment organizations and other stakeholders for a Blue Ribbon Commission on Prison Overcrowding at the Department of Corrections. This Commission would address this dilemma by examining its cause and effect on our community and our island's prison system and hopefully establish recommended action plans to address this dire situation. It is time that the overcrowding situation at DOC is viewed not only as a DOC problem but a problem of our entire island community.

I appreciate the efforts of the Office of Public Accountability in conducting this audit but unfortunately our Department will require additional appropriations and the passage of legislation authorizing me as the Director of Corrections to issue an RFP for a new prison facility if our Department is to address most of the discrepancies cited.

Sensoramente,

JOSE A. SAN AGUSTIN
Director

Appendix 7:

Status of Audit Recommendations

	Audit Recommendation	Status	Action Required
	To the DOC Director:		
1	To work with the Governor to reestablish a DOC task force to develop a well-documented management strategy with short-term and long-term measures to address capacity utilization for its current facility as well as the design capacity of a potential new ACF both intended to reduce the prisoner population housed at DOC.	Open	Please provide target date and title of the official(s) responsible for implementing the recommendation.

Department of Corrections Prison Capacity Planning
Report No. 14-06, December 2014

ACKNOWLEDGEMENTS

Key contributions to this report were made by:
Travis Carbon, MPA, Audit Staff
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Doris Flores Brooks, CPA, CGFM, Public Auditor

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The Government of Guam is the model for good governance in the Pacific.

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