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Comptroller of the Treasury
JOHN G. MORGAN

BUILDING AND FINANCING JAILS IN TENNESSEE

March 2006
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STATE OF TENNESSEE

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Comptroller

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March 22, 2006

The Honorable John S. Wilder
Speaker of the Senate
The Honorable Jimmy Naifeh
Speaker of the House of Representatives
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

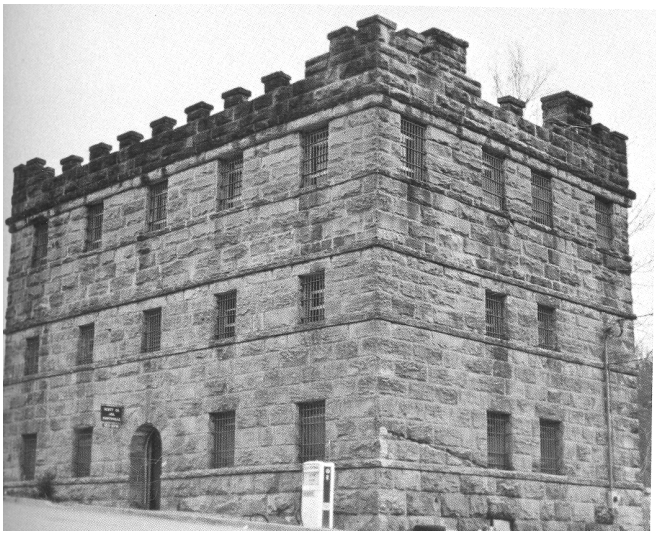
Ladies and Gentlemen:

Transmitted herewith is a study requested in Senate Bill 2171 / House Bill 2000 (2005) regarding the construction and financing of county jails. The Office of Research report examines mechanisms for funding county jail construction, and points out ways that counties can ensure new jail construction meets long-term needs for safely housing prisoners. The report also compares Tennessee jail construction standards with those of other states and a national organization, and makes recommendations to improve the oversight of county jail construction in the state. The report also addresses the potential for establishing regional jails in Tennessee, and describes successful regional jail systems in other states. It includes recommendations policymakers should find useful to address state issues related to local jail construction and financing.

Sincerely,

John G. Morgan
Comptroller of the Treasury

BUILDING AND FINANCING JAILS IN IN TENNESSEE



Above: The Scott County Jail, built in 1907, was added to the "National Register of Historic Places" in 1974. After sitting vacant several years, the county renovated and reoccupied the jail in 1977.

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EXECUTIVE SUMMARY

Several Tennessee jails are antiquated, dilapidated, and may be unsafe for inmates, jail staff, and the community. An August 2003 report by the Comptroller, *The State of Tennessee Jails*, identified conditions in many of the state's jails that potentially violate inmates' constitutional rights.

Since the report's release, many county officials have noted their increased risk of litigation and enhanced liability. In addition, the Tennessee Corrections Institute (TCI), the state agency charged with setting standards and inspecting jails, began notifying counties not meeting standards that they could lose their certification if they did not show progress toward correcting deficiencies. As a result, several counties decided to build, enlarge, or renovate their jails to reduce this exposure. These counties, however, have used various approaches to construction and financing, resulting in very different bed costs and subsequent operating costs.

This report concludes:

County commissions have funded jail projects that will not meet long-term needs to safely and efficiently house prisoners. Officials from counties that have recently built facilities reported several concerns with those facilities. The concerns appear to arise from:

- Initial designs that exceed a county's needs, then have to be scaled back, leading to perceptions that the county is not receiving what it paid for;
- Cutting construction costs that increase long-term operational costs;
- Elaborate needs assessments that provide more information than necessary to make decisions. This may lead some counties to retreat from projected needs after they find out how much meeting those needs will cost; and
- County commissions reluctant to commit limited resources for adequate jail construction projects, cutting construction costs on the front end to make it appear they have saved the taxpayers money, without realizing or addressing the increase in long-term maintenance and operating costs that result from those decisions.

Careful consideration of such issues, with sheriff's department staff involved from the earliest stages, could help counties better meet long-term jail needs safely and efficiently. (See pages 9-10.)

Some county commissions and other officials do not seek expertise or technical assistance from organizations such as CTAS or NIC's Division of Jails. Adequate assessments of counties' jail needs may help decision makers ensure jails remain adequate at least until counties pay off the resulting debt. Also, while there are jail consultants qualified to conduct needs assessments for a fee, similar assistance (as well as guidance in the form of free literature) is available free from the U.S. Department of Justice's National Institute of Corrections (NIC), as well as the University of Tennessee's County Technical Assistance Service (CTAS). (See pages 10-11.)

County officials outside the sheriff's department often hire architects under professional services contracts. Unless those officials specifically grant the sheriff's department some authority over design decisions, the architect answers primarily to those officials. Six out of twenty survey respondents that built jails since 2002 reported that the county commission or county mayor, or both, chose the architect. Several reported that sheriffs played only an advisory role during jail planning. In such cases, officials making decisions may focus on cutting initial

construction costs with little concern for long-term maintenance and operational costs, about which sheriffs' department personnel may have more knowledge. (See page 11.)

Rule 1400-1-.04(24) requires counties constructing new jails to submit plans to TCI and the State Fire Marshall's Office for review and approval. However, the rule specifies neither the elements required in jail construction plans, nor when counties should submit them. The rule requires counties constructing new jails to submit plans to TCI and the State Fire Marshal's office for review and approval. However, TCI has limited oversight authority of the jail construction process. Instead, rules allow counties great flexibility through construction, only to hold them accountable for meeting construction standards, for certification purposes, once construction is complete.

Because of the lack of a standard plans review process, some counties have submitted plans in late stages of construction or not at all, only to have the plans disapproved or have constructed facilities that do not meet square footage or other physical plant standards. This has forced the counties to appropriate additional funds to complete projects to comply with TCI standards.

TCI in fact lacks authority to force counties to comply with standards, but has the statutory authority to certify county jails that meet standards. Counties can use such certification to defend themselves against lawsuits filed by prisoners based on conditions of confinement. (See pages 11-13.)

The TCI board and staff lack expertise to assist counties in designing, constructing, and opening jails, and inspectors receive little training on reviewing plans. Additionally, TCI's Executive Director allows inspectors to interpret standards as they understand them, as long as they can defend their decisions in court. The Executive Director requested five additional positions in the 2006-07 Fiscal Year Budget to increase professional staff to better perform its duties, including providing better jail construction oversight. The administration, however, declined to fund those positions. According to a correctional consultant, of the 22 states that have jail regulatory agencies, many hire staff with expertise or they contract with professionals to assist their local communities in designing, constructing, and opening jails. Other states report sending inspectors to blueprint reading classes through local vocational schools, as well as taking advantage of courses offered free of charge (excluding travel expenses in some cases) by the National Institute of Corrections, such as a course on "Managing Jail Design and Construction." Five of TCI's six inspectors have attended an NIC Class such as "Detention Facility Inspectors Training," and "Jail Administration."

Because of TCI staff's lack of expertise, counties must rely on architects for direction. Some architects follow nationally regarded American Correctional Association standards rather than TCI standards, leading to costly changes or non-certification of the jail. (See pages 13-14.)

Some TCI construction standards (as well as those from other states) differ from court-tested ACA standards, which architects often consult when designing jails. The differences between TCI Standards and ACA Standards cause confusion when architects design jails to meet nationally regarded ACA standards and discover later that the design does not meet TCI standards. These inconsistencies have caused unnecessary expenditures in some cases when counties had to alter plans or redesign structures after construction had begun. (See pages 14-15.)

No Tennessee counties have chosen to operate a jail jointly, although state law permits it. One group of counties, however, is currently discussing the possibility of a regional jail. Regional jails may offer some counties the opportunity to save funds and to lower liability risks. Any attempt to establish a regional jail calls for an examination of several issues, including:

- a perceived loss of authority by some county officials;
- a perception that not all counties are contributing equally;

• differing management styles;
• an increase in transportation costs;
• attorney complaints; and
• disagreements over the location of the facility.

Counties without regional jails may also miss opportunities to potentially provide programming to prisoners that may reduce recidivism. Virginia and West Virginia have successfully established regional jails. (See pages 15-16.)

Recommendations

Legislative (See page 17.)

The General Assembly may wish to consider restructuring TCI's Board, designating persons with expertise in areas such as jail construction and operation, architecture, and engineering. Including persons with such expertise on the board may improve TCI's plan review process, prevent some costly design changes, and help to ensure jails operate as efficiently as possible.

The General Assembly may wish to amend TCA §41-4-140, which requires TCI standards to approximate, as closely as possible, those standards established by the inspector of jails, federal bureau of prisons, and the American Correctional Association. Lawmakers may wish to adopt ACA standards for Tennessee to prevent confusion among architects, sheriffs, and other county officials with regard to jail design.

The General Assembly may wish to consider creating financial incentives for counties to establish regional jails. Benefits of regional jails include cost savings through economies of scale; fewer county jails for TCI to inspect; and better opportunities to attract professional correctional administrators and social service providers. Potential revenue from housing state and federal prisoners also may offset some operational costs.

Administrative (See pages 17-18.)

TCI should amend Rule 1400-1-.04(24) to specify the documents counties should submit during the four phases of design, establishing an organized system of plan review and approval. Such amendments should include a timeline and authority to halt the design process if counties do not submit proper documents, or prohibition against moving forward until TCI approves each step.

TCI should request free technical assistance from the National Institute of Corrections (NIC) to evaluate its operations and send its chief jail inspector to the free annual training offered by NIC. Professional training and educational opportunities offered by the NIC may improve the quality of TCI's jail inspection program and improve the ability of TCI staff to review jail construction plans.

TCI should hire staff or outsource services that require expertise in architecture and engineering. Technical aspects of design documents sometimes require that highly skilled professionals review them to accurately interpret elements of the design.

TCI standards should not be open to individual interpretation by jail inspectors. TCI management should train all inspectors consistently on jail standards, leaving little room for individual interpretation.

Some Tennessee counties should consider the feasibility of establishing regional jails. While exploring the possibility of establishing a regional jail, the counties involved should fully examine the potential benefits of regional jails.

County commission members should acknowledge that jails are facilities with special architectural, building material and fixture needs when approving a building budget. While keeping county taxpayers in mind, they should also ensure adequate funding for jail construction projects to enhance the safety of the community, staff, and inmates and to lower operational costs.

County decision makers should construct jails or additions based on valid needs assessments, keeping in mind that cutting construction costs may result in poor design and quality. In some cases, spending more on initial construction may lead to greater long-term savings through reduced maintenance and staffing costs.

Sheriffs and other county officials should contact NIC and CTAS for technical assistance and advice about planning for and building jails. These agencies can offer expertise, free of charge, to help county officials make wise jail design decisions that may save public money over the life of the buildings.

County commissions and county executives should hire architects who are knowledgeable about jail operations and who will consider jail security needs and destructive inmate behavior, as well as designing less labor-intensive facilities. While technical assistance can help counties make wise design decisions, architects experienced in jail design can reduce difficulties for all parties.

Sheriffs and other county officials should consider using or establishing Public Building Authorities (PBAs) as an independent funding/project management mechanism for constructing jails. A PBA can save money and provide quality project management if persons with relevant expertise work for and serve on the PBA boards.

See Appendix C for the official response to this report from the Executive Director, Tennessee Corrections Institut

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INTRODUCTION

An August 2003 report by the Comptroller, *The State of Tennessee Jails,* identified conditions in many of the state's jails that potentially violate inmates' constitutional rights. Several Tennessee jails are antiquated, dilapidated, and unsafe for inmates, jail staff, and the community.

Since the report's release, many county officials have noted their increased risk of litigation and enhanced liability. In addition, the Tennessee Corrections Institute (TCI), the state agency charged with setting standards and inspecting jails, began notifying counties not meeting standards that they could lose certification if they did not show progress toward correcting deficiencies. As a result, several counties decided to build, enlarge, or renovate their jails to reduce this exposure. However, these counties have used various approaches to construction and financing, resulting in highly differing bed costs and subsequent operating costs.

Senate Bill 2171 / House Bill 2000 of 2005 requested the Comptroller to address the following objectives:

1. What is the current legal framework for financing jail construction in Tennessee?
2. What is the current legal framework for the construction of jails in Tennessee, including the hiring of architects, engineers, construction managers, and contractors, as well as the purchase of materials, supplies, and equipment?
3. What are current practices in Tennessee and in other states for financing and construction of jails, including needs assessment, determination of appropriate debt load, site selection, design process, and construction process?
4. What leads to conflict and inefficiency?
5. What are models of best practices?
6. What is the involvement of third party authorities such as public building authorities?

Methodology

Office of Research staff:

- Reviewed state statutes and rules related to county jails, state purchasing and bidding requirements, and financing,
- Reviewed TCI, other states', and American Correctional Association standards,
- Interviewed state officials, including legislators, staff of the Tennessee Corrections Institute, the Select Oversight Committee on Corrections, and the Tennessee County Technical Assistance Service (CTAS),
- Surveyed sheriffs,
- Interviewed selected sheriffs, jail administrators, and county mayors,
- Interviewed officials in other states knowledgeable about jail construction and financing,
- Interviewed officials in other states with regional jails,
- Reviewed Tennessee Corrections Institute's process for approving jail blueprints/plans,
- Visited selected jails, and
- Reviewed various journals and newspaper articles.

BACKGROUND

Legal Framework for Jail Financing

Counties can borrow money from banks, the Tennessee County Services Association Loan Pool or another public building authority, or they can directly issue debt through bonds or notes. *Tennessee Code Annotated*, Title 9, Chapter 21 authorizes issuance of debt, and specifies for what purposes counties may issue debt and how they may use borrowed funds.

Additionally, the County Correctional Incentives Act authorizes the State Funding Board to issue bonds and notes to provide money to assist approved applicant counties to finance capital improvements of jails. The State Funding Board may make loans or grants to counties participating in the County Correctional Incentive Program. Counties receiving loans or grants must submit financing agreements, which include provisions for the payment of constructing, acquiring, reconstructing, improving, equipping, or furnishing county jails as well as repayment terms. The agreements may include payment for engineering, fiscal, architectural, and legal expenses incurred in connection with the facilities.[1] The last county to use such state funding assistance was Davidson County in 1991.[2] The General Assembly has not appropriated additional funds for these grants or loans.

Bonds

Because jails are not an enterprise through which counties expect to earn sufficient revenue to retire the debt issued to build them, counties that choose to finance construction by issuing bonds most often issue general obligation bonds, backed by the full faith and credit of the county, rather than revenue bonds. Statute requires local governments to sell bonds at competitive public sale. Local governments must give public notice within 20 days of passing a resolution to issue bonds so that citizens may petition for a referendum if they object to the bond issuance. Twenty years is a common repayment term for most bonds.[3] In the past, citizens have sometimes succeeded in gathering the signatures of the required 10 percent of registered voters calling for a referendum on bond issues. The most notable such referendum involved bonds issued to help build the Tennessee Titans Stadium in Davidson County. Voters agreed that they wanted the stadium and did not mind if their taxes increased in the future to retire the debt. If a county were to finance jail construction with general obligation bonds, its citizens would have the same right to call for a referendum before the county issues the debt.

Notes

Counties may also issue debt through capital outlay notes offered by many banks. The Comptroller's Division of Local Finance must approve the issuance of notes, which are limited to terms of 12 years. Statute does not allow citizens to call for a referendum on notes. However, local governments do have authority to tax the public to repay them. The Division of Local Finance does not consider the amount of a local government's current debt when approving the issuance of new debt; the Division merely approves debt based on a standard checklist that tracks the requirements in statute. Tennessee has a long history of local governments issuing debt without defaulting. If a county ever defaulted, the Division of Local Finance would begin an in-depth analysis of counties' liabilities before approving new notes. The Division of Local Finance also must approve the budget of any local government that has outstanding note liability. Ultimately, if a county needs a

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[1] *Tennessee Code Annotated*, Title 41, Chapter 8.
[2] Interview with John Ford, Chief Deputy and Jail Administrator, Metro Nashville Sheriff's Department, June 23, 2005.
[3] Interview with David Bowling, Director of Local Finance, Comptroller of the Treasury, May 13, 2005; *Tennessee Code Annotated* 9-21-206.

new jail or additional beds because of legal action or decertification, the amount of debt the county carries at the time does not alter that need.[4]

Public Building Authorities

Authorized in *Tennessee Code Annotated*, Title 12, Chapter 10, Part 1, public building authorities (PBAs) provide an additional alternative to counties for financing and managing jail construction projects. Statute authorizes PBAs to borrow and loan money without some of the restrictions placed on local governments. For example, PBAs may borrow money for terms of up to 40 years, and do not have to pledge a government's authority to tax its citizens when borrowing. They may also leverage resources from several local governments to negotiate better interest rates.[5] However, local governments that borrow through PBAs must still pledge the full faith and credit of that local government to pay back the debt, and citizens retain the right to call for a referendum on issuing the debt.[6] Interest rates are typically less than debt issued directly, but are variable. Rates may be reset monthly or weekly depending on the source from which the PBA borrows, but have typically remained well below rates on traditional general obligation debt issued directly by local governments. However, there is a risk that interest rates will rise, similar to adjustable rate mortgages available to home buyers.[7]

While some PBAs are local, such as the Blount County PBA, there are other "loan pools" which operate under the same laws as local PBAs. One such pool is the Tennessee County Services Association Loan Pool, which loans money to local governments from bonds the loan pool issues. Such loans also carry a general obligation pledge to the loan pool, and are subject to similar protest rules as debt issued directly.

Tennessee has 19 public building authorities.[8] At least three persons who are qualified electors in the county or city to be covered must apply with the governing body, which may determine by resolution that it is wise, expedient, necessary, or advisable to establish a PBA. The persons establishing the PBA must file certificates of incorporation with the Secretary of State.[9]

Every PBA must have a board of directors comprised of qualified electors of the city or county where the PBA is established. The board of directors must include at least seven members, none of whom may be an officer or employee of the county or city. The county or city mayor appoints the directors, subject to confirmation by the governing body. Actions of the board of directors take effect immediately and need not be published or posted. The board may also establish an executive committee with responsibility to manage the administration of the PBA. The executive committee may hire and compensate employees and authorize contracts for the operation and maintenance of projects, among other responsibilities. The board may also employ an administrator. Some PBAs hire staff, while others use the volunteer services of board members to perform activities such as project management.[10]

> The **Blount County Public Building Authority** has worked on both jail and school construction projects in Blount County and its municipalities, handling both financing and project management. County and PBA officials report that the concept works well because the PBA has experienced, skilled staff to handle details of these projects that regular county employees may not have time or expertise to deal with. Also, because they have a small staff and are not allowed to make a profit, the PBA can save money on project management for the governments they serve. The county mayor and county commissioners appoint PBA board members for their expertise, and rely on the board to oversee day to day construction activities. The PBA keeps all parties informed about the project through weekly meetings with the eventual owner, the architect, and the contractor throughout construction.

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[4] Ibid.; *Tennessee Code Annotated* 9-21-401 through 9-21-403.
[5] *Tennessee Code Annotated* 12-10-111(a).
[6] *Tennessee Code Annotated* 12-10-115(a)(2).
[7] Interview with David Bowling, Director of Local Finance, Comptroller of the Treasury, January 30, 2006.
[8] http://www.tennesseeanytime.org/sosname/results.jsp;jsessionid=a7ScNBU7sKMc.
[9] *Tennessee Code Annotated* 12-10-104.

Legal Framework for Jail Construction

Sheriffs must obtain approval of the county legislative body before initiating jail construction projects. *Tennessee Code Annotated* 5-7-111 states that a majority of a county commission may determine that the site of a jail is unhealthy, insecure, or inconvenient and they may order the sale of the site and construction of a new jail. State law also requires the county commission to appoint three to five project superintendents, "a majority of whom are competent to make such sale and purchases, to contract for and superintend the erection of the new jail. . ."

Various purchasing laws establish purchasing procedures for the different counties to which each law applies. However, general purchasing laws require counties to let bids for all expenditures except professional services such as architects because most jail construction projects involve a substantial monetary investment.[11]

In 1989, Tennessee's Attorney General opined that counties may contract with construction management companies to build county jails. Such contracts are not exempt from bidding requirements.[12]

The Tennessee Corrections Institute has responsibility for inspecting and certifying Tennessee jails.[13] Agency rules require counties engaged in jail construction projects to submit plans to TCI for review, but do not specify when in the process counties must submit those plans.[14]

Current Practices

Financing

Most counties have funded recent jail construction projects with bonds, although at least a few counties used the services of a public building authority.[15]

Construction

Counties may choose to construct jails in a number of ways. Typically, a county will hire an architect to design the project, and then take bids for a general contractor to build the jail. Some also hire or appoint some sort of project manager to act as a liaison among the architect, the contractor, and local officials during construction. Some companies offer all the necessary services to complete a jail construction project, from design to construction. Counties choosing this route must make that decision early in the process. Some counties prefer to spend money locally when possible, so they look to contract architectural services within the county, then bid out the construction to the best/lowest bidder. This practice might result in counties hiring architects and contractors with little experience designing or building jails that are inadequate and/or do not meet the needs of the community.[16]

Conflict and Inefficiency

Various people interviewed for this report cited concerns with the way counties have handled jail construction projects. First, some did not conduct a needs assessment before consulting architects or full-service contractors. Some states, such as California, require that counties conduct a needs assessment, with specific requirements, before contracting for plans and

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[10] *Tennessee Code Annotated* 12-10-108 and 109.
[11] Interview with Art Alexander, Director, Division of County Audit, Comptroller of the Treasury, May 12, 2005; *Tennessee Code Annotated,* 5-14-108 (a) (2), 5-14-108(c)(1), and 5-14-205.
[12] State of Tennessee, Office of the Attorney General, Opinion 89-14, February 7, 1989.
[13] *Tennessee Code Annotated* 41-4-140 and 41-7-103.
[14] *Rules and Regulations of the State of Tennessee*, Minimum Standards for Local Correctional Facilities, Rule 1400-1-.04(24).
[15] OREA survey of county sheriffs in Tennessee, July, 2005; Interview with Dana Lamson, Blount County Assistant Finance Director, and Ron Ogle, Executive Director, Blount County Public Building Authority, August 10, 2005.
[16] Interview with Terry Hazard, Criminal Justice Specialist, County Technical Assistance Service, May 5, 2005.

specifications.[17] Other counties have paid for needs assessments, only to disregard their results because they lacked sufficient funding to follow recommendations. Interviewees report that many times jail needs reach a crisis level before counties take action, so they only address immediate needs. Others report that some counties have not hired a project manager to act as a liaison among architect, contractor, and county officials, resulting in problems when construction is complete. Still other reports indicate that local officials have failed to consider staffing needs for new facilities and whether they require direct or indirect supervision of inmates.[18]

Inefficiencies sometimes arise from attempting to meet state standards for jail construction. New jails must meet Tennessee Corrections Institute standards as described in the *Rules of the State of Tennessee* 1400-1. To ensure jails meet the standards, TCI requires [by rule, 1400-1-.04(24)] that counties submit *plans* for the new construction for review and approval by TCI staff. However, no guidelines apparently establish at what point of the process plans must be submitted; or specify the types of documents, drawings, etc. that must be submitted. TCI officials report that they do not *approve* plans, but simply review them. However, they also report that they check to ensure that the plans meet TCI standards, and then send an *approval* letter to the submitting county. Approval letters specify that it is the architect's responsibility to ensure that the facility meets TCI standards. In some cases, construction is well underway when the county learns that the facility will not meet physical plant standards.[19]

Other instances of conflict and inefficiency arise when county governments select a site that is not well-suited for a jail, the jail is not well-designed for the county, counties do not use available technical assistance when planning a project, or when county commissions are unwilling to spend what is necessary to meet the county's needs. Some county sheriffs have reported little material involvement in jail design, construction, and sighting decisions. Some reported that county mayors and/or commissions have allowed them or their representatives to attend meetings in an advisory role, but have afforded them little input into final decisions, especially those regarding cost-saving measures.[20]

Regional Jails

Other states, such as Virginia and West Virginia, have had success with regional jails. Regional jails in these two states differ in several ways, but each reported problems solved by regional jails.

> **Virginia's** regional jails are voluntary. County and city governments may join to form regions, but must form a regional jail authority. The state of Virginia treats such an authority as a government in and of itself according to state law, totally separate from the local governments that formed it.[21]
>
> Regional cooperation began because most local governments did not have local lock-ups, and could not afford to build and operate them. Officials with the Virginia Association of Regional Jails report that local governments save money on transportation because regional jails provide inmate transportation to and from court, the cost of which regional authorities roll into local governments' per diem paid to house prisoners. Most of the regional jails also use video arraignments to save transportation costs.
>
> Each regional authority passes an annual budget that establishes this payment, and local governments pay for regional jail beds up front, whether they use those bed-days or not.

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[17] *California Code of Regulations*, Minimum Standards for Local Detention Facilities, 13-102(c)2, Title 24.
[18] Interview with Terry Hazard, Criminal Justice Specialist, County Technical Assistance Service, May 5, 2005; OREA survey of county sheriffs in Tennessee, July, 2005; interviews with selected sheriff's department officials that have recently constructed jails.
[19] Interview with Jerry Abston, Director, and Peggy Sawyer, Assistant Director, Tennessee Corrections Institute, May 26, 2005.
[20] OREA survey of county sheriffs in Tennessee, July, 2005; interviews with selected sheriff's department officials that have recently constructed jails.
[21] *Code of Virginia* 53.1-95.7.

(Officials report that local governments always use their allotted bed space.) Paying in advance saves administrative costs, because the regional jails and participating local governments do not have to account for bed-days each month in order to determine payments.

Other cost savings arise from economies of scale in laundry, meal preparation, and medical care achieved through serving larger populations and buying larger quantities of supplies. They point to lower per-prisoner medical costs achieved through regional jail medical contracts.

Regions realize construction savings as well, reporting that it costs less per local government to build one large facility (with one large laundry and kitchen) compared to building several smaller units, each with its own operational infrastructure. The state oversight agency also saves money by reducing the number of facilities that require inspection.

Regional authorities must follow the same procurement rules as state agencies, including those rules governing construction and architectural services. The state government reimburses regional authorities fifty percent of the capital costs for building a regional jail. Once the jail is completed, the regional authority submits all the construction bills to the Department of Correction, which verifies the costs as eligible for reimbursement or not.[22] The state then sends one check for half of the reimbursable costs back to the regional authority. Each regional authority decides how and where to build its own jail, rather than using prototype designs and establishing guidelines regarding a jail's location. All jails in Virginia, whether local or regional, must meet the same construction and operating standards.

The state also pays a portion of staff salaries at regional jails as an annual direct appropriation to regional authorities. A State Compensation Board establishes the amount of the appropriation each year.[23]

Each regional jail handles administration (both for construction projects and day-to-day) differently. Some use regional authority staff to manage construction projects, while most hire project managers. Still others divide administrative duties among participating governments, or contract with one participating government to handle those duties.[24]

West Virginia's regional jails differ mainly because the state runs the system, the only regional jail system of its type. The state began examining the regional jail concept in the 1970s when several local jails in other states fought legal battles over inhumane conditions of confinement. Federal officials took an all-encompassing look at local jails in West Virginia in the wake of those legal battles, and determined that most of the 55 county jails in the state would not meet any of the construction standards used in court to decide those cases. To avoid costly litigation, some local jails shut down completely, while other county governments fought bankruptcy or near bankruptcy in attempts to upgrade facilities or build new ones.

In 1985, state legislation established the West Virginia Regional Jail Authority (WVRJA). The law required the state to pay to build regional jails, while counties would pay a per diem to house local prisoners. The state would use revenue from local governments to pay back the bonds used to build the facilities as well as their operational costs. The legislation also called for reorganizing the structure of local courts in the state, designating county governments as the primary judicial administrators. The law allowed

[22] *Code of Virginia* 53.1-81.
[23] *Code of Virginia* 53.1-83.1 and 53.1-84.
[24] Phone interview with Sandra Thacker, Virginia Association of Regional Jails, August 16, 2005.

municipalities to establish their own courts, but as part of the county system because the law assigned counties the sole responsibility for housing local prisoners. Therefore, upon initial arrest, all prisoners are considered county prisoners regardless of the arresting agency.

A board of nine members governs the activities of the WVRJA, consisting of two cabinet members (the Commissioner of Correction, Director of the Division of Juvenile Services, non-voting), the Secretary of the Department of Military Affairs and Public Safety, the Secretary of the Department of Administration, three governor-appointed members from the ranks of county officials (no more than two from the same political party), and two citizens appointed by the governor representing the areas of law and medicine.[25]

The Authority includes a construction division that not only manages construction of regional jails, but also state prisons and juvenile detention facilities. The last of West Virginia's regional jails opened in 2004. This division employs architects, engineers, and corrections professionals who oversee all construction projects for the Authority.

The legislation established the Authority as a corporation, with enough separation from state government that it can sell bonds without a public vote as long as there is a dedicated revenue source to pay them back. In addition to the per diems local governments pay, the state also adds a $40 fee to every ticket or citation written by any police agency in the state (these include traffic, loitering, disturbing the peace, or any other citation a police officer can write without actually placing the recipient under arrest) as part of the revenue dedicated to repay jail bonds. In 2004, the legislature passed a bill adding $30 to each civil court filing in the state, and another adding $48.50 to each DUI conviction to help offset the cost of housing state prisoners in regional jails and keep the counties' per diem lower. The Authority has issued more than $400 million in construction bonds to build ten regional jails since 1991 (approximately $7.27 million per county).

When the state began transitioning to the regional jail system, the Authority guaranteed jobs at regional facilities to local jail employees, as long as they were in good standing. They placed these workers in regional jail jobs with similar rank, duties, and pay as they had at their local jail. Authority staff reported that they had many more positions to fill than necessary to employ all the former local jail workers displaced by regional jails.

The Authority has overseen the construction of West Virginia's regional jails from a single prototype design that can include from two to four housing pods. While most have less than four pods, each has kitchen and laundry facilities sufficient to serve four pods. Counties have been reluctant to expand any regional jails recently, however, as many state prisoners reside in regional jails, and counties feel as if they are subsidizing state prisons with their regional jail per diem payments.

West Virginia has a jail standards commission that develops construction and operating standards for jails. The state legislature must authorize any amendments to the standards for them to become effective[26]. Authority officials report that these standards are more stringent than any national standards currently available.

Transportation can be an issue with regional jails, but the use of video for arraignments and parole hearings helps minimize costs and complaints. The state plans to use video for other types of court hearings in the future. Also, the regional jails provide transportation back and forth to court for those prisoners who must appear in person.

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[25] *West Virginia Code* 31-20-3.
[26] *West Virginia Code* 31-20-8 and 9; *West Virginia Legislative Rules* (95CSR1), Title 95.

County Sheriff Survey

To gather information from counties that have recently built jails, their costs, and processes, Office of Research staff conducted a survey of all 95 county sheriffs in Tennessee. The survey asked whether the county had engaged in major jail construction projects in the past three years, and if so, the type of project, related planning, submission of plans to TCI, technical assistance, cost information, site selection, selection of architects and contractors, and financing.

Seventy-six of 95 county sheriffs responded to the survey. (For a summary of survey responses, see Appendix A.) Of those that completed the survey, twenty reported major jail construction projects in the past three years. These projects varied from major renovations to totally new criminal justice centers including office space and courtrooms. Because of the variety of the types of projects reported and the fact that counties reported the cost of the total project (without separating out the costs for bed space only), it is difficult to compare the cost of bed space from one facility to another. Additional factors such as those listed below also affect the cost of a new facility.

County commissions, county mayors, and sheriffs learn what other counties' jails cost, and try to keep their costs as low as others have. However, the results of the sheriff's survey clearly indicate that jail construction costs will vary from county to county depending on a number of factors. Information from the survey and interviews with experts indicates that many factors play a role in a jail's capital cost per bed. Differences in what is constructed (housing only, housing plus court space, kitchen space, laundry, offices, etc.), site preparation (type of foundation, condition of underlying ground and type of site prep required), number of floors, type of supervision (it may cost more initially to build a jail for indirect supervision but save staffing costs in the long run), and other factors affect a jail's cost per bed.

Additional factors associated with jail bed costs include architectural design, economy of scale (number of beds), whether the facility is entirely new or an addition or renovation, whether existing or new support facilities will be used. (See Appendix A for a summary of survey results from counties that have engaged in significant jail construction projects Since July 2002.)

ANALYSIS AND CONCLUSIONS

County commissions have funded jail projects that will not meet long-term needs to safely and efficiently house prisoners. County officials who have recently built facilities reported several concerns with those facilities.

One county built a new facility to house females, but did not include programming, laundry, or kitchen facilities in the design. As a result, correctional staff must take laundry to another facility and back, bring meals from another facility on the same property, and move inmates from the new housing facility to another building for programming such as GED classes, substance abuse treatment, and social services.

Another county with a new facility reported problems with inferior construction materials and designs that do not hold up under correctional conditions including:

- Plumbing valves, sprinkler heads, and door locks that were less expensive on the front end, but cost more to maintain in the long term.
- Windows bolted from the inside, allowing prisoners to remove them;
- Phone jacks placed in prisoner day rooms where they are easily broken;
- No floor drains in some prisoner housing areas, making it difficult to remove standing water when prisoners break fixtures and flood housing areas; and
- Video surveillance systems that use tapes instead of digital media, requiring more storage space and costing more to replace.

A third county reported excessive maintenance costs because the architect designed the jail with toilets that require a nine-volt battery to operate. Jail staff must replace these batteries approximately every three days, increasing maintenance costs both for the replacement batteries and the manpower required to replace them. The same county had problems with computer equipment in the new facility failing because of heat, when the room that houses the equipment should have had its own cooling system, but did not.[27]

Technical assistance providers and contractors report that architects will often design a building that "makes a statement," and may include elements that are not necessary to meet the essential long-term needs of the county. Then, when architects draw up construction documents and develop better cost estimates, or construction begins and materials cost more than anticipated, counties must decide where to cut costs. Those decisions often leave county officials feeling as if they have settled for less. A better process, some say, would be to bring design drawings along slowly, involving the eventual owners/operators and keeping the budget in mind. That way, county officials could see what it will take to meet the county's essential needs, and then add in some things that would be "nice to have" as the budget allows.[28]

Contractors also report that most owners are not familiar enough with construction and materials to know how cutting construction costs might affect long-term operational costs. For example, one contractor explained that a geothermal heating and air conditioning system may cost twice as much as a conventional system to install, but will save heating and cooling costs in the long run.[29]

Others report that some contracted needs assessments are too elaborate, providing more information than is necessary to make a decision on what a county needs in a jail. Most counties simply want a jail that will meet needs until the county pays off the debt, while others want to

[27] Interviews with selected sheriffs and sheriff's staff members from counties that have built jails since July 2002.
[28] Interview with Trey Lee, Senior Project Manager, Hardaway Construction Corp. of Tennessee, August 2, 2005.
[29] Ibid.

overbuild in order to take advantage of state and federal contracts to house prisoners and increase the savings afforded by economies of scale. Some say that counties are somewhat shortsighted about what they really need. Population projections out to fifteen years are the least any county should plan to address with any new jail project, according to an experienced jail contractor.[30] State technical assistance personnel reported that many counties scale back the projected needs after they find out the projected cost.[31]

In addition to building jails that will meet needs well into the future, jails also must hold up under conditions that most government buildings do not have to withstand. Inmates can be destructive, and jails operate 24 hours a day, seven days a week. Other government buildings typically host employees and customers for about one-third of the day five days a week. Also, employees and citizens using government services typically treat those buildings with more respect than prisoners treat jails. County officials need to consider these facts when planning and funding a jail project.

However, county commissions are often reluctant to commit taxpayer dollars for adequate jail construction projects. Most Tennessee counties have limited resources, and commission members realize that jail construction is a lower priority to taxpayers than schools or roads. People interviewed for this report indicate that county officials often decide to cut construction costs on the front end to make it appear they have saved money for the taxpayers, without realizing or addressing the increase in long-term maintenance and operating costs that result from those decisions.

Some such decisions have led to some of the maintenance and operational problems described earlier in this report. Careful consideration of such issues, with sheriff's department staff or other knowledgeable people involved from the earliest stages and empowered with actual decision-making authority, could help counties better meet long-term jail needs safely and efficiently.

Some county commissions and other officials do not seek expertise or technical assistance from organizations such as CTAS or NIC's Division of Jails.[32] Adequate assessments of counties' jail needs may help decision makers ensure jails remain adequate at least until counties pay off the resulting debt. Also, while there are jail consultants qualified to conduct needs assessments for a fee, similar assistance (as well as guidance in the form of free literature) is available free from the U.S. Department of Justice's National Institute of Corrections (NIC), as well as the University of Tennessee's County Technical Assistance Service (CTAS). Several counties surveyed for this report used the assistance offered by NIC and CTAS, but others did not. Also, some conducted no needs assessments or relied on architects or private consultants to assess jail needs.[33] (See Exhibit 1.)

Counties that do not receive technical assistance from knowledgeable providers may experience costly after-the-fact expenses, including change orders during construction, inferior construction materials that result in elevated maintenance costs, and increased operating costs resulting from inefficient design.

Generally, sheriffs or their jail administrators are more knowledgeable about jail construction and operation needs than county commissioners and mayors. Sheriffs or other jail personnel may have the opportunity to review architectural drawings and may be included in meetings, but in some cases, have little influence on where to cut expenses if the county commission orders cuts.

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[30] Interview with Jim Langford, Architect, SouthBuild Corp., August 1, 2005; and interview with Grant Tharp, Architect, Barge, Waggoner, Sumner & Cannon, August 3, 2005.
[31] Interview with Terry Hazard, Criminal Justice Specialist, County Technical Assistance Service, May 5, 2005.
[32] OREA survey of county sheriffs in Tennessee, July, 2005.
[33] Interviews with selected sheriffs and sheriff's staff members from counties that have built jails since July 2002; interviews with selected county executives, mayors, and other officials from counties that have built jails since July 2002.

Exhibit 1: Counties' Use of Available Technical Assistance for Jail Construction

County	Tech Assistance/Provided by
Sequatchie	*Yes/CTAS
Rhea	No
Sumner	Yes/TCI, consultant
Davidson	No
Davidson	Yes/NIC
Marshall	Yes/TCI
Monroe	*No
Montgomery	*No
Dyer	Yes/TCI
Loudon	Yes/TCI, CTAS
Polk	*Yes/CTAS
Johnson	Yes/TCI, CTAS
Jefferson	Yes/TCI, CTAS, NIC
Hamblen	Yes/TCI
Humphreys	Yes/TCI
Morgan	Yes/TCI, NIC
Bradley	Yes/TCI, NIC
Wayne	*Yes/CTAS
Warren	Yes/TCI, CTAS
Grainger	Yes/TCI
Perry	Yes/TCI, CTAS

Source: OREA survey of county sheriffs, July, 2005.
*Although these counties reported receiving no technical assistance from TCI on their jail construction projects, TCI reports indicate staff spent time assisting these counties.

County officials outside the sheriff's department often hire architects under professional services contracts. Unless those officials specifically grant the sheriff's department some authority over design decisions, the architect answers primarily to those officials. Six out of twenty survey respondents that built jails since 2002 reported that the county commission or county mayor, or both, chose the architect.[34] Several reported that sheriffs played only an advisory role during jail planning. In such cases, officials making decisions may focus on cutting initial construction costs with little concern for long-term maintenance and operational costs, about which sheriffs' department personnel may have more knowledge.

Rule 1400-1-.04(24) requires counties constructing new jails to submit plans to TCI and the State Fire Marshall's Office for review and approval. However, the rule specifies neither the elements required in jail construction plans, nor when counties should submit them. The rule requires counties constructing new jails to submit plans to TCI and the State Fire Marshal's office for review and approval. However, TCI has limited oversight authority of the jail construction process. Instead, rules allow counties great flexibility through construction, only to hold them accountable for meeting construction standards, for certification purposes, once construction is complete. TCI's Executive Director told research staff that the state could not tell counties how to build their jails.[35]

[34] OREA survey of county sheriffs in Tennessee, July, 2005.
[35] Interview with Jerry Abston, Director, and Peggy Sawyer, Assistant Director, Tennessee Corrections Institute, May 26, 2005.

TCI in fact lacks authority to force counties to comply with standards, but has the statutory authority to certify county jails that meet standards. Counties can use such certification to defend themselves against lawsuits filed by prisoners based on conditions of confinement. TCI management suggested that counties and architects do their homework before designing a jail, offering help when requested by the counties.[36]

Because Tennessee lacks a standard plans review process, some counties have submitted plans in late stages of construction or not at all, only to have the plans disapproved or facilities under construction that do not meet square footage or other physical plant standards. This has forced the counties to appropriate additional funds to complete projects in compliance with TCI standards.

Other states' jails oversight agencies as well as other Tennessee agencies require architects to submit plans for government buildings in several stages, with specific requirements for each stage. For example, California's Corrections Standards Authority requires that counties planning jail projects follow four steps during planning. A brief description of each of these steps appears below:

Letter of Intent
Any local government planning to build, add on to, or remodel a jail must first file a letter of intent with the California Board of Corrections. This letter begins a working partnership between the local government and the Board to help ensure that the construction project conforms to state regulations and helps local authorities access Board resources and expertise. The letter should include a description of the project, estimated timeline, and names of key individuals responsible for the project.

Needs Assessment Study
The responsible local government must submit a copy of the needs assessment study prior to contracting for plans and specifications. The study shall include elements of the system, operation design and philosophy, current inmate population, classification system, program needs (such as educational programs), analysis of local trends such as population projections, adequacy of staffing levels, ability to provide visual supervision, adequacy of record-keeping, history of system compliance with standards, and any unresolved issues.

Program Study
The facility administrator must submit this statement providing the basis upon which architectural plans are drawn. Schematic architectural plans must be submitted along with this statement, and must include a description of the facility's intended capacity, security and classification of inmates, inmate movement within the facility, food preparation and service, staffing, booking, visitation and attorney interviews, exercise, programs, medical services, cleaning and laundry, inmate segregation, court holding and inmate movement, facilities for administration and operations staff, mental health services, staff to staff communications system, management of disruptive inmates, and other operational details.

Plans and Specifications
These must be in duplicate, and include schematic design documents and construction documents. One copy goes to the state fire marshal's office, the other to the Board. Board staff are to respond in writing indicating compliance or non-compliance with regulations.[37]

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[36] Ibid.
[37] *California Code of Regulations,* Title 24, 13-102(c)1-4.

Other states require local officials to follow similar procedures with varying requirements that specify what locals must submit for review, while some states' have only voluntary accreditation standards. Indiana officials report that contractors may not obtain a building permit until the Department of Correction reviews and releases plans, which must include blueprints.[38] Nebraska requires locals to submit a letter of intent and reviews plans at various stages similar to the steps required in California, but requires Nebraska Crime Commission Board approval before the local government can request bids.[39] Texas enlists a three-step process, each of which must be approved by the Commission on Jail Standards before a county can move on to the next.[40] In Kentucky, the inspection agency dictates the types of materials used in construction.[41]
While not involved in county jail construction, Tennessee's State Architect uses a step-by-step procedure similar to California's Corrections Standards Authority to ensure that state facilities meet users' needs within time and budget constraints. Like Texas' Commission on Jail Standards, Tennessee's State Building Commission requires approval of each step before proceeding to the next. The agency publishes a "Designers' Manual" that provides details on each step in the process.[42]

The TCI board members and staff lack expertise to assist counties in designing, constructing, and opening jails, and inspectors receive little training on reviewing plans.. Additionally, TCI's Executive Director allows inspectors to interpret standards as they understand them, as long as they can defend their decisions in court. The Executive Director requested five additional positions in the 2006-07 Fiscal Year Budget to increase professional staff in order to better perform its duties, including providing better jail construction oversight. The administration, however, declined to fund those positions. According to a correctional consultant, of the 22 states that have jail regulatory agencies, many hire staff with expertise or they contract with professionals to assist their local communities in designing, constructing, and opening jails.[43] Also, TCI management report that new inspectors receive four to six hours of training from the State Fire Marshal's Office, plus on the job training and the experience gained by working with experienced staff members. Other states report sending inspectors to blueprint reading classes through local vocational schools, as well as taking advantage of courses offered free of charge (excluding travel expenses in some cases) by the National Institute of Corrections, such as a course on "Managing Jail Design and Construction."[44] Five of TCI's six inspectors have attended an NIC Class such as "Detention Facility Inspectors Training," and "Jail Administration."

Because of TCI staff's lack of expertise, counties must rely on architects for direction. Some architects follow nationally regarded American Correctional Association standards rather than TCI standards, leading to costly change orders or non-certification of the jail. Additionally, non-uniform interpretation of standards may result in inconsistency across the state. For example, TCI staff told one county with a new jail that they could comply with the standard requiring floor drains in special purpose cells by making a wet-vac available, or using a squeegee to push fluids to an area with floor drains.[45] However, Standard 1400-1-.04, #22 requires floor drains in special purpose cells. Tennessee's Attorney General has written an opinion that TCI may not waive any

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[38] Phone interview with Paul Downing, Field Audits and ACA Accreditation Director, Indiana Department of Correction; *Indiana Code* 11-12-4-5; and *Indiana Code* 11-12-4-8.
[39] Phone interview with Denny Macomber, Chief of Jail Standards, Nebraska Crime Commission; *Nebraska Rules and Regulations,* Title 81 Chapter 15 005.03.
[40] Phone interview with Terry Julian, Director, Texas Commission on Jail Standards; and Brandon Wood, Director of Planning and Construction; *Texas Administrative Code,* Title 37, Part 9, Chapter 257, Rule 257.4.
[41] Phone interview with Kelly White, Director, Division of Local Facilities, Kentucky Department of Corrections; *Kentucky Administrative Regulations*, Jail Construction and Renovation Standards, pp. 11-23.
[42] Interview with Mike Fitts, State Architect, Tennessee State Building Commission; *Designers' Manual*, Tennessee Department of Finance and Administration, Division of Real Property Administration, April 2005.
[43] Interview with Don Stoughton and Jim Stivender, DSA, Inc., and Cornerstone Construction Services, LLC., on Wednesday, July 13, 2005.
[44] Phone interview with Greg Carlson, Director of Inspection and Enforcement, Minnesota Department of Rehabilitation and Correction; and http://nicic.org/WebPage_236.htm.
[45] Letter to Sumner County Sheriff J.D. Vandercook from Peggy Sawyer, Assistant Director, Tennessee Corrections Institute, March 14, 2005; interview with J.D. Vandercook, Sheriff, and Bob Barker, Chief Deputy, Sumner County Sheriff's Office, Wednesday, June 29, 2005.

standards for jail certification,[46] and TCI specifically cites this standard in a letter to another county noting conditional approval of their plans.[47]

Some TCI construction standards (as well as those from other states) differ from court-tested ACA standards, which architects often consult when designing jails. The differences between TCI Standards' and ACA Standards cause confusion when architects design jails to meet nationally regarded ACA standards and discover later that the design does not meet TCI standards. These inconsistencies have resulted in unnecessary expenditures in some cases where counties had to alter plans well into the process or redesign structures after construction had begun.

Nationally, many judges adjudicate inmate lawsuits based on a county's compliance with American Correction Association Standards. However, case law indicates that judges decide many conditions of confinement cases not based on the size of the cells, but based on damages caused by conditions related to the size of the cells. In other words, compliance with a standard that exceeds the ACA standard would not matter if overcrowding causes conditions to become dangerous or unsanitary. Likewise, compliance with the ACA standard rather than a standard that requires more cell space is not evidence of negligence by the jail owner unless the conditions have caused damage to prisoners. The ACA recognizes its own accreditation process, and therefore compliance with their local jail standards as "a defense against lawsuits through documentation and the demonstration of a good faith effort to improve conditions of confinement."[48] Still, a number of states' jail standards differ from ACA standards. (See Exhibit 2.)

TCI has testified before the Select Oversight Committee on Corrections that it established square footage requirements exceeding ACA's standards so that sheriffs could have the option of locking down inmates for 23 hours a day rather than allowing the inmates access to a larger day room.

Exhibit 2: Jail Cell Square Footage Standards Comparison

	Housing Type		
Purveyor of Standards	**Single Occupancy**	**Multiple Occupancy**	
TCI	50 sq. ft. Ceiling Height Min of 8 ft.	2 to 16 persons	40 sq. ft. free space per person
ACA	35 sq. ft. free space under 10 hrs. = 70 sq. ft. over 10 hrs. per day = 80 sq. ft.	2 to 50 persons	35 sq. ft. free space
FL	63 sq. ft. of floor space	40 sq. ft. per inmate	
ID	At least 60 sq. ft. of floor space	No more than 12 inmates in a cell and at least 35 sq. ft. of free floor space	
IN	Complies w/ ACA	Complies w/ ACA	May not adopt standards that do not allow for 35 sq. ft. or more of floor space for prisoner.

[46] State of Tennessee, Office of the Attorney General, Opinion No. 03-101, August 19, 2003.
[47] Tennessee Corrections Institute, letter to Larry Tacchi, Architect, Barge, Waggoner, Sumner & Cannon, June 2, 2005, RE: Jackson County Jail Project.
[48] *Performance-Based Standards for Adult Local Detention Facilities*, Fourth Edition, American Correctional Association, June 2004, p. xvi.

Purveyor of Standards	Single Occupancy	Multiple Occupancy	
MN	70 sq. ft.(min)	Double Occupancy: 70 sq. ft.	
NE	At least 60 sq. ft.	At least 45 sq. ft. per inmate	
NY	At least 60 sq. ft.	At least 50 sq. ft. per inmate	
OH	70 sq. ft.	Double w/ stacked bunks- 100 sq. ft.	Double w/ single bunks- 110 sq. ft.
OK	At least 40 sq. ft.	At least 60 sq. ft. for double	At least 40 sq. ft. for initial inmate and 20 sq. ft. for each additional inmate
SC	At least 35 sq. ft.	2-56 inmates: 25 sq. ft. per inmate	
TX	At least 40 sq. ft.	Must contain 2-8 bunks. At least 40 sq. ft. of clear space for the first bunk and 18 sq. ft. of clear space for each additional bunk	
WI	54 sq. ft.	Cells are only made as single occupancy	

No Tennessee counties have chosen to operate a jail jointly, although state law permits it.[49] One group of counties, however, is currently discussing the possibility of establishing a regional jail. Regional jails may offer some counties the opportunity to save county funds and to lower liability risks. The NIC defines a regional jail as a correctional facility in which two or more jurisdictions administer, operate, and finance the capital and operating costs of the facility.[50] Authorities in other states use various approaches to operate regional jails; for example, in some areas the agreement may specify that one jurisdiction may actually operate the facility, but all participating jurisdictions equally share policy and decision-making responsibilities. In other jurisdictions, adjoining counties may contract with a single county to house their prisoners and relinquish their authority regarding policy and decision-making. Another option occurs when each participating county operates its own facility for pre-trial inmates, but joins with other jurisdictions for post-conviction incarcerations.

Sheriffs and county executives in some Tennessee counties have discussed the possibility of creating regional jails, but could not reach agreement. Any attempt to establish a regional jail calls for an examination of several issues, such as:

• a perceived loss of authority by some county officials;
• a perception that not all counties are contributing equally;
• differing management styles;
• higher transportation costs;
• attorney complaints; and
• disagreements over the location of the facility.

[49] *Tennessee Code Annotated* 41-4-141.
[50] National Institute of Corrections, *Briefing Paper: Regional Jails*, January 1992, p.1, http://www.nicic.org/pubs/1992/010049.pdf (accessed October 10, 2005).

As described earlier in this report, Virginia and West Virginia have successful regional jail systems, but have different approaches to regionalization. Some counties in Tennessee have discussed establishing a regional jail, but no group has been able to reach an agreement to do so. In the late 1990s, Overton, Pickett, Macon, Clay, Jackson, and Smith counties discussed establishing a regional jail to address problems each county was experiencing with outdated, undersized jails. According to county officials familiar with the discussions, many thought a regional jail would save money and eliminate headaches associated with each county operating its own small jail with limited manpower. Officials from Clay, Fentress, Overton, and Pickett Counties continue to discuss establishing a regional jail.

For example, one county sheriff noted that he employs only two deputies. One staff member watches prisoners at night and doubles as a dispatcher. When the department must transport prisoners, it takes at least one staff member away from their regular duties, and sometimes two, depending on the type of prisoner. The county often finds itself shorthanded, even though they hold very few prisoners in their jail at any given time. Issues that disrupted the negotiations included the counties' inability to reach agreements on prisoner transportation, location, and sharing of construction, medical, and other costs.

An Overton County Commissioner who was involved in discussions said he believes future conditions will force counties to move toward regional jails. He reported visiting a regional facility in Virginia and witnessing professionalism and ability to take advantage of economies of scale not available to a single, rural Tennessee county. He pointed out that the Virginia facility had an entire pod for special needs prisoners (sex offenders, others that must be isolated from the general population), while his county does not have the room to separate minor offenders from violent felons, creating potential liabilities. He also mentioned the Virginia facility's programs, including substance abuse treatment and GED classes, that a small county cannot afford to offer. He recommended that if any group of counties moves forward with a regional jail, they need very organized leadership, and should eliminate loopholes that could harm the cooperation necessary to make a regional facility work. He believes all the counties involved could save money with a regional facility, simply because of economies of scale.[51]

By not taking advantage of the opportunity afforded by state law to cooperate on regional jails, some counties miss the opportunity to save county funds and to lower their liability risks. They are unable to take advantage of economies of scale achievable in construction costs and operations such as food service, laundry, staffing, and medical expenses, and forego opportunities to provide programming to prisoners that may reduce recidivism.

Upper East Tennessee Regional Juvenile Detention Center

While Tennessee has no regional jails for adults, the First Tennessee-Virginia Development District (an eight county region) operates a regional *juvenile* detention facility in Washington County. The facility came into being because the participating counties did not have sufficient facilities to house juvenile offenders in the area. Participating counties financed construction through a federal grant, in addition to contributions from each county based on the county's population. Each county bases its ownership in the facility on this calculation, and if one county pulls out of the agreement, the remaining counties will divide that county's portion among them in the same way. A committee composed of the mayors of the eight participating counties oversees the facility, operated by a private contractor. The facility's director serves at the pleasure of this committee, and acts as a liaison between the committee and the contractor. The committee has no say in the facility's daily operations, but approves the contracted per-day costs counties pay to house juvenile offenders. Each participating county also pays a maintenance fee (determined by the county's total population) whether or not they have juveniles in the facility or not. Counties are responsible for transporting juveniles to and from court, and the facility does not have video capabilities. Counties also pay for unusual medical costs for their own juvenile offenders (unusual prescription drugs, major medical expenses), while the contractor absorbs routine medical expenses.

Source: Phone interview with George Jaynes, Washington County Mayor, conducted on Thursday, August 4, 2005.

[51] Telephone interview with David Dorminey, Overton County Commissioner, Tuesday, October 11, 2005.

RECOMMENDATIONS

LEGISLATIVE RECOMMENDATIONS:

The General Assembly may wish to consider restructuring TCI's Board, designating persons with expertise in areas such as jail construction and operation, architecture, and engineering. Including persons with such expertise on the board may improve TCI's plan review process, prevent some costly design changes, and help to ensure jails operate as efficiently as possible.

The General Assembly may wish to amend *TCA* 41-4-140, which requires TCI standards to approximate, as closely as possible, those standards established by the inspector of jails, federal bureau of prisons, and the American Correctional Association. Lawmakers may wish to adopt ACA standards for Tennessee to prevent confusion among architects, sheriffs, and other county officials with regard to jail design.

The General Assembly may wish to consider creating financial incentives for counties to establish regional jails. Benefits of regional jails include cost savings through economies of scale; reduced liabilities; fewer county jails for TCI to inspect; better opportunities to attract professional correctional administrators and social service providers. Potential revenue from housing state and federal prisoners also may offset some operational costs.

ADMINISTRATIVE RECOMMENDATIONS:

TCI should amend Rule 1400-1-.04(24) to specify the documents counties should submit during the four phases of design, establishing an organized system of plan review and approval. Such amendments should include a timeline and authority to halt the design process if counties do not submit proper documents, or prohibition against moving forward until TCI approves each step.

TCI should request free technical assistance from the National Institute of Corrections (NIC) to evaluate its operations and send its chief jail inspector to the free annual training offered by NIC. Professional training and educational opportunities offered by the NIC may improve the quality of TCI's jail inspection program and improve the ability of TCI staff to review jail construction plans.

TCI should hire staff or outsource services that require expertise in architecture and engineering. Technical aspects of design documents sometimes require that highly skilled professionals review them to accurately interpret elements of the design.

TCI standards should not be open to individual interpretation by jail inspectors. TCI management should train all inspectors consistently on jail standards, leaving little room for individual interpretation.

Some Tennessee counties should consider the feasibility of establishing regional jails. While exploring the possibility of establishing a regional jail, the counties involved should fully examine the potential benefits of regional jails described above.

County commission members should acknowledge that jails are facilities with special architectural, building material and fixture needs when approving a building budget. While keeping county taxpayers in mind, they should also ensure adequate funding for jail construction projects to enhance the safety of the community, staff, and inmates and to lower operational costs.

County decision makers should construct jails or additions based on valid needs assessments, keeping in mind that cutting construction costs may result in poor design and quality. In some cases, spending more on initial construction may lead to greater long term savings through reduced maintenance and staffing costs.

Sheriffs and other county officials should contact NIC and CTAS for technical assistance and advice about planning for and building jails. These agencies can offer expertise, free of charge, to help county officials make wise jail design decisions that may save public money over the life of the building.

County officials should cooperate to hire architects who are knowledgeable about jail operations and who will consider jail security needs and destructive inmate behavior, as well as designing less labor-intensive facilities. While technical assistance can help counties make wise design decisions, architects experienced in jail design can reduce difficulties for all parties.

County officials should consider using or establishing Public Building Authorities (PBAs) as an independent funding/project management mechanism for constructing jails. A PBA can save money and provide quality project management if persons with relevant expertise work for and serve on the PBA boards.

APPENDIX A: COUNTY JAIL CONSTRUCTION PROJECTS SINCE JULY 2002

OREA County Sheriff Survey Results Summary – Built or started last 3 yrs.

County	Totally New	Justice Ctr. Or Other Offices	Addition w/ Bed Space	Renovation	Cost per Bed
Grainger	X	Yes			$59,804
Perry	X	Yes*			$45,058
Montgomery	X	Yes			$42,147
Sumner	X	Yes		X	$39,931
Bradley	X	Yes			$39,215
Marshall	X	Yes			$34,164
Sequatchie	X	Yes			$33,334
Jefferson	X	Yes			Under Construction
Polk	X	Yes			Under Construction
Warren		No	X	X	$55,075
Hamblen		No	X		$43,333
Rhea	X	No	X		$11,383
Johnson	X	No			$46,069
Dyer	X	No			$35,502
Morgan	X	No			$35,185
Davidson	X	No			$26,990**
Davidson	X	No			$26,990**
Loudon		No		X	$68,571
Humphreys		No		X	$25,397 ($80,000 ea. for 20 new beds)
Monroe	X***	No		X	$14,922
Wayne		No		X	N/A (added no new beds)

* Includes some office space
** Combines costs for both construction projects
*** Renovated old warehouse

Note: The following counties reported that they were in the early planning or talking stages of new jail construction projects: Anderson, Coffee, Decatur, Fayette, Fentress, Hickman, Sevier, Union, and Washington.

The following counties responded that they have neither completed any jail construction projects in the last three years, nor are they planning any jail construction projects in the near future: Benton, Bledsoe, Carroll, Cheatham, Chester, Clay, Cocke, Crockett, DeKalb, Dickson, Franklin, Giles, Greene, Grundy, Hamilton, Hancock, Hardeman, Hardin, Haywood, Henderson, Henry, Houston, Lake, Lauderdale, Lewis, Lincoln, Macon, Madison, Marion, Maury, McMinn, McNairy, Moore, Obion, Overton, Putnam, Robertson, Rutherford, Shelby, Smith, Stewart, Tipton, Trousdale, Unicoi, Van Buren, Weakley, and White.

The following counties did not respond to OREA's survey: Bedford, Blount (OREA staff interviewed Blount officials in person), Campbell, Cannon, Carter, Claiborne, Gibson, Hawkins, Jackson, Knox, Lawrence, Meigs, Pickett, Roane, Scott, Sullivan, Williamson, and Wilson.

One county sheriff returned a survey reporting no jail construction or planned construction, but failed to identify the county.

APPENDIX B: PERSONS INTERVIEWED

Jerry Abston
Executive Director
Tennessee Corrections Institute

Art Alexander
Director of County Audit
Comptroller of the Treasury

Bob Barker
Chief Deputy
Sumner County Sheriff's Department

Kenneth Bean
Sheriff
Jackson County

David Bowling
Director of Local Finance
Comptroller of the Treasury

Representative Dwayne Bunch, District 18
Tennessee House of Representatives

Greg Carlson
Director of Facilities Inspection and Enforcement
Minnesota Department of Rehabilitation and Correction

Fred Congdon
Executive Director
Tennessee County Mayors Association

David Dorminy
County Commissioner, Chairman, Public Safety Committee
Overton County

Paul Downing
Field Audits and ACA Accreditation Director
Indiana Department of Corrections

Claire Drowota
Executive Director
Select Oversight Committee on Corrections

Mike Fitts
State Architect
Department of Finance and Administration

John Ford
Chief Deputy
Davidson County Sheriff's Office

Doug Goddard
Executive Director
Tennessee County Commissioners Association

Gary Harbin
Accreditation Manager
Marion County, Fl. Sheriff's Office

Paula Harris
Vice President
Barge Waggoner Sumner & Cannon, Inc.

Terry Hazard
Criminal Justice Specialist
County Technical Assistance Service

Doug Holien
Director
California Corrections Standards Authority

John Hudson
Chief of Administration
Davidson County Sheriff's Office

Senator Doug Jackson, District 25
Tennessee Senate

George Jaynes
Washington County Mayor

Rudy Johnson
Rufus Johnson Associates, Architects

Terry Julian
Director
Texas Commission on Jail Standards

John King
Chief of Operations
West Virginia Regional Jail Authority

Dana Lamson
Assistant Finance Director
Blount County Office of Accounting and Budget

Jim Langford
Architect
SouthBuild

Trey Lee
Senior Project Manager
Hardaway Construction Corporation of Tennessee

Norman Lewis
Sheriff
Montgomery County

Danny Macomber
Chief of Jail Standards
Nebraska Crime Commision

Diane Moore
Assistant to Acting Commissioner
Tennessee Department of Correction

Ron Ogle
Executive Director
Blount County Public Building Authority

Marty Ordinans
Director Office of Detention Facilities
Wisconsin Department of Corrections

Alan Richardson
Technical Assistance Manager
National Institute of Corrections
Jails Division

Peggy Sawyer
Assistant Director
Tennessee Corrections Institute

Jim Stivender
Partner
Cornerstone Construction Services, LLC

Don Stoughton
President
Don Stoughton & Associates

Blake Taylor
Director of Compliance, Standards and Inspections
South Carolina Department of Corrections

Sandra Thacker
President
Virginia Association of Regional Jails

Grant Tharp
Architect
Barge Waggoner Sumner & Cannon, Inc.

J.D. Vandercook
Sumner County Sheriff

Steve Walker
County Government Consultant
County Technical Assistance Service

Kelly White
Director, Division of Local Facilities
Kentucky Department of Corrections

Senator Micheal Williams, District 4
Tennessee Senate

APPENDIX C: RESPONSE LETTER FROM EXECUTIVE DIRECTOR, TENNESSEE CORRECTIONS INSTITUTE

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

PHIL BREDESEN
GOVERNOR

JERRY ABSTON
EXECUTIVE DIRECTOR

March 6, 2006

Ms. Ethel Detch, Director
Office of Research
Comptroller of the Treasury
505 Deaderick Street, Suite 1700
Nashville, TN 37243-0266

Dear Ms. Detch:

Thank you for the opportunity to review the draft copy of your report titled *Jail Construction and Financing in Tennessee*

The Tennessee Corrections Institute provides technical assistance to counties that are planning new facilities or additions. These recommendations may be viewed as cost effectiveness or as future cost prevention.

It is my goal to make improvements to the Tennessee Corrections Institute that will enable the staff to spend more time with the county officials in the planning of their facilities. These improvements could include the hiring and training of additional staff.

The Department of Corrections is currently offering their assistance in conducting a study to compare TCI's responsibilities to those of other states. I will have a better insight on any needed improvements at the conclusion of this study.

Again, thank you for the opportunity to review this draft and meeting with me on February 27, 2006. Most of TCI's concerns have been addressed.

Sincerely,

Jerry Abston
Executive Director

Offices of Research and Education Accountability Staff

Director
◆Ethel Detch

Assistant Director (Research)
◆Douglas Wright

Assistant Director (Education Accountability)
Phil Doss

Principal Legislative Research Analyst
◆Kim Potts

Senior Legislative Research Analysts
Corey Chatis
Katie Cour
Kevin Krushenski
Susan Mattson
Russell Moore
Bonnie A. Moses
◆Margaret Rose (former analyst)
◆Greg Spradley

Associate Legislative Research Analysts
Jessica Gibson
Nneka Gordon
Erin Lyttle
◆Mike Montgomery
Tim Roberto

Executive Secretary
◆Sherrill Murrell

◆In addition, former student intern Patrick Norton assisted with this report.

◆indicates staff who assisted with this project