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End of survey memorandum

Date: October 9, 2020
To: Jennifer McGuirk, County Auditor
From: Nicole Dewees and Mark Ulanowicz
Subject: MCSO Jail Conditions Audit

Authorization

The audit of Multnomah County Sheriff's Office (MCSO) jail conditions was included in the Auditor's audit schedule for 2019. The last audit work done with the MCSO involved the inmate welfare fund, but it ended without a report because of difficulty with fund reconciliation. Prior to that, we did work on MCSO personnel costs and overtime as well as the Civil Process function back in 2008.

Recommended action

We recommend continuing this audit into fieldwork.

Our proposed fieldwork objectives are:

1. **Determine the extent to which MCSO operates jails that are humane and safe for adults in custody**
 - a. Determine if the classification system procedures are being followed and if it produces more humane conditions.
 - b. Determine if the discipline process is carried out according to policies and procedures and if these procedures ensure a fair disciplinary process, including an analysis of race and mental health status of the adults in custody. Look at the use of disciplinary segregation, especially for those with mental health issues.
 - c. Determine if use of force is being investigated according to policies and procedures and if these procedures ensure humane treatment, including an analysis of use of force by race of the adult in custody, the mental health of the

- adult in custody, the specific deputies, and if the force occurred in an area with a camera.
- d. Determine if discipline and use of force would benefit from an outside review board, particularly as it applies to holding staff accountable.
 - e. Determine if adults in custody are able to access physical and mental health care.
 - f. Determine if MCSO jails provide support for those trying to maintain or achieve sobriety.
 - g. Determine the degree to which jail programming and weekend jail are accessible to adults in custody.
 - h. Determine if there are barriers to communicating with friends, family, and lawyers outside of the jail.
 - i. Determine if out of cell time is documented and if it meets best practices (including two different standards for before and during the pandemic).
2. Determine who is in our jails, what circumstances put them there (including probation and parole violations), which groups have booking authority, and identifying which activities are in MCSO's control.

Background

Services

The MCSO operates two jails in Multnomah County, the Multnomah County Detention Center (MCDC) and the Inverness Jail. MCDC is a maximum security facility made up of individual cells that is located in downtown Portland. The Inverness Jail is a lower security level facility primarily made up of open dormitories that is located near the Portland International Airport. MCDC has a capacity of 448 and also serves as the primary initial booking facility for all arrestees within Multnomah County. MCDC houses adults in custody for the county, as well as state and federal adults in custody involved in court matters. At the initiation of the audit, the Inverness jail had a capacity of 1,037. While the two jails have a capacity of 1,485, the funded capacity is 1,117.

MCSO jails participate in a number of periodic reviews; some like the Corrections Grand Jury and the Oregon State Sheriff's Association (OSSA) certification review have a regular schedule established in statute or practice and others like the review by Disability Rights Oregon is more ad hoc.

Corrections Grand Jury

(From the Grand Jury report) *Pursuant to Oregon Revised Statute 132.440, a Corrections Grand Jury convened on October 18, 2019, with the ultimate goal of writing a public report about the condition and management of the four correctional facilities in Multnomah County. Under ORS 132.440:*

- *At least once yearly, a Corrections Grand Jury shall inquire into the condition and management of every correctional facility and youth correction facility as defined in ORS 162.135 in the county.*
- *The Corrections Grand Jury is entitled to free access at all reasonable times to such correctional facilities and juvenile facilities, and, without charge, to all public records in the county pertaining thereto.*
- *Other than indictments presented under ORS 132.310 or presentments presented under ORS 132.370, the Corrections Grand Jury shall issue no report other than a report of an inquiry made under this section.*

The most recent recommendations from the Grand Jury largely focused on staffing levels and capacity – recommending increased funding to fill vacancies, opening cohort (specialty) dorms for young men and veterans, reopening two closed dorms, and to decrease emergency (MATRIX) releases. The Grand Jury also recommended better communication of programming options for adults in custody – programming is positively associated with improved outcomes for adults in custody (while in jail and when released).

National Institutes of Corrections

(From NIC) *The National Institute of Corrections (NIC) is the only federal agency with a legislative mandate (Public Law 93-41 5) to provide specialized services to corrections from a national perspective. NIC provides practical assistance in planning and implementing improvements at the federal, state and local levels. In 2016, the National Institutes of Corrections conducted a review of the use of force within the MCSO jails. (From NIC) It should be made clear though, that the TRP was not on-site to assess any particular event, but rather, to conduct an overview of policy, practice, training, procedure, investigation, and other associated administrative/institutional activities from a global perspective. The goal was to make recommendations, where appropriate, and if applicable, for the improvement, as may be needed, of the MCSO's jail system's actions surrounding the "use of force" and its internal operations. The NIC issued a number of recommendations and generally found that MCSO use of force policies and procedures as well as training and investigation practices were sound. As of the time of the request for information, MCSO assessed all but two of the NIC's recommendations as being completed (implemented) and the two that remain are in process.*

The Oregon State Sheriff's Association (OSSA)

OSSA conducts annual reviews of MCSO jails as a part of its voluntary participation in the OSSA's standards program. Each year, since 2016, the OSSA visits a single facility (alternating between MCDC and Inverness). The OSSA program is a peer review style evaluation – the standards themselves focus primarily on the existence of appropriate policies and procedures and the visits are intended to determine if policies and procedures are being followed. The most recent reviews of the two jails found MCDC in full compliance on all applicable standards and Inverness in full compliance in all but two standards – 1 partial compliance and 1 non-compliant finding in the Administrative area.

Disability Rights Oregon

(From the DRO) *As the federally designated Protection and Advocacy System for Oregon, Disability*

Rights Oregon (DRO) has the authority under federal and state regulations to monitor facilities that care for or confine individuals with disabilities, and to inspect individual records if we suspect abuse or neglect of a person with a disability. DRO conducted two reviews of MCDC, with particular focus on the treatment of individuals with mental illness, in 2017 and 2018. The first report found numerous issues at MCDC and the 2018 report found substantial improvement in conditions for people with mental illness. We interviewed the author of the DRO report and she gave us a list possible areas for further investigation (including use of force and discipline), as she does not have the bandwidth to continue to monitor the MCSO jails.

Budget

In fiscal year 2020, the adopted budget for the combined Corrections Facilities and Services divisions was about \$106 M and comprised of nearly 581 FTE. This represents a 4.5 percent increase in funding from FY 2019 and a 0.5 percent decrease in FTE.

Corrections Facilities encompasses the majority of traditional jail related services (corrections deputies, the jails themselves, etc.) plus booking and release as well as the Corrections Records Unit. Corrections Services includes a wide variety of functions including commissary, laundry, and property storage as well as facility security, court services, classification, programs, and close street supervision.

Corrections Facilities Divisions are primarily paid for with general funds

Budgeted funding for MCSO Corrections program offers in FY 2020

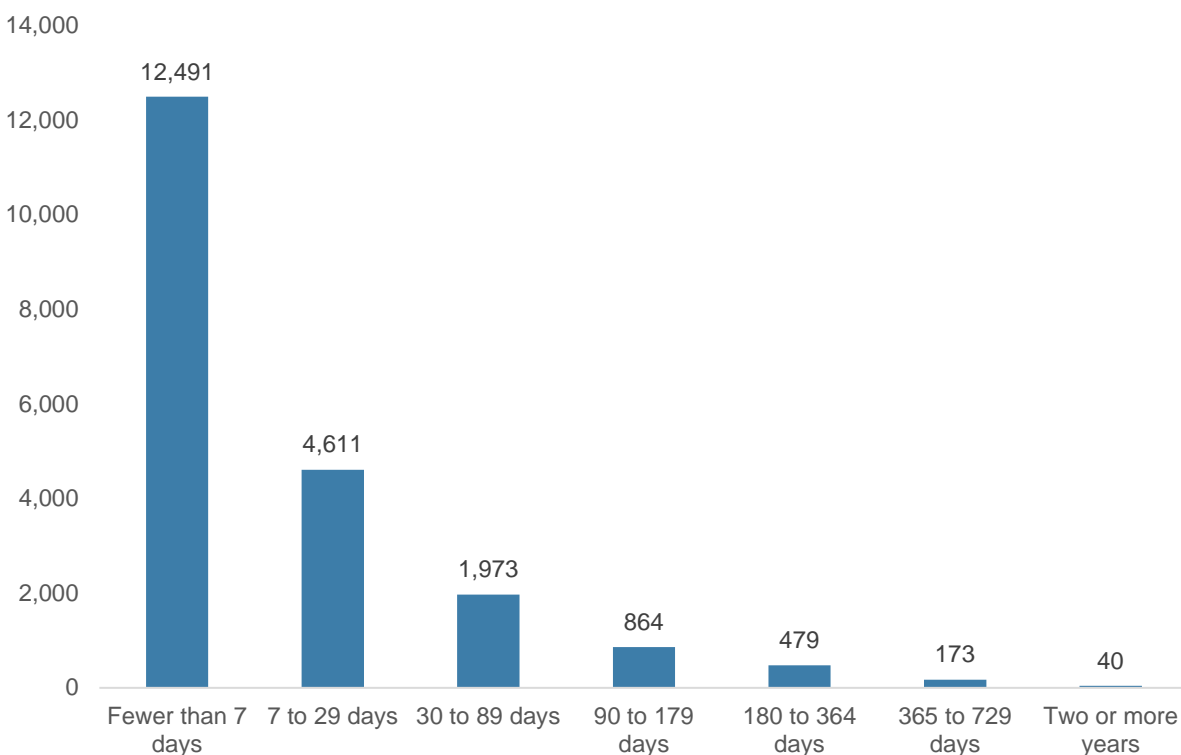
	General Fund	Other Funds	Total	FTE	% GF
Corrections Function					
Facilities					
Admin	\$899,238	-	\$899,238	2.0	100%
Booking	\$9,664,816	-	\$9,664,816	59.24	100%
Jail Dorms	\$51,438,045	\$11,131,496	\$62,569,541	302.86	82%
Other	\$4,294,819	\$159,871	\$4,454,690	38.3	96%
Sub-Total	\$66,296,918	\$11,291,367	\$77,588,285	402.4	85%
Services					
Admin	\$521,787	-	\$521,787	2.0	100%
Court Svcs/Trans	\$9,437,858	-	\$9,437,858	49.0	100%
Facility Security	\$4,256,364	\$780,445	\$5,036,809	42.1	85%
Classification	\$3,558,623	-	\$3,558,623	20.0	100%
Inmate Programs	\$2,970,909	-	\$2,970,909	22.5	100%
Close Street	\$1,255,791	-	\$1,255,791	7.0	100%
Com/Inmate Welfare	-	\$1,290,660	\$1,290,660	4.23	0%
Other	\$4,280,005	\$165,818	\$4,445,823	31.6	96%
Sub-Total	\$26,281,337	\$2,236,923	\$28,518,260	178.43	92%
Total	\$92,578,255	\$13,528,290	\$106,106,545	580.83	87%

The vast majority of MCSO corrections funding comes from the County General Fund. The remaining revenue comes from the federal and state governments – the MCSO contracts with the U.S. Marshall’s Service and the State of Oregon for the use of jail beds. The commissary is funded entirely by sales to adults in custody with any profits going into the Inmate Welfare Fund. Fees for services like records requests, hearings, and statement requests as well as fees and fines for grievances and discipline also go to the Inmate Welfare Fund. In 2020, MCSO budgeted for \$17,500 in revenue from requests and fees and \$3,360 for disciplinary fines.

Adults in Custody

The Multnomah County jails (Multnomah County Justice Center and Inverness Jail) housed 12,354 unique people in 2019, not including those booked and released. In 2019, AICs occupied nearly 435,000 jail bed days during the course of the year. The median length of stay was 4 days. The average number of days in jail in 2019 was 21, but that number is much higher than the median because of a few individuals incarcerated for longer periods of time, often awaiting a murder trial.

Most adults in custody are housed for fewer than seven days

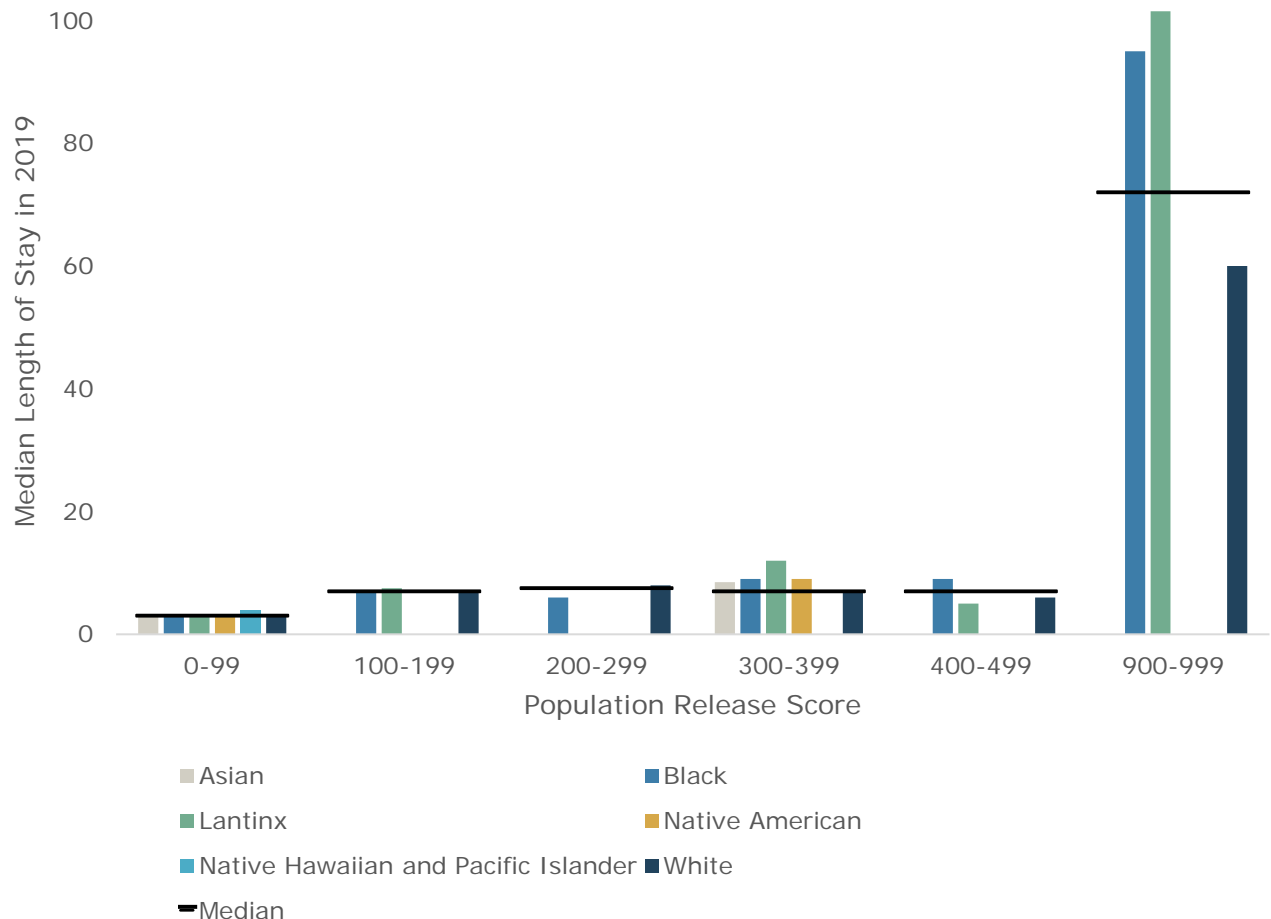


Source: SWIS database.

Multnomah County uses a population release score to categorize who would be released first when there is jail overcrowding. The lower scores are supposed to be released first. It can also be used as a proxy for the severity of the charges.

Unsurprisingly, those with the highest population scores have the longest length of stay in the jails. There are many factors that impact one's length of stay, but it is of note that certain racial groups are held for more or less time than others with similar population release scores. It may be worth further exploration during fieldwork.

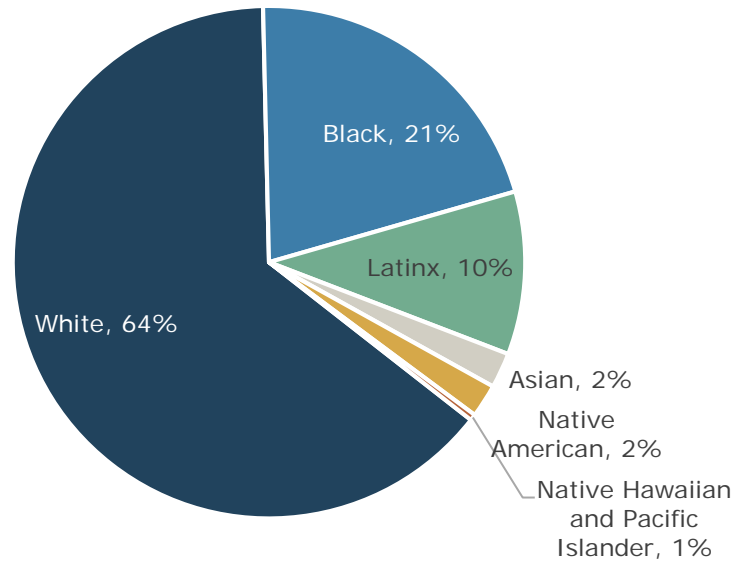
Median Length of Stay in 2019 by Race and Population Release Score



Source: SWIS database. The chart only includes instances where there were 30 or more people in each category. Population release scores rarely fall between 500 and 899, so those are omitted from the chart.

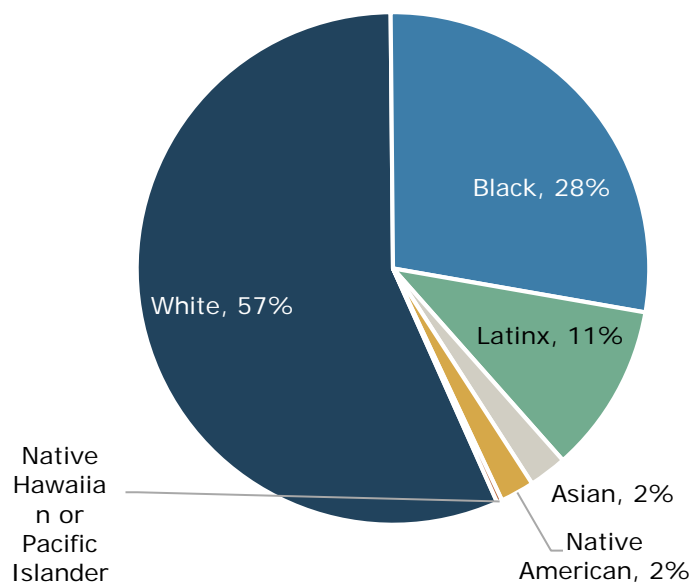
The jail population is mostly white.

Unique count of Multnomah County jail adults in custody in 2019



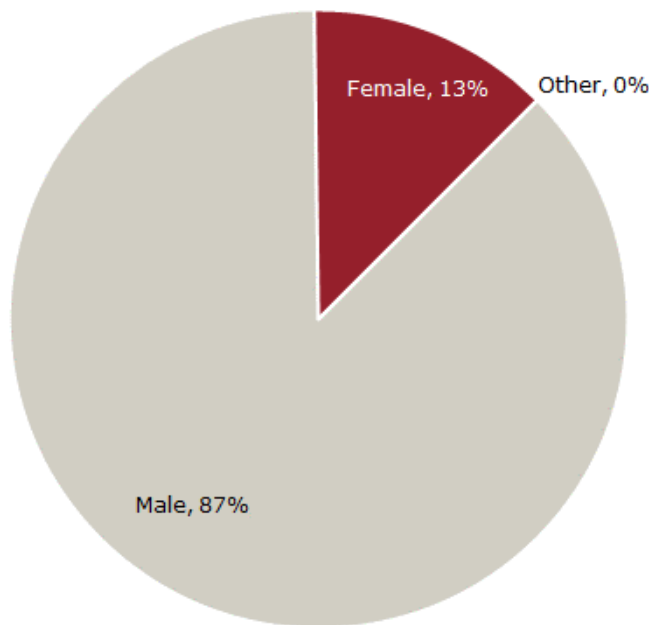
Black adults in custody typically have longer jail stays and more frequent returns to jail, which results in the average daily population having more Black adults in custody than the unique count of individuals.

Racial demographics of average daily Multnomah County jail population in 2019



Females make up 50.5% of the Multnomah County population, but only 21% of the unique adults in custody. Male adults in custody typically have longer jail stays and more frequent returns to jail, which results in females making up only 13% of the average daily population.

Demographics of average daily population



Source: SWIS database. The “Other” category includes 5 people, which is 0.001% of the population. We do not know if MCSO’s gender data tracking is accurate or if they give adults in custody options for accurate gender identification.

Audit Context

An internal MCSO study that identified the issue of disproportionate use of force against minority adults in custody and the first Disability Rights Oregon report on the conditions of confinement for individuals with mental illness within MCDC provided much of the context for this audit.

The 2015 internal MCSO recommended that MCSO look into the disproportionate use of force against Black adults in custody in its jails. In 2016, the MCSO engaged the National Institutes of Corrections to conduct a “technical assistance project” related to the use of force at MCSO jails. The NIC report did not examine individual use of force incidents and instead was, *“an overview of policy, practice, training, procedure, investigation, and other associated administrative/institutional activities from a global perspective.”* The report concluded that MCSO was functioning *“in a very positive manner”* related to use of force and that *“MCSO has processes in place to address such events in a progressive manner. As part of that, the MCSO seems extremely responsive and pro-active, and*

therefore, a leader in actively pursuing any improvements that will make their system better.” While the conclusions from NIC were positive, we also obtained information that suggested a closer examination of individual incidents may be warranted.

In a 2017 report, Disability Rights Oregon found numerous instances of what it considered to be unreasonable uses of force against adults in custody with mental illness. Moreover, DRO found Black detainees appear almost twice as likely to be disciplined, twice as likely to be subjected to physical force, and almost twice as likely to be ‘voluntarily’ restrained. In 2018, DRO reported that MCSO “welcomed community input and have accepted a number of the recommendations made in the 2017 report.” The 2018 report described the improvements from the previous year including a drop in use of force incidents and disciplinary sanctions, but it also noted the continued disproportionate use of force against Black individuals and identified the need for further reforms.

The Norwegian prison system differs greatly from the United States. The goal of prison is rehabilitation and the only punishment is the lack of freedom. Corrections officers work with adults in custody to create plans for their educational, professional, and personal goals. Some Norwegian prisons are built to look similar to the regular world and the individual bedrooms include a bed, desk, mini-fridge and a private bathroom. Some offer programs such as culinary arts and automobile repair. Norway spends about 3.6 times more per adult in custody than the US. The Norwegian model also states, “Offenders shall be placed in the lowest possible security regime,” which mirrors the goal of the classification process used in the United States. The five-year recidivism in Norway is much lower (20% as compared to 78% in the United States) and it may be due to the prison system. However, Norway also has greater access to outpatient treatment for substance abuse and mental health conditions. Thus, it is difficult to know if the lower recidivism is due to prison rehabilitation, better access to support in the community, or some combination of both. Little information was available about Norway’s jail system, only their prisons. Since the MCSO jails primarily house adults for a limited duration, some of the Norwegian goals of rehabilitation may not be fully possible. Our audit would need to consider how different groups may benefit from a Norwegian style of incarceration and rehabilitation:

1. For those with a shorter stay (the majority of those housed in MCSO jails) the options for rehabilitation look different than those with longer stays. Connecting adults in custody with outside resources may be an option. We may also need to explore if the resources outside of the jail have sufficient capacity.
2. Those who are post-trial are either serving less than one year in jail or are those coming from a prison to serve remainder of their sentence (typically less than one year). Those coming from prison to serve the remainder of their sentence may have already begun training, mental health, and/or substance abuse programs and MCSO may be able to support their continuation.

The MCSO jails do not currently support methadone. A 2018 resource guide from the National Sheriff's Association recommended providing more access to methadone in jails. Additionally, the National Institute on Drug Abuse (part of the National Institutes of Health) found that methadone maintenance during incarceration has long-term benefits. Adults in custody who received methadone were more likely to engage in treatment after being released, reported less heroin use, and a lower risk of overdose. One attorney we spoke with said that his clients had a greater flight risk because of concerns about the lack of methadone treatment.

Scope and Methodology

Scope and Methods

The concept of a safe and humane jail environment is inherently subjective. Available criteria and standards vary significantly in terms of focus, ranging from general operational effectiveness to specific emphasis on solitary confinement. However, there was some commonality within the standards in terms of issues to consider. So, while we may not be able to clearly define what a safe and human jail environment is, we can determine if the MCSO addresses these common issues in terms of policies/procedures and also actions. We believe a good way to talk about this is within the context of internal controls. We will explore the principles of internal controls such as control environment and communication, but the majority of the work will address control activities that contribute to a safe and humane environment.

The first step is to verify that the control activities are in fact elements that contribute to a safe and humane environment. Second, we will verify that the procedures that are used to implement the control activities are consistent with best practices. Next, we will use available data from the MCSO information systems to test if procedures are being followed. Lastly, we will test to determine that the data entered into the MCSO system regarding control activities is accurate and look for patterns or trends that suggest there might be issues with the controls as implemented. In the course of doing this work, we can explore other issues, such as the balance between staff/inmate safety and humane treatment.

We reviewed standards on jails and prisons from: the American Bar Association, the National Institutes of Corrections, the Norwegian Correctional Service, the United Nations, the Oregon Sheriff Office Association, and the Washington Association of Sheriffs and Police Chiefs. Some of the common areas identified in jail and prison standards we reviewed included

- **Inmate Classification** – making sure adults in custody are in the appropriate housing (least restrictive) which is often the most humane situation. The caveat is that MCSO's least restrictive housing is dormitory style, which some AICs dislike due to the lack of

privacy. However, MCSO's least restrictive housing includes access to inmate programming and more opportunity to socialize with other adults in custody.

- **Discipline** –Proceedings must be carried out according to policies and procedures and these procedures must ensure a fair disciplinary process.
- **Use of Force** –When force is used, it is critical that it is investigated according to policies and procedures and that the investigations are reviewed by the appropriate personnel within the chain of command.
- **In-Jail Programming** – availability of programming is important (a best practice) for safety and humane treatment, as well as potentially reducing recidivism.

Inmate Classification

During survey, we started work using this methodology on the Inmate Classification process. According to the National Institutes of Corrections, objective jail classification is a process of assessing every adult in custody and program needs and is considered one of the most important management tools available to jail administrators and criminal justice system planners. MCSO Corrections management told us they look to place adults in custody in the least restrictive environment possible, while still maintaining safety of staff and AICs. In addition, research suggests that properly applied objective classification systems improve security at the prisons in the form of fewer adults in custody institutional (i.e., rule breaking) and violent misconducts. The research also points out that for a classification system to have these sorts of results, it must be objectively applied and consistent, rather than based on professional judgment as is often the case.

Factors predictive of prison misconducts:

- Current age - Older adults in custody less involved in misconducts
- Gender - Females less involved in misconducts
- History of violence - Recent history predictive of continuation
- History of mental illness - More likely to be involved in misconducts
- Gang membership - Gang members more likely to be involved in misconducts
- Program participation - Adults in custody not involved in or not completed programs more likely to commit misconducts
- Recent disciplinary actions - Adults in custody with recent misconducts are more likely to continue

Factors not predictive:

- Drug and alcohol use
- History of escape
- Sentence length
- Severity of offense

- Time left to serve

Classification is an important control activity in the Multnomah County jails. The effectiveness of the Classification System in helping to attain the control objective of safe/humane jails depends primarily on two things: 1) that the system meets the requirements of evidence-based practices outlined in the literature and 2) that it is objectively and consistently applied.

Essentially, we have two questions to ask of the data on classification and housing: 1) are individuals being assigned to the housing associated with their classification score and 2) are individuals getting an appropriate score based on objective standards. We believe we can answer the first question relatively easily; the second question is possibly much more difficult.

MCSO classification staff run a daily check comparing classification scores to actual housing for adults in custody and flag individuals who are incorrectly housed. Classification managers said these individuals are moved to more appropriate housing as soon as it is available. They also told us that they do not know how long individuals are staying in inappropriate housing.

MCSO classification managers acknowledged that there is a natural bias among classification staff to put individuals in more restrictive settings – either because of peer pressure or the fact that they see the down-side risk to staff as being greater than any upside possibility for adults in custody.

In 2019, MCSO staff moved adults in custody to different housing over 4,000 times due to changes in their classification. For comparison, MCSO staff moved adults in custody to disciplinary housing nearly 2,000 times and to medical housing over 1,000 times, so classification is a significant driver for determining where adults in custody live.

Our methodology will also include conversations with those in custody. We will contact advocacy organizations to help put us in touch with those who are currently or formerly incarcerated. We will also talk to the King County Auditor's Office to learn about how they successfully communicated with adults in custody. We will use our office's equity lens to help guide our approach.

Audit Risk

The ongoing pandemic and the effect it has had on our ability to do the work is the greatest risk to the audit – in terms of our ability to access information via interviews and to collect data. This risk primarily affects the audit timeline, rather than the recommendations themselves, as we are reasonably confident we will eventually get the information we need.

The sensitivity of the audit topic, along with its inherent subjectivity, is a very high risk aspect of the audit. The standard of evidence that we use, will reflect these heightened risks. The public's perception of what is and what is not under the MCSO's control is another area that heightens the risk.

Overview of Survey Activities

In completing audit survey, we followed the steps in the policy and procedures manual. We:

- Reviewed adopted budgets and program offers going back to fiscal year 2016;
- Participated in tours and walk-throughs of the two jails as well as the MCSO warehouse and training facility;
- Collected and reviewed reports by and for MCSO management on issues such as use of force, MATRIX releases, and status of audit recommendations;
- Reviewed legal requirements and statutorily required reports such as the State Corrections Grand Jury reports and the federal Prison Rape Elimination Act annual reports;
- Performed an initial review and assessment of internal controls;
- Conducted preliminary tests of MCSO/IT provided data on adults in custody and individual classification;
- Reviewed audits conducted by our office in prior years, although they did not relate to jails conditions;
- Conducted a review of relevant literature including:
 - General corrections literature;
 - Prison and jail standards from local, state, federal, and international agencies;
 - Prison and jail literature specific to Oregon; and
 - Corrections audits from other jurisdictions;
- Discussed fraud risk; and
- Conducted interviews with a variety of managers and stakeholders, including:
 - Disability Rights Oregon;
 - Senior MCSO management;
 - Local Public Safety Coordinating Council staff;
 - MCSO and County IT data specialists;
 - MCSO evaluation staff;
 - Representatives of local public defender agencies; and
 - The Corrections Health manager.

Staffing and Milestones

We suggest audit work continue with two auditors and our graduate student intern. We plan to complete this within the fiscal year, unless the COVID-19 pandemic precludes that.