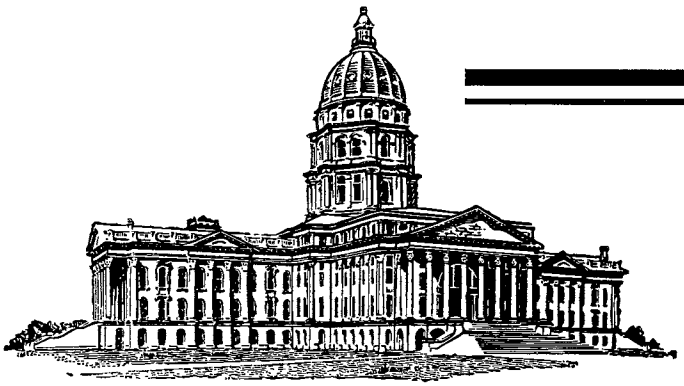

PERFORMANCE AUDIT REPORT

Classification of Inmates in Kansas Prisons

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
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PERFORMANCE AUDIT REPORT

Classification of Inmates in Kansas Prisons

OBTAINING AUDIT INFORMATION

This audit was conducted by two members of the Division's staff: Barb Hinton, senior auditor, and Robin Hunn, senior auditor. Ms. Hinton was the project leader. If you need any additional information about the audit findings, please contact Ms. Hinton at the Division's offices.

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SUMMARY OF LEGISLATIVE POST AUDIT'S FINDINGS

1. **How are inmates classified, and is their classification proper?** Periodically, each inmate is evaluated and scored in nine areas related mostly to his or her criminal activity and prison behavior. Such classifications help determine the level of control or supervision an inmate needs while in prison. Under exceptional circumstances, inmates can also be classified "by exception." Based on their point totals or exceptions, inmates can be assigned to minimum, medium, close, or maximum custody levels. Generally, minimum custody inmates have been convicted of lesser offenses and close or maximum custody inmates have been convicted of more violent crimes. There are many exceptions, however, most of which reflect an inmate's behavior. As of September 15, 1983, 37 percent of the inmate population was classified as minimum custody, 27 percent as medium, and 36 percent as close or maximum. Legislative Post Audit did not try to assess whether inmate classifications were proper because the Department initiated its own study in this area that should be available after January 1984. This study should address potential problem areas noted by the auditors in the classification system related to documentation and timeliness.

2. **What effect does classification have on inmates' placement?** The initial classification an inmate receives at the Reception and Diagnostic Center has little effect on that inmate's assignment to a particular institution. More than 80 percent of the housing space available for inmates is at the State Penitentiary and the Industrial Reformatory; thus, most inmates are assigned to these two prisons. Most of those inmates are initially assigned to a maximum security cellhouse. They progress to more minimum security settings within the prisons or to honor camps or work release programs based on their behavior, work assignment, reclassification, nearness to parole, and the like.

Generally, inmates in all custody levels are housed in all types of settings within the Penitentiary and the Reformatory. Cellhouse comparisons also showed that some low-and high-custody inmates in maximum security cellhouses shared the same cell. Prison officials say that efforts are made to separate hardened criminals from lesser offenders, but that recent overcrowding and double-celling of inmates has removed much of their flexibility.

3. **What minimum security alternatives are available, and should they be expanded?** Based on the September 7 population figures, the Department has at least 460 more minimum custody inmates than it has minimum security bed spaces. These inmates are housed in more restrictive settings behind prison walls. Given that minimum security bed space is the only kind of space that can be added relatively quickly to help alleviate general prison overcrowding, the Legislature may want to consider adding some combination of minimum security facilities or programs. The Secretary of Corrections has submitted a proposal to build new honor camps, expand work and pre-release facilities, and expand minimum security dormitories to house a total of 651 minimum custody inmates. Adding any new space will help alleviate overcrowding only if the minimum custody inmates now in more restrictive prison settings are transferred out of them. The audit notes that not all minimum custody inmates will be

eligible or ready for placement in all types of minimum security facilities or programs, especially those in the community. In addition, prison officials at the Penitentiary estimated that the number of minimum custody inmates now in prison who could be transferred to the outside was quite small. Such findings suggest that more needs to be done to estimate the number of minimum custody inmates who could be placed in minimum security settings--both now and on an on-going basis--to help alleviate prison overcrowding.

CLASSIFICATION OF INMATES IN KANSAS PRISONS

At its meeting on June 2, 1983, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a performance audit of the Department of Corrections' classification system. This system is used in determining the level of control or supervision needed over inmates while they are in correctional facilities. Inmates with low custody levels are eligible for minimum security housing and programs.

The issue of overcrowding in the State's prisons has received considerable legislative attention in recent years. The inmate population is growing at a rate of 12 to 14 percent a year. As of October 23, it stood at 3,583 and was fast approaching the maximum capacity established by the Department of 3,886. As solutions are sought to ease the overcrowding problem, the issue of housing alternatives for inmates--particularly those with low custody levels--is likely to be the subject of considerable debate and attention.

This audit addressed three main questions: How are inmates classified, and is their classification proper? Once inmates are classified, what effect does classification have on their placement? What minimum security programs and facilities are available, and should they be expanded?

How Are Inmates Classified?

The current inmate custody classification system was developed by a task force of prison officials and other corrections administrators to help standardize classification procedures and the criteria being used to make custody decisions. The system was put into effect in July 1981.

Initial classifications for all male inmates are performed by a classification committee at the State Reception and Diagnostic Center as part of the inmate evaluation process. Female inmates are evaluated and initially classified at the Kansas Correctional Institution at Lansing.

Any classification performed after the initial classification is considered to be a reclassification. Most inmates are reclassified once they complete the orientation process at the institution they are assigned to. Routine reclassifications are performed at regularly set intervals--annually for inmates serving more than a two-year sentence, and every 120 days for inmates approaching their parole dates or for inmates serving less than a two-year sentence.

Non-routine reclassifications are performed for one of two reasons. First, they are performed when any of the criteria for classifying an inmate that are "time limited"--such as institutional adjustment or behavioral problems--are due to expire. A clean record in these areas may result in a lower custody level. Second, they are performed when significant changes occur in the inmate's status, such as disciplinary problems resulting in segregation. That could result in a higher custody level.

Specific criteria have been established in nine areas to help assess the degree of supervision needed to control the inmate, and points have been assigned to the criteria in each category. The more points an inmate receives under the criteria, the higher the custody level, as follows:

Close custody	10 or more points
Medium custody	4-9 points
Minimum custody	0-3 points

The nine basic classification categories and the range of points assigned to each are listed below.

Classification Category	Possible Points
Criminal behavior involved in the offense	0-2
Length of minimum sentence	0-3
Past criminal behavior involving violence	0-2
Length of time served	0-2
Escape history	0-6
Escape characteristics	0-5
Unusual escape/assault skills	0-1
Institutional adjustment	0-10
Behavior characteristics affecting custody	0-10

The behavior involved in the criminal offense is an important consideration, especially in cases involving death, personal injury, and threat of harm. But because an inmate can accumulate more points under the criteria for behavioral problems or poor adjustment to prison life than for criminal behavior involved in the offense, these factors can play an even greater role in determining the custody level assigned to an inmate. For example, an inmate can receive up to 10 points for severe behavioral problems (homicidal or suicidal tendencies, for instance), or 10 points for severe disciplinary infractions that result in disciplinary segregation. By contrast, a maximum of two points is given for the type of crime committed, and two points for a record of past violent crimes.

Because of this distribution of points under the criteria, some inmates who have committed violent crimes but are "model" prisoners may have a lower custody level than inmates who have committed less serious crimes but are unruly or uncontrollable.

If an inmate's needs or circumstances warrant a different level of supervision than his or her point score would indicate, exceptions can be made by noting the reason on the form and assigning a custody level "by exception" rather than "by criteria." Exceptional circumstances would include stricter supervision requirements for an inmate with assaultive behavior or an inmate informer who needs protective custody, pressure situations caused by a death in the family, marital or financial problems, or parole denial, or other documented reasons.

Most inmates classified by exception are given a higher custody level than they would have received if they had been classified by criteria. There are four possible custody levels for inmates classified by exception: minimum, medium, close, and maximum. Assignment to maximum custody is always an administrative decision, then, because it is always done by exception.

A third group of inmates in the correctional system is classified outside the classification system. This group consists primarily of inmates who have not yet been evaluated or have not completed their evaluation at the Reception and Diagnostic Center and consequently have not yet received their initial classification. Inmates in this group are mostly classified in the upper custody levels.

Most Inmates Are Minimum or Medium Custody, But the Percentages Vary Considerably By Institution

As of September 15, 1983, the inmate population in the State's correctional facilities was 3,426. Of that total, 1,258 or 37 percent were classified as minimum custody, 942 or 27 percent were classified as medium custody, and 1,226 or 36 percent were classified as close or maximum custody. Of the total, 66 percent were classified by criteria, 21 percent were classified by exception, and 13 percent were classified outside the custody classification system.

Classification of Inmates By Institution

Institution	Inmate Population on September 15, 1983	Custody Classification		
		Minimum	Medium	Close/ Maximum
Maximum Security Institutions				
State Penitentiary	1,597	34%	37%	29%
Industrial Reformatory	1,103	19	29	52
Reception and Diagnostic Ctr.	138	11	1	88
Minimum Security Institutions				
Vocational Training Center	179	92%	5%	3%
Correctional Institution at Lansing	168	54	12	34
Honor Camps				
Toronto	62	98%	0%	2%
El Dorado	56	98	2	0
Work Release Centers				
Topeka	28	100%	0%	0%
Wichita	54	100	0	0
Hutchinson	19	100	0	0
Contract (Fort Scott and Topeka Halfway House)	22	95	0	5
TOTAL AND AVERAGE	3,426	37%	27%	36%

As the accompanying table shows, the percentage of inmates in the different custody levels varied considerably by institution. These differences are fairly easy to explain. For example, inmates being evaluated at the Reception and Diagnostic Center are administratively assigned a high custody

level. The higher percentage of close or maximum custody inmates at the Industrial Reformatory than at the Penitentiary reflects a higher number of disciplinary and adjustment problems among younger inmates.

Male inmates transferred to the Correctional Institution at Lansing must be minimum custody, but female inmates housed there are classified at all levels. Finally, inmates in higher custody levels at the Vocational Training Center generally have been temporarily reclassified from minimum custody for disciplinary reasons. The same would be true for inmates in higher custody levels at an honor camp or work release program.

Inmates with minimum custody levels are eligible for minimum security housing and programs or outside work detail. They also are given greater unsupervised freedom of movement within an institution and more visiting and furlough privileges. Custody level can also be an important consideration in determining an inmate's eligibility for parole. Thus, besides providing prison officials with a means of measuring how closely an inmate should be supervised, the custody classification system is designed to provide inmates with the incentive to attain and keep the lowest possible custody level.

Are Inmates Properly Classified?

To answer this question, Legislative Post Audit planned to review a sample of inmates' files to determine whether they were properly classified according to the guidelines and criteria set out in the Department's custody classification manual. However, the Department of Corrections started a similar study in the summer of 1983 to answer the same question. The study is being conducted by an internal task force appointed by the previous Secretary of Corrections, and will include substantial samples of inmates from each institution. Task force members told the auditors they were paying particular attention to classifications made by exception to ensure there was adequate documentation to support the custody level given. The study is scheduled to be completed in January 1984.

Legislative Post Audit reviewed the Department's plans for the study and found them to be thorough. After discussions with members of the Legislative Post Audit Committee, it was decided that rather than duplicate this work, Legislative Post Audit would review the completed study and make sure the results are brought to the Legislature's attention.

The auditors did take several other kinds of steps to review inmate classifications. They reviewed the formal classification complaints filed by inmates at the Penitentiary and the Reformatory, and they contacted the Corrections Ombudsman Board about complaints filed there. They also reviewed the files of a sample of inmates at the Penitentiary who were classified as minimum by exception. Finally, they reviewed and analyzed the characteristics of 2,933 inmates classified under the classification system as of September 7, 1983. Because most inmates at the Reception and Diagnostic Center are classified outside the system, all inmates at this facility were excluded from the auditors' review. The results of their reviews are described briefly below.

Generally, Few Complaints Are Filed About Inmate Classification Levels

Between July 1981 and October 1982, Department records show that 12,384 separate classification actions were performed and 4,643 different inmates were subject to at least one classification decision. In comparison to these numbers, relatively few complaints are filed.

Over a one-year period, the auditors found that only seven formal complaints regarding inmate custody levels were filed at the Penitentiary and the Reformatory. The auditors reviewed six of these cases, most of which involved inmates' complaints that their unit team supervisors were denying them a minimum custody status that would allow them to live in minimum security settings or prepare for parole or release.

According to the information available in these files, no classifications were changed as a direct result of the institutional director's review of the cases. Generally, inmates were notified that their classifications were higher because of the nature of their crime, their institutional problems, or other psychological problems. Also in most cases, inmates were advised to continue working with prison officials to improve their performance and lower their custody levels.

The Corrections Ombudsman Board received 81 written or verbal complaints in fiscal year 1983 about inmates' parole eligibility or custody status. According to the acting Executive Secretary, fewer than half those complaints related to custody. Generally, in about half of the complaints about custody an error was made in determining an inmate's classification point total, which was pointed out to prison officials to correct. Complaints that are not valid are usually the result of inmates' lack of understanding of the classification scoring system, particularly as it applies to disciplinary actions.

The Auditors' Review of Inmates Classified as Minimum by Exception Showed Some Potential Problems in the System

The auditors reviewed the files of eight of the 54 inmates at the Penitentiary who were classified as minimum by exception to determine the reasons for their classification at this level. Seven of the eight had been convicted of violent crimes. If those inmates had been classified by criteria according to their point totals, seven would have been medium custody and one would have been close custody. In all cases, the auditors noted that the classification was recommended because of the inmate's good work record, institutional adjustment, or previous success living in a more open environment.

During the review of these eight cases, the auditors found two that showed potential problems. The first involved an inmate's placement in one of the outside dormitories. This decision was made over the staff's earlier recommendation that he be placed in at least a medium security setting. There was no documentation of the reason for this inmate's placement. This inmate had been convicted of aggravated kidnapping, rape, aggravated battery, and attempted rape, and had a record of convictions for previous violent crimes.

The second involved timeliness of an inmate's reclassification. One inmate scheduled for a routine reclassification in March of 1983 was not reclassified until July 9. This inmate, who lived in a maximum security cell, received a disciplinary report on March 8 for sodomy and was placed in administrative segregation for 30 days. Either action should have triggered a non-routine reclassification as well. On July 9 his classification was formally changed from minimum by exception to close by criteria.

The Department's current study of inmate classifications is addressing such issues as proper documentation for custody decisions--especially those made by exception--and timeliness of inmate reclassifications. As the task force reviews inmates' files, it is anticipated that such problems will surface and be reported and that steps will be recommended to minimize such problems. Legislative Post Audit will review the extent to which such problems were found in the Department's completed study.

Generally, Minimum Custody Inmates Have Been Convicted of Lesser Offenses And Maximum Custody Inmates Have Been Convicted of Violent Crimes, But There Are Many Exceptions

The following tables list the characteristics of inmates in the three major custody levels: minimum, medium, and close or maximum. These characteristics were taken from data on the inmates' classification records as of

Profiles of Inmate Characteristics as Recorded
On Their Classification Forms as of September 7, 1983

MINIMUM CUSTODY INMATES (1,229)

On the average, these inmates . . .	However, there are exceptions . . .
--committed lesser offenses (Section D)	--34% committed violent crimes (Section A)
--are serving 1-5 year sentences	--5% have records of past violent crimes
--have no record of past violent crimes	--7% are serving over 15-year sentences
--have no escape history	--15% have had recent institutional adjustment problems
--have not had recent institutional adjustment problems	
--are not considered to be violent or potentially violent	

MEDIUM CUSTODY INMATES (948)

On the average, these inmates . . .	However, there are exceptions . . .
--committed violent crimes (Section A)	--17% committed lesser offenses (Section D)
--are serving longer sentences (over 5 years)	--16% have records of past violent crimes
--have no record of past violent crimes	--5% have histories of escapes from prison
--have no escape history	--36% have had recent institutional adjustment problems
--have not had recent institutional adjustment problems	
--are not considered to be violent or potentially violent	

CLOSE/MAXIMUM CUSTODY INMATES (755)

On the average, these inmates . . .	However, there are exceptions . . .
--committed violent crimes (Section A)	--28% committed lesser offenses (Section D)
--are serving longer sentences (over 5 years)	--19% have records of past violent crimes
--have no record of past violent crimes	--41% are serving 1-5 year sentences
--have no escape history	--19% have histories of escapes from prison
--have had recent institutional adjustment problems	--17% have violent or potentially violent behavior characteristics
--are not considered to be violent or potentially violent	

September 7, 1983. On that form, the type of crime committed is not recorded by felony class. Instead, crimes are grouped into four sections. The Section A grouping generally includes violent crimes against persons (for example, murder, rape, kidnapping, and aggravated arson, assault, robbery, and battery). At the other end, Section D generally includes non-violent crimes against property (for example, burglary, theft, controlled substance violation, unlawful possession of firearms, and a category called other non-violent felonies. See Appendix A for complete listing.) Most inmates' crimes fall in the Section A or Section D groupings.

As the tables show, minimum custody inmates generally were convicted of lesser offenses in the Section D grouping, had shorter sentences, did not have records of past violent crimes, were not escape prone, and did not have adjustment problems or violent behavior characteristics.

On the other hand, considerably more of the inmates with medium or close/maximum custody were convicted of violent crimes in the Section A grouping, are serving longer sentences, are more escape prone, and have records of past violent crimes, violent behavior characteristics, and adjustment or disciplinary problems.

These generalizations do not always apply, however, especially at the low custody level. At maximum security institutions like the State Penitentiary and the Industrial Reformatory, for example, 34 percent of the minimum custody inmates were convicted of violent crimes against persons (Section A grouping). Eight percent of the minimum custody inmates at the Penitentiary had records of past violent crimes, and 27 percent of the minimum custody inmates at the Reformatory had disciplinary or adjustment problems within the preceding eight months. Even in minimum security facilities like honor camps and work release programs, 43 percent of the inmates had been convicted of violent crimes (Section A grouping) and 19 percent had institutional adjustment or disciplinary problems. (See Appendix B for a more complete listing.)

These exceptions do not mean the inmates' classifications are improper or do not follow the classification guidelines. They do help demonstrate, though, that an inmate's classification is not always dependent on the nature of his crime, and may be reflecting his institutional behavior or nearness to parole.

What Effect Does Classification Have On Inmates' Placement?

Inmates entering the State's correctional system go through an evaluation process at the State Reception and Diagnostic Center before a final decision is made on where to place them. The auditors found that the initial custody classification an inmate receives from the Reception and Diagnostic Center has very little effect on his initial assignment to an institution. Even after an inmate is assigned to an institution, his classification has little effect on his cellhouse assignment, and most cellhouses have inmates at all custody levels living in them.

Classification Has Little Effect on an Inmate's Initial Assignment to an Institution

Because of backlogs in evaluating inmates at the Reception and Diagnostic Center, inmates entering the correctional system are first sent to the State Penitentiary or the Industrial Reformatory for a holdover period while they are awaiting evaluation. The holdover period averages about 50 days. During that time, inmates are totally segregated from the remaining inmate populations.

While at the Reception and Diagnostic Center, inmates undergo psychological testing and evaluation for several weeks. Custody level is assigned at the end of that period on the basis of the classification criteria, testing and evaluation information, and information on previous criminal activity.

An inmate's initial custody classification makes almost no difference in his or her assignment to a particular correctional facility. A minimum custody inmate could be assigned directly to a minimum security institution, honor camp, or work release program. In practice, however, most minimum custody inmates--as well as all medium and close/maximum custody inmates--are sent back to the maximum security institutions at Lansing or Hutchinson. As a rule of thumb, inmates under the age of 25 are sent to the Reformatory, and inmates over 25 are sent to the Penitentiary. However, their placement may also depend on such other factors as family location, known conflicts with inmates at another institution, and available space.

Inmates who are initially classified as minimum custody can be assigned directly to the Correctional-Vocational Training Center in Topeka following their evaluation, provided that the evaluation has shown the inmate needs vocational training or education and can benefit from it. These inmates must also be under age 30 and have no history of violent crimes, escapes from an adult prison, or previous incarcerations. These inmates can also be sent to the Industrial Reformatory to participate in the vocational education programs there.

According to prison officials, inmates will rarely be assigned directly from the Reception and Diagnostic Center to an honor camp or work release program. Inmates in these programs are usually transferred to honor camps or work release programs from one of the maximum security institutions as they near parole. Such inmates often need a transition to a less secure setting before being released.

As of September 15, 83 percent of the inmates in the correctional system were housed at the three maximum security institutions: the Penitentiary, the Reformatory, or the Reception and Diagnostic Center. Ten percent were at the Training Center or the Correctional Institution, and seven percent were in an honor camp or work release program.

Within an Institution, Classification Has Very Little Effect on Placement, at Least at First

Once inmates are assigned from the Reception and Diagnostic Center to the Penitentiary or the Reformatory, they go back into the segregated holdover or orientation area for an orientation period before they are assigned to a cellhouse.

Cellhouses in these two institutions can be divided into five general categories. As the accompanying table shows, of the 2,405 inmates classified under the classification system as of September 7 at the Penitentiary and the Reformatory, 1,382 or 57.5 percent were housed in maximum security general population cellhouses. A total of 845 inmates, or 35.1 percent, were in dormitories or cellblocks with unbarred cells either within or outside the prison walls. The remaining 178 inmates (7.4 percent) were in administrative or disciplinary segregation cellhouses or other secured housing.

Penitentiary and Reformatory Type of Inmate Housing	Inmates in Each Type of Cellhouse No.	%
Maximum security cellhouses with barred cells (general population, one- to two-person cells)	1,382	57.5%
Medium or minimum security dormitory inside prison walls	607	25.2
Minimum security dormitory outside prison walls	238	9.9
Administrative or disciplinary segregation	147	6.1
Other secured housing (hospital, orientation, kennel, etc.)	31	1.3
Total	2,405	100.0%

According to prison officials, most inmates are initially assigned to a maximum security cellhouse with barred cells. They progress to more minimum security settings within the institutions based on such factors as their behavior, custody level, work assignment, pending transfer to an honor camp or work release program, nearness to parole, and the like. Minimum custody inmates may be on work crews outside the prison, while higher custody inmates must generally work within the prison's walls.

The recent increase in the prison population has raised concern that prisoners with drastically different custody levels may be placed together in the same living setting. As the following tables show, the auditors found that, with few exceptions, there were inmates in all custody levels within each level of housing at the Penitentiary and the Reformatory.

Kansas State Penitentiary

Type of Inmate Housing	Inmate Occupants' Custody Levels Minimum		Medium		Maximum/Close	
Max. sec. cellhouses (gen. pop.)	275	(50.3%)	454	(76.3%)	218	(78.8%)
Med. sec. inside dorm (unbarred cells)	18	(3.2%)	113	(19.0)	1	(0.4%)
Min. sec. outside dormitories	237	(43.5%)	1	(0.2%)	0	(0%)
Admin. or disciplinary segregation	10	(1.8%)	22	(4.0%)	54	(19.4%)
Other (hospital, orientation, etc.)	6	(1.2%)	3	(0.5%)	4	(1.4%)
Total	546	(100.0%)	593	(100.0%)	277	(100.0%)

Kansas State Industrial Reformatory

Type of Inmate Housing	Inmate Occupants' Custody Levels: Minimum		Medium		Maximum/Close	
Max. sec. cellhouses (gen. pop.)	51	(24.1%)	149	(45.7%)	235	(52.1%)
Med. sec. inside dorm (unbarred cells)	88	(41.6%)	165	(50.6%)	153	(33.9%)
Min. sec. inside dormitory	62	(29.0%)	7	(2.2%)	0	(0%)
Admin. or disciplinary segregation	2	(1.0%)	1	(0.3%)	58	(12.9%)
Other (hospital, orientation, etc.)	9	(4.5%)	4	(1.2%)	5	(1.1%)
Total	212	(100.0%)	326	(100.0%)	451	(100.0%)

These tables show that inmates with minimum custody and those with maximum/close custody are housed together. Most of this mixing occurs in maximum security cellhouses and medium security open or unbarred dormitories. Mixing of inmates in a dormitory setting does not necessarily signal placement problems; as previously noted, inmates in the more open dormitory settings generally have demonstrated to corrections officials that they are not a security risk and are not "predatory" in nature.

Housing minimum and maximum/close custody inmates in the same maximum security cellhouse may or may not pose a safety risk. The nature of the prison routine means that even if these minimum custody inmates did not share cells with inmates who had a maximum/close custody classification, they would still mix with them to a degree because inmates housed in maximum security settings often work, eat, or exercise together. Such mixing may represent a greater potential problem if minimum and maximum/close custody inmates share the same cell as well.

Some Low- and High-Custody Inmates in Maximum Security Cellhouses Share the Same Cell

To determine the extent to which minimum and maximum/close custody inmates are housed in the same cells together, the auditors ran computer tests for the seven maximum security general population cellhouses at the two institutions. Many of these buildings' cells are designed for one inmate but are now holding two. This is especially true at the Penitentiary.

These tests showed that 66 of the 275 minimum custody inmates (24 percent) housed in maximum security cellhouses at the Penitentiary shared a cell on September 7 with one or more maximum/close custody inmates. At the Industrial Reformatory, which has mostly single-person occupancy in its maximum security cellhouses, seven of 51 minimum custody inmates (13.7 percent) shared a cell with one or more maximum/close custody inmates.

Officials at both institutions told auditors that efforts are made to separate the more "hard-core" offenders from the "lesser" offenders, but that

recent overcrowding and double-celling of inmates has removed much of their flexibility in making or changing cell assignments. To determine how thoroughly corrections officials had been able to separate the two groups, the auditors compared cell assignments of inmates whose characteristics, at least as recorded on the classification form, could be considered descriptive of hard-core criminals and lesser offenders.

For this comparison, hard-core criminals were those inmates who had committed a violent crime in the Section A grouping (murder, rape, and aggravated assault or robbery, for example), had been convicted of one or more past violent crimes, and had either disciplinary problems or violent or potentially violent behavior characteristics, or both. Inmates who possessed characteristics of lesser offenders had committed non-violent crimes in the Section D grouping (burglary and theft, for example), had served at least 40 percent of their mandatory sentence (or 20 percent of their non-mandatory sentence), had no record on their classification form of a past violent crime or escape attempt, had no record of recent disciplinary problems, and were not considered to be violent or potentially violent.

Of the 2,405 inmates at the Penitentiary and the Reformatory included in the auditors' data, 111 had the characteristics of hard-core criminals and 349 had the characteristics of lesser offenders. (See Appendix C for the location and custody levels of these inmates.) When inmates in both categories at the Penitentiary's three maximum security general population cellhouses were compared, the auditors found that 10 lesser offenders shared cells with one or more hard-core offenders. (The auditors also noted that one hard-core criminal was in a minimum security dormitory outside the prison walls.) At the Reformatory's four general population maximum security cellhouses, only one lesser offender shared a cell with one hard-core criminal. The following examples help illustrate the types of inmates in each category who were sharing a cell on September 7, 1983.

Lesser Offenders Housed in the Same Cell as Hard-Core Offenders: Some Examples

Kansas State Penitentiary

An inmate imprisoned for a controlled substance violation and classified as minimum by criteria was sharing a cell in A Cellhouse on September 7 with an inmate who was classified as close by criteria and had committed rape, had been convicted of a previous violent crime, and had been professionally diagnosed as homicidal.

Another inmate classified as minimum by criteria was convicted of a non-violent felony and was considered to be impulsive. He shared a cell with an inmate classified as close by criteria who had committed aggravated sodomy, had been convicted of a previous violent crime, was considered to be threatening, and had had more than one serious disciplinary report within the preceding eight months leading to disciplinary segregation or forfeiture of good time.

Kansas State Industrial Reformatory

An inmate convicted of burglary was initially classified as close by exception. Such a classification may indicate prison officials are uncertain how this inmate will behave or adjust to prison life. He was housed in B-2 Cellhouse with an inmate classified as close by criteria who had committed first degree murder, had three previous convictions for progressively serious crimes, had received a recent disciplinary report resulting in disciplinary segregation or forfeiture of good time, and had been professionally diagnosed as homicidal.

Undoubtedly, there may be legitimate reasons for some of these cell assignments that would not show up in the characteristics marked and scored as part of the classification system. For example, the Director of the State Penitentiary told the auditors that some supposedly lesser offenders may be repeat offenders who have been in and out of jail for years on non-violent felony charges and are very "con-wise." Other assignments may simply have to be made on a space-available basis. Nonetheless, these comparisons show that some mixing of hard-core criminals and lesser offenders does occur.

In sum, it is apparent from these figures that, at least in the general population cellhouses, an inmate's classification has little effect on his placement. Classification does make more of a difference, however, in inmates' moves from the general population cellhouses to the medium and minimum security dormitories and, ultimately, to honor camps and work release programs. Classification can also make a difference in an inmate's work assignment, visiting privileges, and furloughs.

What Minimum Security Alternatives Are Available, And Should They Be Expanded?

The Department's June 1983 Correctional Facility Capacity Report shows a total of 733 minimum security bed spaces currently available within the system. This number represents the Department's assessment of optimum capacity; the maximum capacity is 960 bed spaces. As of September 7, 1983, 834 inmates were housed in these minimum security settings.

Construction work in progress at three institutions will have some impact on the number of minimum security bed spaces available. Adding two dormitory units to house 96 inmates outside the prison walls at the Reformatory and renovating space at the Correctional Institution to house 46 inmates will increase the total by 142. However, the new medium security prison at Lansing will incorporate all of the minimum security Outside Dormitory No. 1 now adjacent to the prison walls. Thus, although a total of 488 medium security bed spaces will be added, the system will lose the minimum security bed spaces currently available at that dormitory.

These construction projects are scheduled for completion by the end of 1984. Altogether, they will result in a net increase of 15 optimum capacity minimum security bed spaces, but a net decrease of 113 maximum capacity minimum security bed spaces. Thus, if no additional bed space is built or renovated, by January 1985 the Department of Corrections will have a total of 748 optimum capacity minimum security bed spaces (847 maximum capacity). The distribution of the current and post-construction bed spaces among the correctional facilities is shown in the table at the top of the next page.

Using the September 7 data, the auditors identified 1,229 inmates classified as minimum custody under the classification system. (This number excludes any minimum custody inmates classified under the system at the Reception and Diagnostic Center; on September 15, Department records show there were 15 such inmates.) Of that total, 770 inmates, or 62.7 percent of the

Facility	Current Minimum Security Bed Spaces		Post-Construction Minimum Security Bed Spaces	
	Optimum	Maximum	Optimum	Maximum
State Penitentiary				
(outside dorm 1)	127	255	0	0
(outside dorm 2)	50	99	50	99
Industrial Reformatory				
(inside dorm)	50	57	50	57
(outside dorms)	0	0	96	96
Vocational Training Center	180	200	180	200
Correctional Institution at Lansing	100	123	146	169
Honor Camps				
Toronto	61	61	61	61
El Dorado	64	64	64	64
Work Release				
Topeka	26	26	26	26
Hutchinson	20	20	20	20
Wichita	55	55	55	55
Totals	733	960	748	847

minimum custody inmates, were housed in minimum security bed spaces. The remaining 459 minimum custody inmates were housed in medium or maximum security bed spaces at the Penitentiary or the Reformatory.

The construction now under way will do almost nothing to change this situation. Further, the Department projects that the inmate population will reach 4,041 by December 31, 1984, which is 615 more inmates than the September 15 population. Currently, 37 percent of the inmate population is minimum custody. If the same percentage were to hold true through December of 1984, as many as 1,500 minimum custody inmates might be in the system. Thus, there are currently far more minimum custody inmates than minimum security bed spaces, and this difference is likely to grow as inmate populations increase. If minimum security bed spaces were to be expanded, two questions that arise are what types of minimum security bed spaces could be made available, and how many inmates are potentially eligible for placement in those new minimum security settings.

Alternatives for Expanding Minimum Security Bed Spaces Range From Building New Institutions to Adding More Programs

The types of bed spaces now available are minimum security institutions like the Vocational Training Center in Topeka and the Correctional Institution at Lansing, minimum security dormitories either within or outside the walls of the maximum security institutions at Lansing and Hutchinson, honor camp facilities, and work release programs. As discussed briefly below, the system's minimum security bed space could be expanded by building a new minimum security institution, providing more dormitory space at the maximum security institutions, or expanding the honor camps or work release programs.

Building a new minimum security institution. This option might give prison officials more flexibility in totally separating some minimum custody inmates from a maximum security prison setting. But it is the costliest alternative and the least acceptable in terms of providing more bed space on a fairly immediate basis. According to information provided in Reducing Prison Overcrowding: An Overview of Options, one of a series of reports provided by the National Institute of Corrections on prison overcrowding, the cost of building a minimum security institution between 1976 and 1980 averaged more than $18,000 per inmate. Besides construction costs, operating costs also need to be considered. Operating costs for Kansas' minimum security institutions are higher than the system-wide average on a per-inmate basis because those costs are spread out over fewer inmates. The Department's preliminary figures for fiscal year 1983, for example, show the Vocational Training Center's annual per-capita costs were $15,608, compared with a system-wide average of $11,007.

At least nine states do have major construction projects proposed or under way, however, to help alleviate overcrowding. In Pennsylvania, for example, more than $400 million has been set aside for construction and expansion of prison facilities, and Ohio has undertaken a $638 million construction program.

Providing more minimum security dormitory space at the maximum security institutions. Dormitory space for a number of minimum custody inmates will be lost at the Penitentiary as the new medium security institution comes on line. New dormitories could be added near the Penitentiary's Outside Dormitory No. 2 to house minimum custody inmates. These new facilities could be similar to the modular minimum security dormitory now being built across the street from the Industrial Reformatory. It will house 96 inmates at a cost of $1.04 million, or about $10,800 per inmate. Additional modular dormitories could be added at the Reformatory as well. This option may not provide a long-term solution because the useful lifespan of these modular facilities may be as little as 10 years. At the same time, some estimates show prison populations declining in the 1990s, which would argue for providing less expensive temporary space rather than committing large sums to new permanent structures.

Expanding honor camps and work release programs. The State's correctional system currently can house 125 minimum custody inmates in its two honor camps and has 101 slots in its work release programs at Topeka, Wichita, and Hutchinson. About 300 inmates a year are channeled through work release before being paroled, whereas about 1,000 inmates are paroled each year. Thus, most inmates do not now go through a work release program before being paroled. More of these types of facilities and programs could be made available for longer-term minimum custody inmates (honor camps) or for minimum custody inmates nearing parole (work release). Although annual operating costs for work release centers in fiscal year 1983 were higher than average ($12,070 per inmate compared with $11,007 system-wide), for honor camps they were lower than average--$9,268. The El Dorado Honor Camp, completed in June 1982, cost $1,460,406 to house 64 inmates, or $22,819 per inmate. Building or renovating costs for work release programs can vary depending on the type of facility used to house the program.

Obviously, additional staffing and operating costs are associated with the addition of any minimum security programs or facilities. Thus, any considera

tion of the type of space to be provided would have to take these costs into account as well.

The Secretary of Corrections Has Presented A Proposal For Creating Additional Minimum Security Bed Spaces and for Addressing Overcrowding in Other Ways

The Secretary of Corrections presented a proposal to the 1983 Special Committee on Corrections and the Advisory Committee on Prison Overcrowding for creating new minimum security bed spaces for 651 inmates. At a cost of just over $6.1 million, or $9,387 per inmate, most of these spaces would be created by building two new honor camps, renovating unused buildings owned by the Department of Social and Rehabilitation Services to serve as expanded work release and pre-release facilities, and renovating and expanding Outside Dormitory No. 2 at the Penitentiary. According to the Secretary, with immediate funding these new bed spaces could be ready by or before the end of fiscal year 1985.

The Secretary's proposal also recommends expanding community corrections. Nine counties now participate in a community corrections program: Shawnee, Leavenworth, Bourbon/Linn/Miami, Wyandotte, Johnson, Riley, and Sedgwick. Department officials have estimated it may be financially feasible for up to eight additional counties to participate.

Community corrections programs provide alternatives to imprisonment for certain first- and second-time offenders convicted of such crimes as theft, burglary, and unlawful possession of firearms. According to the Community Corrections Administrator, they can save 400-500 bed spaces over a two-year period. Since the program's inception, an estimated 519 "prison-bound" individuals have been or are currently part of a community corrections program. The annual cost of maintaining an otherwise prison-bound adult in a community corrections program was $1,977 per person in fiscal year 1982 compared with $11,071 in a prison facility. For fiscal year 1984, community corrections programs have been appropriated nearly $5 million.

Other ways to alter a correctional system's population without altering its prison capacity include changing the length of an inmate's stay in prison or the number of people who enter prisons. In recent years, at least 23 states have made provisions for the early release or emergency release of non-violent or first-time offenders. Such provisions are usually invoked either when bed shortages occur or when population exceeds capacity by a certain percentage. At that time, inmates may have their sentences reduced, may be given early parole, or may be moved out of prison facilities into pre-release or community facilities. Other states have passed or are considering measures such as changing sentencing laws. The Secretary's proposal makes a number of recommendations in this area as well.

Not All Minimum Custody Inmates Can Be Considered Eligible For Placement in a Minimum Security Facility or Program

Legislative Post Audit's findings show that there is a sizable number of inmates (about 460) who are currently classified as minimum custody but who

are in medium or maximum security settings. The main reason appears to be a lack of more minimum security spaces. Given that minimum security space is the only kind of space that can be made available relatively quickly to help alleviate general prison overcrowding, the Legislature may want to consider adding minimum security space in the forms proposed by the Secretary or in other forms of its own choosing. The addition of such space assumes that the minimum custody inmates now housed in more restrictive settings will be transferred out of these badly needed bed spaces into minimum security settings. The question remains, however, as to how many of these 460 or so inmates could be placed in a minimum security facility or program. Two points should be considered:

1. Not all of the minimum custody inmates will meet current criteria for placement in the full range of minimum security facilities or programs.
2. Not all of the minimum custody inmates may be ready for placement in settings outside prison walls.

Some minimum custody inmates will not meet the criteria for placement in a minimum security facility or program. With few exceptions, to be eligible for placement in a minimum security facility or program, an inmate must be classified as minimum custody, either by criteria or by exception. But custody level is not the only factor taken into consideration in determining an inmate's eligibility for minimum security housing or programs. Other factors can relate to an inmate's crime, behavior, or particular needs; placement decisions are made and approved on an individual basis. To be eligible for the Vocational Training Center at Topeka, for instance, an inmate must be under 30, must have no history of escapes or past violent crimes, and must be able to benefit from the vocational training provided there.

To be accepted into an honor camp, an inmate may not be psychotic or a sex offender. Many of the minimum custody inmates housed there are also longer-term; Department records show that 61 percent of the camp population is serving sentences for a Class C felony or above.

Inmates must initiate their application to enter a work release program, and their unit team supervisors or other institutional staff must agree they need the opportunities and responsibilities of a transitional release center. Inmates may be denied entrance into the program if they are emotionally unstable or have a history of assaultive behavior, sex offenses, repeat offenses that have increased in severity, parole violations, or escapes. To enter the program, they must be within eight months of their earliest parole date, and preferably within 120 days. The selection criteria for the pre-release facilities currently being proposed by the Secretary of Corrections would be similar, except that Department officials would initiate the process by identifying those minimum custody inmates who are approaching their parole eligibility and who might be eligible for placement in a pre-release facility. Inmates would have to be within 90 days of their parole eligibility to enter the program.

What all this means is that the options for some minimum custody inmates might still be limited. For instance, a minimum custody inmate who was considered to be emotionally unstable or who had several years remaining on his sentence would not be eligible to fill a vacancy in a work release program.

To provide some indication of the numbers of prisoners in the group of 459 inmates classified as minimum custody but living in medium or maximum security settings at the Penitentiary and the Reformatory who might meet the criteria for minimum security housing, the auditors analyzed their classification records. Looking at those classification criteria that would be considered as part of the assessment of an inmate's eligibility for a minimum setting--such as the type of crime committed or the inmate's behavior and nearness to parole--they found the following:

	State Penitentiary	Industrial Reformatory	Total
Number of minimum custody inmates who have served much of their sentence and do not have a history of escapes, past violent crimes, recent disciplinary infractions, or violent or potentially violent behavior characteristics (regardless of crime)	203	87	290
Number of minimum custody inmates who meet the same criteria as above, but who committed non-violent crimes in the Section D grouping	102	48	150
Number of minimum custody inmates with non-violent crimes in the Section D grouping (no other criteria considered)	178	87	265

As these figures show, 290 of the 459 inmates (63 percent) met all of the criteria spelled out in the first group. Of these 290 inmates, 150 had committed non-violent crimes (Section D). Because some would consider an inmate's crime to be a primary consideration for placement in a minimum security setting, the auditors analyzed this characteristic separately. Their analysis showed that 265 of the 459 minimum custody inmates in medium or maximum security settings, or about 58 percent, had committed non-violent crimes (Section D).

These numbers also show, however, that a significant number of the 459 inmates do not fit into these categories. In other words, they have either committed a more serious or violent crime, or they have one or more of the following: much of their sentence left to serve, an escape history, past violent crimes, recent institutional adjustment or disciplinary problems, or violent or potentially violent behavior characteristics. It is possible that many of these inmates would not therefore be eligible for placement in all minimum security settings.

Some minimum custody inmates may not be ready for placement in settings outside prison walls. Not all minimum security settings are alike. For example, the minimum security dormitory outside the walls of the State Penitentiary is still a much more secure and closely supervised setting than a work release

program. Minimum custody inmates in the system often progress from more secure minimum settings to a more open minimum setting before they are paroled. The classification system's aim is to provide as up-to-date an assessment as possible of the amount of supervision an inmate needs based on how well he adapts to the institution he is assigned to. It was not designed to measure such distinctions in minimum security housing.

Many inmates who are minimum custody have committed violent crimes or have a history of criminal behavior. These inmates generally have worked their way to minimum custody by keeping acceptable behavior and by serving much of the time on their sentence. By classifying them as minimum custody, prison officials are acknowledging their behavior and attempting to prepare them for their likely transition out of prison. Some of these inmates are behind prison walls, some have been moved to dormitories outside the walls, and many are already in honor camps and work release programs. However, neither the Department nor the Legislature may feel completely satisfied that all such inmates are ready for placement outside the prison walls.

As discussed in the previous section, the auditors' analysis of classification records showed that a significant number of minimum custody inmates in medium or maximum security settings may have characteristics related to their crime, prison behavior, or length of time served that could affect their eligibility for minimum security housing. The auditors also asked officials at the Penitentiary and the Reformatory to estimate the number of minimum custody inmates in medium or maximum security settings who might be eligible to move into a minimum setting.

In general, their estimates were very conservative. At the Penitentiary, officials estimated there were approximately 35 minimum custody inmates currently inside the prison walls who either have been approved to go outside or are considered to be good candidates for transfer to an outside dormitory. This number compares with the 309 minimum custody inmates who were in more restrictive housing at the Penitentiary on September 7. Officials at the Reformatory were less specific. They did point out, however, that about half the minimum custody inmates in medium/maximum settings are in vocational or academic education programs that are not available in most other minimum settings.

In part, these officials' cautious approach reflects a concern that some minimum custody inmates who function well within the confines and structure of a maximum security prison may not be ready for the more open environment of an outside dormitory, honor camp, or work release program. Officials at the Penitentiary indicated such concerns could lead to changes in the classification system that would raise a number of inmates' custody levels. Their misgivings, coupled with any subsequent actions to tighten-up eligibility requirements for minimum custody status, could in turn reduce the number of inmates considered to be eligible for transfer to a minimum security setting. And this action may have some implication regarding the degree to which any new minimum security facilities or programs help alleviate overcrowding in the maximum security prisons.

Department officials acknowledged there were differences of opinion among its staff as to the number of minimum custody inmates who might be

eligible for placement in minimum security settings, and said attempts were being made to resolve those differences. The Department is also developing a policy for standardizing supervisory requirements for different custody levels. Under such a policy, minimum custody inmates placed in the Penitentiary's outside dormitory, for example, should have the same supervisory needs as minimum custody inmates in other minimum facilities. For work release or other programs where inmates are brought into the community, however, the Department is at least considering two levels of minimum custody--community-bound and institutional.

The auditors' findings suggest that additional work needs to be done to identify the number of minimum custody inmates who could be moved from medium and maximum security settings into such minimum security alternatives as dormitories outside prison walls, honor camps, or work or pre-release centers. Such information is needed to ensure there are sufficient numbers of minimum custody inmates to fill these spaces--not just now but on an on-going basis. Otherwise, any additional minimum security space approved by the Legislature may not be fully used and, as a result, overcrowding at the State's prisons may not be alleviated to the extent planned.

Recommendations

1. As part of the proposals submitted to the 1984 Legislature for alleviating overcrowding at State prisons, the Department of Corrections should include the following:

    1. An estimate of the number of inmates now housed in medium and maximum security settings who could be placed in minimum security dormitories outside prison walls.

    2. An estimate of the number of inmates now housed in minimum security dormitories or in other prison settings who could be moved to honor camps, work release or pre-release settings, and other similar settings.

2. These estimates should include the characteristics used to identify prisoners in each of the categories above. They should also include the criteria the Department will use in making their transfer decisions.

APPENDIX A

Groupings of Crimes in the Custody Classification Manual

SECTION A OFFENSES: (If an inmate has an offense in this section, Sections B, C, and D are skipped.)

1. Murder, 1st degree
2. Murder, 2nd degree
3. Voluntary Manslaughter
4. Attempted Murder
5. Aggravated Arson
6. Aggravated Kidnapping
7. Aggravated Assault on Law Enforcement Officer
8. Aggravated Battery on Law Enforcement Officer
9. Aggravated Assault
10. Aggravated Robbery
11. Rape
12. Kidnapping
13. Aggravated Sodomy
14. Aggravated Battery
15. Escape
16. Inciting to Riot

SECTION B OFFENSES: (If the offense involved any of the following but is not found in Section A above, the inmate receives a score under this section but the offense is identified under Sections C or D.)

17. Death of Victim
18. Personal Injury
19. Threat of harm where there was clear and present danger to the victim

SECTION C OFFENSES: (If an inmate has an offense in this section, Section D is skipped.)

20. Robbery
21. Arson
22. Aggravated Incest
23. Child Abuse
24. Trafficking Contraband in a Penal Institution
25. Criminal Use of Explosives
26. Indecent Liberties with a Child
27. Enticement of a Child

SECTION D OFFENSES: (An offense is marked in this section if appropriate.)

28. Aggravated Juvenile Delinquency
29. Terroristic Threat
30. Involuntary Manslaughter
31. Aggravated Burglary
32. Burglary
33. Controlled Substance Violation
34. Theft
35. Auto Theft
36. Unlawful Possession of Firearms
37. Other Crimes of Threat or Violence (felonies)
38. Other non-violent felonies

APPENDIX B

Profiles of Inmates With Minimum, Medium, and Close/Maximum Custody Levels Based on Selected Classification Data Current as of September 7, 1983

MINIMUM CUSTODY INMATES

Classification Characteristics	Penitentiary & Reformatory (758 inmates)	Training Center & Correctional Inst. (261 inmates)	Honor Camps & Work Release (210 inmates)
Length of minimum sentence			
1-5 years	63%	76%	57%
5-15 years	31	14	38
over 15 years	6	10	5
Length of sentence served			
more than 40% of mandatory or 20% of non-mandatory	85%	80%	96%
less than 40% of mandatory or 20% of non-mandatory	15	20	4
Type of criminal offense			
Section D	53%	71%	43%
Section A	34	26	43
Record of past violent crime			
No	94%	97%	97%
Yes	6	3	3
History of prison escape			
No	99%	97%	99.5%
Yes	1	3	.5
Institutional adjustment			
No problems	88%	80%	81%
Problems within the preceding 8 months	12	20	19
Behavior characteristics			
No problem	72.7%	49.0%	78%
Lesser behavior problems	27.0	50.6	22
Violent or potentially violent behavior problems	.3	.4	0

MEDIUM CUSTODY INMATES

Classification Characteristics	Penitentiary & Reformatory (919 inmates)	Training Center & Correctional Inst. (28 inmates)	Honor Camps & Work Release (1 inmate)
Length of minimum sentence			
1-5 years	25.2%	68%	--
5-15 years	36.4	32	100%
over 15 years	38.4	0	--
Length of sentence served			
more than 40% of mandatory or 20% of non-mandatory	56%	68%	100%
less than 40% of mandatory or 20% of non-mandatory	44	32	--
Type of criminal offense			
Section D	16%	43%	--
Section A	76	39	100%
Record of past violent crime			
No	84%	93%	100%
Yes	16	7	--
History of prison escape			
No	95%	89%	100%
Yes	5	11	--
Institutional adjustment			
No problems	65%	36%	--
Problems within the preceding 8 months	35	64	100%
Behavior characteristics			
No problem	72%	50%	100%
Lesser behavior problems	26	50	--
Violent or potentially violent behavior problems	2	0	--

CLOSE/MAXIMUM CUSTODY INMATES

Classification Characteristics	Penitentiary & Reformatory (728 inmates)	Training Center & Correctional Inst. (27 inmates)	Honor Camps & Work Release (0 inmates)
Length of minimum sentence			
1-5 years	41%	52%	
5-15 years	31	22	
over 15 years	28	26	
Length of sentence served			
more than 40% of mandatory or 20% of non-mandatory	53%	59%	
less than 40% of mandatory or 20% of non-mandatory	47	41	
Type of criminal offense			
Section D	28%	41%	
Section A	64	52	
Record of past violent crime			
No	81%	93%	
Yes	19	7	
History of prison escape			
No	80%	96%	
Yes	20	4	
Institutional adjustment			
No problems	49%	48%	
Problems within the preceding 8 months	51	52	
Behavior characteristics			
No problem	56%	33%	
Lesser behavior problems	27	56	
Violent or potentially violent behavior problems	17	11	