



United States Marshals Service
Office of Congressional Affairs



Prisoner Detention Briefing Paper

Prisoner Operations

The U.S. Marshals Service (USMS) assumes custody of individuals arrested by all federal law enforcement agencies and is responsible for the housing and transportation of prisoners from the time they are remanded to the custody of the Attorney General until they are released on bond awaiting trial, acquitted, or incarcerated. Currently, the USMS has over 55,000 detainees in its custody.

The responsibility for the detention of prisoners is challenging in its diversity and complexity. Deputy U.S. Marshals must resolve a myriad of difficult issues, including locating increasingly scarce detention bed space close to the federal courts and arranging for the hospitalization and care of prisoners with terminal illnesses or contagious diseases.

Prisoner Custody/Detention

The USMS does not own or maintain federal detention facilities. Rather, it depends upon state, local, and private prison facilities, as well as federal detention facilities owned and operated by the Federal Bureau of Prisons (BOP), for the housing of its detainees. The Service follows a detention strategy adopted by the Department of Justice, which is to acquire detention space for federal detainees in the fastest, most economical manner possible. The approach uses the following four strategies:

- 1) Intergovernmental Agreements (IGA)** – The first approach used for acquiring local jail space is through the IGA process. These agreements with state and local governments set *per diem* rates, but contain no bed space guarantees. IGAs are used on a space-available basis only. Since these beds are already constructed and require no up-front capital expenditures on the part of the federal government, this is the most desirable and cost-effective means of acquiring jail space.

The USMS negotiates IGAs only with a Sheriff, a designee within the Sheriff's office, or an authorized county representative. The USMS will not discuss IGA terms with a private third-party representative. Additionally, the USMS will not

negotiate an IGA or jail rate directly with a private company operating a county jail on behalf of the local jurisdiction.

- 2) **Cooperative Agreement Program (CAP)** – The USMS’ second approach to acquiring jail bed space is through the CAP program. CAP agreements provide capital investment funding to selected state and local governments for the renovation, construction and equipping of detention facilities. In return, the USMS receives guaranteed long-term jail space for federal detainees in or near the federal court cities. This method was utilized successfully during the 1980s and 1990s, and the program was effective in areas of the country where needs were identified and adequate IGA bed space was not available. Unfortunately, no additional funds have been appropriated to the CAP program since FY 2004. The USMS still has a number of guaranteed bed spaces from previously-funded agreements that it uses. However, as these agreements expire, the USMS frequently loses the guaranteed beds because no funding is available to extend the agreements.
- 3) **Private Detention Facilities** – Contracts with private jail facilities set *per diem* rates for a specified number of beds for a base period with option years. The USMS has been using private sector detention facilities for several years now, and has found that they are generally more expensive than beds acquired through IGAs with state/local governments. However, over the past few years as CAP funding and federal detention construction funding has dwindled, the federal government has had to rely increasingly on the private sector to meet its bed space housing needs. Several legal and philosophical issues related to the privatization of prisons also remain unresolved.
- 4) **Federal Detention Construction** – In the past, federal detention construction was the USMS’ last resort for securing detention beds, particularly in areas with large bed space needs. Unfortunately, the last federal detention construction project that was funded was the Metropolitan Detention Center in Hawaii. That facility was funded in FY 1997, and new federal detention construction is no longer an option. The USMS continues to utilize its existing federal detention bed space allocation to the fullest extent possible; however the allocated level of approximately 12,200 federal beds is not sufficient to meet the USMS’ growing needs. As a result, just five years ago the allocation provided housing for 30% of the USMS’ prisoners; today the allocation is only available to house 21% of the USMS’ prisoners. Without additional federal beds, the USMS will have to continue to rely on the private sector to meet its bed space needs.

Prisoner Medical Services

The USMS relies on state and local jails as well as BOP detention facilities to provide medical care inside their facilities. However, the Marshals Service is responsible for providing a secure escort and paying for care when a prisoner must go to medical facilities in the local

community. The USMS faces an increasing number of prisoners suffering from extremely complex medical problems such as cancer, liver and kidney failure, and terminal AIDS. The USMS is increasingly concerned with protecting its staff, other prisoners, and the general public from exposure to infectious diseases such as active tuberculosis. These cases present a distinct challenge to already limited agency personnel resources.

The USMS has implemented medical cost-containment initiatives with the establishment of preferred provider medical networks, centralized medical bill review and pricing, locked hospital wards in local facilities, and interagency cooperative efforts with the U.S. Public Health Service and Department of Veterans Affairs. During the past 12 years, the USMS has reduced its prisoner medical care costs by more than \$300 million through innovative cost saving projects. Additionally, Congress modified Title 18 U.S.C. §4006 (Public Law 106-113 as amended by Public Law 109-162), to authorize the USMS to apply Medicare rates for prisoner medical bills.

The USMS has begun to implement the national managed care contract initiative. The contract was awarded to Heritage Health Solutions in August 2007. The initiative will establish a nationwide integrated health care delivery system, which will include negotiated business agreements with medical facilities and providers, claims processing and payment, utilization review/quality management and a discount pharmaceutical program. This contract will enable the USMS to arrange for appropriate prisoner health care at substantial savings to the taxpayer.

The Office of Congressional Affairs hopes to help address the agency's detention concerns and increase Congressional outreach. For further information about prisoner operations and other programs of the U.S. Marshals Service, please call the Office of Congressional Affairs at (202) 307-9220.