

REPORT BY THE U.S.

General Accounting Office

Millions Of Dollars In Charges For Housing D.C. Prisoners In Bureau Of Prisons' Institutions Are In Dispute

For more than 6 years the Bureau of Prisons and the D.C. Government have been unable to resolve disputes over payments to house D.C. prisoners in Federal Correctional Institutions. According to the Bureau's records, the D.C. Government owed the Bureau more than \$20 million as of August 1982. This deficit, which began to accrue in 1976, existed even after the D.C. Government paid the Bureau \$12.5 million to partially offset the deficit in January 1982. Furthermore, the two agencies cannot agree on the amount of money owed and whether interest should be charged.

Although both the Department of Corrections and the Department of Justice stated that they will work to resolve the disputed billings, the tone of the comments from both agencies caused GAO concern. GAO feels that rather than dwell on who caused the problem, it is time for both agencies to put their differences aside and resolve the matter.



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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-201003

NCJRS

OCT 28 1983

The Honorable William French Smith
The Attorney General

ACQUISITIONS

The Honorable Marion S. Barry, Jr.
Mayor of the District of Columbia
Washington, D.C. 20004

The Bureau of Prisons and the District of Columbia (D.C.) Government need to resolve their long-standing dispute over payments to house D.C. prisoners in Federal Correctional Institutions. According to the Bureau's records, the D.C. Government owed the Bureau more than \$20 million as of August 1982. This deficit, which began to accrue in 1976, existed even after the D.C. Government paid the Bureau \$12.5 million to partially offset the deficit in January 1982.

One problem with liquidating the outstanding balance is that the two agencies cannot agree on the amount of money owed. Another is that there is a dispute over how interest charges ought to be applied. The Bureau applied the January 1982 payment to the interest due on the outstanding debt and the portion of the debt that had been in arrears the longest. The District does not believe it should pay interest charges on all of the outstanding debt because, in its view, a large part of the balance consists of questionable costs.

This report concludes that the problems between the Bureau and the D.C. Government need to be resolved and makes several recommendations designed to help prevent such disputes in the future. Our work was performed at the Bureau of Prisons; the D.C. Government; the U.S. Marshals Service; the Department of the Treasury; and the U.S. District Court in Washington, D.C. We reviewed documents and records, interviewed knowledgeable officials, and analyzed pertinent legislation and other relevant data. Our work was performed in accordance with generally accepted Government auditing standards.

THE BUREAU AND THE DEPARTMENT OF CORRECTIONS
DO NOT CONCUR ON THE TOTAL AMOUNT OWED

The Bureau and the D.C. Government's Department of Corrections do not concur on the total amount of money owed. The outstanding amounts can be split into three categories.

--Disputed billings. These are billings the Bureau submitted to the Department of Corrections for individual inmates for whom the Department of Corrections says it has no record. Since October 1976, disputed amounts totaling thousands of dollars have been included in most of the quarterly bills.

--Unpaid billings. Two quarterly bills, the fourth quarter of fiscal years 1978 and 1979, were not paid at all. These amounted to \$1.94 million and \$2.46 million, respectively. The Department of Corrections said it never received the documentation necessary to verify the two bills; the Bureau said it was sent.

--Interest charges. In October 1981, the Bureau began to charge interest on all monies it felt were owed at the then current rate of from 16 to 18 percent. According to Bureau records, the District disputes these charges, arguing that interest cannot be charged on debts that the Bureau is responsible for clarifying.

Before the transition quarter (July to September) of 1976, the District simply paid bills from the Bureau without checking their accuracy. However, when an employee in the Department of Corrections found discrepancies between the Bureau's bills and the Department's records, the Department decided that, thereafter, each bill would be analyzed. A Department official stated that the Bureau's bills contained two types of discrepancies. The first type involved arithmetic errors, which occurred when an inmate was reassigned and more than one institution billed for the same person on the same day. The Department of Corrections deducted these charges from its bill as an "adjustment," and the Bureau did not argue with these changes. The second type involved billings for individuals whom the Department of Corrections either (1) could not find records for in its own system or (2) had determined were the responsibility of the Bureau because

they had "Federal status." These circumstances have caused a series of "disputed billings." The Department of Corrections has disputed items in bills received for most of the quarters since its check for discrepancies began in 1976. Between July 1976 and July 1981, the Bureau housed D.C. offenders for more than 17 quarters, but received full payment for only 5 quarters. The District made partial payments for most of these quarters and made no payments for two quarters.

The Bureau and the Department of Corrections have not resolved outstanding debts and disputed charges and neither agency has followed through on resolution initiatives that were attempted. For example, in a May 1981 meeting between officials of the Department of Corrections and the Bureau, one of the agreements reached was that the Department of Corrections would call the Bureau institutions that had not submitted a billing by the 15th working day following the end of the quarter. A Department official told us that the number of institutions sending a bill within the time frame ending December 31, 1981, was less than the number that had done so during the previous quarter. We asked the official if the Bureau's institutions had been contacted in accordance with the procedures that were established months earlier. He stated that the Department could not contact these institutions because the Bureau had not yet provided it with the names and telephone numbers of persons to contact. In our opinion, this matter could have been easily resolved if the Department of Corrections had asked for the information.

In 1978 the Bureau attempted to verify a comprehensive list of inmates whose status was in dispute. Bureau officials told us that as part of this effort, its institutional administrators were ordered to search their records to identify the inmates on the "transitional quarter" billing for whom the Department of Corrections had refused to pay. According to Bureau officials, the Bureau forwarded this information to the Department of Corrections in January 1979. We asked officials of both agencies why the balance for the transitional quarter was still unresolved 3 years later. Bureau officials could offer no explanation and Department of Corrections officials told us they did not know what had happened to the document. We also asked why there had been no followup on this issue in 3 years, and officials of each agency answered that they had been waiting for the other to do something.

Some Department of Corrections officials told us that a key official in the Department of Corrections' Budget Office responsible for auditing the Bureau's bills is no longer employed by the agency and that the Department could not locate

many letters, records, and other documents that were supposed to have been sent to the Department of Corrections addressed to this official. The overriding problem, however, appears to us to be that the Bureau believes that the burden is on the Department of Corrections to prove that billings are incorrect while the Department of Corrections' view is that it is the Bureau's responsibility to provide the proper documentation showing that the prisoners in question are the Department of Corrections' responsibility. The net result of these attitudes is that the bills remain unpaid.

Information to resolve past issues
is available but effective action
has not been taken to use it

Officials of the Bureau and the Department of Corrections told us that information necessary to resolve the disputed charges and outstanding debts is available. It is either in the files at the various Bureau institutions or, if it relates to the earliest disputes, may have already been sent to Federal data storage facilities.

Department of Corrections officials told us that three specific documents could be used to resolve issues regarding disputed charges and outstanding debts:

--The "Judgement and Commitment Order," which specifies the criminal charge(s) for which the individual was convicted and the sentence(s) imposed. (This document also shows whether an offender was prosecuted under the U.S. Code or the D.C. Code or both, which indicates whether he/she is being held on Federal or D.C. status in prison.)

--The "Sentence computation face-sheet." Sentence computation is the process of turning an offender's court-imposed sentence(s) into a set of specific dates for the time to be spent in prison. Sentence computation takes into account such factors as time already served (pre-trial, pre-sentence, pre-disposition), potential time reductions for good behavior, parole factors, etc.

--A document showing an inmate's commitment and transfer dates. This document would show the actual dates of any transfers to other facilities, and the date of release (if applicable).

With these three documents, the Bureau and the Department of Corrections' staff could determine the exact status and the agency responsible for any given individual. One Department of Corrections official told us that Judgement and Commitment Orders alone could answer most questions regarding disputed charges and outstanding debts.

THE BUREAU HAS LITTLE INCENTIVE TO
RESOLVE DISPUTED CHARGES AND OUT-
STANDING DEBTS WITH THE D.C. GOVERNMENT

The Bureau has little incentive to resolve disputed charges and outstanding debts with the D.C. Government because the Bureau, by law, cannot use the funds it collects. Rather, it must deposit the money in the U.S. Treasury. Specifically, Section 423 of Title 24 of the D.C. Code, passed by the Congress in 1926, provides that the D.C. Government reimburse the Bureau for the maintenance of D.C. prisoners and that the sums be paid into the Treasury as "miscellaneous receipts."

In contrast, money the Bureau collects for housing prisoners for States and territories is deposited in the Bureau's account and can be used to offset its operating expenses. Because the Bureau benefits directly from the revenues it collects, its incentive to collect these revenues is apparently stronger than its incentive to collect outstanding debts and settle disputed charges with the D.C. Government. In March 1982 the number of State and territorial prisoners was smaller than the number of D.C. prisoners--945 as compared to 1,300. However, of the \$20.7 million balance outstanding, almost \$17.5 million, or 85 percent, was owed by the D.C. Government.

One Bureau official told us that money collected for the care of the State prisoners held under contract in the Bureau's institutions is sent to the institution where the prisoner is housed. Several Bureau officials said that no such incentive exists to collect money from the D.C. Government.

MORE SPECIFIC AGREEMENT FOR
HOUSING PRISONERS IS NEEDED

Under Section 5003, Title 18 U.S. Code, the Attorney General is authorized to enter into contracts with States and territories for housing non-Federal prisoners. However, legislation does not permit the Attorney General to enter into such a contractual agreement with the D.C. Government. This lack of a contractual agreement has contributed to the dispute between the two agencies.

In January 1982, the D.C. Government sent the Bureau six checks totaling \$12 million. The D.C. Government's Controller told us that the checks were to cover undisputed indebtedness for housing prisoners from the fourth quarter of fiscal year 1980 through the third quarter of 1981. However, the Bureau applied part of the payment to the interest charges on the past debt. The remainder was applied to the oldest outstanding balances, those from 1976 forward. Since most of the 1976-1979 indebtedness arose from the "disputed billings," the Bureau and the Department of Corrections are at odds with each other concerning the application of the payment.

Even though the relationship between the Bureau and the Department of Corrections is not contractual in nature, they could still develop written procedures governing the billing and payment for housing prisoners. If that were done, problems like this one could be significantly reduced, if not avoided altogether.

SOME ACTION HAS BEEN TAKEN
BUT MORE SHOULD BE DONE

In May 1981 officials of the Bureau, the Department of Corrections, and the Office of Management and Budget met in an effort to solve some of the chronic problems that have resulted in disputed charges and outstanding debts. As a result of this meeting, billing procedures were revised to allow each Bureau institution to directly bill the Department of Corrections. The business manager of each institution is required to prepare a "Standard Form 109" and forward it to the Department of Corrections by the 15th working day following the end of the quarter. The form lists each D.C. prisoner held at the institution, the number of days held, and the Department of Corrections identification number so that the Department can identify the prisoner in its records. If an institution held no D.C. prisoners, the form was to be submitted stating that fact. The Bureau's institutions have been billing States and territories directly for some time, so the agreement reached between the Department of Corrections and the Bureau is consistent with the Bureau's normal billing process. The new system called for the Department of Corrections to send a list back to the Bureau institutions identifying prisoners for whom payment has been authorized. However, the Department of Corrections has decided to do the reverse and send lists of prisoners for whom payment is disputed. In our view, this change is a good one in that it frees the Bureau from having to go through the process of identifying these individuals.

We conducted our fieldwork during the first three quarters that the revised system was operational. Department of Corrections officials told us that during that time, the Bureau's institutions were not responding to the disputed payment lists, and it was unclear to us what action the Bureau was planning to take. Also, a Department of Corrections official told us many institutions were not sending reports if they had no prisoners, although the new system required that they do so. The official stated that since the Department's normal procedure is to wait until all the bills are received for a given quarter before it begins auditing, the lack of negative reports stalls the whole process.

Despite some flaws like these, the new billing system has apparently reduced the percentage of charges that the Department of Corrections disputes. For the first two quarters that the new system operated, the Department disputed an average of 7.2 percent of the charges compared with a 15.7 percent average for the preceding four quarters. Improving the system should reduce future disputes.

CONCLUSIONS

The Bureau of Prisons and the D.C. Government need to resolve their long-standing dispute over payments to house D.C. prisoners in Federal correctional institutions and to take steps to prevent such disputes in the future.

The Bureau has little incentive to resolve billing disputes with the Department of Corrections. The funds are not available for the Bureau to use because, by law, they must be deposited in the U.S. Treasury.

Also, the Bureau and the Department of Corrections need to develop a mutual understanding of the arrangements for housing D.C. prisoners within the Federal prison system.

The Bureau has recently taken actions to improve billing procedures. However, neither the Bureau nor the Department of Corrections has taken effective action to resolve the more serious problem of past disputes and unpaid bills that has existed since 1976. Officials of both agencies told us that information is available to resolve disputed charges and outstanding debts. Action should be taken to use it effectively.

RECOMMENDATIONS

We recommend that the Attorney General require the Director of the Bureau of Prisons to:

- formulate legislation to authorize the Bureau of Prisons to use reimbursements collected from the D.C. Government to offset the Bureau's operating expenses for housing D.C. prisoners;
- enforce the terms of the recently revised billing procedures that require Bureau of Prisons' institutions to submit negative quarterly reports to the Department of Corrections when no D.C. prisoners are being housed;
- require Bureau institutions to promptly respond to disputed payment lists prepared by the Department of Corrections so that disputed charges in recent billings can be resolved quickly; and
- meet with D.C. Government officials to (1) resolve how the \$12.5 million the District paid in January 1982 is to be applied by the Bureau and (2) determine how debt resolution and the application of payments will be handled in the future.

We also recommend that the Mayor of the District of Columbia and the Attorney General set a timetable for resolving the disputed charges and outstanding debts that are now on the Bureau of Prisons' records.

AGENCY COMMENTS AND OUR EVALUATION

Comments on a draft of this report were received from the D.C. Government by letter dated February 18, 1983 (see app. I) and from the Department of Justice by letter dated March 8, 1983 (see app. II).

The D.C. Government agreed with our conclusion that the Bureau of Prisons and the Department of Corrections should actively work to resolve the outstanding disputed payments and to establish effective procedures for future billings and payments.

The Department of Justice, although it disagreed with certain aspects of our report, stated that the Bureau remains committed to working with the Department of Corrections in an effort to resolve prior billing disagreements and to making the revised 1981 billing procedure operational and effective.

Although both the Department of Corrections and the Department of Justice stated that they will work to resolve the disputed billings, the tone of the comments from both agencies caused us some concern. Each agency contended that it has taken initiatives to resolve the disputes but that the other agency has not responded adequately. Unfortunately, this reflects the same attitude that has been a barrier to solving the problems of disputed billings.

The District stated it has consistently identified questionable charges in the Bureau's billings but has not received adequate justification from the Bureau to enable either payment of properly billed amounts or a write-off of improperly billed amounts caused by erroneous or inadequate Federal records.

On the other hand, the Department of Justice contended that the Bureau has submitted information to the Department of Corrections in support of billings for certain calendar quarters, but the Bureau has never heard from the Department of Corrections regarding the outcome of the information provided.

Further, the Bureau stated that it has spent hundreds of man-hours contacting its institutions to collect information needed by the Department of Corrections to resolve billing disputes. The Bureau says that with the exception of a list that was furnished in 1978, the Department of Corrections has not furnished the Bureau a complete list of disputed inmates on any other delinquent bills. Conversely, the District stated that since the fiscal year 1976 transition quarter, it has consistently identified questionable charges in Bureau billings but has not received adequate justification from the Bureau to resolve billing disputes.

Another example of the agencies' inability to resolve the disputes relates to interest charges. In October 1981 the Bureau began to charge interest on all outstanding debts. The Department of Corrections insists that it cannot be charged interest on debts that the Bureau is responsible for clarifying. Despite the difference of opinion between the two agencies, and over the objections of the D.C. Government, the Bureau applied late charges to a \$12.5 million payment made by the D.C. Government in January 1982. The District's view is that until effective procedures regarding the application of late payments are agreed on, the District cannot consider itself subject to interest charges. The District feels that this problem is not its fault but instead stems from erroneous billings by the Bureau.

As discussed above, both the Department of Justice and the D.C. Government pointed out certain problems that they were having with one another and each said that it has attempted to resolve the problems. The Department of Justice went a step further and commented specifically on all of our recommendations, took action on one, and suggested two of its own.

In our draft report, we proposed that the Bureau follow its policy that requires its institutions to submit negative bills to the Department of Corrections. The Department of Justice stated that such actions have been implemented and that all institutions have been informed that it is imperative for negative bills to be provided to the Department of Corrections in accordance with the Bureau's policy. In addition, regional offices have been asked to monitor the procedure to ensure compliance.

We also proposed that the Bureau formulate legislation to authorize it to use reimbursements collected from the D.C. Government to offset the Bureau's operating expenses for housing D.C. prisoners. The Department of Justice expressed some concern and proposed an alternative approach it believed to be more efficient, practical, and cost effective. It stated that the D.C. Government receives an appropriation from the Congress as does the Bureau. The appropriation received by the Bureau, in essence, must be used for funding all prisoners, including those of the District, inasmuch as the District is not paying its outstanding debts to the Bureau. The Department of Justice's proposed approach would involve legislation which would simply reduce the District's appropriation by the estimated cost of housing D.C. prisoners. Under Justice's approach, the Bureau would directly receive the appropriated funds needed to house D.C. prisoners, and according to the Department of Justice, the cumbersome billing and collection process, which is administratively expensive to both agencies, would be eliminated.

We disagree with the Department of Justice's proposal. Under this proposal, the Bureau would receive funds on the basis of its estimate of the cost of housing D.C. prisoners rather than on actual expenses. This proposal seems to provide the Bureau a unilateral avenue to the purse strings without any verification of the cost of housing D.C. prisoners. Apparently, the Department's position was prompted by the existing billing disputes in that it again refers to the District not paying its outstanding debts to the Bureau. We do not see this approach as an answer to solving either the existing or any future disagreements over the cost of housing

D.C. prisoners. Furthermore, it is not clear whether or how the District could contest the estimates or what would happen if the estimates and the funds diverted from the D.C. Government's appropriation to the Bureau exceed the expenses actually incurred. As a result, the Department of Justice's proposal could conceivably escalate the forum for any future disputes from an administrative level between the two agencies to the congressional appropriation process--a most undesirable effect. Therefore, we believe that the Attorney General should require the Director of the Bureau of Prisons to formulate legislation to authorize the Bureau of Prisons to use reimbursements collected from the D.C. Government to offset the Bureau's operating expenses for housing D.C. prisoners.

The Department of Justice also proposed the possibility that the Bureau make an effort to pursue and exercise the right of offset against the District of Columbia's appropriation for long overdue debts, including interest charges.

As stated, there is considerable difference between the Bureau and the Department of Corrections regarding the balance of the outstanding debt. Before any offset takes place, the amount in dispute should be resolved. However, once this dispute is resolved, there seems no need for an offset as described by the Bureau since the District has agreed to pay the amount it owes. We think it would be unwise for the Bureau to pursue an offset against the District Government's appropriation prior to resolving the dispute. For these reasons, we disagree with the Department's proposal.

In summary, the purpose of our report is not to point a finger at either the Department of Justice or the D.C. Government. However, this problem has persisted for more than 6 years and involves more than \$20 million. Both agencies must share the responsibility. We see no need to change the existing payment arrangement either through transferring appropriations from the D.C. Government to the Bureau or through offsetting the District's appropriations. Rather than dwell on who caused the problem, it is time for both agencies to put their differences aside and resolve the matter.

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Title 31 U.S.C. § 720 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of this report and to the

House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of this report. In addition, the Mayor is required, within 90 days after receiving our audit report, to state in writing to the District Council what has been done to comply with our recommendations and to send a copy of the statement to the Congress (31 U.S.C. §715(c)(1), as recently codified by Public Law No. 97-258, formerly section 736(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law No. 93-198). The Mayor is also required to report, in the District of Columbia's annual budget request to the District Council, on the status of efforts to comply with such recommendations (Section 442(a)(5) of Public Law No. 93-198).

We are sending copies of this report to the Chairmen, House and Senate Committees on Appropriations, House Committee on Government Operations, Senate Committee on Governmental Affairs, and the Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations; to the Director, Office of Management and Budget; and to each member of the Council of the District of Columbia.

We wish to thank you for the cooperation extended to us during our work.

Daniel J. Stanton

For William J. Anderson
Director



THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

ALPHONSE G HILL
DEPUTY MAYOR FOR FINANCE

FEB 18 1983

Mr. William J. Anderson
Director
General Government Division
U. S. General Accounting Office
Washington, D.C. 20548

Re: Draft Letter Report: "Millions of Dollars in Charges
for Housing D.C. Prisoners in Bureau of Prisons'
Institutions are in Dispute"

Dear Mr. Anderson:

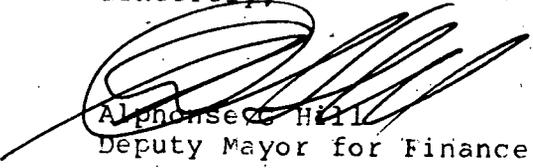
I am in agreement with the conclusion of the draft report that the Federal Bureau of Prisons (BOP) and the D.C. Department of Corrections should actively pursue resolution of outstanding disputed payments and establishment of effective procedures for future billings and payments.

We have been on record for sometime with our concern that, since the Fiscal Year 1976 Transition Quarter, the District has consistently identified questionable charges in BOP billings and has not received adequate justification from BOP to enable either payment of properly billed amounts or write-off of improperly billed amounts caused by erroneous or inadequate Federal records.

As we have previously indicated, we are anxious to participate fully with the Federal government in resolving outstanding disputes and ensuring that the likelihood of future problems is minimized. We are hopeful that your draft report will lead to appropriate responsiveness from BOP. While we do not argue with the draft report finding of a lack of financial incentive for BOP to resolve the situation, identification of this problem as a BOP internal management priority ought to supply sufficient incentive.

There is one matter, however, on which our position should be clearly reiterated. Until effective procedures, which explicitly address the treatment of interest on "late" payments, are formulated, agreed upon and implemented, the District cannot consider itself subject to interest charges unilaterally determined and applied by BOP, because late payments are clearly a function of improper and erroneous billings by BOP. We stand ready to make timely payments for correct billings. Our office will follow up with BOP in an effort to resolve these outstanding charges.

Sincerely,



Alphonse Hill
Deputy Mayor for Finance



U.S. Department of Justice

Washington, D.C. 20530

MAR 8 1983

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This letter responds to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "Millions of Dollars in Charges for Housing D.C. Prisoners in Bureau of Prisons' Institutions Are in Dispute."

While the Bureau of Prisons (BOP) has had problems in collecting amounts owed by the District of Columbia Department of Corrections (DCDC), the General Accounting Office's (GAO) portrayal of the problems has not been altogether accurately presented. Our comments on the various sections of the report are detailed below and referenced to the specific report headings to which they pertain.

THE BUREAU AND DEPARTMENT OF CORRECTIONS DO NOT CONCUR ON THE TOTAL AMOUNT OWED

--Disputed Billings

The draft report states that, "Before the transition quarter of 1976, the District simply paid bills without checking their accuracy. Then, an employee of the Department of Corrections found discrepancies between the Bureau's bills and the Department of Corrections' records and thereafter, the Department of Corrections has analyzed each bill." It is true that DCDC presented BOP with a list of prisoners which they could not identify as District inmates and asked BOP to furnish Police Department Identification (PDID) and/or DCDC numbers for each inmate to determine the propriety of the billing. Between August 1978 and January 1979, BOP spent hundreds of man-hours contacting each institution for the requested information.

GAO's contention on page 3 that BOP attempted to compile a list of disputed inmates for the transition quarter is not correct; rather, the list was compiled by DCDC. In addition, the list covered not only the transition quarter, but the second and third quarters of fiscal year 1977 as well. BOP entered the PDID and DCDC numbers on the lists for each inmate. If either number could not be found, the inmate's name was deleted from the list and DCDC was not billed. BOP has never heard from DCDC regarding the outcome of the information submitted to them in support of the billings for these three quarters.

-2-

For the transition quarter (1976), 323 names were checked and 285 were found to have either DCDC or PDID numbers. For the second quarter of fiscal year 1977, 107 names were checked and 89 had the requested numbers, and for the third quarter of fiscal year 1977, 295 names were checked and 261 had the requested numbers.

With the exception of the list furnished in 1978, DCDC has yet to furnish BOP a complete list of disputed inmates on any of the other delinquent bills.

--Unpaid Billings

According to the draft report, DCDC contends that documentation necessary to verify the two billings for the fourth quarters of fiscal years 1978 and 1979 were never received. In all the followup correspondence and numerous meetings held with DCDC officials, this fact was never mentioned. When BOP learned of this situation in March 1982, reproduced copies were immediately provided DCDC, and a letter acknowledging receipt was received March 11, 1982. Although BOP has made routine followups, these bills have not been paid to date, nor has any word been received concerning them since receipt of the March letter.

BOP has received checks without documentation indicating the bills being paid, at which time DCDC was called for guidance as to how payments should be applied to the billings. DCDC stated they were having difficulty identifying some of the inmates billed, but have never provided BOP a written list of the inmates in question. BOP has many times requested the list, but no action can be taken to resolve the billings until the list of disputed inmates is received.

--Interest Charges

In October 1981, BOP began to charge interest on all outstanding billings considered payable at the then current rate ranging from 16-18 percent. However, DCDC disagrees, arguing that interest cannot be charged on debts that BOP is responsible for clarifying. As previously mentioned, BOP spent many man-hours of effort at each institution to collect the information requested by DCDC in 1978. Although a detailed response was sent to DCDC, no reply has ever been received indicating the results of their review of the prisoner information provided them. Moreover, DCDC has never furnished correspondence identifying inmates considered to be in dispute that were listed on any other delinquent routine billings. Without specific written evidence that the billings are in error, BOP has no option but to assume the bills are correct. Accordingly, BOP is mandated to charge interest on the total outstanding billings. BOP agrees, however, that any bill later proven to be incorrect will be adjusted accordingly, including any interest charges. Contrary to the statement in the report that no followup has been made on these delinquent debts, four followup letters concerning payment of outstanding bills were sent to DCDC dating back to 1980, and routine requests for payment of the delinquent billings continues.

-3-

--Information to Resolve Past Issues Is Available But Effective Action Has Not Been Taken to Use It.

The report states that information necessary to resolve the disputed charges and outstanding debts is available in the files of the more than 40 BOP institutions or in Federal data storage centers. What the report fails to mention is that the D.C. Records Office also has available, in a central location, information to resolve disputed charges and outstanding debts. In mid-1982, BOP was informed by DCDC that prior to April 1981, the D.C. Accounting Office did not verify the names appearing in quarterly billings that were not contained in its automated "on-line" system, but in April 1982, the practice of checking the manual records began. Since that time, of approximately 150 inmates in dispute, the D.C. Jail Record Office has verified that 98 to 99 percent of BOP's billings were accurate based on records maintained by the D.C. Jail. If this practice were applied to the bills rendered prior to April 1981, it would appear that at least 98 percent of the disputed charges could be resolved.

THE BUREAU HAS LITTLE INCENTIVE TO RESOLVE DISPUTED CHARGES AND OUTSTANDING DEBTS WITH THE D.C. GOVERNMENT

The report states that BOP has little incentive to resolve disputed charges and outstanding debts with the D.C. Government because, by law, BOP cannot use the funds it collects. This perception of BOP's concern for collecting its debts is erroneous. BOP has, by demonstration, pursued vigorous and aggressive action to collect and resolve DCDC's outstanding debt in accordance with existing regulations and available manpower resources. BOP expends the same effort to collect all its outstanding debts, irrespective of whether the funds directly affect its operating programs. BOP has, and will continue, to aggressively collect all amounts owed.

MORE SPECIFIC AGREEMENT FOR HOUSING PRISONERS IS NEEDED

The report states that DCDC and BOP do not agree on the total amount of money owed or how the interest charges ought to be applied. On January 28, 1982, BOP received 6 checks from DCDC totalling \$12,529,733.47, which is the cause of the disagreement. None of the checks, singularly or in combination, agreed with any of BOP's billings; consequently, BOP did not know where to apply the payments. DCDC typically submits payments in this manner. BOP requested guidance from DCDC as to how to apply the payments and was instructed to apply them to the first quarter of fiscal year 1982 (October-December 1982). The Treasury Fiscal Requirements Manual, Part 6, Section 8020.20 (I-TFRM-6-8020.20) states, "In the case of partial late payments, the amount received will be first applied to the late charge on the principal and then to the payment of the principal." Since BOP has no authority to deviate from the cited Treasury regulation, the payment was applied to the total outstanding interest before reducing the principal amount. The Department does not feel that application of interest is a negotiable issue, and all references thereto should be stricken from the report.

GAO suggests that even though the relationship between BOP and DCDC is not contractual in nature, written procedures could still be developed governing the billing and payment for housing prisoners.

-4-

BOP will again take the initiative to meet with DCDC officials to develop a Memorandum of Understanding containing billing and payment procedures similar to those mandated by regulatory agencies as well as include any other procedures mutually agreed upon.

SOME ACTION HAS BEEN TAKEN BUT MORE SHOULD BE DONE

The report states that BOP's 1981 revised billing procedure--having each institution bill DCDC individually instead of having one centralized bill--is "a good one." However, according to GAO, DCDC expressed concern that BOP institutions were not responding to the disputed payment lists being sent them and it was unclear what action BOP was planning to take. Also, a DCDC official stated that institutions were not sending negative reports if they had no prisoners, although called for under the new system, thus stalling the payment process.

Until receipt of GAO's draft report, BOP was unaware that institutions were not responding to DCDC's disputed payment lists. This situation has now been corrected. Also, BOP Program Statement 2000.1 requires that institutions submit negative bills to DCDC. This procedure was initiated at DCDC's request with the understanding that it would assist in their payment planning process. All institutions have now been informed that it is imperative for negative bills to be provided DCDC in accordance with BOP policy, and regional offices have been asked to monitor the procedure to assure compliance.

RECOMMENDATIONS

Three of GAO's four recommendations have been addressed in the earlier sections of this response. The fourth recommendation suggests that BOP "formulate legislation to authorize the Bureau of Prisons to use reimbursements collected from the D.C. Government to offset the Bureau's operating expenses for housing D.C. prisoners." This recommendation is predicated upon the assumption that making the DCDC debt part of BOP's financial resources for funding operating expenses will act as an incentive for BOP to aggressively pursue collection. As previously mentioned, BOP needs no incentive to aggressively pursue collection of the D.C. Government's debt. Moreover, this recommendation appears to be counterproductive for two reasons:

1. There is no assurance that DCDC would have the incentive or resources to pay its bills.
2. BOP's current program would be severely jeopardized due to the dependency on financial resources from a source which historically has demonstrated an unwillingness to pay its debts.

The Department proposes an alternate approach which we believe will be more efficient, practical and cost-effective. Currently, the District of Columbia receives an appropriation from Congress as does BOP. The appropriation received by BOP, in essence, must be used for funding all prisoners, including those of the District of Columbia, inasmuch as the District is not paying its outstanding debts to BOP. The Department proposes legislation which would simply reduce the District of Columbia's appropriation by the estimated cost of housing D.C.

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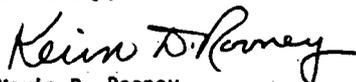
inmates. Under this approach, BOP would receive directly the appropriated funds needed to house D.C. prisoners, and the cumbersome billing and collection process, which is administratively expensive to both agencies, would be eliminated.

We also propose that GAO consider in its recommendations the possibility of a BOP effort to pursue and exercise the right of offset against the District of Columbia's appropriation for the long overdue debts, including interest charges.

In conclusion, we wish to point out that BOP remains committed to working with the DCDC staff in an effort to resolve prior billing disagreements and in making the revised 1981 billing procedure operational and effective. Meanwhile, the alternative proposals mentioned above will be pursued.

We appreciate the opportunity to comment on the draft report. Should you desire any additional information pertaining to our response, please feel free to contact me.

Sincerely,



Kevin D. Rooney
Assistant Attorney General
for Administration

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