

**STATE OF NEW HAMPSHIRE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT - AUDIT DIVISION**

**PROPOSED SCOPE STATEMENT
PERFORMANCE AUDIT OF ADULT PAROLE BOARD**

In December 2017, the Fiscal Committee approved a Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Adult Parole Board (Parole Board), which is administratively attached to the Department of Corrections (DOC). We held an entrance conference with the DOC and the Parole Board at the end of May 2018.

Background

In 1983, the Legislature created the DOC, in part, to maintain and administer State correctional facilities and programs, and to supervise inmates placed on probation or released on parole. In the same year, the Legislature established the Parole Board consisting of five members, appointed by the Governor and Council to no more than two consecutive five-year terms. Since 1983, membership has been increased to nine members. The Parole Board has five employees to manage daily operations. The Parole Board is administratively attached to the DOC, which provides it with budgeting, recordkeeping, and clerical assistance; however, the DOC has no administrative authority over the Parole Board, its personnel, or its duties.

Parole Board Function

In creating the Parole Board, the Legislature intended to establish a statewide system to supervise and rehabilitate inmates without continued incarceration, and to aid in the transition from prison back to society. The Legislature also placed an emphasis on the need to protect the public from criminal acts perpetrated by parolees. To achieve this, it authorized the Parole Board to parole inmates from the State prisons, and recommit those who violate the conditions of their parole. While out on parole, the Parole Board has legal custody over inmates until they are discharged or are recommitted to prison. DOC Probation-Parole Officers (PPO) are responsible for overseeing parolees. To help guide its work, the Parole Board must adopt rules relative to: the parole process and the conduct of parole hearings; criteria used to evaluate prospective parolees; conditions for parolee conduct; and procedures for parole revocation and medical parole.

Statute requires the Parole Board to hold at least 24 parole hearing annually, with hearings held by a hearing panel consisting of three members. In practice, the Parole Board generally conducts four days of parole release and three days of parole revocation hearings monthly. During State fiscal years (SFY) 2017 and 2018, the Parole Board held 131 days of parole release and parole revocation hearings, consisting of almost 3,400 hearings. Table 1 shows the number of parole release and parole revocation hearings during SFYs 2017 and 2018.

Parole Release

State law stipulates an inmate may be eligible for parole at the expiration of the minimum term of their sentence (minimum), minus any pre-sentencing confinement credits, plus the portion of the disciplinary period not reduced by credits for good conduct. The Parole Board may order the inmate to be released on parole if, after a hearing, it has obtained reasonable probability the inmate will not violate any laws and will remain a good citizen while on parole. Inmates who have not been previously approved for parole, or have violated parole and have been recommitted to prison for more than one year, must receive a parole hearing at least nine months before the end of their maximum sentence.

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Table 1

**Parole Release And Revocation Hearings,¹
SFYs 2017 And 2018**

	2017	2018
Parole Release ²	1,193	1,115
Parole Revocation	542	545
Total	1,735	1,660

Notes:
¹ Represents the number of hearings, not inmates. An inmate may appear for multiple hearings during their incarceration.
² A release hearing may not result in a release to the community. An inmate may be paroled to a consecutive sentence.

Source: LBA analysis of unaudited DOC information.

Generally, Parole Board rules require inmates receive a parole hearing during the 60-day period prior to their minimum. Parole hearings are held by a three-member panel, at which the inmate has an opportunity to address the Parole Board and offer evidence of their rehabilitation. Generally, the Parole Board conducts hearings for 25 to 30 inmates per day. Inmates may be represented by an attorney and are permitted to have family members, employers, or other witnesses present to discuss their case with the hearing panel. Victims and their families may also speak at the hearing, and are generally coordinated through the Office of Victim Services.

At the conclusion of the parole hearing, Parole Board members are required to determine whether to grant or deny parole based on several factors including: the inmate's personality, maturity, and sense of responsibility; adequacy of the inmate's parole plan; history of illegal drugs or excessive alcohol use; criminal history and seriousness of the offense; degree of remorse or empathy for the victim; conduct on prior parole and while in prison; and attitude and conduct during the parole hearing. The Parole Board may also consider evaluations and recommendations from the DOC, courts, and social service or mental health agencies in determining the inmate's probability of success while on parole. Once approved for parole, if an inmate receives a disciplinary write-up prior to release, the Parole Board must hold a reconsideration hearing to determine the effect of the disciplinary action on the inmate's release date.

The Parole Board may deny parole if, in the judgment of the majority of the hearing panel: the inmate will not conform to the conditions of parole or State laws; continued treatment or training would substantially improve the inmate's capacity to lead a law-abiding life in the future; adverse public concern or notoriety would seriously hinder the inmate's transition to the community; the inmate has outstanding charges, detainers, disciplinary issues, or security issues; or the inmate does not have an adequate parole plan. If denied parole, the Parole Board must inform the inmate of the requirements the inmate must complete in order to be granted another parole hearing.

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Medical Parole

The Parole Board may, by a majority vote of the hearing panel members, grant medical parole if an inmate has a terminal, debilitating, incapacitating, or incurable medical condition; the cost of medical care, treatment, and resources would be excessive; and there is a reasonable probability the inmate will not violate the law and will conduct himself as a good citizen. While on medical parole, the Parole Board may require the inmate submit to periodic medical examination. If the inmate no longer has the condition which qualified them for medical parole, the Parole Board must revoke medical parole. Inmates sentenced to life in prison without parole or sentenced to death are not eligible for medical parole.

Parole Revocation

Parolees violating conditions of their parole or any State law can be arrested and detained by a PPO. The PPO can place a parolee for up to seven days in a residential sanction program instead of bringing them before the Parole Board for a revocation hearing, if the parolee agrees. Otherwise, parolees will be brought before a three-member hearing panel for a parole revocation hearing within 45 days of being arrested by the PPO. Parole revocation hearings are generally held one day per week and State law requires an attorney be in attendance on behalf of the Parole Board.

If the Parole Board finds the parolee is in violation of their parole conditions or State law, and in its judgment should be returned to the custody of the DOC, the Board must revoke parole. In determining whether to revoke parole, the Parole Board must consider the recommendations of the PPO and community treatment professionals; the length of time on parole prior to the violation; the parolee's overall performance on parole before the violation; any intermediate sanctions attempted by the PPO prior to arrest; pending criminal charges or outstanding warrants against the parolee; length of time left on the parolee's sentence; parolee's performance during prior periods of community supervision; and any other factors it wishes to consider.

Sanctions

State law requires parolees whose parole has been revoked to serve 90 days in prison, from the date of their arrest, before being placed back on parole. They must also be provided access to evidence-based programming aimed at reengaging them in their parole plan while recommitted to prison. Parolees may be recommitted for longer periods if the parolee has previously violated parole, was on parole for a violent crime, the conduct is related to the offense for which the inmate was initially sentenced or is related to their offending pattern, or the conduct constitutes a serious or criminal act. Parolees on parole for a sexual offense and displaying specific risk factors may also be recommitted to a longer period.

The Parole Board can impose a term of less than 90 days if: the inmate has had no past parole violations; the inmate is not on parole for an offense against a child, a sexual offense, or a violent crime; the parole violation is not substantially related to the offense for which the inmate was initially sentenced or the related to their offending pattern; and the Parole Board determines a lesser period of recommitment would aid in the parolee's rehabilitation.

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Audit Scope

This performance audit will focus on the following question: *Did the Adult Parole Board operate efficiently and effectively in State fiscal years 2017 and 2018?* Specifically, we will evaluate the efficiency and effectiveness of the:

- Parole Board's interactions with the DOC,
- Parole Board's process for gathering inmate information, and
- parole release and parole revocation hearings process.

Our audit will not attempt to re-evaluate individual parole or revocation decisions made by the Parole Board.

To address these objectives, we plan to:

- review relevant State laws, administrative rules, policies, procedures, and guidelines;
- interview Parole Board and DOC personnel, and contact external stakeholders;
- review audits, evaluations, and guidance from other states and the national organizations;
- review and analyze parole files;
- review similar practices in nearby states; and
- compare Parole Board practices to relevant guidelines and accepted practices.

We anticipate completing this audit and presenting the final report to the Fiscal Committee in the fall of 2018.

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**PROPOSED PERFORMANCE AUDIT SCOPE STATEMENT
POLICE STANDARDS AND TRAINING COUNCIL**

In December 2017, the Fiscal Committee adopted a Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Police Standards and Training Council (PSTC). We held an entrance conference with the PSTC in May 2018.

Background

In 1971, the PSTC was created by the General Court to establish minimum hiring and educational standards for most sworn law enforcement personnel within the State. The PSTC trains and certifies all State and local police officers, probation-parole officers, and State corrections officers. County corrections officers are exempt from PSTC certification and training requirements, but the PSTC maintains oversight responsibility of the county corrections training curriculum.

Training

The PSTC operates three different training academies during the year; the full-time police academy, the part-time police academy, and the corrections academy. The full-time police academy and the corrections academy are each offered three times per year. The part-time police academy is offered two or three times per year, depending on need. In addition, probation-parole officers first attend the corrections academy and then attend a portion of the full-time police academy to become certified probation-parole officers.

Currently, full-time police officers attending the PSTC academy receive 16 weeks of training and education at the PSTC facility in Concord, while State corrections officers receive nine weeks. Police officers seeking part-time certification are provided 200 hours of training and education over the course of 14 weeks before becoming certified and may not work more than 1,300 hours per year. Law enforcement officers may apply to have the requirement to attend an academy waived by the PSTC if they demonstrate they received adequate prior training from another program.

Certification

Certified officers are required to receive ongoing annual training and, if hired as an officer after the year 2000, pass a physical fitness test every three years. Certification may be suspended or revoked by the PSTC for violating PSTC administrative rules or laws. Certification lapses when an officer is separated from a law enforcement agency for more than three years if the separation was due to an involuntary lay-off or 30 days for all other separations of employment.

The 14 member PSTC decides whether prior training and experience qualifies for certification and also presides over the handful of hearings each year involving certification suspensions and revocations. The PSTC is empowered to subpoena and examine witnesses under oath, and take oaths or affirmations, and reduce to writing testimony given at any hearing. Decisions are appealable only to the New Hampshire Supreme Court. Additionally, the PSTC may also

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monitor police departments within the State through required submission of reports and adopt rules.

The PSTC is responsible for regulating 4,305 law enforcement officers from a variety of law enforcement agencies holding 4,740 positions (Table 1).

Table 1

**Number Of Certified Law Enforcement Officers By Agency,
As Of July 2018**

Law Enforcement Agency	Number Of Law Enforcement Officers¹
Municipalities	3,199
Department Of Corrections	508
Counties	412
State Police	359
Fish And Game Commission	54
Marine Patrol	50
State Universities	45
United States Customs And Border Protection	23
Liquor Commission	22
Fire Marshal	17
Department Of Justice	15
Police Standards And Training Council	13
Department Of Natural And Cultural Resources	12
Legislative Security	3
Rail Road	3
Department of Agriculture, Markets, And Food	3
Pease Development Authority	2
Total	4,740
<p>Note: ¹Represents the number of certified officers employed by the various law enforcement agencies. Some officers are employed by multiple jurisdictions. Source: LBA analysis of unaudited PSTC data.</p>	

Council Membership And Operations

Membership in the PSTC includes two police chiefs from towns, two police chiefs from cities, two county sheriffs, two judges from courts with criminal jurisdiction, and two public members neither of whom is a police officer, lawyer, judge, or have a spouse, sibling, or parent who is a

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police officer, lawyer, or judge. These ten members are appointed by the Governor for two-year terms and serve only during their time in office for the position which qualified them for appointment. Four additional members are appointed by virtue of holding their office: the Chancellor of the Community College System of New Hampshire or designee, the Director of the Division of State Police or designee, the Attorney General or designee, and the Commissioner of the Department of Corrections, or designee

Operations at the PSTC are overseen by an Executive Director who is appointed to a four-year term by the PSTC. As of June 2018, operations consisted of 28 employees and are organized into seven different functions, including: full-time academy, part-time academy, corrections academy, in-service training, legal, maintenance, and accounting. On July 1, 2016, the Legislature changed PSTC's funding to 100 percent general funds instead of relying on a court-imposed penalty assessment for revenue. The penalty assessment revenue formerly deposited into a PSTC fund is now directed to the General Fund.

Audit Scope

We will seek to answer the following question: **Did the PSTC operate efficiently and effectively during State fiscal years 2017 and 2018?**

Specifically, we will focus on whether the PSTC efficiently and effectively:

- administered and enforced professional law enforcement standards in New Hampshire; and
- operated training programs for police officers, corrections officers, and probation–parole officers.

To address this question, we plan to:

- research industry practices and review relevant State laws,
- conduct surveys of PSTC stakeholders,
- review certification and disciplinary processes and documentation,
- assess the PSTC administrative operations, and
- interview key PSTC staff and stakeholders.

We anticipate completing this project by the end of 2018.