

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Monday, June 20, 2016

MEMBERS IN ATTENDANCE:

Sen. John Reagan, Chair
Sen. President Chuck Morse
Sen. Lou D'Allesandro
Sen. Kevin Avard
Rep. Lynne Ober
Rep. Lucy Weber
Rep. Raymond Gagnon
Rep. Richard Barry

(The meeting convened at 10 o'clock a.m.)

1. Acceptance of minutes of the April 5, 2016 meeting.

SEN. JOHN REAGAN, Chairman: Let's call the meeting to order. Can I have a motion on acceptance of --

** SEN. D'ALLESANDRO: Move.

REP. WEBER: I second.

REP. OBER: I do have a correction.

CHAIRMAN REAGAN: Moved by Senator D'Allesandro, second by Weber. Corrections?

REP. OBER: Yes. My last name is misspelled. It's not O-V-E-R. It's O-B-E-R.

SEN. D'ALLESANDRO: Got to circle it SP and make the change. Only one.

REP. OBER: Only one. He got it the rest of the time.

CHAIRMAN REAGAN: So no further discussion. All in favor?

*** {MOTION ADOPTED}

2. Current Status of ongoing and pending performance Audits

CHAIRMAN REAGAN: Current Status.

STEVEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee. For the record, I'm Steve Smith, the Director of Audits for the Office of Legislative Budget Assistant.

Since this Committee met last, there were two reports that were presented to the Fiscal Committee, two audit reports back on April 15th, the Consolidation of Business Processing Functions, as well as the DRED WorkReady New Hampshire Program so those reports were accepted and presented.

In terms of the ongoing and pending audits, if you look at your agenda, the first two there, Department of Transportation, Bridge Maintenance, and Department of Safety, Homeland Security and Emergency Management, both of those jobs are on a wrapping up stage. The reports, as well as the observations, are being written. We hope to get those reports to the Agencies over the next couple weeks. And we are targeting the April 5th Fiscal meeting. There's no meeting scheduled for July.

REP. OBER: April 5th?

MR. SMITH: Excuse me. August 5th, thank you, for presentation.

The next item, Department of Corrections, Sexual Offender Treatment Program. We held an entrance meeting with the Department of Corrections on April 21st. We'll be presenting the Scope Statement in a minute and planning has begun, it's under way, and we are targeting completion of this in the fall.

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The fourth one there, the Environmental Services, Air Resource Division, just remind the Committee that we did hold an entrance meeting. We did begin that audit. However, based on the outcome of last Committee meeting, we suspended our work because the Committee's preference was to prioritize the Sex Offender Treatment Program. So we shifted our resources in that area and beginning that audit.

The next four items, four bullets, no work has begun on those topics. And the very last one, just as a reminder, the Control Drug Prescription Health and Safety Program, per statute we have a deadline of completion of on or before December 31st, 2017. So based on that or any other changes that we are not aware of, we would be seeking beginning that one about a year from now, next year, in order to meet that deadline.

So those are the status of approved topics that are in our queue at this time. However, I would like to ask the Committee that given the five topics that are in our queue, as well as potentially a sixth one, depending upon the outcome of discussion later, if the Committee before we convene -- end the meeting if they have any preferences in terms of prioritization to let us know on the topics. Any questions at this point? Okay. Thank you.

With that, I'll turn it over to Steve Fox and he'll walk you through the Scope Statement.

3. Discussion and approval of Scope Statement for the Department of Corrections, Sexual Offender Treatment Program performance audit

DR. STEPHEN FOX, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee. For the record, my name is Stephen Fox. I'm a Performance Audit Supervisor for the LBA Audit Division.

The Scope Statement or draft Scope Statement that you have before you today is of our performance audit on the Sexual

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Offender Treatment Program within the Department of Corrections. As Steve mentioned earlier, this performance audit topic was recommended by this Committee in April and approved that same month by the Fiscal Committee and our entrance conference with the Department was held in April as well.

The background of this program, the DOC's policy requires it to provide all sexual offenders with access to appropriate offender treatment services based on their clinical needs for the purpose of eliminating sexual victimization through responsible and ethical treatment of incarcerated offenders. The DOC policies do not specify time frame for treatment.

However, DOC personnel generally conduct risk assessment within the last two years of an inmate's minimum sentence release date and also try to enroll them into the offender treatment program within 18 months of their minimums. Sexual offenders who are sentenced to longer terms of incarceration may remain in prison for several years before receiving any initial sexual offender treatment assessment.

The one female offender at this time in State custody is provided with treatment over at the New Hampshire Correctional Facility for Women in Goffstown while male offenders receive treatment through DOC staff at the New Hampshire State Prison here in Concord. Those who are housed in Berlin are sent down to Concord in order to have services provided there.

The process for receiving sexual offender treatment, offenders who enter prison, either first time offenders or those who return as parole violators, are processed through the Prison Reception and Diagnostic Unit; and those who are paroled violators should note that they are usually triaged sooner based upon their minimum sentence and referred to sexual offender treatment after care, specifically for parole violators before their treatment.

New inmates who are convicted of sexual offenses are placed on the list with other sexual offenders needing treatment and prioritized for initial assessment based on their minimum date

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again. Inmates who approach two years of their minimum get assessed by the sexual offender treatment staff for the types and the level of services that they need. And then based upon the risk that they pose, they are placed into one of two treatment models; generally, either community treatment or intensive sexual offender treatment.

There is a third sort of category where inmates who appear to be lower risk but don't quite fit into the category of low risk receive some treatment similar to what is found in the intensive sexual offender treatment program for a period and that's followed by a polygraph. And then based on the assessment that treatment staff provide, after that they either may go into community-based service -- services or go into -- go into the actual intensive sexual offender treatment program.

Two types of treatments. Community treatment, offenders who are placed in the community are required to attend group therapy sessions bi-weekly or monthly depending on their treatment needs. Upon their release from prison, they're required to obtain and pay -- excuse me -- for treatment through DOC-approved therapists outside of the prison. Community treatment is appropriate for first-time sexual offenders with no criminal history, prior criminal history, either/or have short sentences and have not had multi -- multiple disciplinary reports while in prison. They must not have court-ordered sexual offender treatment and their offenses must not include penetration of any type.

Finally, offenders must have an outside -- strong outside community support system and access to a sexual treatment offender provider.

The intensive sexual offender treatment is in what they call a therapeutic community. Again, that occurs strictly inside of the prison system, and these offenders include those who are convicted of a prior sexual offense, have a moderate to extensive criminal history, have either previously been enrolled in the program or returned to prison on a parole violation, have used force to commit sexual assault.

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Offenders who minimize or deny their offenses, have poor social skills or emotional issues, or strongly ingrained cognitive distortions are also placed in intensive sexual offender treatment. These offenders participate in what they call a therapeutic community where they reside in a pod that contains 96 beds at the New Hampshire State Prison for Men and they follow a self-paced curriculum consisting of components that are in the bulleted list on Page 2. Those are Orientation and Readiness, Core and Cycle, Maintenance, and After Care.

A little bit of demographics on the sexual offender population is found on Page 3 in Table 1. You can see the total number of male and females who are convicted of sexual offenses or considered sexual offenders, the current enrollment, the current number that have completed successfully or have been removed from the program, and the numbers that are in either community treatment who have declined treatment or who are considered not to have any treatment needed at this point. And then the last number in the columns are those who have not yet been assessed by the program and that is all data as of beginning of -- or the end of May of this year.

Going on to the last page, the Audit Scope, the performance audit will address the following question and, that is, did the DOC efficiently and effectively provide sexual offender treatment to inmates from State Fiscal Years 2014 to 2016? And, specifically, what we're looking at is whether the Department assessed and enrolled inmates in the program in a time frame to promote completion prior to their minimum release dates; what factors may have prevented inmates from completing the program prior to their minimum release dates; whether the program was delivered efficiently and effectively, and areas where delays and backlogs may occur.

Less than 1% of sexual offenders in custody at this point are female and I mentioned there's one currently at the Women's Prison in Goffstown, and services for that individual are provided by a contractor. We will not be including those services of that program in this performance audit. We'll be

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strictly focused on the services provided at the State Prison for Men.

We anticipate the final report will be filed with the Fiscal Committee in the fall of this year. That's my presentation, Mr. Chairman. I'll be happy to answer any questions.

CHAIRMAN REAGAN: Questions.

REP. OBER: Mr. Chairman.

CHAIRMAN REAGAN: Yes.

REP. OBER: Is there anybody here from Corrections?

DR. FOX: I don't believe so.

REP. OBER: All right. Then, Steve, I'll ask you which is really their question, but you guys probably asked this. Table 1, Footnote 2; how can Corrections have no additional information available on that group of 34 people?

DR. FOX: Hum -- our understanding at this point is that the Management Information System over there is pretty inadequate. Follow-on information is not readily available. That's the issue at this point. We will be looking at that, that information management during the audit and trying to see if there's ways that that can be improved.

REP. OBER: I have one more, if I may?

CHAIRMAN REAGAN: Sure.

REP. OBER: I'm in the Audit Scope, Steve, and bullet 1 and 2. I really don't have a problem with what you're proposing, but I'm sitting here wondering based on what you gave us if we're auditing them on something that's not in State Law and not in their policy.

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I think you said that their rules don't give a specific date for completion; and yet, both bullet 1 and 2 you're going to audit to see if completion was prior to their minimum release dates, and what factors prevented prior to the minimum release dates. And I wonder if the prisons don't have that requirement if we are now holding them to a standard that we haven't given them.

DR. FOX: It's not their policy or they do not have a specific policy, as I indicated, to provide services within a certain time frame. However, it is their practice. It is something that we have heard. They -- there are issues with that practice or that proposal. And based on responses we have received from the Department, that's considered to be the optimum time to provide services within two years of their release date, or at least start the assessment process within two years and get them into active treatment within 18 months. And it is in some areas some of the research that we've done in programs in other states, some states provide it earlier, some states provide it later. It does seem to be a time that's better than none, I guess, for that. They should be providing services within that time frame. It could be, again, that since they don't have a policy that would recommend that they institute that as a policy.

REP. OBER: Well, I ask that because I have kids. I know Senator Morse has got kids. Probably all of you got kids. If I didn't say to my children, it is your job to clean the table and wash the dishes every night after dinner, and then I punish them because I didn't tell them that was their job and they weren't doing it, that would be -- I'm sure my kids would tell me that would be taxation without representation, because I have pretty smart kids. So I'm just wondering if maybe the Legislature has failed to do their job to set up appropriate time frames and now we're going to hold somebody to that. But I guess it would be good to know that information and see where we are going to go. Thank you, Steve.

DR. FOX: You're welcome.

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CHAIRMAN REAGAN: Representative Weber.

REP. WEBER: Well, I -- I understand the point being made; but I kind of take it that one of -- one of the things that we have always looked at in the course of performance audit reviews is whether, for example, appropriate legislation is in place. And I think the purpose of a performance audit is the punishment is learning for all of us, both the -- both folks being audited and those of us who regulate folks being audited. So I'm pretty comfortable looking at the scope as it is with the understanding that there may be some very definite recommendations coming out of this or thoughts on the part of when we see what we've got we may decide that changes need to be made.

REP. OBER: Mr. Chairman. While I agree with that, Representative, I don't see a bullet that looks at best practices to find out if we are meeting best practices. That was -- that was my one concern. Because I agree with everything you said, except I'm still not going to know where best practices are when we are done here. And I'm going to approve this. I was just curious for that and the fact that I'm not going to research that personally and I know Fiscal isn't either.

REP. WEBER: And if I may? I would just say that if some -- if somebody wanted to add in best practices bullet, I certainly would be perfectly happy with that. I don't know if that --

DR. FOX: If I could comment on that.

REP. WEBER: -- works.

DR. FOX: This is a -- as in many therapies, treatments, this is still an evolving paradigm, if you will. I would not, and again, based on what we've seen from reports provided in other states, I don't believe there is a best practice that we are comfortable with at this time. There are some that seem to be more beneficial and have better results than others. But to

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say that that's a best practice, I would be hesitant to embrace that at this time.

CHAIRMAN REAGAN: Representative Gagnon.

REP. GAGNON: Thank you. And building on that. And it states that you're going to look at State Laws, administrative rules, policies, procedures, guidelines. I'm hoping and I would urge you to pay special attention to required credentials, issues of ongoing training because you're right, it is an evolving field. And, lastly, what is the level of supervision? What is the level of supervision provided the therapist? What is the level of supervision provided the -- I guess you have to look at the contract -- but what are the levels of supervision that are -- are mandated, because I think that's a very key piece to a successful program. So I would hope that -- I'm sure you are going to look at that, but I just want to stress that.

DR. FOX: That will be part of what we look at.

REP. BARRY: Thank you. And maybe this should be addressed to Representative Ober. We know we have an issue with overtime at the prison.

REP. OBER: Oh, no kidding.

REP. BARRY: Should that be part of the -- do you think that will be part of it?

REP. OBER: I don't think that's part of this issue.

REP. BARRY: This is performance.

REP. OBER: No, this is performance rather than -- and it's overtime for people who are not qualified to be providing this therapy. So that's why I don't really see it together. I really do think this is a good scope.

CHAIRMAN REAGAN: They have asked for assistance with their overtime and LBA office has addressed that to some degree. So that's not -- that's not the subject of discussion.

REP. BARRY: One other one for the group. Since the Department of Corrections isn't here we can't ask them whether there were things that they wanted to be included or excluded. Do we need a separate session to ask them? Are we covering everything that we think need -- that we think needs to be done and that Corrections may want to have done?

DR. FOX: Mr. Chairman.

CHAIRMAN REAGAN: Kind of trust that the performance auditors, as they begin to investigate, get led on different paths for different reasons and that they when they're -- when they have started to miss a point and found a bigger point they go after it. So I don't think we need to consult with non-auditors over what our auditors are --

REP. OBER: I agree.

CHAIRMAN REAGAN: -- have been proven to be very capable.

DR. FOX: Mr. Chairman, if I could address that point, too. We do provide the Department with a copy of the Scope Statement prior to finalizing the proposal and sending it to you folks. So they have had input. We did receive their input, and I believe that they're satisfied with the scope at this point.

REP. BARRY: Thank you.

DR. FOX: You're welcome.

** REP. OBER: Move to approve.

CHAIRMAN REAGAN: Have a motion from Ober.

REP. WEBER: I would second.

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CHAIRMAN REAGAN: Second from Weber. All those in favor?

*** {MOTION ADOPTED}

DR. FOX: Thank you.

4. Discussion of potential performance audit of Community College System of New Hampshire

CHAIRMAN REAGAN: Item four. I asked to have a discussion of a performance audit of Community College System of New Hampshire on the agenda. And this is a result of being asked to sponsor legislation to place an employee on the Board of Trustees and saw a tremendous push back from not only the Board of Trustees of the Community College System, but the Board of Trustees of the University System, which raises a great red flag with me that what's the big fuss about.

Further communication with former and current employees of the Community College System suggested that things were not in good order in the administration of the Community College System. The -- the most disturbing comment that I received, and it went from a paper clip to a binder of comments, was that general fear of the employees of the Community College System to not speak to anybody about anything going on there under threat of dismissal. So that's not a policy I don't think that we can abide by. It's certainly not a policy that I would abide by. So that's what prompted this. This is why this is on here, and we'll open this for discussion, if not a motion.

** SEN. D'ALLESANDRO: I move the item.

REP. OBER: Second.

CHAIRMAN REAGAN: Moved and a second by Ober. Any discussion?

REP. BARRY: How do we discuss the fear of dismissal in an open setting?

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CHAIRMAN REAGAN: That's why we pass it on to the performance auditors so we don't have to.

REP. BARRY: Real specialists.

CHAIRMAN REAGAN: Yes.

REP. BARRY: Fine.

CHAIRMAN REAGAN: All those in favor?

*** {MOTION ADOPTED}

5. Other business

CHAIRMAN REAGAN: Other business?

MR. SMITH: Thank you, Mr. Chairman. I would just like to take a minute. In case you didn't know, Dr. Fox has announced that he'll be retiring from State service at the end of July.

REP. BARRY: No, he doesn't.

MR. SMITH: Since this is most likely his last meeting, I would just like to take a minute to acknowledge his years of service before the Committee.

Dr. Fox started with the LBA Audit Division back in January 1992 as an Audit Manager. He came to the LBA from the State of Virginia where he served on the Joint Legislative Audit Review Commission as a Senior Associate Legislative Analyst.

In October of '98 after six and a half years in the Division, Steve was promoted to his current position, Performance Audit Supervisor, which he has served admirably for the last 18 years.

During his tenure as Audit Supervisor, Steve has shepherded, by my count, in excess of 60 performance audit reports and has possibly served or assisted approximately ten

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separate LBA associates. Steve has been dedicated to his trade, displayed professionalism, both with the staff and the auditees, and represented the Audit Division well.

On a personal note, I've enjoyed working with Steve and would like to express my appreciation for his assistance and the insight he's provided to me over this last year and a half. Thank you, Steve, and congratulations.

(Applause.)

DR. FOX: Thank you very much.

CHAIRMAN REAGAN: Steve, even though you didn't get permission from the Committee to retire, we are still going to wish you the best and good fortune.

DR. FOX: Thank you. If I could just say, I'd like to thank this Committee for all the support that they've given myself personally and the Audit Division, particularly the performance auditors during the time that I've been with the LBA. It's been most appreciated and thank you.

SEN. D'ALLESANDRO: Thank you.

CHAIRMAN REAGAN: Thank you, Steve.

MR. SMITH: Secondly -- oh, I'm sorry, Senator.

SEN. D'ALLESANDRO: I just want to comment. I've been around audits a long time. Your face is very familiar. We'll certainly miss it. It seems that it's an evolving process in the business of State Government with people coming and going. And it's always, you know, disheartening to see people you've worked with for such a long period of time leaving State service. They left the mark, you left the mark. It's quality. We wish you the very best in everything you do and thank you for your services to the state, services to this Committee, and the real beneficiaries are the people of the State of New Hampshire. So thank you very much.

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DR. FOX: You're welcome. Thank you.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman.

CHAIRMAN REAGAN: Thank you.

MR. SMITH: And, lastly, I would like to take this opportunity to introduce Jay Henry. Jay, could you stand up, please? He's going to be assuming the Audit Supervisor role filling Steve's shoes at the end of July and just a couple of brief comments of Jay.

Jay's been with the Audit Division since July of '96. He came in as an Audit Manager and has been an Audit Manager during this entire time. Prior to joining us, Jay spent six years with the New York Field Office of the U.S. General Accounting Office or GAO as an evaluator and was a performance auditor in New York Transportation Authority, Office of the Inspector General. Jay has both a Bachelor and Master's Degree in Public Administration from UNH. He's a Certified Internal Auditor and, also, a Certified Government Financial Manager. So I just wanted to take this opportunity to introduce him to the Committee as he will be joining me before you in the future.

REP. OBER: And Steve told him how hard it is to herd cats, i.e., Committee Members?

CHAIRMAN REAGAN: Any other business?

MR. SMITH: Thank you, Mr. Chairman.

CHAIRMAN REAGAN: We'll adjourn this to the call of the Chair.

(The meeting adjourned to the call of the Chair at 10:29 a.m.)

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CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask
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