

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Monday, July 23, 2018

MEMBERS PRESENT:

Rep. Lynne Ober, Chair

Rep. Richard Barry

Rep. Lucy Weber

Sen. John Reagan

Sen. Bob Giuda

Sen. Jay Kahn

(The meeting convened at 11:30 a.m.)

1. Acceptance of the June 19, 2018 meeting minutes.

LYNNE OBER, State Representative, Hillsborough County, District #37 and Chairwoman: Okay. The time being 11:30, I'm going to call the meeting to order. Are there any additions or corrections to the minutes?

****** JOHN REAGAN, State Senator, Senate District #17: Move approval.

JAY KAHN, State Senator, Senate District #10: Second.

CHAIRWOMAN OBER: We have a motion to approve and a second. Any discussion?

RICHARD BARRY, State Representative, Hillsborough County, District #21: Just have a question. I don't remember seeing the copy of the succession plan audit come to us, e-mailed to us.

CHAIRWOMAN OBER: It was e-mailed to us.

REP. BARRY: Did you use American e-mail?

CHAIRWOMAN OBER: I didn't do it. Mr. Henry did it.

LUCY WEBER, State Representative, Cheshire County, District #01: Same one that has the agenda and Scope Statement in it.

REP. BARRY: Thank you.

CHAIRWOMAN OBER: All those in favor? Minutes are unanimously approved.

*** {MOTION ADOPTED}

2. Current status of ongoing performance audits:

3. Discussion and approval of proposed scope statements For the Adult Parole Board and Police Standards and Training Council

CHAIRWOMAN OBER: Senator Giuda is abstaining. He was missing from the meeting.

Under current status of ongoing performance audits, I will tell you that the Fiscal Committee had approved moving ahead with the V.R. audit so the gentleman can now write a scope. And, Steve, welcome to the table.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Committee; for the record, Steve Smith, Director of Audits for the LBA.

In terms of the ongoing audits, we have three. As of right now the Department of Environmental Services Wetlands Permitting team is currently in the field. They're conducting extensive file reviews, interviews, et cetera. Several reportable conditions have been identified and they're working through those, and we expect to complete the audit, hopefully, by the end of the year, so.

And in terms of the next two, you have Scope Statements will be discussed in a minute.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

July 23, 2018

The Adult Parole Board, we have been conducting interviews and for both -- both audits, as well as the Police Standards and Training. So -- and the fourth topic which is not on the list but the Chair -- Chairman just mentioned Voc Rehab, that will be the next one in our queue. We'll start on it unless advised otherwise.

So in terms of our ongoing audits those -- that's where we stand. Any questions you'd like to ask at this point? And in terms of the Scope Statement, we can present each one or just sit back and respond to any questions or Committee would like to do.

CHAIRWOMAN OBER: Senator Reagan.

** SEN. REAGAN: I move to accept the Scope Statements of Adult Parole Board and Police Standards and Training Council.

CHAIRWOMAN OBER: Is there a second?

SEN. KAHN: Second.

CHAIRWOMAN OBER: Is there discussion?

SEN. KAHN: If I can ask a question? Thank you, Madam Chair. We had a couple legislative issues around parole and execution of -- of parole hearing and release. The -- one was as related to Marsy's law, you might recall. It had to do with victim notification. And it -- it states in here that that's a part of the Parole Board's responsibilities. But it wasn't clear to me how you would assess victim notification of parole hearings, how consistently that's done. Okay. If it's done 100% of the time, that's great. Strike one off of the list of reasons why people were so passionate about that act.

CHAIRWOMAN OBER: So are you asking them if they're going to look at that?

SEN. KAHN: Yes, I am.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

July 23, 2018

CHAIRWOMAN OBER: Okay. I wanted to be sure that we all understood your question. You guys want to respond?

MR. SMITH: This is Vilay.

SEN. KAHN: Thank you.

VILAY SKIDDS, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: I'm Vilay Skidds, Senior Audit Manager. As far as victim notification, we have been in touch with the Office of Victim Services over at the Department of Corrections. So we have interviewed them and talked to them about some of their concerns. So it's not -- we do mention it a couple of times. I believe once in our Scope Statement. And if it is something you'd like us to look at, we can certainly expand that a little more; but it does fall under a different office that is separate from the Parole Board.

CHAIRWOMAN OBER: Follow-up.

SEN. KAHN: Yeah. All I can relate is that in here it said that victim, you know, before the hearing it's a regular part of their actions for the Parole Board.

MS. SKIDDS: Correct.

SEN. KAHN: So I was linking it to the regular part of their actions. Is it, in fact?

MS. SKIDDS: Parole Board staff are not the ones making the notifications to the victims. That would be the Office of Victim Services. So there is a requirement that victims who have been registered with the office to be notified of any type of hearings, parole revocations, that type of stuff, that will come up so they have an opportunity to comment if they would like and be part of that hearing if they would like.

SEN. KAHN: Okay. So, Madam Chair, I'm not sure how to pursue this. I don't need to ask many more questions on it. It's just that I'd like to see that that was followed up on.

CHAIRWOMAN OBER: Okay. It's not part of this audit because it's an office in DOC. But if you would like for at our next meeting I will ask Commissioner Helen Hanks to come and just brief us briefly, and then we will be choosing more audit topics. If that's one you want to pursue, we could do that. Would that be acceptable?

SEN. KAHN: Yes.

CHAIRWOMAN OBER: Senator Giuda.

ROBERT "BOB" GIUDA, State Senator, Senate District #02: Thank you, Madam Chair. As commentary, in the Marsy's Law discussion, one of the reasons I advocated against that was the fact that Department of Corrections study had been done 2015 in which out of about 2300 victims, 500 plus had been interviewed and gave exceptionally high, 95 percentile as far as the quality of the work that's being done by the parole -- by the DOC in notifying victims of proceedings and releases and so forth. So that might be something we want to bring into this discussion. It's been done in 2015. Maybe we could update that.

CHAIRWOMAN OBER: Do we have an audit from that? When you say done in 2015 --

SEN. GIUDA: It was a survey done by the Department of Corrections itself. So it was a self-analysis. That is -- I'm quite sure we can find it in a link. I'm sure Commissioner Hanks will know where it is.

CHAIRWOMAN OBER: Why don't I e-mail Commissioner Hanks and ask her for the link, and then send it to Mr. Henry and ask him to get it out to everybody, including the people who aren't here. So we could at least review that and then if you would like, we can still have her come in and pursue this at the next

meeting since it is not part of this audit. Would that be acceptable?

SEN. KAHN: It is. Thank you.

CHAIRWOMAN OBER: You're welcome. Other discussion?

MR. SMITH: One question we do have. I believe we got your e-mail over the weekend --

CHAIRWOMAN OBER: Yeah.

MR. SMITH: -- about adding a phrase. And is there a particular place you'd like to see that language?

CHAIRWOMAN OBER: I asked them over the weekend after I read the Scope Statements, I was a little busy last week with the Joint Task Force and I just didn't get around to it to be honest. So I'm doing this not at the last minute but pretty close so shame on me. I asked them if they were going to in both of these audits make sure that all the state laws were being obeyed. And is that something you are -- do automatically without explicitly stating it? Mr. Henry is shaking his head yes.

JAY HENRY, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Yes. I mean that's part of what we do to look for what should be -- what's the condition. What do the laws require this agency to do in this program? That's part of what we audit. Compliance is always part of our audits.

CHAIRWOMAN OBER: Okay. It probably doesn't need to be explicit.

MR. SMITH: If you look at the last page in the case of the Adult Parole Board on Page 4, we talk about the objectives. We plan to review relevant state laws and rules. That's one of the purpose not only to understand what they're supposed to be

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

July 23, 2018

doing, but also assess the compliance aspect of those laws and rules.

CHAIRWOMAN OBER: I'm okay with that. Anybody else? Representative Weber, did you have your hand up?

REP. WEBER: I did, but the time has come and gone and it's been substantially covered, so.

CHAIRWOMAN OBER: Okay. We have a motion to approve both scopes. All those in favor say aye? Opposed? We are unanimous.

*** {MOTION ADOPTED}

4. Seek and discuss new audit topics

CHAIRWOMAN OBER: Okay. Senator Reagan, as we're on new topics, has a new topic he'd like to discuss.

SEN. REAGAN: So on suggestion of -- conversation with Senator Kahn to examine the process of the cannabis patient ID cards, which for some reason doesn't seem to be getting done in a timely fashion. We have patients expiring before they can get their ID card. I don't think that's acceptable.

CHAIRWOMAN OBER: Is that a euphemism for dying?

SEN. REAGAN: Yeah.

CHAIRWOMAN OBER: Just to make sure. Okay. So we have an audit topic of -- are we just going to look at --

SEN. REAGAN: The cannabis identification card program.

CHAIRWOMAN OBER: Discussion of that.

** SEN. KAHN: I'll second that motion.

REP. WEBER: If I may? I know that it's -- it has been a great issue for some of my constituents and as part of that if

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

July 23, 2018

we could be very clear that one of the things we're going to look at is the patients who have providers on the other side of one of our three borders, which makes it much more difficult. Even though there is theoretically a simple process in place, it's not that simple.

CHAIRWOMAN OBER: Senator Giuda first. You don't mind, do you, Senator?

SEN. GUIDA: Thank you, Madam Chair. I wonder if there's a way to incorporate in this a measure of the reluctance of practitioners in medicine to make recommendations for cannabis knowing of certain constitutional strict -- I'm sorry -- federal legal strictures with Second Amendment things, stuff like that. I have talked to some doctors. They simply won't do it. They don't want to touch it because they're concerned about other implications in their licensure. So that might be something we want to look at.

SEN. REAGAN: That's another topic for the Board of Medicine.

CHAIRWOMAN OBER: I would agree.

SEN. REAGAN: And their members. That's been going on since before the idea.

SEN. GUIDA: Would this be, in fact, we might want --

SEN. REAGAN: All we're interested is -- the subject of this is why aren't we getting these identification cards issued and not going to muddle it with anything else policy wise.

CHAIRWOMAN OBER: Representative Weber.

REP. WEBER: And I think the scope of what the LBA can do is only is State Government and its agencies doing that which they are mandated to do. I don't think this is the forum where we can go outside of that to find out why practitioners are choosing to

make the choices. That's a whole nother inquiry for a different location.

CHAIRWOMAN OBER: I would tend to agree with that. Senator.

SEN. KAHN: What I'd like to ask Senator Reagan maybe in your thought of the issuance of cards that that would be for both patient and caregivers.

SEN. REAGAN: That's all right.

CHAIRWOMAN OBER: All ID cards, yes.

SEN. REAGAN: Right. That's all of it. In that same --

CHAIRWOMAN OBER: So, gentlemen, we're talking all identification cards no matter for whom. Other discussion? We have a motion on the table for an audit of how cannabis ID cards are given out in timely fashion. All those in favor? Opposed? We are unanimous.

*** {MOTION ADOPTED}

CHAIRWOMAN OBER: Do we have another topic that we want to discuss? We had looked at the workforce development, and I think that's why we were sent the old audit. I did a little digging in the part of what's required and part of what's required is for every Commissioner to have -- identify what staff are doing. I guess that's what you will say.

I teach at UNH. I think you guys know that. Not too long ago when we were having the downturn one of my students was laid off, and he said to me I'm getting my degree. I've been working at it at night. I got promoted way before I should without a degree, but I've been laid off now. He completed class, he went on. Eighteen months later he came back, took another class from me, and he said, oh, by the way, I just got hired back and I got a \$2,000 raise. I said, oh, congratulations. He said, yeah. He said, but I have less work to do. He said they gave me a \$2,000

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

July 23, 2018

raise for doing part of the stuff I was already doing that nobody knew who was doing it. When they laid off the people they couldn't figure out who was doing.

So one piece of workforce development is there should be complete staffing plans and identification of what staff is doing. That is spread across every commission. So I don't know how we would audit every commission unless as part of every audit, such as the Parole Board or the Police Training and Standards, we ask them to start looking at do you have succession plans for what happens when your people leave, which is one way you could handle that.

Mr. Smith, you had a suggestion we might do with that, succession planning.

MR. SMITH: Jay and I were talking and as I mentioned to you after Fiscal just a possibility rather than going full bore into an audit is where the audit was 2008, correct?

MR. HENRY: Yes.

MR. SMITH: Was largely to Administrative Services is request from them an update or have them come in and do a presentation to the Committee as to where they think the State is and to help us of where Committee might like to go from this point forward.

CHAIRWOMAN OBER: What do you guys think of that? Would you like to do that? I mean, we all do look in the back of the audit. It's what needs to be done and now this will be what was done. We had two commissioners, at least three commissioners since then. All right. Shall we ask LBA staff to get -- arrange that for us?

SEN. REAGAN: Right.

MR. HENRY: Would you like a letter to go out to the Commissioner?

CHAIRWOMAN OBER: Sure.

MR. HENRY: Signed by you?

CHAIRWOMAN OBER: Yes.

MR. HENRY: The question would be when do you want -- if you want a separate meeting just with them or --

CHAIRWOMAN OBER: Why don't we see -- what do you guys think about seeing if they can update us in writing, we read that, and then we decide how much deeper we would like to go. Does that sound good?

SEN. REAGAN: Excellent idea.

CHAIRWOMAN OBER: That's what we want to do.

SEN. KAHN: So, Madam Chair, you intend to follow-up on succession planning --

CHAIRWOMAN OBER: Audit.

SEN. KAHN: -- with the various audits that we're going to complete subsequently?

CHAIRWOMAN OBER: Well, that was one suggestion that we could do. Because although DAS has primary responsibility for some, when you look, every Commissioner also has a piece of that. And so I don't know how LBA could possibly do a thorough look at all the succession planning and activities that have to be done. It would be a two-year process and put all their people on it. We'd never see them again. Senator Reagan would like that for the lack of meetings.

SEN. REAGAN: Everybody prefers that.

REP. BARRY: Madam Chair, or pick five organizations to see some of the key ones. DHHS.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

July 23, 2018

CHAIRWOMAN OBER: Representative, we might think of that after we see what we get back of what's been done on the audit. I mean, there are some suggestions like that that may come out that we may proceed with.

All right. So if we could do that and see if they could update us in 60 days. DAS is a little busy right now because of the budget. But, hopefully, they've got somebody who could work on that. Any other topics at this point in time? Representative Weber.

REP. WEBER: I've got a couple of very general ones.

CHAIRWOMAN OBER: Okay.

REP. WEBER: They were just mentioned to me because I sent out a little bit of a call saying, hey, we're meeting. So neither of these are particularly well-developed, but I just thought I would throw them out there for people's ideas.

One was a concern at the Department of Corrections, and it sounded to me when it was described as if it was really a staffing issue. But the question is are the staffing issues at the Department of Corrections beginning to interfere with their core functions? That was number one. And one of the subcategories of that was looking at drug and alcohol issues, both from the prevention of having things come in and the -- how are we preparing people to deal with those issues so both prevention in the correction system and treatment outside. So that was one.

And the other was that for quite some time there were concerns just sort of around the periphery of the Office of Professional Licensure and Certification. And I know there's a new person there. And I don't know if those are still issues that I just kept hearing about through people or whether those are beginning to resolve. So I thought I would throw those two out in case there were something that people wanted to discuss.

I know we're currently going pretty heavy in the Corrections area. So that might be something that we wanted to leave behind for awhile so that people can get the current stuff dealt with and not put too much on any one person's plate at one time.

CHAIRWOMAN OBER: I can speak to the staffing for Corrections. Former Commissioner Wrenn who has retired, Commissioner Hanks has taken over, always had between 64 and 84 fully funded staff positions that he didn't fill. Instead, he chose to use overtime.

Part of the issues going on, quite frankly, were that they were under Commissioner Wrenn totally non-computerized, and they were trying to schedule all the prisons, all the corrections officers, seven days a week, 24 hours a day, with paper and pencil, and it wasn't working. And so you would schedule somebody for first shift and then send him home from second shift and then expect him to come back for third shift on the same day. So they didn't come in. So somebody was called.

Commissioner Hanks has engaged an outside agency to help her fully staff. There were six new parole officers that went through this budget. There were 22 additional officers for the Women's Prison and the Women's Prison population grew by zero. So they moved every staff member they had, plus they got 22 more staff members for the new prison. So I believe that's helped.

There was a Capital Budget project last year for -- that was approved for scheduling software that will be used by State Patrol, Corrections, possibly HHS Hospital, I don't know where else HHS might use it, but across the board enterprise system that will schedule staff that will also help that.

So I think probably what you want to do is, in my opinion, would be let some of that run. Let Commissioner Hanks do what she's doing and try to get some of those things resolved. I know she's been recruiting actively. She does not intend to leave 84 fully funded positions empty.

REP. WEBER: I'd be perfectly comfortable leaving that on the back burner for awhile. I know certainly in our county when we computerized that for our nursing home there are any number of perfectly good programs out there that will help. It made a huge difference. So thank you for that.

CHAIRWOMAN OBER: I don't know how to really formulate your second one into an audit topic; do you?

REP. WEBER: One of the issues that people expressed concerns about is there isn't anybody whose purview it is to oversee that particular board area and --

CHAIRWOMAN OBER: OPLC?

REP. WEBER: Yes. And the concern -- you know, there was a whole consolidation procedure that we went through. And people didn't really want to get into it then because, you know, while people are restructuring it's not a good time to do anything. And I haven't heard anything immediately. I just bring it up as a why don't we listen to people and see if that's something that people want to proceed with or not. But, as I say, it's just -- just been a throw it out there sort of thing at this point.

CHAIRWOMAN OBER: We have audited two pieces of the OPLC. We had the Real Estate audit.

REP. WEBER: And we did Naturopaths, if I recall, correctly.

CHAIRWOMAN OBER: Yes.

MR. HENRY: And we found issues with interactions between the Boards and the new office. I think the office was created in 2015.

CHAIRWOMAN OBER: It was under Governor Hassan. It used to be a Joint Board. She moved quite a few people together. So it

was still kind of working out some of the kinks. I thought it was a great idea.

REP. WEBER: There were a number of little free-standing ones that were only open alternate Tuesdays if it wasn't raining and that had been the real issue. I'd be perfectly happy to volunteer to do a little more digging on that one and bring it back next time.

CHAIRWOMAN OBER: Why don't you do a little more digging and bring it back.

REP. WEBER: It isn't something that's clearly ringing everybody's bells all at once as some of our proposals have.

CHAIRWOMAN OBER: The PDMP sits under them and I know they are making finally a row of good strides, and they have been reporting and they did report at the last Fiscal meeting. So that report I believe the LBA has got on-line, and they are finally doing some of the things we hoped they would do a couple years ago. So we're seeing some of those things pull together and make progress.

REP. WEBER: Yeah. And I think that what was expressed to me would be how the overall operation is in grafting with the boards underneath and that would be the focus. But let me check more with people as to how things are going now.

CHAIRWOMAN OBER: Okay. We are going to hold on that because we don't know quite know what we need to do.

REP. WEBER: We'll have to make a motion on that again.

5. Other business

6. Date of next meeting and adjournment

SEN. REAGAN: Ready?

CHAIRWOMAN OBER: I'm ready.

** SEN. REAGAN: Move to adjourn at the call of the Chair.

CHAIRWOMAN OBER: Senator Reagan has moved to adjourn at the call of the Chair. Right now, gentlemen, you have four audits. The cannabis one will have to go to Fiscal for approval. V.R. was just approved so you'll work on a scope for that. And we have ongoing DES, Adult Parole Board, and Police Standards and then you can add the work to get started on V.R. and that's --

MR. HENRY: V.R. won't start until we finish one of the other three.

CHAIRWOMAN OBER: That's fine. You just got to get the scope together so we can approve it at some point.

MR. HENRY: But that won't happen until one of the other audits finish.

CHAIRWOMAN OBER: That's excellent, Jay. Excellent.

MR. SMITH: We'll have a letter for you for your signature on the cannabis --

CHAIRWOMAN OBER: Okay.

MR. SMITH: -- to go to Fiscal in September. So any time after that is when we could potentially --

CHAIRWOMAN OBER: The Chair wouldn't let me second the motion to approve that. I sit on Fiscal.

REP. WEBER: Oh, I see. I thought you needed a second on the motion to adjourn.

CHAIRWOMAN OBER: No. Okay. Without objection, we are adjourned to the call of the Chair. Thank you for coming. Try to stay dry.

(The meeting adjourned to the call of the Chair at 11:55 a.m.)

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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