

HOUSE LEGISLATIVE OVERSIGHT COMMITTEE

2022 STUDY OF THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES EXECUTIVE SUMMARY

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Oversight Purpose and Methods

PURPOSE

To determine if agency laws and programs:

- ➡ are being implemented and carried out in accordance with the intent of the General Assembly; and
- ➡ should be continued, curtailed, or eliminated.

METHODS

The Committee and Subcommittee evaluate:

- ➡ the application, administration, execution, and effectiveness of the agency’s laws and programs;
- ➡ the organization and operation of the agency; and
- ➡ any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

Study Process



Public Input

- 110** Responses to an online public survey
- 9** Online comments received
- 2** Constituents testify

Subcommittee Membership

LAW ENFORCEMENT AND CRIMINAL JUSTICE SUBCOMMITTEE

The Honorable Chris Wooten (chair)
The Honorable Kimberly O. Johnson

The Honorable Josiah Magnuson
The Honorable John R. McCravy, III

Study Milestones

MEETINGS

Full Committee	12/5/18	8/13/19
	4/20/22	
Subcommittee	5/6/21	6/8/21
	6/22/21	7/27/21
	8/26/21	10/27/21

AGENCY REPORTS

March 2015	Seven-Year Plan Report
September 2019	FY 2018-19 Accountability Report
June 2019	Program Evaluation Report*
September 2021	FY 2020-21 Accountability Report

*Report was updated January 2020

Findings

During the study of the Department of Probation, Parole and Pardon Services (agency or PPP), the Law Enforcement and Criminal Justice Subcommittee (Subcommittee) of the South Carolina House of Representatives' Legislative Oversight Committee (Committee) adopts **17 findings**.

The Subcommittee has recommendations to address some, but not all, of these findings. However, the Subcommittee makes the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

General

1. During the last five years, on average, 38% of offenders were released from the Department of Corrections without any transitional supervision.
2. While Department of Probation, Parole and Pardon Services personnel review offender sentencing sheets to determine which inmates are eligible for parole or community supervision, Department of Corrections personnel are responsible for calculating when an offender is eligible for initial parole consideration as well as when an offender is eligible for release to mandatory release programs. SEE RECOMMENDATIONS #6 AND #11
3. Law enforcement officers who are not on the front line but are directly and predominately responsible for the supervision of other law enforcement required to preserve public order, protect life and property, and detect crimes may continue to participate in the South Carolina Police Officers Retirement System.

Efficiency

4. The Department of Administration's facilities management plans related to PPP expect to generate a savings of more than \$7 million over the next ten years.
5. PPP spends \$2.2 million annually for manual data reentry; across state government, \$100 million annually is spent on this task. SEE RECOMMENDATIONS #8-#18, #32-#34, AND #36 - #40
6. After considering requests from employees and analyzing operations effectiveness during COVID-19 office closures, PPP completed the Department of Administration's Division of State Human Resources' telecommuting toolkit and obtained approval for a telecommuting policy.

Effectiveness

7. PPP's innovation (e.g., paperless county offices, in-house data system, etc.) may be transferable to other state agencies.

8. PPP calculates total operational costs (e.g., taser, body worn camera, vehicle lease, work cell phone) when requesting funding for a new employee.
9. Over 75% of victims do not receive full restitution. SEE RECOMMENDATIONS #8-#11 AND #17-#19
10. Funding PPP did not request and has no control over how it is spent, passed through the agency to an outside entity (e.g., \$750,000 in fiscal year 2020 and \$750,000 in fiscal year 2022).
11. Agencies focus on their own individual operations when purchasing technology (e.g., case management and other data management systems). While understandable, this siloed focus facilitates duplication of efforts across multiple agencies using the same information. If the General Assembly desires increased efficiency across all of state government operations, it will need to create incentives or provide consequences to change current agency purchasing practices. SEE RECOMMENDATIONS #8-#18, #32-#34, AND #36-#40

Paroles and Pardons

12. Parole eligible does not mean an offender is guaranteed parole if certain conditions are met. Parole is at the discretion of the Board of Paroles and Pardons. SEE RECOMMENDATIONS #6, #11-#12, #22-#24, AND #30-#31
13. Under the existing organizational structure, a guarantee of parole cannot be utilized as a reliable method to incentivize good behavior or program participation by inmates at the Department of Corrections. SEE RECOMMENDATIONS #6 AND #11-12

Modernization of Laws

14. A statute encouraging innovation in state government by the Budget and Control Board, a defunct agency, should be modernized.
15. Some statutory authorizations have not been utilized by PPP (e.g., Home Detention Act).
16. Circumstances (e.g., lack of funding or agency choice if there is no consequence for failure to implement) may exist where some statutory requirements are not implemented by state agencies.
17. The General Assembly may wish to consider including sunset provisions in legislation (e.g., discretionary programs not funded for more than a decade). SEE RECOMMENDATIONS #25 AND #27-#29

Recommendations

The Subcommittee has 40 recommendations. These are directed to the multiple entities: Department of Probation, Parole and Pardon Services; General Assembly; Criminal Justice Academy and Law Enforcement Training Council; Attorney General’s Office; Department of Corrections; and Commission on Prosecution Coordination.

With any study, the Committee recognizes **these recommendations (e.g., continue, curtail, and/or eliminate agency programs, areas for potential improvement, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency’s self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report, and videos of meetings with agency personnel, is available on the Committee’s website.

Recommendations to Department of Probation, Parole, and Pardon Services (PPP)

Transparency

Reporting and Posting

1. Update information in the agency’s accountability report to match the Program Evaluation Report, or agency current operations and continue tracking applicable data about services, performance, and organization.
2. Post online (i.e., in an easily accessible place for the public) community service (i.e., public service employment) information in a downloadable format.
3. Collaborate with the Revenue and Fiscal Affairs Office (RFA) to determine non-confidential PPP information that may be beneficial to the public if made available in one of RFA’s digital applications (e.g., dashboard, locateme).
4. Update and implement agency policy to reflect statutory requirements for personnel to electronically submit reports for the General Assembly to the Legislative Services Agency.
5. Post online and submit to the Committee, after annually collaborating with the Department of Corrections and any other applicable agencies or entities, an updated flow chart illustrating the incarceration and supervision to release process (available [here](#)), which was first created as part of this oversight study process.

Paroles and Pardons

6. Create and post online (i.e., in an easily accessible place for the public) an “Understanding Paroles” and “Understanding Pardons” document that provides a basic overview of related information and processes (e.g., explanation of what is required in law and what is discretionary; criteria for granting parole; timeline of events between being granted parole and released on parole; why all offenders

granted parole may not be released on parole; reasons for rejecting parole; sample documents, etc.).^{SEE FINDINGS #2 AND #12-13}

7. Track information related to pardons going forward as aggregate data (e.g., year; demographics of applicant; whether represented by counsel; etc.) related to past pardons that were granted or denied is unavailable.

Efficiency

For Victims, Offenders, and their Families

8. **Victim Notification** - Collaborate with the Department of Corrections (SCDC), Board of Juvenile Parole, Attorney General's Office, victim groups, and any other applicable agencies or entities on utilization of a common system to offer an electronic notification option to victims. Within a year, report to the Committee on the discussion that occurred, decisions made, and how victims can expect more consistency in how they receive notifications from state agencies.^{SEE FINDINGS #5, #9, AND #11}
9. **Victim Information Repository** - Convene representatives from Department of Corrections, Attorney General's Office, Department of Juvenile Justice, Board of Juvenile Parole, Court Administration, Prosecution Coordination Commission, application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities, to evaluate potential costs, benefits, and logistics of agreements to enable secure data sharing and/or creation of a centralized directory of information related to victims. Within a year, report to the Committee the steps taken, information gathered, results of analysis performed, and decision of the agencies.^{SEE FINDINGS #5, #9, AND #11}
10. **Offender Restitution and Debt Collaboration** – Convene applicable representatives from Department of Corrections, Attorney General's Office, Department of Juvenile Justice, Court Administration, Prosecution Coordination Commission, application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities to evaluate potential costs, benefits, and logistics of agreements to enable secure data sharing and/or creation of a centralized directory of information related to restitution and debt owed by offenders. Within a year, report to the Committee the steps taken, information gathered, results of analysis performed, and decision of the agencies.^{SEE FINDINGS #5, #9, AND #11}
11. **Offender Information Repository** - Convene Department of Corrections, Attorney General's Office, State Law Enforcement Division, Court Administration, Department of Juvenile Justice, Prosecution Coordination Commission, application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities to evaluate potential costs, benefits, and logistics of agreements to enable secure data sharing and/or creation of a centralized directory of information related to offenders. Within a year, report to the Committee the steps taken, information gathered, results of analysis performed, and decision of the agencies.^{SEE FINDINGS #2, #5, #9, AND #11-#13}
12. **Risk Assessment and Programming Collaboration** - Collaborate with the Department of Corrections (SCDC) and any other applicable agencies or entities on objective common recidivism risk assessment methods and program criteria to provide continuity for offenders that transition from supervision at SCDC to supervision with PPP. Within a year, report to the Committee on the discussion that

occurred, decisions made, and how there will be more continuity between the methods utilized to determine an offender’s level of risk for recidivating, and programs to which the offender will be directed and/or provided credit. SEE FINDINGS #5 AND #11-13

For Agency

13. Reach, and document, a formal decision on what entity (i.e., Court Administration or PPP) maintains the probation violation order (i.e., Form 9). SEE FINDINGS #5 AND #11
14. Work with Court Administration to ensure: (1) forms applicable to PPP operations are included in Court Administration’s electronic form project; and (2) timely communication of information, without the need for manual data reentry, can occur between PPP and Court Administration’s data management systems. SEE FINDINGS #5 AND #11
15. Collaborate with Revenue and Fiscal Affairs Office to evaluate potential benefits and options for a cost-effective central hub from which agency personnel can realize maximum benefits across PPP’s various databases (e.g., reduce/eliminate duplicative manual entry, etc.) as well as information from other agencies that may improve PPP’s effectiveness or efficiency. Within a year, report to the Committee the steps taken, information gathered, results of analysis performed, and decision of the agencies. SEE FINDINGS #5 AND #11

Effectiveness

Measuring Performance and Data Sharing

16. **Service Provider Directory and Performance Tracking** - Convene Department of Corrections, Department of Juvenile Justice, Prosecution Coordination Commission, Commission for Minority Affairs, Attorney General’s Office, application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities to evaluate potential costs, benefits, and logistics of agreements to enable secure data sharing and/or creation of a centralized directory of information related to outside service providers and results of those that are referred to those providers. Within a year, report to the Committee on the steps taken, information gathered, results of analysis performed, and decision of agencies. SEE FINDINGS #5 AND #11
17. **Employer Directory and Performance Tracking** - Convene Department of Corrections, Department of Juvenile Justice, Prosecution Coordination Commission, Commission for Minority Affairs, Department of Employment and Workforce, application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities to evaluate potential costs, benefits, and logistics of agreements to enable secure data sharing and/or creation of a centralized directory of information related to employers currently employing, or willing to employ, individuals previously convicted and track recidivism of individuals that obtain employment. Within a year, report to the Committee on the steps taken, information gathered, results of analysis performed, and decision of agencies. SEE FINDINGS #5, #9, AND #11
18. Collaborate with the Commission on Indigent Defense to ascertain if opportunities exist to create uniformity in information requested of individuals when determining whether they will receive

indigent representation and/or hardships while under supervision of PPP. Within a year, provide a report to the Committee outlining the steps taken, information gathered, results of analysis performed, decision of agencies, and list of other state agencies that may waive fees owed to the state due to hardship. SEE FINDINGS #5, #9, AND #11

19. As administrative monitoring (i.e., only remaining condition of supervision not completed is payment of financial obligations) has existed for over a decade, provide data from which legislators may determine what impact, if any, the program has had on victims receiving restitution and costs to the agency. SEE FINDING #9

Agency Staff

20. Require initial and ongoing leadership and/or supervisor training for personnel to attain, and remain in, supervisory roles.
21. Ensure each agency job description includes accurate and current information in the “What knowledge, skills, and abilities are needed by an employee upon entry to this job including any special certification or license?” section.

Staffing the Board of Pardons and Paroles

22. Provide board members and agency staff involved in parole hearings, training about attorney ethical obligations as it relates to communication with judges and parole board members. Update agency policies to require this as part of staff and board training as the agency is responsible for board training pursuant to statute (i.e., initial and annual). SEE FINDING #12
23. Update initial board training to require each board member (a) affirm acknowledgement of their duties in writing; and (b) prior to first serving on a hearing panel complete all required training, including either observing a real hearing or participate in a mock one. SEE FINDING #12
24. Collaborate with a professor and/or researcher at an academic institution to determine data necessary to evaluate the effectiveness of the parole process considering various potential intents of parole. Track the data for the recommended amount of time, then publish the information on the agency website and submit it to Legislative Services Agency for distribution to the General Assembly and publication on its website. SEE FINDING #12

Recommendations to General Assembly

Modernization of Laws

25. Consider repealing antiquated statutes (i.e., S.C. Code Sections 24-21-510 and -540) related to PPP’s duty to develop and operate a comprehensive community control system and community control centers as recommended by PPP. In 2002, the agency ceased operating the lone center, located in Charleston County, after the General Assembly stopped appropriating funds for its operation; PPP has no plans to seek funding to reestablish the centers. SEE FINDING #17

26. Consider amending S.C. Code of Laws Section 23-3-540(H) (electronic monitoring; reporting damage to or removing monitoring device; penalty) to remove the final sentence, which the S.C. Supreme Court held unconstitutional in *State v. Dykes*, 403 S.C. 499, 744 S.E.2d 505 (2013).
27. Consider repealing antiquated statutes related to PPP’s discretionary authority to establish restitution centers (i.e., S.C. Code Sections 24-21-480; 24-21-485; 24-13-730).^{Agency Request} In 2018, the agency stopped operating the centers and has no plans to exercise discretionary authority to reestablish the centers. Through enactment of sentencing reform, the General Assembly has focused on alternative means of enforcing the collection of restitution (e.g., administrative monitoring program where only remaining condition of supervision not completed is payment of the financial obligations).^{SEE FINDING #17}
28. Consider authorizing supervised furlough processes (i.e., S.C. Code Sections 24-13-710 and 24-13-720, 24-13-730) to sunset when the last offender has completed the program. This was recommended in the study of the Department of Corrections.^{SEE FINDING #17}
29. Consider repealing the Offender Management System Act (i.e., S.C. Code Sections 24-22-10; 24-22-20; 24-22-30; 24-22-40; 24-22-50; 24-22-60; 24-22-70; 24-22-80; 24-22-90; 24-22-100; 24-22-110; 24-22-120; 24-22-130; 24-22-140; 24-22-150; 24-22-160; 24-22-170; Reg. 130-10).^{Agency Request} The system and any regulations promulgated thereto terminated on July 1, 1995.^{SEE FINDING #17}

Recommendations to Board of Pardons and Paroles

Effectiveness

30. Analyze current operations and discuss ideas for potential improvements. Within a year, provide the Committee information on changes the board is making internally and recommendations for changes in law that may improve operations (e.g., additional at-large board member, acknowledgement of time commitment prior to accepting position, etc.) with rationale.^{SEE FINDING #12}
31. Establish a process to track hearing attendance for each parole board member and publish the information (e.g., number of hearing days attended by year, noting excused absences) annually on the agency website.^{SEE FINDING #12}

Recommendations to Criminal Justice Academy and Law Enforcement Training Council

Transparency and Effectiveness

32. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information and provide the Committee a list of data the agency is sharing.^{SEE FINDINGS #5 AND #11}

33. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share non-publicly available information for purposes of assisting in research that can be publicly published utilizing aggregated data across agencies. SEE FINDINGS #5 AND #11
34. Work with applicable entities to create, and implement a policy to annually update, post online, and submit to the Committee (or as part of the Accountability Report), a flow chart showing how each aspect of offender information flows through the criminal justice system from investigation through post-conviction and release, including, but not limited to, the different forms and systems to which it is handwritten or typed, and methods of transfer between various entities. SEE FINDINGS #5 AND #11
35. Over the next three years, obtain input from law enforcement entities, professors, and national associations, and create an optional leadership certification available to law enforcement throughout the state that includes initial and ongoing requirements (e.g., review of incident reports, use of force reports, public contact warning reports, complaints by public, annual online training, etc.) to identify officers that exemplify unbiased behaviors and may excel in supervisory positions. Utilize PPP and others to pilot the program. Within a year, provide the Committee a report on information discussed, decisions made, the plan for creation of the certification and annual status updates.

Recommendations to Attorney General's Office

Transparency

36. Post online and submit to the Committee, after annually collaborating with other applicable agencies, updated flow charts (available [here](#)) illustrating how victim information flows through the criminal justice system and the different points of contact entities have with victims, which was first created as part of the oversight study process with PPP. SEE FINDINGS #5 AND #11

Recommendations to Department of Corrections

Transparency

37. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information and provide the Committee a list of data the agency is sharing. SEE FINDINGS #5 AND #11

Recommendations to Commission on Prosecution Coordination

Transparency and Effectiveness

38. Post online and submit to the Committee, after annually collaborating with Court Administration and other applicable agencies, an updated crime to sentencing flow chart (available [here](#)), including addition of applicable forms utilized in the process, which the agency first created as part of its oversight study process. SEE FINDINGS #5 AND #11

39. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information in ways in which the agency is able and provide the Committee a list of data the agency is sharing. SEE FINDINGS #5 AND #11
40. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share non-publicly available information for purposes of assisting in research that can be publicly published utilizing aggregated data across agencies. SEE FINDINGS #5 AND #11

Indirect Changes from Study Related Information

During the study process, there is **one** internal change implemented directly related to participation in the study process by the Department of Probation, Parole and Pardon Services.

1. As part of the agency's budget process, agency personnel have requested repeal of Proviso 66.3 related to GED preparation, a program the agency no longer operates.



Legislative Oversight Committee

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