

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Amber Robbins, Management and Program Analyst Supervisor

CC: Brian Gootkin, Director, Department of Corrections
Cynthia Wolken, Deputy Director, Department of Corrections
Megan Coy, Programs and Facilities Bureau Chief, Department of Corrections

DATE: November 2021

RE: Performance Audit Follow-up (21SP-20): *Effectiveness of Contracted Community Corrections Programs in Reducing Recidivism* (orig. 18P-05)

ATTACHMENTS: Original Performance Audit Summary

Introduction

The *Effectiveness of Contracted Community Corrections Programs in Reducing Recidivism* (18P-05) report was issued to the Legislative Audit Committee in June 2020. The audit included seven recommendations to the Department of Corrections (department). The department concurred with three and partially concurred with four of the recommendations. We conducted follow-up work to assess implementation of the report recommendations in the fall of 2021. This memorandum summarizes the results of our follow-up work.

Overview

The audit identified the need for improvements to the department's management and monitoring of community corrections contracts. Our audit found there was some evidence community corrections programs reduced recidivism. However, we found the department needed to do more to measure the effectiveness of these programs. Overall, the department has made progress in addressing the recommendation areas with which it concurred. Of the seven recommendations from the original audit report, one was implemented, two were partially implemented, and four are being implemented. Follow-up work found the department is still working on implementing many of the recommendations from the audit. For example, the department updated its contract monitoring procedure and hired 2.5 additional contract management FTE in the fall of 2021. However, it will take time to fully enhance its contract management and monitoring activities. The department has also started planning what outputs and outcomes to track to better measure the effectiveness of the community corrections programs. Developing the processes by which to track these data is a significant undertaking, to say nothing of actually collecting enough data to be meaningful once the new processes are in place.

Background

The Programs and Facilities Bureau (PFB) within the Department of Corrections manages contracts for community corrections programs throughout the state, including:

- Two assessment/sanction centers. *Assessment/sanction centers assess the clinical and criminogenic risks and needs of offenders to help determine appropriate placement.*
- Seven substance use disorder (SUD) treatment centers. *Treatment centers provide high-intensity residential SUD treatment to specific offender populations.*
- Seven prereleases centers. *Prerelease centers are transitional program for offenders coming from prison. They are also used in lieu of prison to provide more structure for offenders who were not successful on community supervision. Prereleases offer varying levels of SUD treatment, and residents of prereleases are expected to find employment in the community.*

Many of these contracts are 20-year contracts. The department pays a per diem outlined in the contracts for each offender placed in the contracted programs. Each contract also includes an annual maximum. The value of the contracts for these programs totaled around \$43.9 million in fiscal year 2019. In addition to the contracted community corrections programs, the department operates one assessment center and one treatment program.

Our audit examined the department's community corrections contract management, contract monitoring, and offender placement processes. During the audit, we learned about how the department assessed the effectiveness of these programs. We also used a statistical approach to assess the effectiveness of community corrections programs using data from the department's Offender Management Information System (OMIS).

Audit Follow-up Results

During follow-up work, the department was in the process of reorganization following a change in administration. In assessing the department's implementation status, we interviewed department management and contractor staff and reviewed interim committee activity. We also reviewed various department materials, such as contract changes for some programs, policy changes, and payment data. The sections below discuss the department's efforts in implementing each recommendation.

RECOMMENDATION #1

We recommend the Department of Corrections follow state contracting policy and best practices by:

- A. Maintaining written contracts when obtaining and paying for community corrections services.**
- B. Amending community corrections contracts prior to the effective date and signing them after the contractor.**
- C. Providing public notice as required by administrative rule when expanding community corrections contracts.**
- D. Avoiding paying for empty bed space at community corrections programs.**

Implementation Status – *Partially Implemented*

- A. During the audit, we found the department paid for prerelease services in one county without a written contract in place. The contracting arrangement for this prerelease was a contract between the department and the county which then subcontracted with a provider. Since the audit, the department has switched to contracting directly with the provider. The county is no longer a contracting party for this prerelease. This change occurred around the end of fiscal year 2021.

The contract for this prerelease is due to end soon, and the department expects to solicit bids for this program in 2022.

- B. The department indicated it revised its contract signature process to ensure the department is the final signer and that exceptions to this are clearly documented. At the time of the original audit, we noted the department was not the final signer in the agreement for the prelease discussed above. The department attributed this to logistical issues related to signer locations.
- C. The department indicated it now ensures the percentage increase in contract capacity is documented, and that it intends to provide public notice when required by administrative rule. However, the department has not increased the capacity of any community corrections contracts since the audit. The legislature authorized the department to expand community corrections programs by up to 10 percent over contract maximums in House Bill 2 during the 2021 Legislative Session.
- D. The department did not concur with part D of this recommendation. As such, it has not been implemented. Some of the contracts require the department to pay for 75 percent of the contracted bed space, regardless of use. The 2021 Legislature required the department to report quarterly to the Law and Justice Interim Committee and to the Legislative Finance Committee on utilization of treatment beds and payments for empty bed space. Department records show the department paid nearly \$833,000 for empty bed space at community corrections programs from July 2020 through July 2021. (In the original audit, we found the department paid over \$400,000 for empty bed space and financing-related contract guarantees between September 2018 and December 2018.) The department indicated the more recent contract guarantee payments were mostly due to challenges and restrictions associated with the COVID-19 pandemic. For example, most programs had an outbreak of COVID-19 that affected the ability to place offenders in them. The department expects increases in placements to community corrections programs once pandemic-related challenges subside and other placement policy changes are carried out.

RECOMMENDATION #2

We recommend the Department of Corrections improve the monitoring of community corrections contracts by:

- A. Developing standard timelines and expectations for following up on findings from quality assurance audits, and**
- B. Developing standards for regularly evaluating the performance of community corrections contractors.**

Implementation Status – Being Implemented

During the audit, we found the department did not always monitor contracts according to policy and procedure. It also did not evaluate contractor performance or consistently follow up on findings from department quality assurance audits. The PFB revised its contract monitoring procedure in January 2021. The revised procedure updated the responsibilities of the contract manager, the schedule of monitoring activities, and the documentation required. The new procedure outlines ongoing remote contract monitoring activities as well as biannual on-site visits to each facility. As part of follow-up work, we reviewed examples of remote contract monitoring documentation for one prerelease and one treatment program. The department indicated it completed site visits at four facilities since June 2020. The department was limited in its ability to do in-person, on-site visits due to the pandemic and staff turnover. To assist with its contract management and monitoring responsibilities, the PFB requested 5 additional FTE from the 2021 Legislature and was approved for 2.5. The department successfully hired these FTE in

the fall of 2021. We believe the procedure change and these additional FTE will assist the department in following its new standards for regularly evaluating community corrections contractors.

RECOMMENDATION #3

We recommend the Department of Corrections:

- A. Limit future community corrections contracts to seven years or fewer, and**
- B. Seek legislation to limit the terms of these contracts.**

Implementation Status – Partially Implemented

Our audit found the 20-year contract terms for community corrections programs were lengthy and limited the department's ability to make changes to community corrections programs. The department indicated it will limit future community corrections contracts to seven years or fewer. While no new community corrections contracts have been executed since the audit was released, the department is currently in the procurement phase for a seven-year contract for a treatment program. However, the department did not concur with part B of this recommendation and did not seek legislation to limit the terms of community corrections contracts in statute. We continue to believe the department should actively seek legislation that will align community corrections contracts with industry best practice. Additionally, we continue to believe that amending the language in statute is necessary to prevent future administrations from entering into lengthy contract terms that limit the department's ability to make changes within community corrections.

RECOMMENDATION #4

We recommend the Department of Corrections develop processes to:

- A. Ensure offender recidivism risk and clinical need drive decisions about placement in community corrections programs.**
- B. Collect data that will allow the department to broadly ensure offenders are being matched to community corrections programs based on recidivism risk and clinical need.**

Implementation Status – Being Implemented

- A. The 2021 Legislature required the department in House Bill 2 to make offender placement decisions based on the risk assessment alone, but to determine treatment dosage and needs from a behavioral health assessment (i.e., a Substance Use Disorder (SUD) evaluation). As part of the follow-up, we reviewed the department's July 2021 directive that implemented changes in its placement process. We found the directive aligned with legislative intent regarding the offender placement process. Prior to this directive and during the audit, the department required both a risk assessment and a SUD evaluation prior to placement in treatment. Now, the offender is placed based on the risk assessment alone, and a SUD evaluation is done at the treatment facility after placement to determine the appropriate level of treatment. The department indicated that, if an offender is placed in residential treatment based on risk, and such treatment is subsequently determined unnecessary based on a SUD evaluation, the offender would be referred for alternate placement. This has not occurred since the change in the placement process in July 2021. Because this change occurred relatively recently, its full impacts are yet to be determined. The department expects this change will result in a more efficient placement process. However, some programs are in flux due to this change, particularly assessment/sanction centers.
- B. The department currently continues to rely on the Correctional Program Checklist and contract monitoring on a facility-by-facility basis to monitor placement appropriateness. The department

indicated a new OMIS module is being developed to allow it to collect information related to court placement recommendations (as required by SB 47 from the 2021 Session). The department further indicated it intends to pursue OMIS changes and new data review processes once the department has completed its reorganization efforts. Additionally, the department recently implemented an electronic health record system and intends to identify ways to use it in addition to OMIS data to monitor the appropriateness of placements.

RECOMMENDATION #5

We recommend the Department of Corrections require standardized substance use disorder evaluations on offenders referred to community corrections programs.

Implementation Status – Being Implemented

As discussed earlier, the department no longer requires a SUD evaluation for referral to a community corrections treatment program, per direction from the legislature. Because of this, SUD evaluations are no longer a necessary piece of the material considered during screening. However, they are still included in the offender's screening packet, if available. SUD evaluations are now conducted at the treatment facilities once the offenders are placed to determine treatment needs and levels. However, the recent reorganization of the department includes a SUD Clinician. This new position will be devoted to working with community corrections facilities on evidence-based programming, consistency and quality of evaluation and treatment planning, and staff training. However, filling this position is on hold until it fills its new Rehabilitation and Programs Chief management-level position, which it expects to fill by February 2022.

RECOMMENDATION #6

We recommend the Department of Corrections ensure pre-authorizations for the conditional releases of sexual and violent offenders are conducted within the time frame outlined in department policy.

Implementation Status – Implemented

Our audit found the department was not following its conditional release pre-authorization process for sexual and violent offenders in a timely manner. Since the audit, the department has ceased this separate process for sexual and violent offenders altogether. As such, we categorized this recommendation as implemented.

RECOMMENDATION #7

We recommend the Department of Corrections develop and implement processes to measure the effectiveness of contracted community corrections programs based on offender outcome data.

Implementation Status – Being Implemented

During the audit, we found the department did not assess the effectiveness of community corrections programs based on outcomes. The department indicated it intends to measure outputs and outcomes to better measure the effectiveness of community corrections programs. It has created a workgroup for this purpose consisting of both department and community corrections stakeholders. The group has identified some short-term and long-term outputs and outcomes to help measure effectiveness and indicated it has drafted a plan for implementing processes to collect the necessary data. For example, some preliminary metrics the group identified are the number of positive drug tests, the number of drug-related offenses, reduction in risk level, and employment. Tracking and analyzing the data necessary for these within the department is a significant undertaking that will take a lot of consideration by the department and its

criminal justice stakeholders as well as potential adjustments to OMIS. In the meantime, program-level recidivism measures have been reported to the Criminal Justice Oversight Council by the contractor community. We believe the department has made some effort to implement this recommendation. However, the amount of time to fully implement this recommendation exceeds the normal 12-18 months in which we typically conduct follow-up work. As a result, we were unable to categorize this recommendation as implemented.