

Report Highlights

Why DLA Performed This Audit

This audit determines whether there is a need for the board's continued existence and whether the board's termination date should be extended. The board is set to terminate June 30, 2020, and will have one year from that date to conclude its administrative operations.

What DLA Recommends

1. The board's executive director should improve procedures to ensure final revocation hearings are performed timely.
2. The board's executive director should work with the Department of Corrections' (DOC) commissioner to improve the quality of telephonic hearings.
3. The board's executive director should take steps to ensure regulations are properly updated.
4. DOC's Administrative Services Division director should take steps to ensure the Alaska Correctional Offender Management System complies with State information technology security standards and national best practices.

A Sunset Review of the Department of Corrections, Board of Parole

May 8, 2019

Audit Control Number 20-20116-19

REPORT CONCLUSIONS

The audit concluded that the board responded in an effective and efficient manner to significant changes in parole laws. During the audit period, the board conducted its meetings, made parole decisions, set parole conditions, and held revocation hearings in accordance with state law.

The audit also concluded that administrative improvements are needed to ensure regulations are accurate and up to date, and all revocations are performed within statutory timelines. Additionally, the audit found that technological improvements may improve board operations.

In accordance with AS 44.66.010(a)(2), the board is scheduled to terminate June 30, 2020. We recommend the legislature extend the board's termination date five years to June 30, 2025, which is three years less than the eight year maximum allowed for in statute. The reduced extension is mainly in acknowledgment of recent changes to the board's statutes as well as anticipated changes and the need for continued oversight.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@akleg.gov

July 23, 2019

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Parole and the attached report is submitted for your review.

DEPARTMENT OF CORRECTIONS
BOARD OF PAROLE
SUNSET REVIEW

May 8, 2019

Audit Control Number
20-20116-19

The audit was conducted as required by AS 44.66.050(a). Per AS 44.66.010(a)(2), the board is scheduled to terminate on June 30, 2020. We recommend that the legislature extend the board's termination date to June 30, 2025.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

ABBREVIATIONS

AAC	Alaska Administrative Code
ACN	Audit Control Number
ACOMS	Alaska Correctional Offender Management System
AS	Alaska Statute
ASD	Administrative Services Division
board	Board of Parole
CISA	Certified Information Systems Auditor
CPA	Certified Public Accountant
DLA	Division of Legislative Audit
DOC	Department of Corrections
ECAC	Executive Clemency Advisory Committee
FY	Fiscal Year
LSI-R	Level of Service Inventory-Revised
NIST	National Institute of Standards and Technology
SB	Senate Bill

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ORGANIZATION AND FUNCTION

Alaska Board of Parole

The Board of Parole (board) is the designated parole setting authority for the State of Alaska. Per AS 33.16.020, the board consists of five members appointed by the governor and confirmed by the legislature. Board members serve staggered terms of five years and until their successors are appointed. The governor must make appointments to the board with due regard for representation on the board of the ethnic, racial, gender, and cultural populations of the state. Representation must also be comprised of at least one member from the First Judicial

Exhibit 1

Alaska Board of Parole Members as of April 23, 2019

Edith Grunwald, Chair
3rd Judicial District Member

Sarah Possenti, Vice Chair
4th Judicial District Member

R. Ole Larson
At-Large Member

Steve Meyer
At-Large Member

Jason Wilson
1st Judicial District Member

Source: Office of the Governor, Boards and Commissions website.

District, Third Judicial District, and Second or Fourth Judicial District. The board chair is appointed by the governor. See Exhibit 1 for a list of board members as of April 2019.

Alaska Statute 33.16.060 defines the board's duties. The board's primary responsibility is the determination of an offender's suitability for discretionary or special medical parole. The board is also responsible for conducting parole revocation hearings, establishing parole conditions for offenders, and investigating clemency applications when requested by the governor.

Exhibit 2

Board of Parole Authorized Positions as of April 23, 2019

Title	Status
executive director	filled
parole administrator	filled
clemency administrator	filled
parole board officer	filled
hearing officer IV	filled
hearing officer III	filled
hearing officer III	filled
hearing officer III	filled
criminal justice technician	filled
criminal justice technician	vacant
office assistant	filled

Source: Board of Parole website.

The board is organized within the Department of Corrections (DOC) and is authorized to hire an executive director who, in turn, is authorized to hire additional staff. As of April 2019, nine of 10 authorized positions were filled in addition to the executive director. Exhibit 2 on the previous page displays the board's authorized positions.

As shown in Exhibit 3, the board is funded by general funds. Expenditures are primarily for personal services, travel, and office rental costs.

Exhibit 3

Board of Parole Schedule of Expenditures and Funding Sources FY 16 through January 31, 2019 (Unaudited)				
	FY 16	FY 17	FY 18	July 1, 2018 through January 31, 2019
Operating Expenditures:				
Personal Services	\$817,731	\$1,133,626	\$1,558,906	\$849,678
Travel	56,363	56,508	62,439	34,272
Services	126,904	174,145	112,080	8,305
Commodities	<u>17,925</u>	<u>23,015</u>	<u>18,928</u>	<u>8,378</u>
Total Operating Expenditures	<u><u>\$1,018,923</u></u>	<u><u>\$1,387,294</u></u>	<u><u>\$1,752,353</u></u>	<u><u>\$900,633</u></u>
Funding Sources:				
General Fund Appropriations	\$1,019,400	\$1,790,600	\$1,753,000	\$1,745,800

Source: DOC management.

The increase in funding reflected in Exhibit 3 is related to an increase in the board's workload caused by Senate Bill 91, which became effective January 2017. Senate Bill 91 increased the board's workload by shortening deadlines for technical revocation hearings and expanding eligibility for discretionary parole. Five new positions were authorized to address the workload increase. The changes to the board's workload are discussed in more detail in the Background Information section of this report.

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BACKGROUND INFORMATION

The State of Alaska has four forms of parole: discretionary, special medical, geriatric, and mandatory. Additionally, administrative parole was authorized from January 2017 to November 2017.

Discretionary parole may be granted after consideration of several factors.

The Board of Parole (board) is statutorily required to consider an offender for discretionary parole when an offender serves the minimum sentence prescribed in law. Consideration for parole eligibility involves an interview with the offender during a hearing and review of pertinent documentation. Additionally, crime victims are invited to provide written or oral statements for the board to consider as part of its deliberations.

When considering parole, the board reviews 23 factors¹ to help evaluate a prisoner's likelihood of recidivism and whether or not a prisoner poses a threat to the public. Further, in evaluating whether to grant or deny an offender discretionary parole, the board considers the comprehensive parole progress report, including the case plan for the prisoner, the compliance report on the case plan, and a reentry plan. The case plan is created by the institutional parole officer and incorporates a tool that assesses an offender's risk and needs, called the Level of Service Inventory-Revised (LSI-R), as discussed in Exhibit 4. The case plan assigns programs such as anger management, substance abuse treatment, education, or employment assistance to help facilitate rehabilitation and successful reentry of the offender into society.

Exhibit 4

LSI-R Risk Assessment Tool

The main objective of the LSI-R assessment is to reduce recidivism by identifying and targeting an inmate's specific rehabilitation needs. The LSI-R utilizes both static and non-static factors in arriving at the offender risk score* including criminal history, education/employment, financial, family/marital, accommodation, leisure/recreation, companions, alcohol/drug problems, emotional/personal, and attitude/orientation. The LSI-R assigns points to different risk categories to arrive at a risk group (low, low-moderate, moderate, medium-high, and high). The LSI-R is used to help create an offender's case plan.

Source: LSI-R scoring guide.

* The risk measured by the LSI-R is the offender's risk that the offender will reoffend upon release.

¹ The 23 factors are established in regulation 22 AAC 20.165.

Alaska Statute 33.16.100 authorizes the board to release a prisoner on discretionary parole who is statutorily eligible, has met the case plan requirements,² and has agreed to and signed the conditions of parole. After considering case documentation, the case plan, victim testimony, and the offender’s parole interview, the board makes one of three decisions:

1. Continue the hearing to a future date;
2. Grant parole with conditions established by the board; or
3. Deny parole.

Other forms of parole may be granted by the board.

Alaska law also allows for special medical parole, geriatric parole, and mandatory parole. Additionally, administrative parole, which was terminated in November 2017, is discussed below.

- **Special medical parole:** Alaska Statute 33.16.085 authorizes the board to grant special medical parole to an offender who is suffering from a severe medical or cognitive disability and meets certain other criteria established in statute. Any offender released on special medical parole is subject to the same evaluation process and supervision as offenders granted discretionary parole.
- **Geriatric parole:** Alaska Statute 33.16.090(a)(2) allows for inmates over the age of 60 who have served at least 10 years of a sentence, and not been convicted of an unclassified or sexual felony, be released on discretionary parole if approved by the board.
- **Mandatory parole:** An offender with a sentence of two or more years is statutorily required to be released on mandatory parole³ when their sentence(s), minus any good time credit earned toward

² Alaska Statute 33.30.011(a)(8)(B) requires a case plan be based on the results of assessments of the risks and needs of offenders. Per AS 33.16.100(f), the board may waive the case plan requirement if failing to meet a case plan is not the fault of the prisoner or the prisoner would not pose a threat of harm to the public if released on parole.

³ Alaska Statute 33.16.010.

their sentence(s), has been served.⁴ In contrast to discretionary, geriatric, and special medical parole, mandatory parole is not a voluntary process and release does not depend upon the board's approval. However, the board does establish parole conditions for offenders receiving mandatory parole.

- **Administrative parole:** This new form of parole was authorized by AS 33.16.089 with Senate Bill (SB) 91, and became effective January 2017. The statute authorized the release of certain prisoners on administrative parole by the board without a hearing. A prisoner convicted of a misdemeanor, a class B felony, or a class C felony who was not a sex offender or prior felon was eligible if the prisoner completed the case plan requirements and was willing to sign a parole agreement. Administrative parole was removed from statutes by SB 54, effective November 2017.

Parole may be revoked by the board.

The board is responsible for holding a parole revocation hearing when a parole officer alleges that a parolee has violated a parole condition or the law. There are two types of parole violations, technical and non-technical, that can cause a parole revocation hearing. Technical violations occur when a parolee violates a parole condition. Non-technical violations are for new violations of law as well as violations of parole conditions related to sex offender treatment and domestic violence intervention programs.

A preliminary hearing is performed for non-technical violations within 15 working days of an alleged violation per AS 33.16.220(b). The hearing is conducted by a hearing officer of the board to determine whether there is probable cause to believe that a parolee has committed a new crime or has violated a parole condition. If probable cause is found, the preliminary hearing will also determine whether the parolee should remain in custody pending a final revocation hearing.

⁴ Alaska Statute 33.20.010 defines the amount of good time credit to be earned by an offender and the conditions under which it is awarded. With some exceptions specified in state law, prisoners are eligible for a good time credit of one-third of their sentence as long as prisoners follow “the rules of the correctional facility in which [they are] confined.”

A final hearing for a non-technical violation is conducted by a quorum of board members. The board has 120 days from the alleged violation to complete a final revocation hearing if a preliminary hearing was conducted. The board can skip a preliminary hearing if the board performs a final hearing within 20 working days.

Prior to SB 91, the hearing process described above was the same for technical violations. SB 91 eliminated preliminary hearings for technical violations and requires the board to hold a final hearing within 15 working days of the alleged violation per AS 33.16.220(j). The hearing is performed by a hearing officer or a board member.

The board has several options when considering revocation:

1. Continue the hearing to a later date;
2. Revoke parole and impose a sanction in AS 33.16.215 (for technical violations);
3. Revoke parole and impose the remaining time the offender owes. The offender may be eligible to be re-paroled (for non-technical violations);
4. Reprimand and warn the offender; or
5. Find there is no just cause that a condition of parole was violated and take no action.

A parolee can waive their right to a revocation hearing per AS 33.16.230 by submitting a written waiver to the board.

Senate Bill 91 significantly changed parole.

Senate Bill 91 significantly changed the board's statutes effective January 2017. As discussed below, the changes included expanding the number of offenders eligible for discretionary parole, removing the requirement that offenders apply for a discretionary parole hearing, shortening required timelines for technical hearings, and reducing terms of parole via compliance credits.

Expanded discretionary parole: Prior to SB 91, offenders who committed their first class B felony or up to their second class C felony were eligible for discretionary parole after serving one quarter of their sentence(s).⁵ SB 91 expanded eligibility for discretionary parole for all offenders except for unclassified or class A sex offenders. Post-SB 91, generally, offenders who committed any number of A, B, or C felonies were eligible for discretionary parole after serving one quarter of their sentence(s).⁶

Removed discretionary parole application requirement: Prior to SB 91, a prisoner initiated the parole process by submitting an application for parole, and not all eligible prisoners submitted applications. SB 91 removed the language “Upon receipt of an application” from AS 33.16.060(a)(2), which eliminated the application process and changed how the board approached discretionary parole hearings. Under SB 91, Department of Corrections (DOC) institutional parole officers prepare a pre-parole report and packet for each offender who is eligible for parole. The board is required to hold a hearing for every eligible offender. Per statute, the parole hearing must be conducted 90 days prior to the offender’s first date of eligibility.

Shortened technical revocation hearing timeline: As already described above, prior to SB 91, a technical revocation required a preliminary hearing within 15 working days of the alleged violation and a final revocation hearing within 120 days of the violation or a final hearing within 20 working days if no preliminary hearing was performed. SB 91 added AS 33.16.220(j), which requires final hearings for technical revocations be held within 15 working days.

Reduced term of parole via compliance credits: SB 91 added AS 33.16.270, which established earned compliance credits. The statute allows parolees to earn credits for complying with conditions of parole; the credits reduce the period of parole. A parolee can

⁵ Alaska Statute 11.81.250 defines class A, B, and C felonies.

⁶ The distinctions between parole eligibility in this paragraph are general as there are exceptions to the overall classes of offenders in statutes.

Board of Parole’s involvement in the clemency process.

earn a credit of 30 days for each 30-day period served in which the parolee complied with the conditions of parole. The change effectively reduced the parole period by half if a parolee remained in compliance with parole conditions.

Per AS 33.16.060(a)(8), upon request of the governor the board shall review and recommend applicants for executive clemency.⁷ Prior to January 2018, the board collected applications for clemency; however, there was no formal process for notifying the governor of completed applications. In January 2018, an updated clemency process approved by the governor was put into place.

Under the new process, the board collects and forwards completed clemency applications to the governor. Upon the governor’s request, the board performs an investigation and prepares a report of findings with a recommendation. The investigation report is given to the governor. According to board procedures, the governor then issues a notice of consideration to the Executive Clemency Advisory Committee (ECAC). The ECAC holds a meeting to discuss the application, reviews and considers the board’s investigation report, and votes on a recommendation. The ECAC provides advice to the governor based on the results of the vote.

⁷ Per AS 33.20.070, the governor may grant pardons, commutations of sentence, and reprieves, and suspend and remit fines and forfeitures in whole or part for offenses against the laws of the State of Alaska or the Territory of Alaska.

REPORT CONCLUSIONS

In developing our conclusion regarding whether the Board of Parole's (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A to this report. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continued operations.

The audit concluded that the board responded in an effective and efficient manner to significant changes in parole laws. During the audit period, the board conducted meetings, made parole decisions, set parole conditions, and held revocation hearings in accordance with state law.

The audit also concluded that administrative improvements are needed to ensure regulations are accurate and up to date, and all revocations are performed within statutory timelines. Additionally, the audit found that technological improvements could enable the board to carry out its duties.

In accordance with AS 44.66.010(a)(2), the board is scheduled to terminate June 30, 2020. We recommend the legislature extend the board's termination date five years to June 30, 2025, which is three years less than the eight year maximum allowed for in statute. The reduced extension is mainly in acknowledgment of recent changes to the board's statutes as well as anticipated changes and the need for continued oversight.

Detailed report conclusions are as follows.

The board operated in the public interest and effectively met statutory duties while responding to change.

The board altered procedures to effectively carry out its duties while responding to changes in state law. As discussed in the Background Information section of this report, Senate Bill (SB) 91 changed eligibility standards and removed the application process⁸ for discretionary parole, which caused a significant increase in discretionary hearings during 2017 and 2018.

⁸ Prior to SB 91, prisoners had to file an application to be considered for discretionary parole.

The increase in discretionary parole hearings, as shown in Exhibit 5, included a significant number of hearings that prisoners did not attend (no-shows). No-shows were the result of SB 91 eliminating the discretionary parole application process and mandating that hearings be held for all eligible prisoners regardless of whether a prisoner wanted discretionary parole. According to the board’s executive director, prisoners may not want discretionary parole for various reasons including not willing to sign parole conditions and/or wanting to complete a sentence and leave with no parole conditions.

Exhibit 5

Board of Parole Schedule of Parole Hearings Calendar Years 2015 through 2018 (Unaudited)				
	2015	2016	2017	2018
Early Release Parole Hearings:				
Discretionary	191	223	629	954
Special Medical	0	4	3	1
Administrative	0	0	4	0
Geriatric	0	0	0	1
Total Early Release Hearings	<u>191</u>	<u>227</u>	<u>636</u>	<u>956</u>
Early Release Paroles Granted	126	143	287	250
Early Release Paroles Granted as a Percentage of Total Hearings	66%	63%	45%	26%
Release by Mandatory Parole	833	767	754	551

Source: Board executive director.

Initially, parole officers and the board compiled parole packets and held hearings for no-shows in the same manner as conducted for prisoners who attended the hearings. This was not an effective use of resources given that parole is not granted if a prisoner does not attend the parole hearing. The board recognized the inefficiency and changed the procedures in November 2017. The new procedures require institutional parole officers to complete condensed parole packets (does not include release plans or parole conditions) for offenders that do not want discretionary parole and the board holds an abbreviated hearing. As shown in Exhibit 6, no-shows represented 21 percent of discretionary parole hearings in 2017 and 29 percent in 2018.

Exhibit 6

Board of Parole Schedule of Parole Hearing No-Shows Calendar Years 2015 through 2018 (Unaudited)				
	2015	2016	2017	2018
Discretionary Parole Hearings	191	223	629	954
No-Shows	0	0	131	275
Percentage of No-Shows	0%	0%	21%	29%

Source: Board executive director.

According to board staff, the increase in discretionary parole hearings in 2017 led to an increased number of revocation hearings in 2017 (see Exhibit 7). This increase in workload was offset in 2018 by the use of an administrative sanction and incentive program (AS 33.05.020(g)) that allowed probation officers to impose sanctions without a hearing for the most common technical violations based on a decision-making guide created by Department of Corrections management.

Exhibit 7

Board of Parole Schedule of Revocation Parole Hearings Calendar Years 2015 through 2018 (Unaudited)

	2015	2016	2017	2018
Revocation Hearings:				
Non-Technical	66	79	214	150
Technical	315	288	347	179
Total Non-Waived Revocation Hearings	<u>381</u>	<u>367</u>	<u>561</u>	<u>329</u>
Waived Revocation Hearings	335	281	714	610

Source: Board executive director.

The board effectively coped with the increase in parole and revocation hearings by traveling to each correctional facility four times per year instead of two. The board also hired five new staff positions to address the increase in workload. The positions included one criminal justice technician, one hearing officer IV, and three hearing officer IIIs.

The audit reviewed 28 of 2,016 files for discretionary parole hearings and three of eight special medical parole hearings held between July 2015 and January 2019 to determine compliance with statutory and regulatory requirements. For all cases reviewed, the audit found that the board followed requirements when considering an offender for parole.

The audit reviewed 19 of 1,470 revocation hearings and 17 of 1,822 waived revocation hearings held between July 2015 and January 2019 to determine compliance with statutory requirements. The audit found the board consistently followed statutory requirements, except for compliance with the requirement that final revocation hearings be performed within 120 days after a parolee's alleged violation. Three out of

the 19 final revocation hearings tested were performed from five to 12 days late. (Recommendation 1)

The audit identified 49 board related complaints were received by the Office of the Ombudsman between July 2015 and January 2019. The audit found the complaints were addressed in an efficient manner. There were no board related complaints received by the Alaska Human Rights Council, U.S. Equal Employment Opportunity Officer, or Alaska Office of Victims' Rights from July 2015 through January 2019.

The board conducted annual administrative meetings in accordance with state law and does not significantly duplicate the efforts of other entities.

Annual board meetings were conducted in an effective manner. A review of four annual board meetings held during the audit period found meetings were appropriately public noticed and properly allotted time for public comment. Quorum was met for all four meetings reviewed.

The board does not significantly duplicate the efforts of other entities. The prior sunset audit noted the potential for duplication with the Executive Clemency Advisory Committee (ECAC).⁹ The clemency process was updated in January 2018 to define the portions of the clemency process performed by each entity. However, under the new process both the board and ECAC make a recommendation to the governor which does duplicate efforts. The recommendation made by ECAC incorporates the board's investigation report.

Regulation updates are needed in response to the statutory changes.

The audit identified that two discretionary parole eligibility groups should have been added to board regulations based on statutory changes. Specifically, AS 33.16.090 was amended by SB 56 in 2005 and again by SB 91 in 2016. Both amendments added new eligibility requirements for discretionary parole, but regulations were not

⁹ Clemency is allowed per AS 33.20.070, which states that "The governor may grant pardons, commutations of sentence, and reprieves, and suspend and remit fines and forfeitures in whole or part for offenses against the laws of the State of Alaska or the Territory of Alaska."

Technological improvements could enable the board to carry out its duties.

updated. In addition, auditors identified board regulations updated with register 215 in August 2015 did not include an accurate title in 22 AAC 20.105. (Recommendation 3)

The board conducts parole hearings in 13 correctional facilities across the state. Due to geographic limitations and budget constraints, some board members and victims attend parole hearings telephonically. The audit identified four out of the 13 correctional facilities have inadequate telephones, which reduces the effectiveness and efficiency of parole hearings due to poor communication. There were 495 hearings, or 14 percent of parole and revocation hearings, held during calendar years 2015 through 2018 at these facilities. Deficiencies include lack of conference capability at two of the facilities, echoing, and a weak connection that limited communication.

The board coped with the problems by muting the phone lines of whichever parties were not speaking, using board member cell phones, or conducting a hearing in the institutional parole office when available. These actions led to inefficiencies by increasing time needed to conduct the hearings and/or disrupting operations. (Recommendation 2)

The audit reviewed internal controls over the Alaska Correctional Offender Management System and identified deficiencies. (Recommendation 4)

FINDINGS AND RECOMMENDATIONS

The Board of Parole's (board) prior 2015 sunset audit¹⁰ made four recommendations:

- The executive director should improve procedures to ensure required documentation for parole hearings is accurate and consistently included in the parole files.
- The executive director, in coordination with Department of Corrections (DOC) management, should implement documentation standards to ensure all offender and victim notifications are made in accordance with statutory requirements.
- The board should ensure proposed regulations address all statutory requirements related to its duties.
- DOC's Administrative Services Division (ASD) director should take steps to ensure the Alaska Correctional Offender Management System (ACOMS) complies with State information technology security standards and national best practices.

The prior audit recommendation to improve procedures to ensure required documentation for parole hearings is accurate and consistently included in parole files was resolved. Testing of parole hearings as part of the 2019 sunset audit found required documentation for parole hearings was accurately and consistently included in the parole files.

The prior recommendation to implement documentation standards to ensure all offender and victim notifications are in compliance with statutory requirements was also resolved. The board updated its victim policies to ensure the notifications are documented in ACOMS and in the institutional file. This audit confirmed victim and offender notifications were made in accordance with statutory requirements.

The prior recommendation to ensure proposed regulations address all statutory requirements related to the board's duties was resolved.

¹⁰ Parole Board sunset audit ACN 20-20092-15.

Regulation 22 AAC 20.165 lists the 23 factors to consider when making a parole decision and Senate Bill (SB) 91 amended AS 33.16.110(a)(9) and AS 33.30.011(a)(8) to specify that a risk assessment tool should be used to develop a case plan.

The prior recommendation to ensure ACOMS complies with State information technology security standards and national best practices was partially resolved. The unresolved portion of the prior recommendation is reiterated as part of Recommendation 4.

Three new recommendations are made as a part of this audit.

Recommendation No. 1: The audit tested 19 of 1,470 non-waived revocation hearings held between July 2015 and January 2019 and found three (16 percent) were not performed within 120 days of a parolee’s arrest. The late hearings were between five and 12 days late.

The board’s executive director should improve procedures to ensure final revocation hearings are performed timely.

Per AS 33.16.220(f), the board must hold a final revocation hearing no later than 120 days after a parolee’s arrest if a preliminary hearing has been held. Untimely revocation hearings may increase the risk to public safety.

According to the board’s executive director, two of the hearings were late due to the parole officer not communicating the need for a hearing in a timely manner. The third hearing was late due to a lack of resources to address the increased number of hearings caused by SB 91.

We recommend the board’s executive director improve procedures to ensure final revocation hearings are performed timely in accordance with statutes.

Recommendation No. 2:

The board’s executive director should work with DOC’s commissioner to improve the quality of telephonic hearings.

The audit identified poor quality telephone systems at four of 13 correctional facilities, including Yukon Kuskokwim Correctional Center, Wildwood Correctional Complex, Fairbanks Correctional Center, and Hiland Mountain Correctional Center. These facilities accounted for 495 (14 percent) of the parole and revocation hearings from calendar years 2015 through 2018.¹¹

Auditors observed a board member at Lemon Creek Correctional Center attend a telephonic discretionary parole hearing held at Fairbanks Correctional Center. Auditors noted that communication between the offender, other board members, and the institutional parole officer had to be repeated multiple times due to the inability to clearly hear what was communicated.

Per AS 33.16.060(a)(2), it is the board’s duty to consider the suitability for parole of a prisoner who is eligible for discretionary parole. Poor telephone quality limits the applicant, the board, and the victim’s ability to be easily understood, which reduces the efficiency and effectiveness of parole hearings. According to board staff, DOC facilities management, and correctional facilities staff, the telephone systems have not been improved due to budgetary constraints.

We recommend the board’s executive director work with DOC’s commissioner to improve the quality of telephonic hearings.

Recommendation No. 3:

The board’s executive director should take steps to ensure regulations are properly updated.

The audit identified two sections of regulations were not properly updated.

- A 2015 change to the board’s regulation was not implemented. The regulation update made with register 215 did not update the title of 22 AAC 20.105 to “Appearance by victim and submission of oral and written material by victim at parole hearings” and still reads as “Appearance by victim and submission of written material by

¹¹ Waived revocations and mandatory parole were not included in the total.

victim at discretionary parole release hearings.” According to board management, the title was not updated due to clerical error.

Per AS 44.62.060(b)(3), the board shall prepare a written statement of approval or disapproval after each regulation has been reviewed in order to determine its clarity, simplicity of expression, and absence of possible misapplication. The above regulation title error was not identified by the board or the Department of Law during the regulation review. The anomaly makes it unclear if the victim can make oral comments at hearings and whether victims can make comments at non-discretionary hearings.

- Regulations 22 AAC 20 failed to include two additional eligibility groups. Specifically, there should have been an eligibility group added by SB 56 in 2005 and an eligibility group added by SB 91 in 2017. The regulations were not updated due to human error.

Per AS 33.16.060(b)(1), the board shall adopt regulations under the Administrative Procedure Act establishing standards under which the suitability of a prisoner for special medical or discretionary parole shall be determined. The missing eligibility groups may lead to confusion regarding parole eligibility.

We recommend the board’s executive director take steps to ensure regulations are properly updated.

Recommendation No. 4: The audit identified several ACOMS deficiencies that could affect the security and consistency of data contained in the system.

DOC’s ASD director should take steps to ensure ACOMS complies with State information technology security standards and national best practices.

National best practices indicate that information system developers should define and implement procedures to ensure the integrity and consistency of all data stored in electronic form.¹² According

¹² National best practices for system controls are published by the National Institute of Standards and Technology (NIST). NIST is a non-regulatory agency of the U.S. Department of Commerce. NIST issues national best practices in various areas including information technology. NIST Special Publication 800-53, revision 4, Security and Privacy Controls for Federal Information Systems and Organizations, provides comprehensive guidance on security controls. These guidelines were utilized in identifying areas of ACOMS concerns.

to DOC management, system controls necessary to address the concerns noted in the audit were not addressed due to limited resources.

We recommend DOC's ASD director take steps to ensure ACOMS complies with State information technology security standards and national best practices.

Auditor's Note

The details of this control weakness are withheld from this report to prevent the weakness from being exploited. Pertinent sensitive details have been communicated to agency management in a separate confidential document.

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Board of Parole (board) to determine if there is a demonstrated public need for its continued existence.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 44.66.010(a)(2), the board will terminate on June 30, 2020, and will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine the status of recommendations made in the prior sunset audit.

Scope

The assessment of operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board. We reviewed the board's activities from July 1, 2015, through January 31, 2019. Financial information is presented, unaudited, from July 1, 2015, through January 31, 2019.

Methodology

During the course of our audit we reviewed and evaluated the following:

- The prior sunset audit report (ACN 20-20092-15) to identify issues affecting the board and to identify prior sunset audit recommendations.

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- Applicable statutes and regulations to identify board functions and responsibilities, determine whether statutory or regulatory changes enhanced or impeded board activities, and help ascertain if the board operated in the public interest.
 - The State's online public notices system to verify the board meetings were adequately public noticed.
 - Board meeting minutes to gain an understanding of board proceedings and activities, the nature and extent of public input, whether a quorum was maintained, and whether board vacancies impeded operations.
 - Expenditures and funding sources to identify the costs of operations.
 - Various state and news related websites to identify complaints against the board or other board related concerns.
 - Discretionary parole hearing files considered by the board between July 1, 2015, and January 31, 2019, to determine the board's compliance with statutes and regulations.
 - Special medical parole hearing files considered by the board between July 1, 2015, and January 31, 2019, to determine the board's compliance with statutes and regulations.
 - Revocation hearing files considered by the board between July 1, 2015, and January 31, 2019, to determine the board's compliance with statutes and regulations.
 - Four discretionary parole hearings and two no-show discretionary parole hearings were attended to gain an understanding of board operations.
 - Non-DLA reviews performed between July 1, 2015, and January 31, 2019, on the Alaska Correctional Offender Management System (ACOMS) by the Federal Bureau of Investigation and on the Level of Service Inventory–Revised risk assessment tool by the Crime and Justice Institute to help assess system controls.

The following organizations were contacted to determine if any complaints were filed against the board or its members between July 1, 2015, and January 31, 2019, and whether those complaints were efficiently resolved:

- Office of the Ombudsman
- Alaska State Commission for Human Rights
- United States Equal Employment Opportunity Commission
- Office of Victims' Rights

Internal controls over ACOMS were assessed to determine if controls were properly designed and implemented and if the prior sunset audit findings related to ACOMS were addressed.

Additionally, to identify and evaluate board activities, we conducted interviews with state agency staff and board members. Specific areas of inquiry included: board operations, regulations, duplications of effort, complaints against the board, and the effects of Senate Bill 91.

During the audit, the following samples were selected:

- A random sample of 28 discretionary parole files was selected from the 2,016 discretionary parole hearings completed between July 1, 2015, and January 31, 2019. The files were assessed for statutory and regulatory compliance. The sample size was based on a risk of incorrect acceptance of 15 percent and tolerable deviation of 10 percent. Test results were projected to the population.
- A random sample of 19 revocation hearings was selected from the 1,470 revocation hearings completed between July 1, 2015, and January 31, 2019. The files were assessed for statutory and regulatory compliance. The sample size was based on a risk of incorrect acceptance of 15 percent, tolerable deviation of 10 percent, and no expected deviations. Test results were projected to the population.

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- A random sample of 17 waived revocation hearings was selected from the 1,822 waived revocation hearings between July 1, 2015, and January 31, 2019. The files were assessed for statutory and regulatory compliance. The sample size was based on a risk of incorrect acceptance of 20 percent, tolerable deviation of 10 percent, and no expected deviations. Test results were projected to the population.
 - A haphazard sample of 19 revocation and waived revocation hearings was selected from the physical board files with revocation hearings during our scope to assess completeness of summary revocation hearing information provided by the board. The sample size was based on a risk of incorrect acceptance of 15 percent, a tolerable deviation of 10 percent, and no expected deviations.
 - A random sample of two denied special medical parole files and the one granted file were selected from eight special medical parole hearings (37 percent) completed between July 1, 2015, and January 31, 2019. The files were assessed for statutory and regulatory compliance. The testing results were projected to the population.

APPENDIX SUMMARY

Appendix A provides the sunset criteria used in developing our conclusion regarding whether the Board of Parole's termination date should be extended.

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APPENDIX A

Analysis of Public Need Criteria AS 44.66.050(c)

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

1. the extent to which the board or commission has operated in the public interest;
2. the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters;
3. the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
4. the extent to which the board or commission has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided;
5. the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
6. the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved;
7. the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;

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8. the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission to its own activities and the area of activity or interest;
 9. the extent to which statutory, regulatory, budgetary, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
 10. the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated; and
 11. the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

Agency Response from the Office of the Governor



OFFICE OF THE GOVERNOR
Governor Michael J. Dunleavy
STATE OF ALASKA

November 20, 2019

Ms. Kris Curtis
Legislative Auditor
Legislative Budget and Audit Committee
P.O. Box 113300
Juneau, AK 99877-3300

RECEIVED
NOV 21 2019
LEGISLATIVE AUDIT

Dear Ms. Curtis:

Thank you for the opportunity to respond to the recommendations contained in the May 8, 2019 audit report for the Board of Parole. The audit report contains recommendations that are out of the scope of the responsibilities of the Governor's Office of Boards and Commissions.

If I can be of further assistance, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gina Ritacco".

Gina Ritacco
Director
Boards and Commissions

550 West 7th Avenue, Suite 1700, Anchorage, AK 99501

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Agency Response from the Department of Corrections



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Corrections

Commissioners Office
550 W 7th Ave Ste 1800
Anchorage, AK 99501
Main: 907.334.2381
Toll free: 1800.334.2381
Fax: 907.269.7390

November 21, 2019

Kris Curtis, Legislative Auditor
Legislative Audit
P.O. Box 113300
Juneau, AK 99811

RECEIVED

NOV 25 2019

LEGISLATIVE AUDIT

RE: Response to Confidential Management Letter

Dear: Ms.Curtis:

The Department of Corrections and the Parole Board received the findings of the extensive Sunset Audit conducted by your team. The report contains four recommendations of which three are directed to the Parole Board and one is directed to the Administrative Services Director for the department. The department reviewed the findings; our response to each finding is below.

Recommendation #1: The board's Executive Director should improve procedures to ensure final revocation hearings are performed timely.

The department concurs with the high importance of ensuring that final revocation hearings are performed in a timely manner. The Executive Director of the Parole Board has instructed his staff to conduct quarterly audits of the waitlist to ensure individuals are scheduled within the required 120-day timeframe. Your report indicated there were two cases found by the audit where this notification was not timely. I am confident that the quarterly audits being implemented by the Executive Director will ensure all revocation hearings are conducted with 120 days.

Recommendation #2: The board's executive director should work with DOC's commissioner to improve the quality of telephonic hearings.

The department agrees that the quality of the telephone connections during the hearings needs to be sufficient to easily conduct business. The board does conduct frequent telephonic hearings throughout the state and has run into limitation with some of the aging phone systems at correctional facilities. The department has been working to upgrade the phone systems in their facilities as budget allows. There were continued auditory issues with hearings at Yukon Kuskokwim Correction Center where the acoustic properties of the hearing room were causing an echoing affect. The department has resolved this by moving the hearings to another location within the facility and obtaining a dedicated speaker phone unit

(polycom) for the hearings. The phone system and data lines have been updated at Hiland Mountain Correctional Center resulting in clearer telephonic hearings. The Executive Director will continue to work with the Commissioner to improve the quality of telephonic hearings within the limitations of our resources.

Recommendation #3: The board's executive director should take steps to ensure regulations are properly updated.

The department agrees that regulations must be kept up to date to allow the board to function as effectively as possible. Just since the board receive the audit findings it is already planning for a regulation update to address the concerns outlined in the sunset audit as well as addressing changes to regulations required as a result of crime bills passed this session. Specifically, HB 49 changed the parole eligibility groups in 22 AAC 20 requiring updated regulations in order to conform to the new laws. Fiscal notes for the bill contained funding for a staff person to focus on updating these regulations.

Recommendation #4: DOC's ASD should take steps to ensure ACOMS complies with State information technology security standards and national best practices.

The department agrees that ACOMS needs to comply with state information technology security standards and comply with national best practices. The Department's IT team has reviewed the current listing of on-gong ACOMS action items and identified that additional resources are necessary such as a contract with an outside consultant knowledgeable in both hardware and software while maintaining compliance with the Criminal Justice Information System (CJIS) and any other federal regulations that apply to ACOMS. Meeting this recommendation will require fiscal investment that exceeds the department's current resources. The department is exploring options that will help address this issue to the best of their ability given current resource constraints.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy A. Dahlstrom". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nancy A. Dahlstrom
Commissioner

Agency Response from the Board of Parole



THE STATE
of ALASKA
GOVERNOR MICHAEL J. DUNLEAVY

Edith Grunwald, Chair
Sarah Possenti, Vice Chair
R. Ole Larson, Member
Jason Wilson, Member
Steve Meyer, Member

Department of Corrections

Board of Parole
Jeff Edwards, Executive Director

550 West 7th Avenue, Suite 1800
Anchorage, Alaska 99501
Main: (907)269-4642
Email: parole.board@alaska.gov

November 18th, 2019

Legislative Audit Team
P.O. Box 113300
Juneau, Ak
99811

RECEIVED

NOV 20 2019

LEGISLATIVE AUDIT

RE: Response to the Legislative Audit

Dear Ms. Curtis,

The Alaska Board of Parole has received the findings of the extensive legislative Sunset Audit. The report makes four (4) recommendations in total of which three (3) are directed to the Parole Board and one (1) is directed to the Administrative Services Director. The Board has reviewed the findings and would like to offer our concurrences with the recommendations and provide our corrective measures plan to each finding.

Recommendation #1: The board's executive director should improve procedures to ensure final revocation hearings are performed timely.

Agree: The Parole Board has an internal tracking system referred to as "the waitlist" in which the main function is to track those individuals who have been arrested for a parole violation. The tracking system allows board staff to extract names from the waitlist in order to schedule them for a final revocation hearing before the board. The Executive Director has instructed staff to conduct quarterly audits of the waitlist to ensure individuals are scheduled within the 120 day timeframe. This audit will allow board staff to research and detect any individual who were pending new criminal charges and the current status of the criminal proceedings. The proper procedure is for the parole officers to send board staff immediate notification upon resolution of the new criminal charges so the parolee can be scheduled for a final revocation hearing. As indicated in the report, there were two (2) events where this notification was not timely. The procedure implemented by the Executive Director to conduct quarterly audits will ensure all revocation hearings are conducted with 120 days.

Recommendation #2: The board's executive director should work with DOC's commissioner to improve the quality of telephonic hearings.

Agree: The board does conduct frequent telephonic hearings throughout the state and has run into technological limitation with aging phone systems in certain correctional facilities. The

Department of Corrections (DOC) has been working to upgrade the phone systems in their facilities. There was continued auditory issues with hearings at Yukon Kuskokwim Correction Center where the acoustic properties of the hearing room were causing an echoing affect. The DOC has resolved this by moving the hearings to another location within the facility. The phone system and data lines have been updated at Hiland Mountain resulting in clear telephonic hearings. The Executive Director will continue to work with the commissioner to improve the quality of telephonic hearings.

Recommendation #3: The board's executive director should take steps to ensure regulations are properly updated.

Agree: As of the writing of this response the board is in the planning stages for a regulation update to address the concerns outlined in the sunset audit. In addition, with the signage of HB 49 which changes the parole eligibility groups in 22 AAC 20 we will make the necessary updates to the regulations in order to conform to the new laws.

Recommendation #4: DOC's ASD director should take steps to ensure ACOMS complies with State information technology security standards and national best practices.

The DOC's Administrative Service Director will be providing a response to this recommendation.

Sincerely,



Edith Grunwald
Parole Board Chair