

Minutes of the Joint Legislative Oversight Committee

February 19, 2019

Lincoln Auditorium, Capitol, Boise, Idaho



Cochair Senator Mark Harris called the meeting to order at 3:00 p.m. Attending the meeting were Senators Dan Johnson, Michelle Stennett, Cherie Buckner-Webb, Representatives Caroline Nilsson Troy, Paul Amador, and Elaine Smith. Representative Mat Erpelding (cochair) came into the meeting after it started. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator, and other Office of Performance Evaluations' staff. Audience members included the following:

Representative Rick Youngblood
Director Dave Jeppesen, Department of Health and Welfare, and Deputy Director Dave Taylor
Executive Director Ashley Dowell of the Commission of Pardons and Parole

Approval of minutes from January 30, 2019

Senator Buckner-Webb moved to approve the minutes from January 30, 2019. Representative Amador seconded the motion, and it passed by voice vote.

Report hearing: *Pardons and Parole: Program Improvements and Statutory Changes*

Cochair Harris called on Rakesh to introduce the report. Rakesh said the committee released three reports in October 2018. The purpose of this meeting was to hear the reports and hear from the agency officials. For the report *Pardons and Parole*, Rakesh said the office had evaluated the commission and identified problems with data in 2010. The report was closed in 2012 because the commission was not making progress. A new evaluation was assigned in 2017 to see whether new management had improved the commission's data practices.

Ryan Langrill, senior evaluator, summarized the report. He said a new executive director used recommendations from the 2010 OPE report and developed an automated assessment of data. In addition to improving data practices, the commission developed policies and procedures for parole hearing officers, reduced workloads by cross-training parole and violation hearing officers, and installed equipment for video hearings. Statutory changes had increased the number of commissioners from 5 to 7 and authorized two panels for diversion reviews and parole decisions. He said the automated systems reduced inefficiencies and helped to ensure fair treatment of offenders.

Senator Stennett asked whether statute changes gave less or more discretion to the commissioners. Ryan said the 2017 statute changes led to more discretion. Before the changes, automatic sanctions had offenders entering and leaving jail without commissioner input. These automatic sanctions had taken too much discretion away from the commissioners.

Ryan discussed a new guideline scale for assessing whether offenders should be released from incarceration. Using the data system and guideline scores, he analyzed commission decisions and found that commissioners were more likely to grant parole than parole hearing officers were to recommend parole. For nonviolent offenders who had not refused programming, he found a significant difference in parole rates when the offender was present (11% denial) compared with when the offender was not present (30% denial). He recommended the commission investigate

these differences. He also recommended the commission validate the guideline scale after three years using recidivism data.

Cochair Harris invited Ashley Dowell, executive director of the Commission of Pardons and Parole. She thanked the office for the evaluation. She said findings of the evaluation showed the commission had improved technology, better managed data, established more efficient staff processes, and reduced workload and errors. Although the office conducted the evaluation before she came to the commission, she had heard good feedback about how evaluators conducted the evaluation and interacted with staff. As a new executive director, Ms. Dowell said that much of the credit for the improvements should be attributed to the Commission of Pardons and Parole staff and the previous director, Sandy Jones.

Senator Buckner-Webb asked about the report's finding that commissioners granted parole more frequently than hearing officers had recommended. Ms. Dowell said OPE had made this finding using data for mostly drug and property offenders, some offenders also had violence and sex offenses in their history. This contributed to criminal history and public safety concerns. More offenders in the hearing officer reviews had refused parole in 2018, and about double had issues with institutional behavior. About 80 were rescheduled to be seen in-person.

Ms. Dowell said hearing officer reviews in 2018 had similar rates of granting and denying parole. Regular in-person hearings, however, saw a split in decisions. A commissioner may go against a recommendation of a parole hearing officer because in between the time offenders saw the parole hearing investigator and the time they saw a commissioner in-person, offenders had completed programing and had a more significant period of good behavior.

Cochair Harris asked about ratio of video hearings to in-person hearings. Ms. Dowell said that at the time of the evaluation, video hearings were only occurring at a few facilities. As of summer 2018, all facilities were using video hearings. Now all in-person hearings are conducted by video.

Cochair invited a representative from the Governor's Office to comment on the report. Hearing no response, he asked for a motion of action.

Senator Buckner-Webb moved to accept and close the report, *Pardons and Parole: Program Improvements and Statutory Changes*. Representative Smith seconded the motion, and it passed by voice vote.

Follow-up report hearing: *Residential Care*

Ryan Langrill, senior evaluator, summarized the report. The follow-up was limited in that it focused only on workplace issues for the team who conducted nursing home surveys. Ryan explained that after the release of the evaluation, individuals who surveyors most feared would retaliate had left the department. He said his follow-up work began in May 2018. He had conducted interviews with all surveyors he had interviewed during the evaluation. He also interviewed two recently hired supervisors. In the transition between supervisors, the bureau chief of the Bureau of Facility Standards managed the nursing home surveyor team. Surveyors spoke highly of this supervision and were optimistic for the new supervisors. Because of their previous treatment, however, trust was still a problem. Some surveyors indicated retaliation in low pay increases and performance reviews, but Ryan said he had been unable to substantiate retaliation. He said he was working on the full follow-up to be released in March 2019.

Representative Troy said she was concerned about retaliation against providers and how long it took to change the culture. She asked Ryan to drill down enough to ensure retaliation was not taking place.

Representative Troy said she found it unusual that every member of the survey team received a low grade in their performance review except one. She asked whether other divisions in Health and Welfare had similar results. Ryan said he had the impression better performance reviews were more likely to occur with higher paying positions.

Representative Troy said she had heard a patchwork of responses in her district. She said some providers were thrilled with division improvements, but others had not seen significant change in their relationship with survey teams. She encouraged Ryan to rigorously survey all nursing home administrators, and said she would like to see the surveys be an ongoing assessment tool for the department to follow.

Representative Erpelding said many vacancies had contributed to problems. He asked whether surveyor positions had been filled. Ryan said the division had hired a few surveyors since the release of the report.

Cochair Harris said he echoed Representative Troy's remarks about the satisfaction of providers and asked Ryan to get as much feedback from providers as he could.

Cochair Harris called on Director Dave Jeppesen, Department of Health and Welfare, to respond to the report. Mr. Jeppesen said the office performed a critical function for the Legislature and the department. He had spoken with department leadership to ensure the department was helping facilities to be successful. He had met with the Idaho Health Care Association, and officials had indicated progress was being made. He said he wanted to work with providers to implement a partnership model. He was open to continuing the workgroups and implement what the workgroups discovered together.

Representative Erpelding asked if the department had chronic vacancies. Mr. Jeppesen said the answer was different for each area. He was focusing on making sure the Bureau of Facility Standards was a good work environment and a place where employees felt they could be successful. He said he was not sure the answer was to throw money at it and would work within the state's compensation system.

Senator Johnson said he did not know if a low merit increase was bad news. He said he wanted to be careful when interpreting this finding. He asked if the department had critiqued its rating system. Mr. Jeppesen said he needed to look into the overall rating system. At a higher level, he wanted to use the rating system to manage performance. He would look at the HR department for tools to ensure the rating system was in place and did not have systematic bias. He said the department needed to give accurate feedback and tell employees how they were performing. Senator Johnson suggested that if retaliation had occurred, pay increases may not have been given at all.

Cochair Harris said the committee would hear a detailed report next month, so the committee could forego any action on the report.

Follow-up report hearing: *Design of the Idaho Behavioral Health Program*

Ryan Langrill, senior evaluator, summarized the report. He said the primary goal of the Idaho Behavioral Health Program was to address an overreliance on psychosocial rehabilitation. The

goal, however, was not communicated to providers, and providers began questioning the business decisions of the contractor, Optum. Idaho had the only outpatient managed care plan in the nation. However, managed care worked best when inpatient and outpatient services were coordinated with one another.

Ryan said he had recommended the department evaluate the behavioral health program with and without outpatient services. In his follow-up, he said the department had contracted with Oregon Health and Science University to study the program, which included the development of key measures and a comparison of Idaho's program to benchmarks in other states.

Ryan said the department's next goal was to improve coordination between inpatient and outpatient services with the new regional care organizations. If that did not happen, the department had alternative policy options such as taking the current contract to bid for a new vendor, expanding the contract to include outpatient services and taking it out to bid again, or consolidating the administration of behavioral health services, both inpatient and outpatient, at the regional level. In other improvements, Ryan said the department had developed measures and engaged third-party expertise to assess where the state was now. The department should document the risks and barriers of its chosen model, and report to the Oversight Committee in 2020.

Cochair Harris invited Director Dave Jeppesen, Department of Health and Welfare, to comment. Mr. Jeppesen said at issue was how to coordinate inpatient and outpatient services. He said some factors had recently changed. The vendor had hit a contract milestone. As well, changes at federal level allowed individuals with substance abuse disorders to be included under Medicaid inpatient treatment. The department had done some research on the Institutions of Mental Disease (IMD) waiver, which would allow mental health inpatient services to be covered under the Medicaid plan. In addition, a new hospital was opening in the valley. A report to this committee in 2020 would be a good time to come together and look at the department's analysis.

Other committee business

Rakesh said a report on court-ordered fines and fees would be ready in March as well as a report on investigating allegations of child neglect. Follow-ups would include *Residential Care*. The committee would also need to schedule a meeting to hear new requests. The deadline for new requests is March 1.

Rakesh recommended closing the report, *Design of the Idaho Behavioral Health Program*, with an understanding that the department would report back to the committee in 2020.

Representative Erpelding moved to close *Design of the Idaho Behavioral Health Program*. Representative Troy seconded the motion, and it passed by voice vote.

The meeting adjourned at 4:11 p.m.