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June 2013

## A LIMITED-SCOPE REVIEW OF THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES

SCDPPPS HAS NOT COMPLIED WITH STATE LAW AND AGENCY POLICY IN THE AREAS OF HUMAN RESOURCES, PROCUREMENT, AND FINANCE. REFORMS TO AGENCY MANAGEMENT PRACTICES AND INTERNAL CONTROLS ARE NEEDED TO IMPROVE AGENCY OPERATIONS.

We found that SCDPPPS:

- Received approximately \$3.8 million in general funds for sentencing reform which agency officials state was used, in part, to hire additional staff. We reviewed agency expenditures and human resources data, but did not find an increase in staff. A portion of these funds were used to increase the agency's cash reserve.
- Was not reconciling an agency composite bank account resulting in a \$325,000 fraud that went undetected for two years until discovered by state auditors in 2009.
- Used over \$20,000 of non-state funds belonging to offenders under agency supervision to offset the fraud loss in the composite bank account. The agency should have returned these funds or turned the money over to the unclaimed property division of the State Treasurer's Office.
- Circumvented state surplus property rules and violated the state procurement code when it loaned, at no cost, 20 agency computers to a church. At present, SCDPPPS has no plans to recover these computers.
- Has not adhered to standard hiring practices when it hired unqualified applicants, inappropriately handled temporary positions, and required pre-employment photographs.
- Used Ignition Interlock Device Program funds to pay for program costs, a purpose not authorized by state law. The agency is also underreporting the revenue and expenditures of the program.
- Violated the state procurement code by using sole source procurements for items that are readily available from a number of vendors.
- Has non-law enforcement employees in the Police Officers Retirement System even though they may no longer qualify.

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**A LIMITED-SCOPE REVIEW OF  
THE DEPARTMENT OF PROBATION,  
PAROLE AND PARDON SERVICES**

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# Introduction and Background

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## Audit Objectives

Members of the General Assembly requested a performance review of the S.C. Department of Probation, Parole and Pardon Services (SCDPPPS). Our audit objectives were to:

- Examine SCDPPPS's use of composite bank accounts to ensure that accounts are used effectively and are properly monitored.
- Determine if SCDPPPS has adequate policies and procedures addressing the use of state resources, particularly regarding state cell phones and computer equipment.
- Review SCDPPPS's personnel practices, particularly hiring and promotional practices, for compliance with agency policy and state and federal laws.
- Review the revenues and expenditures of the Ignition Interlock Device program for compliance with agency policy and state law.
- Review SCDPPPS's caseload and workload standards for appropriateness and accuracy.
- Review SCDPPPS's compliance with state procurement requirements, particularly with regards to sole source and emergency procurements, as well as the disposal of surplus property.
- Examine SCDPPPS's methodology for calculating the number of individuals and the expenditures that have been avoided due to the reductions in the revocation rate.

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## Scope and Methodology

The period of this review was generally from FY 09-10 through FY 12-13, with consideration of earlier periods when relevant. We obtained information from a variety of sources, including:

- SCDPPPS annual reports.
- State laws and regulations.
- Interviews with SCDPPPS staff and other interested parties.
- Human resources files.
- Contracts for goods or services procured by SCDPPPS.
- Agency policies and procedures.
- Agency revenue and expenditure reports.

Criteria used to measure performance included state laws, regulations, and agency policies. The use of computerized data was not central to our audit objectives in that it was primarily used to identify files for review. We reviewed internal controls of systems in several areas. Our findings are detailed in the report.

We conducted this performance audit in accordance with generally accepted government auditing standards with the exception of the general standard concerning quality control. Due to LAC budget reductions, funding was not available for a timely external quality control review. In our opinion, this omission had no effect on the results of this audit.

Those generally accepted government auditing 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.

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## Background

The S.C. Probation and Parole Board was established in 1941. In 1946 the Board of Pardons was merged with this board and the new panel was renamed the Probation, Parole and Pardon Board.

In 1981 the board was renamed the Parole and Community Corrections Board under that year's Community Corrections Act, which mandated internal reorganization. The act also created the Department of Parole and Community Corrections. The new agency reported to the board and was responsible for developing new initiatives and a variety of supervision capacities for adult offenders.

In 1988 the board and department were renamed, respectively, the Board of Paroles and Pardons and Department of Probation, Parole and Pardon Services (SCDPPPS). In 1993 the department became a cabinet-level agency, with the director reporting directly to the Governor. The board's focus shifted exclusively to deciding matters regarding paroles and pardons, with the department continuing to function in a supporting role for the board. The department is composed of three divisions — Field Operations, Administrative Services, and Paroles and Pardons.

The mission statement of the department is:

- To prepare offenders under our supervision toward becoming productive members of the community;
- To provide assistance to the victims of crimes, the courts, and the Parole Board; and
- To protect public trust and safety.

The department is staffed with 590 employees and, as of December 31, 2012, the agency had an active offender population of 33,662. The department's appropriated budget for FY 12-13 was \$52,174,552.

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## Probation

Probation provides basic community supervision to offenders receiving a suspended sentence from the court. Probation is a judicial act of grace or clemency that allows a person convicted of a crime to avoid imprisonment. Offenders are classified based on their need for services and supervision, and their risk of committing new offenses. The maximum duration of probation cannot exceed five years by law and offenders must pay a supervision fee of up to \$100 per month, based on a sliding scale determined by monthly income. Special conditions may be imposed to further restrict freedom, limit movement in the community, add further punitive measures, or to require rehabilitative services. Violation of any of the standards or special conditions of probation may result in the imposition of additional punitive sanctions, up to and including revoking probation by the court.

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## Parole

Parole provides community supervision to offenders released by the State Board of Pardons and Paroles to finish serving their sentences outside of prison, subject to certain conditions. Offenders are classified based on their need for services and risk of committing new offenses. Offenders on parole must pay a supervision fee based on a sliding scale determined by monthly income. Special conditions may be imposed by the board to further restrict freedom, limit movement in the community, add further punitive measures, or to require rehabilitative services. Violation of any of the standards or special conditions of parole may result in the imposition of additional punitive sanctions, up to and including sending the offender back to prison.

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## Pardon

Pardon means that an individual is fully forgiven from all the legal consequences of his or her crime and conviction – direct and collateral – including the punishment, whether imprisonment, fine, or whatever penalty is provided for by law.

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**Chapter 1**  
**Introduction and Background**

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# Human Resources and Finance

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We were requested to review a number of administrative issues including agency hiring and promotion practices, expenses and revenues of the Ignition Interlock Device Program (IIDP), internal controls over composite bank accounts, and procurement. We found that SCDPPPS has not consistently adhered to agency hiring policies. In addition, we found that the agency is not in compliance with South Carolina law regarding the use of IIDP funds, and is underreporting revenue and expenditures to the state accounting system. Also, SCDPPPS did not follow proper internal controls concerning its composite bank accounts, resulting in an over \$325,000 fraud loss. Finally, SCDPPPS has not followed the state procurement code when making sole source purchases and in loaning 20 agency computers to a church.

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## Human Resources

We were asked to conduct a review of hiring and promotional practices to determine if SCDPPPS is in compliance with departmental and state policies, as well as to determine if persons are being hired for positions for which they are not qualified. We reviewed SCDPPPS records and found that, in a number of instances, SCDPPPS has not followed state law or departmental policy on hiring, promotions, or in the administration of employee benefits. The SCDPPPS Human Resources (HR) policy on applicant recruitment, consideration, and selection states:

The Department will administer a fair and equitable recruitment and hiring process. The process involves internal and external announcement of positions which may be filled through internal promotion, lateral transfer or voluntary demotion, and by way of external new hires. When the Department decides to promote an employee one organizational level above the employee's current level, the posting requirement may be waived.

In regards to internal recruitment, the same policy states:

As positions become available either through attrition or the allocation of new positions, each position will be announced within the Department. Position announcements will be issued using a standard format and numbering system, and will be distributed to all Department locations. All qualified staff are encouraged to apply for any positions announced within the time frame specified using an Internal Application (Form 1026).

At SCDPPPS, the sole "hiring authority" for SCDPPPS is the agency head. The agency head makes the final personnel decisions and HR's role is to process the actions as authorized by the agency head.

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## Qualified Applicants

We selected a non-statistical sample of 38 employee personnel files to review the agency hiring process. For the positions in our sample, SCDPPPS used the state minimum qualification for hiring — a bachelor's degree from an accredited college and, in some cases, a list of preferred (additional) qualifications. SCDPPPS policy on applicant qualifications states:

Candidates for employment shall meet the state minimum requirements for the job classification as well as any additional qualifications which have been determined to be necessary to perform the duties of the specified position within the department.... The Human Resources Office will review all applications to ensure that the minimum education, training and experience requirements and any additional requirements are met. The Human Resources Office will only forward names and employment information to the Recommending Official of qualified applicants....

We found one instance where an external applicant was hired for a position for which the applicant was not qualified. We found:

- A position was announced externally and 122 applications were received. Out of those, 121 were external (98 of which were qualified applicants) and 1 was internal and was qualified — HR reviewed and forwarded the list of qualified applicants to the hiring department.
- A senior member of the Administration Department (Admin) contacted the HR staff, inquiring as to whether a certain applicant was considered. The HR staff replied that this particular applicant was rejected because the applicant did not meet the state minimum qualification of a bachelor's degree for the position. Specifically, the applicant did not hold a bachelor's degree or associate's degree with experience, as required in the vacancy announcement.
- SCDPPPS senior management then asked HR to fill this position as a lateral hire. HR replied this did not qualify as a lateral hire. In order to qualify as a lateral hire, the employee must work for the agency and move to position at the same band level. The applicant in question worked for another state agency at this time.

- SCDPPPS management then requested that HR contact the Budget and Control Board's Office of Human Resources (OHR) to request approval to include an equivalency clause in the job posting. The equivalency clause was added, allowing related work experience to compensate for the lack of a bachelor's degree or associate's degree. The original job posting was rescinded on the same day.
- Ten days later, the job vacancy was re-posted with the equivalency clause. After the vacancy was re-posted, SCDPPPS received an additional 73 applicants (70 external and 3 internal) that were all considered qualified. Of the 172 applicants, 6 applicants were interviewed. Ultimately, the applicant in question was hired.

We found two other instances of SCDPPPS violating HR policy in another administrative department, both involving the same individual.

In the first instance, we found agency management placed an individual who was working in a general administrative position at SCDPPPS into a vacant specialist II position without advertising the vacancy either externally or internally. Therefore, no external applicants were considered and no other employees were given an opportunity to apply for the job. In reviewing past vacancy postings of this position, we found that the minimum qualifications had changed over time, but we could not find any documentation as to why the requirements were changed.

Although the employee placed in the position holds a bachelor's degree in an unrelated discipline the employee did not have related work experience. The change in the minimum job requirements, combined with the lack of advertising of this position vacancy, allowed this employee to be considered "qualified" but only after promotion to the position.

In the second instance, a position vacancy was posted for a department manager on September 9, 2011, that had had a minimum qualification of, "A bachelor's degree and [related work] experience." It also had the following preferred qualifications:

- A bachelor's degree and five years of subject matter and financial experience; or
- An associate's degree and ten years of subject matter and financial experience; or
- A high school diploma and fifteen years of subject matter and experience.

Twenty-three external applicants and a senior department staff member with over 25 years of relevant work experience applied for the position. The vacancy posting expired without any candidates being interviewed. The vacancy was re-posted a month later on October 14, 2011. The position again required, “A bachelor’s degree” as well as subject matter experience. However, the preferred qualifications were changed:

- A bachelor’s degree and five years of subject matter and financial experience; or
- An associate’s degree and any combination of training, education, and related experience.

After this re-posting, 52 additional external applicants applied for the position. The internal applicant resigned approximately two months later in January 2012. According to HR, most of the applicants met both the educational and work experience requirements and the internal applicant had over 25 years of relevant experience, as well as a history of excellent performance reviews.

An Applicant Consideration Team (ACT) was convened and it selected three candidates for panel interviews but did not hire any of the applicants. The position vacancy was rescinded on March 23, 2012. We could find no agency record explaining the decision to rescind the job posting.

Four months later, a memo dated July 24, 2012, from a senior administration staff member to his/her superior regarding filling the position stated, “A search for their replacements was slow and many of the candidates could not make it past the employment review process.” The memo also included a request that the employee currently working in the department be promoted to fill the position. This employee did not apply for the position either time it was posted. The agency had from September 2011 to August 2012 to fill the position and had received 76 qualified applications from 2 separate job postings including a well-qualified internal applicant with a high level of experience and excellent job performance in the department. Only two applicants were interviewed and none were hired.

All of these actions resulted in SCDPPPS being deprived of a section manager for over ten months, as well as job applicants being deprived of a fair hiring process. This could result in lowering agency employee morale due to the perception that the process was not fair and impartial. It is also questionable whether SCDPPPS management is adhering to its stated agency policy to administer a “...fair and equitable recruitment and hiring process.”

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## Applicant Consideration Teams

During the course of reviewing SCDPPPS hiring practices, we examined all Applicant Consideration Teams convened in the two-year period of 2011–2012. The HR policy on ACT states:

An Applicant Consideration Team will be convened for Assistant AIC level positions (and above) for positions in the Agent Career Track and for all other positions at band 6 or higher, regardless of supervisory responsibility. The panel will include a representative from the Human Resources Office.

In the course of reviewing ACTs, we found that they were used for interviewing applicants for positions lower than band 6 and lower than Assistant Agent-in-Charge level. In one instance in which three applicants were being considered for a Team Leader position in a county office, there were two separate interviews held plus one ACT was held.

- At the first interview, there was no scoring matrix used. A ranking of three applicants was determined by the two interviewers, both county Agents-in-Charge, and the ultimately-chosen applicant ranked first. It is unclear why a second interview was held; however, this interview was conducted by two interviewers, one Regional Director and an Agent-in-Charge who participated in the first interview. No hiring matrix was used and only applicant rankings were determined. This time the ultimately-chosen applicant placed third out of three applicants.
- Finally, the hiring authority intervened and ordered an ACT (consisting of a Regional Director and two county Agents-in-Charge) where a hiring matrix was reported as being used. However, we found no documentation of the matrix. Ultimately the highest ranking applicant from the first panel interview was again ranked first and offered the promotion.

We could not determine why it was necessary to have three separate evaluations of the candidates. It is unclear why an ACT was held for a position that did not require it and why no member of the Human Resources Office staff was present for the ACT. We could not determine how the candidates were individually scored by the ACT members or on what standards the scores were based.

We also found that, except for the policy-mandated HR office representative, the agency head appoints each ACT member. After reviewing past ACTs, we found that at least one individual, who works at SCDPPPS in an administrative, non-managerial, non-law enforcement capacity and answers directly to the agency head, is on every Applicant Consideration Team; both for law enforcement vacancies and administrative vacancies. The agency head has designated this individual as a “standing member” of the ACT, despite SCDPPPS policy stating that only a representative from the Human Resources Office should be present at every ACT interview panel.

The agency’s practice of not following its policy on ACTs by using them for levels lower than the policy indicates and not rotating panel evaluators could be perceived as favoritism in the hiring process and lower employee morale.

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## Temporary Positions

We reviewed a non-statistical sample of 11 temporary positions, which included temporary, temporary re-hire, and temporary to permanent positions, from July 2010 through January 2013. These temporary employees represented a range of SCDPPPS departments and functions. We found that SCDPPPS has no agency policy on the recruitment, screening, or hiring process of temporary employees. According to SCDPPPS officials and our own review of 11 employee personnel files, we found:

- None of the positions had been advertised or posted externally.
- One employee was an intern from a local university who was eventually made a permanent employee at the request of the department head.
- Seven applications had been given to HR to process and HR personnel did not know how they were recruited to the positions.
- Two employees were promoted to permanent status by their supervisors unilaterally.
- One was a retired employee of SCDPPPS who was asked to temporarily return to assist with a departmental project implementation.

Because SCDPPPS has no agency policy regarding hiring temporary employees and none of the temporary positions are advertised externally, there is no way to assess whether temporary employees are qualified or are the best candidates for the position — as there is no opportunity for others to apply. This lack of policy also allows for possible abuse of the hiring process in that the hiring authority could unilaterally hire anyone, make the person a “temporary” employee, and then promote that person to permanent status without that person ever having been through the agency recruitment, screening, and hiring process.

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## Applicant Photograph Requirement

During the course of reviewing SCDPPPS hiring practices, we found that SCDPPPS takes a photograph of the final candidate and places it in the hiring packet before a hiring decision is made by the hiring authority. This hiring packet is essentially a file that contains all of the applicant's paperwork — application, resume, background information, etc. According to agency regulations, the recommending official will select the "final" candidate. This official then compiles a hiring packet, which is signed and approved and sent to the Regional Director, Deputy Director, and the agency Director for their approval or rejection.

Specifically, because of this photograph practice, the hiring authority sees every final candidate's race and gender before making a final hiring decision. When questioned about this practice, agency staff stated that a photo is taken of the final candidate by the hiring supervisor for identification (ID) card purposes and digitally placed on the SCDPPPS server. However, SCDPPPS management could not give a reason why a photograph would need to be made for an agency ID before a person is hired, nor why a copy of the photograph is required in the hiring packet, which is accumulated pre-employment, other than to state that it was a practice started by the previous SCDPPPS agency head.

Because of the United States Supreme Court's rulings on discriminatory hiring practices, this practice of requiring a photograph, before an offer of employment is made, is strongly and explicitly discouraged by both the United States Equal Employment Opportunity Commission (EEOC) and the S.C. Department of Human Affairs. According to the EEOC website, "...employers should not ask for a photograph of an applicant. If needed for identification purposes, a photograph may be obtained after an offer of employment is made and accepted."

In a response to our inquiry concerning this hiring practice, the S.C. Department of Human Affairs stated that, "Clearly, viewing a photograph may spark an unconscious bias..." and "...Best practices should be implemented to minimize risk."

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## Administration of PORS

The Police Officers Retirement System (PORS) was created as a separate retirement system for active duty police officers. We reviewed how SCDPPPS and the Public Employee Benefit Authority (PEBA) administers the PORS. PORS allows its members to retire with fewer years of service and a higher percentage of their final salaries than members of the South Carolina Retirement System (SCRS). We reviewed the agency's PORS membership and found 30 employees, who are classified in administrative positions but are still members of PORS.

Newly-hired SCDPPPS agents are given a law enforcement position description and a job class specifically for law enforcement with an internal job classification code of "JC". All SCDPPPS employees coded "JC" are eligible for PORS membership. We found 30 SCDPPPS employees who are not coded "JC," who hold administrative jobs and are members of PORS. Eight employees are in Fiscal Services, 1 in Human Resources, 15 in Administrative/Program Management, 2 in Human Services; and 4 are unclassified employees.

S.C. Code §9-11-10(23) defines "Police officer":

'Police officer' means a person who receives his salary from an employer and who is:

(a) required by the terms of his employment, either by election or appointment, to give his time to the preservation of public order, the protection of life and property, and the detection of crimes in this State; or

(b) an employee after January 1, 2000, of the South Carolina Department of Corrections, the South Carolina Department of Juvenile Justice, or the South Carolina Department of Mental Health who, by the terms of his employment, is a peace officer as defined by Section 24-1-280. Note: §24-1-280 explains under what employment conditions employees of the Department of Corrections, Department of Juvenile Justice, and Department of Mental Health are considered to be law enforcement agents.

Also, §9-11-40(4) states that:

...Notwithstanding the provisions of this subsection, no person shall become a member on or after July 1, 1963 unless *his employer certifies to the system that his service as a police officer requires at least one thousand six hundred hours a year of active duty.... If in any year after this certification the member does not render at least one thousand six hundred hours of active duty..., his membership ceases and the provisions of Section 9-11-100 apply [emphasis added].*

The provisions of §9-11-100 allow a PORS member to take his accumulated contributions upon ceasing to be qualified for PORS membership. According to PEBA officials:

...the PORS eligibility statutes have generally been construed to allow an employee who is not necessarily in a frontline police officer position to participate in PORS where that employee is directly responsible for the supervision of other employees who are required to preserve public order, protect life and property, and detect crimes and remains charged with a duty to ensure that such responsibilities are carried out....However, it is important to recognize that, if an employee is employed in a purely administrative position that does not have direct or supervisory responsibility for the preservation of public order, the protection of life and property, and the detection of crimes, and that is entirely collateral to the chain of command related to such activities, he would not generally be eligible for participation in PORS, regardless of whether he has prior PORS service or not. Put simply, under this construction of the PORS statutes, the city police officer who is promoted to chief of police would continue his participation in PORS, but an officer who takes a position as a file clerk for the department would no longer be eligible for participation in PORS, even though both positions are largely administrative in nature.

In order to be admitted to the PORS system, PEBA requires state agencies to submit a PORS membership application along with a position description. A PEBA official stated that PEBA does not request any additional upfront documentation to verify a member's enrollment eligibility; it is up to the agency to make the determination as to eligibility and admittance. In addition the requirement of 1,600 hours of active duty is not further defined beyond what is presently in the statute. An agency is certifying that the individual it is recommending for PORS membership meets the definition of "police officer" and is entitled to be a PORS member. If PEBA officials do not agree that the employee applying for admission into PORS meets the definition of a police officer, they require the agency to submit a notarized affidavit, which requires the agency and employee to formally attest that the candidate for membership is a police officer. According to PEBA officials, PEBA does not audit an agency's PORS membership, but said state agencies are supposed to ensure only those who qualify are to be admitted and stay in PORS.

Four out of the last six SCDPPPS directors, including the current director, were admitted into PORS upon becoming agency head. PEBA officials state that automatically admitting agency heads into PORS is a “generally accepted” practice; however there is no provision in state law to allow agency heads into PORS. Prior to becoming agency head, the current director worked in administration and was not enrolled in PORS. After becoming agency head, the individual attended and graduated from the Criminal Justice Academy, becoming law enforcement certified. Being law enforcement certified does not mean an employee is an active law enforcement agent. PORS required the agency to certify that the director “is required to devote at least 1,600 hours per year of active duty performing the “police officer” or...duties...in accordance with §9-11-40(4)...”

All 30 employees hold administrative positions. These positions may not meet the statutory definition of a “police officer”; therefore, these employees may no longer be eligible for PORS membership. These positions are under review by PEBA to determine which are eligible for PORS participation. Other administrative employees in similar positions, without previous law enforcement experience, are not submitted for PORS membership by the agency. Of the approximately 600 SCDPPPS employees, approximately 425 are members of PORS indicating that certain positions at SCDPPPS do not qualify for PORS membership.

There is currently no provision in the law to allow PORS-eligible law enforcement officers to continue accruing benefits once an officer transitions to an administrative position and no longer meets the PORS eligibility requirements. Current law could result in law enforcement losing its entitlement to continue PORS benefits should law enforcement agents be promoted into administrative positions.

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## Recommendations

1. The South Carolina Department of Probation, Parole and Pardon Services should adhere to the standard hiring practices consistent with agency policy.
2. The South Carolina Department of Probation, Parole and Pardon Services should revise its policy to rotate appropriate staff to the Application Consideration Team members and not allow any standing members beyond the policy-mandated Human Resources representative.
3. The South Carolina Department of Probation, Parole and Pardon Services should adhere to its stated policy and not hold evaluation panels for vacancies of below band 6 and Assistant Agents-in-Charge.
4. The South Carolina Department of Probation, Parole and Pardon Services should follow Equal Employment Opportunity Commission and S.C. Department of Human Affairs guidelines and recommendations and not require a photograph of applicants prior to an offer of employment being made.
5. The South Carolina Department of Probation, Parole and Pardon Services should develop and implement an agency policy to externally advertise all temporary positions.
6. The General Assembly should consider amending the law regarding participation in the Police Officers Retirement System for those in administrative positions in law enforcement agencies to add a provision to S.C. Code §9-11-40 that would allow law enforcement, with a certain number of years of line-duty law enforcement experience, to continue Police Officers Retirement System membership and retain Police Officers Retirement System benefits.
7. The Public Employee Benefit Authority should implement an audit process to ensure that applicants for the Police Officers Retirement System meet the qualifications initially and on a continuing basis as set forth in South Carolina law.
8. The South Carolina Department of Probation, Parole and Pardon Services should have non-law enforcement positions evaluated by the Public Employees Benefit Authority for PORS eligibility.

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## Ignition Interlock Device Program

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One of our audit objectives was to review the revenues and expenditures of the Ignition Interlock Device Program for compliance with agency policy and state law. We found that the agency is not in compliance with South Carolina law regarding the use of the funds, is underreporting revenue and expenditures to the state accounting system, and is not accounting for the funds internally or externally for information and transparency in the agency's annual accountability report.

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### Background

In the Prevention of Underage Drinking and Access to Alcohol Act of 2007, SCDPPPS was charged with implementing and managing the South Carolina Ignition Interlock Device Program (IIDP). This is a multi agency public safety and rehabilitative initiative which includes SCDPPPS, the South Carolina Department of Motor Vehicles (DMV), and the South Carolina Department of Alcohol and Other Drug Abuse Services (DAODAS).

The ignition interlock device is a mechanism, about the size of a handheld calculator, similar to a breathalyzer that is installed in a vehicle to deter drinking and driving. Before the vehicle can be started, the driver must deliver a breath sample into the device, and if the result is greater than a pre-programmed level, the device prevents the vehicle from being started.

State law requires second offense or greater DUI offenders, who are state residents, upon reaching the end of the offender's initial driver's license suspension period, to install an ignition interlock device on every vehicle the offender drives. If the offender declines to install the device, the offender's driver's license will remain suspended for three years beyond the ending date of the initial suspension period.

The agency contracts with private vendors, referred to in the law as "service providers," through the state procurement process. These vendors then subcontract with local providers for installation and monitoring of the ignition interlock devices. During our audit period, there were three vendors holding contracts to deliver services to IID program participants. The agency provides instructions to offenders about the program and how to contact the vendors by toll-free telephone numbers to arrange for installation and instructional use of the device.

As of July 2012, there were just over 900 active drivers, just over 5,400 eligible drivers, and about 9,600 qualified drivers.

- Qualified drivers are those who have served their initial license suspension period but must still serve a one-year suspension before being eligible for the program.
- Once the additional one-year suspension is served, the offender is considered eligible and can have the device installed when certified by DMV. The DMV clears the driver when the driver obtains required insurance.
- Active drivers are those who have served all the prerequisite license suspension periods and have met the DMV's license and insurance requirements and are actively being monitored — or have a medical/employment exemption allowing them to drive without a device. There are very few of these exemptions — about 20 — and they are issued by the DMV.

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## Program Revenues and Expenditures

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We reviewed the revenues and expenditures for the IIDP program. We found that SCDPPPS received a grant of \$356,000 from the Department of Public Safety in 2008 to purchase IT hardware, software, and programming to create an automated system for the IID program. The agency spent \$347,000 of the grant for the system components including license and maintenance agreements. The system, a separate IID program offender management system, was designed to allow the agency to communicate with the vendors, DMV and DAODAS. For example, DAODAS and the agency use the system to determine if offenders have completed their drug or alcohol programs, a pre-condition of IID participation. The DMV notifies the agency that offenders have met the requirements necessary to participate in the program and provides a list of qualified offenders to the agency on a spreadsheet. SCDPPPS also received a one-time \$67,000 appropriation of state general funds for FY 10-11 to fund IID program implementation and all of the grant money was spent to get the program started.

### **Program Fees**

In addition to paying for the cost of installing and monitoring the IID, state law allows SCDPPPS to collect a \$30 fee per month from each IID program participant to pay for the cost of providing the program to offenders who are indigent and cannot pay the installation and monitoring costs. Section 56-5-2941(F) of the S.C. Code of Laws states in part:

The ignition interlock service provider must collect and remit monthly to the Interlock Device Fund a fee as determined by the Department of Probation, Parole and Pardon Services not to exceed three hundred sixty dollars per year....

Offenders who are unable to pay can submit a financial assessment form to the department including monthly income and expenses, employment status, and domicile circumstances. The department assesses the financial information and applies federal poverty guidelines to determine if the offender qualifies. Indigent status is approved for up to 90 days and offenders must reapply each 90 days thereafter while in the program. During FY 11-12, 34 program participants were classified as indigent for at least one month, which cost the program approximately \$17,000. There were 906 active drivers participating in the program as of July 31, 2012.

### **Collection of Fees for Indigent Participants**

SCDPPPS is not properly reporting the total revenue of the IID program. The agency deducts the cost of indigent offenders on the billing sent to the vendors causing the underreporting of revenue, cash deposits, and program expenses. In addition, the agency is not reporting indigent offender expenses in the South Carolina Enterprise Information System (SCEIS), the state's accounting system.

The agency is not in compliance with the law because it is not requiring the service provider (the vendor) to remit the fee for each offender without netting revenue against expenses, in which expenses are subtracted from revenue and the "net" is reported. This practice also does not follow generally accepted accounting practices (GAAP).

## Use of Program Fees

Although reducing revenue by the expenses is a convenience for the agency, the agency is not recording all revenue and therefore, underreporting revenue to SCEIS. The expenses for indigent offenders are not being reported to SCEIS and, as a result, the agency does not know how much of the fees in the fund are being spent on indigent offenders.

### Use of Fee

State law allows the use of the funds paid by offenders to pay for indigent offenders' expenses. Section 56-5-2941(E) of the S.C. Code of Law states in part:

If the Department of Probation, Parole and Pardon Services determines that the offender is indigent as it pertains to the ignition interlock device, it may authorize an interlock device to be affixed to the motor vehicle and the cost of the installation and use of the ignition interlock device to be paid for by the Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services.

The agency is using IID program funds generated by the program to pay some of the operating costs of the program. The law states that the fees collected can be spent on indigent offenders' program expenses and includes no other purpose.

The cost to all offenders on the program is a maximum of \$70 for the installation and a monthly monitoring fee of \$100, except for the indigent offenders. Funds to pay for the indigent offender expenses are accumulated by billing the vendors monthly, \$30 for each non-indigent participant. Table 2.1 shows the typical program expenses for offenders.

**Table 2.1: Ignition Interlock Program Fees**

DESCRIPTION	COST
Ignition Interlock Device Installation Fee	\$70
Monthly Monitoring Fee	\$100
Non-Indigent Monthly Offender Fee	\$30

Source: SCDPPPS

Service providers, as subcontractors, can charge less than these amounts and may do so due to supply and demand related to local free-market conditions.

We obtained information related to amount of fees SCDPPPS collected each year since the program's inception (see Table 2.2).

The agency does not have an income statement report or a useable cash balance report. However, the agency obtained SCEIS reports for revenue and expenditures to determine the remaining account balance. Based on those records provided by the agency, we calculated the IID program fund balance of just over \$218,000 as of October 2012.

**Table 2.2: IIDP Revenue and Operating Expenses**

	FY 09-10	FY 10-11	FY 11-12	FY 12-13*	TOTAL
Revenue	\$14,637	\$77,953	\$160,067	\$39,366	\$292,023
Operating Expenses	0	282	13,886	59,383	73,551
Balance	\$14,637	\$77,671	\$146,181	\$(20,017)	\$218,472

\*Year-to-date October 2012  
Source: SCDPPPS

Based on the estimated indigent offender expenses compared to revenue from the \$30 monthly program fee, SCDPPPS will continue to accumulate a sizable surplus.

The financial information about the account was not distributed in the agency and has not been published in the agency's accountability report. When asked for the account balance, agency personnel were unable to provide it. The agency should be able to easily produce an income statement and a cash balance report for the program and report that information to agency personnel in order to insure proper management of the fund as well as provide transparency.

The balance will continue to increase substantially as revenue continues to significantly outpace expenses if those expenses are limited to paying for indigent offender program expenses. For example, FY 11-12 revenue was \$160,067 and indigent offender expenses were almost \$17,000, an excess of over \$143,000 for one year. We calculated the projected surplus revenues for FY 12-13 to be approximately \$150,000. State law allows SCDPPPS to set the fee it collects to cover the cost of indigent offenders to an amount lower than \$30 per month. Thus, SCDPPPS could prevent the fund balance from increasing by lowering the monthly fee.

In addition, proposed changes to the law may result in an increase in the fund balance. Current law allows second DUI and greater offenders to install an ignition interlock device on their vehicles as a condition to get their suspended driver's licenses back or serve a three-year waiting period before getting the license back. A proposed law for first offense DUI requires the offender to install an IID. Offenders who choose not to install the device do not have a three-year waiting period option and, therefore, would lose their driving privileges.

SCDPPPS has proposed amending the law to allow funds to be used to pay for operating expenses of the program. During the 2011-2012 legislative session, a bill was introduced to allow for the funds to be used to pay for operating expenses, but the bill did not pass. However, SCDPPPS began to spend more than nominal amounts from the fund for operating expenses during FY 11-12, even though state law only specifically allows the use of the funds for indigent expenses.

A similar currently-proposed law specifically authorizes SCDPPPS to use the funds to support the IID Program. If it is determined by the General Assembly that the fee should also be used to cover the operational costs of the program, the costs to agencies, such as DMV and DAODOS, should be considered when determining which agencies can use the fee to cover operational costs.

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## Recommendations

9. The South Carolina Department of Probation, Parole and Pardon Services should discontinue spending IID program money for operating expenses until state law is amended to specifically allow such use.
10. The General Assembly should amend state law to allow program fees charged to offenders to be used to cover all operating costs of all agencies involved in the Ignition Interlock Device Program. Also the General Assembly should determine how any surplus revenues from the program are to be used.
11. The South Carolina Department of Probation, Parole and Pardon Services, on a monthly basis, should distribute a report of the revenues and expenses of the fund to appropriate agency officials.
12. The South Carolina Department of Probation, Parole and Pardon Services should discontinue netting IID program revenue against IID indigent offender program expenses to ensure proper recording and reporting of all program revenue and expenses.
13. The South Carolina Department of Probation, Parole and Pardon Services should include the IID program fund revenue, expenditures, and account balance in the annual accountability report and provide the revenue and expense trend and balances for the most current three years.

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## Composite Bank Accounts

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One of our audit objectives was to examine SCDPPPS's use of composite bank accounts to ensure that the accounts are used effectively and properly monitored. In 2009, the Office of the State Auditor discovered that fraud was being perpetrated on one of SCDPPPS's composite bank accounts. The subsequent investigations of the fraud found that SCDPPPS's internal controls were not operating properly. This resulted in a loss of over \$325,000.

SCDPPPS operated the Columbia Residential Center (CRC) to provide housing and probation services until it was closed in 2009. The center provided room and board for up to 60 offenders, some of whom were ordered to the center by the court.

An agreement between the offenders' employers and SCDPPPS, agreed to by all offenders who resided at the center, allowed the offenders' checks to be sent directly to the center and deposited into a SCDPPPS-controlled composite reservoir bank account, a bank account held outside of the State Treasurer's Office (STO). The center handled the priority of payments made from the deposits on behalf of the offenders. Pursuant to S.C. Code §24-21-480, the priority of payments from the offenders' fund are:

- Restitution to the victim or payment to the account established to the Victims of Crime Act of 1984.
- Payment of child support or alimony or other sums as ordered.
- Payment of any fines or court fees due.
- Payment of \$6.50 per day for housing/food in lieu of supervision fees while in the restitution center.
- Payment of any costs incurred while in the restitution center.

The remainder must be given to the offender upon his discharge.

The Office of the State Auditor found fraudulent charges in the Columbia Residential Center bank account late in 2009, which led to an internal investigation by SCDPPPS Special Operations and a SLED external investigation.

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## Fraud — Columbia Residential Center

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We reviewed the investigations of the fraud on the Columbia Residential Center composite bank account and the subsequent closing of the account. We found that proper procedural controls were not followed which allowed the fraud to continue for nearly two years. The investigation revealed that had agency personnel reconciled the bank account or reviewed the monthly bank statements, the irregularities could have been detected. Not doing so resulted in a net fraud loss of over \$325,000.

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## Failed Internal Controls

A CRC resident, who was given a CRC check when discharged from the center, used the account numbers to access the account online. As a result, the resident was able to defraud SCDPPPS of more than \$325,000. Only one person connected to the failed controls was disciplined. A supervisor of the reconciliation process, the primary and the most elementary of the controls that failed, did not ensure the reconciliations were being done, knew they were not being done, and did not sign off on them monthly, a violation of agency policy. The supervisor was not disciplined.

The investigations and an internal audit revealed details about the controls that failed:

- The CRC bank account reconciliations were not performed timely and were not done properly by one finance department employee charged with performing them for the CRC.
- The supervisor did not perform any oversight and signed off that reconciliations were done when they were not.
- The supervisory signoffs were performed annually at the end of each fiscal year in preparation for the annual audit — not monthly as required by agency policy.
- The fact that bank account reconciliations were not being properly done by the employee and were six months behind was brought to the attention of the employee and the supervisor; no action was taken — either through disciplinary actions or in correcting the reconciliations or efforts to bring them current. In fact, the employee received the highest rating possible on the section of the next job performance review that rated performing composite bank account reconciliations.
- The employee directly responsible for reconciling the account, upon noticing suspicious activity in the account, did not report it to management for nearly a year after discovering it.
- A bank control to not allow electronic online payments failed, as most of the fraud is attributable to online transfers or payments.

These flaws either resulted in the fraud being perpetrated or in allowing the fraud to go undetected. After the fraud was discovered, the supervisor and the supervisor's superior received promotions to higher level jobs. The employee directly responsible was allowed to resign from the agency.

Fraud Timeline

<b>2007</b>	
December	The undetected fraudulent activity began.
<b>2008</b>	
March	The results of the internal audit regarding the bank account not being reconciled were discussed with the employee performing them and the responsible supervisor.
April	The internal audit was published and released.
November	The employee detected suspicious activity on the bank account but did not notify the supervisor.
<b>2009</b>	
February	The CRC was closed. The bank account remained open.
May	The employee received an "SE," substantially exceeds, on her performance review for "Reconcile agency composite accounts to bank statements and internal agency records."
October	The State Auditor's Office discovered a problem with the bank account and asked questions, leading to the discovery of the fraudulent checks.
	Action was taken by the bank to "block" the composite bank account to prevent further access.
November	The employee notified the supervisor by memo that there was suspicious activity on the bank account.
	The internal investigation was authorized by SCDPPPS director.
	The SCDPPPS director issued a letter to SLED requesting a SLED investigation of the matter.
	The Office of the State Treasurer sent a notice to SCDPPPS rescinding the authorization to allow the agency to have composite reservoir bank accounts.
<b>2010</b>	
March	The bank confirmed the account was closed on March 31, 2010.

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## Guilty Plea

A 31-year-old woman, a prior CRC resident, pleaded guilty to committing the fraud. The perpetrator obtained the CRC bank account number and routing number and used them to set up online payments for her personal use and expenses. She was sentenced in September 2011 to 33 months in prison and is required to repay the money stolen in the amount of \$328,798.

According to the judgment, the amount is “due immediately” but allows for a minimum monthly payment of \$100 when released from prison and “not greater than 50% of his quarterly prison income . . .” while incarcerated. At the minimum rate of restitution ordered by the court from the person arrested and sentenced for the fraud, it will take 273 years for the amount to be repaid.

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## Offender Money Used to Offset Fraud Loss

When two of the restitution centers were closed in February 2009, one of the accounts had a \$20,000 balance that belonged to restitution center offenders. The money in the account was used to help offset the negative balance in the account with the fraudulent charges. The offenders have not received the money to which they were entitled. The balance in the account was from checks that were written to offenders but were never cashed or offender money that was never distributed. The department was unable to provide documentation to show exactly what the checks were written for or what the balance represented, but did say it was to pay offenders upon their leaving the restitution center.

SCDPPPS controlled the account and used it to make payments on behalf of its resident offenders to pay restitution, child support, and other court-ordered payments as well as discretionary payments offenders requested. When the account was closed, this money was not re-distributed to its rightful owners, but used to offset the fraud loss in the Columbia Residential Center. It should have been returned, reissued, or transferred to the state’s unclaimed property program of the State Treasurer’s Office.

SCDPPPS states that those who were owed the money would have to come to SCDPPPS to get their money. SCDPPPS personnel took no action to identify the offenders and notify them how they could receive the money they were due. SCDPPPS officials indicated no offenders came forward on their own to claim the money.

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## Composite Bank Account Controls

Controls are in place for the opening of any future composite bank accounts. According to personnel at the State Treasurer's Office, agencies must present a request to open a composite bank account to the STO for review and approval. Controls at STO are also in place should an account be opened without STO knowledge, as any unknown account would generate an error report in the monthly reconciliation process, triggering investigative action at STO. Banks are instructed to link any agency composite bank account to the STO master account.

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## Recommendations

14. The South Carolina Department of Probation, Parole and Pardon Services should add to its reconciling procedures that a second level of review conduct periodic checks of the bank account reconciling process to ensure it is being completed timely and correctly, should the agency reopen any composite bank accounts.
15. The South Carolina Department of Probation, Parole and Pardon Services should modify its final check procedures written to residential centers (should they reopen them) to include bank security procedures so check account numbers and bank routing numbers cannot be obtained and used.
16. The South Carolina Department of Probation, Parole and Pardon Services should identify offenders owed money from the restitution centers and pay offenders the funds owed. If the offender cannot be located, the funds should be turned over to the state's unclaimed property program of the State Treasurer's Office.

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## Procurement

One of our audit objectives was to review SCDPPPS's compliance with state procurement requirements, specifically sole source and emergency procurements, as well as the disposal of surplus property. The Budget and Control Board (B&CB) is currently conducting a procurement audit of SCDPPPS but has not yet released its report. B&CB plans to issue its report in the summer of 2013.

In our review of procurements, we found that SCDPPPS has not followed the procurement code while procuring products and services for the agency. We also found that the agency loaned computer equipment to a private organization and failed to monitor its use in accordance with the Memorandum of Understanding (MOU).

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## Offender Management System

Around 2005, SCDPPPS began the process of creating a new Offender Management System (OMS) that would manage offenders' cases for the agency. SCDPPPS hired a company called TiBA Solutions (which was later merged with NWN Corporation) to design and install the new OMS. The original procurement contract was a temporary information technology (IT) contract called a SmartPerson contract that the state no longer uses.

From March 2005 to April 2012, SCDPPPS awarded 25 sole source procurements to TiBA/NWN. From FFY 04-05 to FFY 12-13, SCDPPPS paid TiBA/NWN approximately \$7.8 million for OMS work. Every contract with TiBA/NWN since March 2005 has been a sole source procurement. Prior to receiving the OMS software source code from TiBA/NWN, the agency stated that it had to issue sole source contracts primarily because the software was proprietary, as well as TiBA/NWN's in-depth knowledge of the system.

According to agency officials, SCDPPPS often hires TiBA/NWN to perform programming in OMS whenever new legislation (such as Sentencing Reform) or other changes need to be made. Agency officials stated that SCDPPPS could maintain OMS itself, but did not have the manpower to perform maintenance of the system, as well as conducting new programming.

In 2006, SCDPPPS received from TiBA/NWN the proprietary source code for OMS. Once SCDPPPS had the source code for the OMS, the agency should not have kept issuing sole source procurements for TiBA/NWN to work on the OMS. SCDPPPS should have issued a standard request for proposals (RFP) since 2006 so that other IT companies could bid on the IT work SCDPPPS needed to be done on OMS. By not issuing regular RFPs for programming service, the agency may have paid more than needed for the OMS work.

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## Other Procurements

SCDPPPS has not performed other sole source and emergency procurements according to the law. S.C. Code §11-35-1560 (A) states, “A contract may be awarded for a supply, service, information technology, or construction item without competition if ....there is only one source for the required supply, service, information technology, or construction item.”

We reviewed a non-statistical sample of eight sole source procurements. These procurements were for items such as copiers, postage systems, and computer training. Seven out of the eight sole source procurements issued by SCDPPPS we examined did not meet the criteria required to be in compliance with the procurement section of the S.C. Code of Laws. These seven procurements’ total value was approximately \$257,000. As an example, in July 2009, SCDPPPS sole sourced the lease of electronic postage systems for \$35,846. SCDPPPS provided no justification for the sole source of the postage systems.

The purpose of the requirements of the sole source procurement method is to limit the frequency of such procurements to when there is only one vendor or supplier who can supply the needed service. Issuing sole source procurements when there are other suppliers who can supply the service or supply results is eliminating competition and increases the chances the agency does not obtain the best price.

Agencies are not required to submit sole source procurements for pre-approval by the Materials Management Office (MMO). However, agencies are required to submit quarterly reports listing sole source procurements. In an effort to improve transparency and accountability, the B&CB began publishing a list of all sole source procurements on its website in 2013. For FY 11-12, agencies reported 2,975 sole source procurements that they valued at \$169,306,169. In addition, the B&CB submits an annual report on agency sole source and emergency procurement activity.

According to B&CB officials, requiring the board to pre-approve all sole source procurements would require significant additional resources. One option to reducing the cost would be to have the B&CB approve all sole source procurements above the agency's certification limits.

We also reviewed two emergency procurements that SCDPPPS conducted during the period of our review. We found that only one of the two emergency procurements was properly procured under the emergency provision of the law. The improper emergency procurement was completed in October 2011 to provide electronic monitoring of offenders for \$45,000. SCDPPPS's justification for the emergency procurement was that the current contract with the company was expiring and the agency did not have a new RFP ready.

If the General Assembly required the Materials Management Office (MMO) to pre-approve all agencies' sole source procurements above the agency's certification limit, then the state could ensure that agencies are using sole source procurements appropriately. It is not practical to include emergency procurements in a pre-approval process, due to the nature of emergency procurements.

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## Loaning Agency Laptops

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We reviewed SCDPPPS's loan of computer equipment to a private organization and found that the agency has not properly monitored the use of the equipment. Also, this transaction is considered a procurement under the state procurement code, however, the transaction does not meet state procurement code requirements.

In 2010, SCDPPPS loaned 20 used agency laptops, at no cost, to a midlands area church for job searches, resume writing, etc. for offenders in the area to use. The laptops are still at the church and in use today and the agency did not indicate any plan to reclaim them. In addition to use by offenders, church members and other members of the community are also allowed to use the loaned laptops. SCDPPPS and the church signed a Memorandum of Understanding (MOU) for the laptops, which contained a number of requirements regarding how the computers were to be used and what data would be reported about the program.

Among the items that the MOU required were to:

- Provide a curriculum on Job Readiness and Transition skills training.
- Maintain a program database of participants.
- Compile an annual summary of program progress updates.

However, SCDPPPS does not maintain regular contact with the church or collect any data on the use of the computers. It does not have a program database of participants nor any annual summaries of the program.

The computers that SCDPPPS loaned to the church were computers that the agency no longer needed and were about to dispose of as surplus property. Any property that an agency is planning to dispose of has to be handled in accordance with procedures laid out by state surplus property and with state surplus property's approval. According to an agency official, SCDPPPS first tried to donate the computers to the church, but when surplus property informed the agency that it was not allowed to do so, then SCDPPPS loaned the computers to the church instead. According to an MMO official, by loaning the equipment to the church, this transaction became a procurement, which was subject to the state procurement code. It did not meet the requirements of state procurement code §11-35-1550, which requires competition for the use of the laptops as well as the services to be offered on the laptops.

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## Recommendations

17. The South Carolina Department of Probation, Parole and Pardon Services should ensure that any future work on the agency's Offender Management System is not done as a sole source procurement.
18. The South Carolina Department of Probation, Parole and Pardon Services should follow state law when issuing sole source or emergency procurements.
19. The General Assembly should amend state law to require the Materials Management Office to pre-approve all sole source procurements above an agency's certification limit.
20. The South Carolina Department of Probation, Parole and Pardon Services should ensure that the requirements of the memorandum of understanding regarding the use of the loaned computers are being met.
21. The South Carolina Department of Probation, Parole and Pardon Services should consult with the Budget and Control Board's Information Technology Management Office regarding the loaning or donation of equipment to private organizations to ensure these transactions are in compliance with the state procurement code.

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**Chapter 2**  
**Human Resources and Finance**

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# Program Issues

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We were asked to review agent caseload and workload use and reporting. We found that there is little consensus on what the ideal agent caseload should be. We found that SCDPPPS has reported differing numbers of agents needed to accomplish its mission. Also, the agency stated that it has hired 47 additional employees, primarily agents, to help implement sentencing reform. However, we did not find a significant increase in staff. Instead, these funds have been used to fund the agency's cash reserve and replace the loss of other and federal funds.

In addition, we were asked to examine SCDPPPS's methodology for calculating the number of individuals and the expenditures that have been avoided due to the reductions in the revocation rate as well as increases in new offense convictions. We found that SCDPPPS and the S.C. Department of Corrections (SCDC) have agreed on a formula for computing the amount of cost avoidance savings that SCDPPPS may request from the General Assembly based on SCDPPPS recommending fewer technical revocations of offenders to SCDC. Finally, the agency has a mentoring program, designed to assist with outreach and mentoring of offenders, that is not properly evaluated and it is unclear how organizations are recruited to participate in the program.

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## Caseload/ Workload

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We reviewed SCDPPPS's caseload and workload standards for appropriateness and accuracy. This review also included how offenders are accounted for in agency caseload and workload reports and how caseloads and workloads are used both within SCDPPPS and for the agency's budgeting process. We found that there is little consensus on what the ideal agent caseload should be. We found that SCDPPPS has reported differing numbers of agents needed to accomplish its mission. SCDPPPS stated it used \$2 million in additional funding for 44 additional agents and three administrative staff, but we found that SCDPPPS did not hire any additional agents.

SCDPPPS also has an agent workload model that can be used to determine the total number of agents needed. However this model has not been updated to account for changes recommended by the University of South Carolina or to reflect the impact of sentencing reform.

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## Agency Caseload

An agent's "caseload" is defined by SCDPPPS as the number of offenders assigned to an agent for supervision. Caseload is expressed in terms of a ratio of the number of offenders to one agent.

An agent's "caseload" is actually comprised of two different types of offender populations. The first type is the "active" population. The active population is comprised of offenders who are directly supervised by SCDPPPS agents. These offenders are then assigned a "supervision level":

- Standard Supervision
- High Supervision
- Intensive Supervision
- Not Guilty, Reason of Insanity
- Sex Offender-Containment
- Sex Offender-Intensive
- Sex Offender-High

Supervision guidelines correspond to the supervision intensity. For instance, "High Supervision" requires one progress report every month and, following the initial home visit, additional home visits are conducted in the event of community complaints and offender violations. "Standard Supervision" includes a face-to-face contact with the offender on a quarterly basis until such time as the offender is directed otherwise by the agent and the agent may reduce or escalate offender reporting frequency. In tracking standard supervision, agents may perform office visits, telephone calls, and written correspondence.

SCDPPPS agents use a risk assessment tool, ten questions in length, to evaluate the appropriate level of supervision for sex offenders. This tool is completed by the supervising agents and the sex offenders are scored. The score the offender receives determines what supervision level he is assigned by the agency. In order of intensity, from high to low, is as follows:

- Containment (score of 6+)
- Intensive (score of 2-5)
- High (score of 0-1)

We found that, regardless of score, all three levels receive the same minimum contact standards with the exception being containment offenders getting one more home visit per month. The test is designed for male sex offenders above 18 years of age; not minors or female sex offenders. SCDPPPS policy states that female sex offenders are automatically placed in Sex Offender-High supervision. However, SCDPPPS management has stated that female sex offenders are placed in Sex Offender-High, "...due to the absence of a sex offender assessment tool [for women]."

The second type of offender population is called the "jurisdictional" population. The jurisdictional population is calculated by adding the active population plus the population subject to indirect levels of supervision.

Population of Indirect Levels of Supervision include:

- Absconded – offenders that have absconded supervision.
- Federal – offenders in federal custody.
- Institutionalized – offenders in SCDC custody and mental health facilities.
- Out-of-State – offenders who are being supervised in another state.
- Misdemeanor Out-of-State – offenders with only misdemeanor conviction(s) who are being supervised in other states.
- Pending – offenders who are incarcerated at the SCDC on a split sentence who will be coming to SCDPPPS to serve the probation portion of their split sentence.
- Track – offenders who do not have an active case with SCDPPPS but who are required to be monitored on GPS due to Jessie's Law.
- Electronic Monitoring/Driving Under Suspension (DUS) – offenders that SCDPPPS monitors for local jurisdictions who have been arrested for DUS 3rd or subsequent.
- Administrative Monitoring – offenders who have successfully completed supervision but who still owe financial obligations. These offenders are not directly supervised.

A SCDPPPS agent caseload includes both active and jurisdictional offenders. As of FY 11-12, the agency reported that the total agent caseload was 1:93 including 32,671 active offenders and 13,703 jurisdictional cases.

SCDPPPS states that using only caseload ratios is not the most effective and appropriate approach for determining the number of agents needed, since community supervision agencies face diverse circumstances and expectations. Also, caseload cannot be determined without first identifying the workload measures, which include the sum total of offender supervision and administrative tasks performed by agents during a given week.

According to an American Probation and Parole Association's (APPA) 2006 report, caseload size is vital for effective probation and parole supervision; but there is little national agreement as to what an ideal caseload should be. A 2007 APPA report states:

The question that has been asked, but which has been inadequately addressed to date, is: what is the ideal caseload size (see Paparazzi and Hinzman, 2005)? The matter of caseload size cannot be addressed appropriately unless it is considered within the larger context of probation and parole officer workload issues. A commitment to resolving officer caseload, and therefore workload, issues carries with it a commitment to address resource allocations to community corrections functions. Perhaps it is the funding issue that has caused community corrections professionals and elected policymakers to continually sidestep the need for resolution to caseload size.

SCDPPPS management has stated, "Current literature suggests the determination of an ideal caseload size should be accomplished in conjunction with workload measures." However, we have found that the current workload model SCDPPPS is utilizing is both outdated and inaccurate; making it difficult to create an appropriate caseload size for agents.

Table 3.1 shows APPA's suggested caseload standards for probation and parole supervision.

**Table 3.1: APPA  
Recommendation Caseload  
Standards**

CASE TYPE	CASES TO STAFF RATIO
ADULT	
Intensive	20:1
Moderate to High Risk	50:1
Low Risk	200:1
Administrative	Unlimited
JUVENILE	
Intensive	15:1
Moderate to High Risk	30:1
Low Risk	100:1
Administrative	Unlimited

Source: APPA

## Agent Workload

In addition to caseload, another measure can be used to determine the amount of work or the time it takes to supervise offender population — agent “workload.” Agent workload refers to all activities required and performed by the SCDPPPS agent. This includes direct supervision of the offenders assigned to the agent as well as all other activities performed by the agent (e.g. non-supervision or administrative duties). In addition to accounting for the duties performed by an agent, the SCDPPPS workload model also recognizes that offenders and jurisdictional differences produce differentials in the amount of time required for agents per offender (i.e., higher risk offenders require more of the agent’s time than lower risk offenders).

According to agency management, the workload model is an alternative to assigning agent caseloads based on size to an approach that adjusts caseload assignments using actual offender needs, risk, and related supervision time. As the offender population grows, so does the caseload size when agent staff is not increased.

SCDPPPS began using a workload model in 1982, the result of the completion of a workload study conducted by agency management with a second study completed in 1988. The workload study was completed by the University of South Carolina (USC) in 2003. In 2006, the model was revised and, in 2008, SCDPPPS sought to have the study re-validated by USC.

USC's 2008 report stated that many changes needed to be made to the SCDPPPS workload model; most dealing with discrepancy in the amount of time the workload model allots for a specific duty, and the actual time that duty is taking to accomplish. The study review found most of the discrepancies were that the tasks took longer than the workload model allowance.

USC staff recommended that SCDPPPS make the proposed changes and re-validate the workload model every two to three years to ensure it is accurately capturing the activities of the SCDPPPS field operations staff. SCDPPPS is still using this workload model today and has not updated it to incorporate the impact of sentencing reform. SCDPPPS management states that:

In that the full impact of Sentencing Reform mandates has not been realized the Department has not invested funding to update the model or seek new validation of the model... The Department's Workload Team will be updating the model as soon as the Risk Need Assessment is fully integrated and the Supervised Reentry Population is realized.

SCDPPPS officials also state that it was inappropriate to consider utilizing the department's limited and diminishing resources to conduct a workload study and validation while the department was experiencing budget reductions, staff furloughs, and RIF actions during the state's fiscal crisis of FY 07-08 to FY 09-10.

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## Impact on Public Safety

SCDPPPS relies on internal training and agency policies to mandate the duties and contacts to be made for each offender supervision level. Due to a decrease in the number of SCDPPPS agents from 501 in 2008 to 378 in 2012, the number of supervision contacts that agents make with offenders, in all levels of supervision, has been revised to spend less time with offenders and less frequent visits to compensate for the increase in workload.

When asked how this decrease in SCDPPPS staff has had an effect on public safety, SCDPPPS management referred to the General Assembly's passing of the Sentencing Oversight Act of 2010 (SOA) and stated that the purpose of the SOA was to give SCDPPPS the resources to implement evidence-based supervision practices that benefit both the offenders and society.

This was to be accomplished by performance incentives from the General Assembly and, essentially, if SCDPPPS met its SOA goals, it would be given more funding to continue and improve its supervision. It is SCDPPPS management's belief that if the General Assembly funded the agency with appropriations per the SOA, this money would assist the agency in achieving its mission and increase public safety.

One method of measuring the impact on public safety of fewer agents and a higher caseload would be to determine if there has been an increase or decrease in new felony convictions for offenders on probation. SCDPPPS agency officials have reported that, "Despite an increase in offender population of 5% from FY 09-10 to FY 11-12, there was a 3% reduction in the number of individuals who had their supervision revoked for new felony offense convictions during this same time period."

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## Use of Sentencing Reform Funds

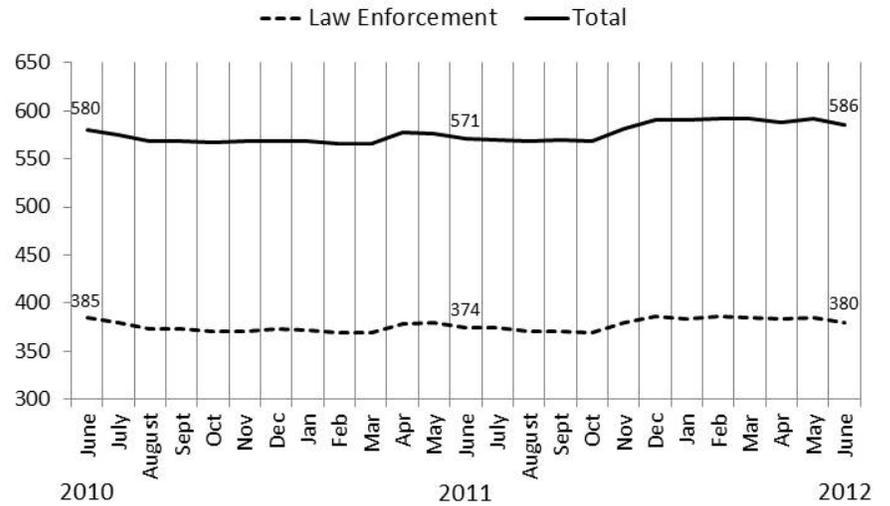
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SCDPPPS received approximately \$3.8 million in state general funds in FY 10-11 and FY 11-12 for sentencing reform. According to agency officials these funds were used to hire an additional 47 staff (primarily agents), during the two-year period of FY 10-11 and FY 11-12 at a cost of approximately \$2 million. We reviewed agency expenditures and personnel data but did not find a significant increase in staff. These funds have been used to fund the agency's cash reserves and replace the loss of other and federal funds.

We reviewed data from the B&CB's Office of Human Resources showing filled positions, by month, for FY 10-11 and FY 11-12. This data does not show a net increase of 47 employees (see Chart 3.2). Instead, total filled positions increased by only 6, from 580 to 586.

In addition, according to SCDPPPS, 30 of the 47 additional employees were hired during FY 10-11. However, information from SCDPPPS shows a net decrease of ten staff during this period (see Table 3.3).

**Chart 3.2: SCDPPPS Filled Positions, June 2010 to June 2012**



Source: B&CB OHR

**Table 3.3: Net Increase / (Decrease) in Staff, FY 10-11 and FY 11-12**

	NEW HIRES	TERMINATIONS	NET INCREASE/(DECREASE)
FY 10-11	34	44	(10)
FY 11-12	58	42	16
Net Increase			6

Source: SCDPPPS

We also examined total personnel services expenditures and found that these expenditures increased by only \$366,361 between FY 10-11 and FY 11-12 (see Table 3.4). This is significantly less than the \$2 million SCDPPPS states it cost to hire the 47 agents and is approximately 10% of the \$3.8 million in recurring general funds the agency received for sentencing reform during FY 10-11 and FY 11-12.

**Table 3.4: Total Personnel Services Expenditures, FY 09-10 Through FY 11-12**

	TOTAL ACTUAL FUNDS		
	FY 09-10	FY 10-11	FY 11-12
Executive Director	\$91,108	\$81,087	\$92,917
Classified Positions	24,256,883	21,437,482	21,786,980
Unclassified Positions	255,550	246,047	211,270
Other Personal Services	2,235,969	551,326	591,136
<b>TOTAL</b>	<b>\$26,839,510</b>	<b>\$22,315,942</b>	<b>\$22,682,303</b>

Source: SCDPPPS

We inquired as to how the sentencing reform funds had been spent since total staff size and total personnel expenditures did not increase significantly. SCDPPPS stated that:

- The agency has used some funds to reestablish agency cash reserves.
- A high turnover rate has prevented the agency from increasing its agent staff levels.
- Funds have been used to pay employer contribution costs previously paid using other and federal funds.
- There has been a reduction in offender supervision fee revenue.

We examined the amount of carry forward funds SCDPPPS had during FY 09-10 thru FY 11-12 and found that the agency has accumulated a significant amount of carry forward funds.

**Table 3.5: Carry Forward Funds**

	FY 09-10	FY 10-11	FY 11-12
General Funds	\$628,945	\$2,166,095	\$1,776,410
Earmarked Funds	2,869,769	9,516,561	13,420,051
Federal Funds	(49,613)	41,250	(2,243)
<b>TOTAL</b>	<b>\$3,449,101</b>	<b>\$11,723,905</b>	<b>\$15,194,218</b>

Source: Senate Finance Committee

We also found that expenditures of other and federal funds for personnel services and employer contributions have decreased while general fund expenditures for these items have increased.

**Table 3.6: Personnel Services and Employer Contributions Expenditures by Fund Category**

	FY 09-10	FY 10-11	FY 11-12
<b>Personnel Services</b>			
General Funds	\$10,720,621	\$12,524,703	\$12,499,436
Other Funds	16,101,687	9,789,447	10,182,867
Federal Funds	17,202	1,791	0
<b>TOTAL Personnel Services</b>	<b>\$26,839,509</b>	<b>\$22,315,941</b>	<b>\$22,682,303</b>
<b>Employer Contributions</b>			
General Funds	\$3,855,614	\$4,240,653	\$7,126,896
Other Funds	3,059,147	1,993,976	1,063,956
Federal Funds	1,901,855	2,600,375	103,381
<b>TOTAL Employer Contributions</b>	<b>\$8,816,616</b>	<b>\$8,835,005</b>	<b>\$8,294,234</b>

Source: SCDPPPS

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## Conclusion

SCDPPPS received almost \$3.8 million in general funds in FY 10-11 and FY 11-12 for sentencing reform. The agency determined that these funds would be used to hire additional staff to implement sentencing reform. However, we found that the agency has not hired additional staff. Instead, the funds have been used to increase the agency's cash reserve and pay employer contribution costs previously paid by other and federal funds. This at a time when the agency indicated it had high caseload ratios and revised its supervision standards resulting in less supervision time with offenders.

SCDPPPS is requesting additional funds to hire 136 more agents over the next three years at a cost of \$5.5 million (see Table 3.7). Also, as part of sentencing reform, the Sentencing Reform Oversight Committee has recommended that SCDPPPS receive over \$2 million from SCDC which represents cost avoidance savings as a result of a reduction in the revocation rate for offenders (see *Section Heading*). However, SCDPPPS has not used previously appropriated funds to hire additional agents. With sentencing reform comes an increased workload requirement for parole agents and additional agents are needed to effectively implement sentencing reform. SCDPPPS should be using the funds appropriated for sentencing reform to reduce agent caseload and workload in order to ensure that sentencing reform is properly implemented.

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## Use of Caseload and Workload in the Budget Process

We reviewed SCDPPPS budget requests for FY 10-11 and FY 11-12 and found that the agency only requested funding for additional agents in the budget request for FY 11-12. Agency management stated that:

In order to maintain responsive offender supervision standards, the Department has established (through the use of critical workload indicators) a minimum baseline of Probation and Parole Agent staff that is needed to accomplish the diverse demands placed on these staff statewide [the baseline number is 444 Probation and Parole agents].

We requested information on how this number was determined, but SCDPPPS management could not provide information on how the number was calculated.

When asked how caseload or workload reports are used in the budget request process, SCDPPPS stated they are not specifically used in the budget process to determine the number of agents. However, this data is available for employees to use to answer questions from the various legislative budget committees per their request.

For the next three fiscal years, SCDPPPS plans to request funding for additional agents to bring its caseload ratio to 1:75. Table 3.7 shows the additional funding request with corresponding number of additional agents.

**Table 3.7: SCDPPPS Budget Request for New Staff**

BUDGET YEAR	REQUESTED INCREASE	NUMBER OF AGENTS
FY 13-14	\$2,310,240	57
FY 14-15	1,945,464	48
FY 15-16	1,256,445	31
TOTAL Increase	\$5,512,149	136

Source: SCDPPPS

According to SCDPPPS, this would bring the total number of agents to 488, 44 agents more than the 444 agents SCDPPPS stated it needed in its FY 11-12 budget request. Also, we found that SCDPPPS's FY 13-14 budget request for \$2,310,240 is based on incorrect agent population figures. SCDPPPS's request states it had 352 agents as of July 2012. However, SCDPPPS records we reviewed showed that the agency had 378 agents as of July 2012.

## Recommendations

22. The South Carolina Department of Probation, Parole and Pardon Services should develop an accurate method to determine how many agents it needs to accomplish its mission.
23. The South Carolina Department of Probation, Parole and Pardon Services should update its workload model and have it re-validated as needed.
24. The South Carolina Department of Probation, Parole and Pardon Services should use the \$2 million in state appropriations from FY 11-12 to hire new, additional agents to assist in fulfilling its mission, as legislatively intended.

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## Offender Revocation

One of our audit objectives was to examine SCDPPPS's methodology for calculating the number of probation and parole revocations and the expenditures that have been avoided due to the reductions in the revocation rate as well as increases in new offense convictions. We found that SCDPPPS and the S.C. Department of Corrections (SCDC) have agreed on a formula for computing the amount of cost avoidance savings that SCDPPPS may request from the General Assembly based on SCDPPPS recommending fewer technical revocations of offenders to SCDC. For FY 11-12 the recommended amount was \$1,047,669.

Under the Omnibus Crime Reduction and Sentencing Reform Act passed in 2010, SCDPPPS is allowed to use alternatives to recommending revocations (an offender is recommended to be sent to prison) for violations of any supervising program. In order for SCDPPPS to reduce the number of revocations, the agency had to change its processes for disciplining offenders.

A 2010 PEW Center on the States report indicated that South Carolina was too strict on how it disciplined offenders. For example, for FY 08-09, 66% of offenders were revoked because of a technical violation such as failure to appear at the probation office or for alcohol and drug use. Now, instead of automatically revoking an offender for a violation, a SCDPPPS agent may issue administrative sanctions, such as a verbal or written reprimand or requiring more community service hours. From FY 09-10 to FY 11-12, the use of verbal or written reprimands by SCDPPPS agents increased 163% and requiring more community service hours be completed by an offender as punishment increased 120%.

SCDPPPS offenders can be revoked and returned to SCDC or local jail for technical violations of their probation or parole, if ordered by a judge, based on recommendations from SCDPPPS probation agents. However, SCDPPPS is using more administrative sanctions and other supervision techniques in order to reduce the number of offenders who are revoked for technical violations. Some examples of technical violations are contacting a victim, failure to maintain employment, failure to attend a scheduled probation meeting, failure to register as a sex offender, leaving the state without permission, multiple positive drug tests, and willful failure to pay monetary obligations or restitution.

Whether or not an offender is recommended for revocation by SCDPPPS usually depends on the type and number of offenses committed by an offender, since some technical violations are weighed more heavily than other technical violations. The decision to recommend revocation for a technical violation can be determined by the SCDPPPS agent, Agent-In-Charge, and/or SCDPPPS Administrative Hearing Officers.

SCDPPPS also reports on the numbers of its offenders revoked for new felony offense convictions. For FY 11-12, 850 individuals were revoked for new offense convictions. For FY 10-11, that number was 825 and for FY 09-10, that number was 880. If there is an increase in the percentage of individuals supervised by SCDPPPS who are convicted of a new felony offense within a fiscal year, then SCDPPPS will not receive any of the savings from fewer revocations for technical violations for that fiscal year.

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## Previous Revocation Rate Formula

Under the Sentencing Reform Act, SCDPPPS can receive up to 35% of any state savings that are avoided from having fewer offenders revoked by SCDPPPS to SCDC custody for violating their probation or parole for technical violations. This money must be used by SCDPPPS to enhance the agency's evidence-based practices (such as the agency's COMPAS computer assessment of offenders system), increasing the availability of risk reduction programs (such as substance abuse treatment programs), and for grants to non-profit victim services organizations.

After the Sentencing Reform Act was passed, SCDPPPS and SCDC had several meetings and discussions to determine a formula to use for calculating the amount of savings to SCDC, and thus the amount that SCDPPPS would be entitled to receive in the first year, after sentencing reform, for recommending fewer revocations. The two agencies agreed on how the offenders would be counted, the types of variable costs avoided that would be counted per offender (such as food and medical costs), and the average time that each offender would have spent in the SCDC had he been revoked.

The two agencies agreed on the following:

- For FY 10-11, 579 fewer offenders were sent to SCDC than in FY 09-10 because of technical revocations.
- Each of the 579 offenders' variable costs would be calculated at \$9.36 a day.
- The average time that these 579 offenders would have spent at SCDC would have been 1.11 years.

The two agencies determined a savings of \$1,067,630. However, there was disagreement on the interpretation of the 35% cost avoidance savings mentioned in the Sentencing Reform Act. SCDPPPS felt that it should get the full \$1.067 million, while SCDC felt that SCDPPPS should only get 35% of \$1.067 million. Since the two agencies could not agree on the amount of savings to be awarded to SCDPPPS, no transfer of money occurred in 2012 for the 2011 reduction in revocations.

As part of the Sentencing Reform Act, a Sentencing Reform Oversight Committee (SROC) was created. Section 24-28-30 (3) of the S.C. Code of Laws states that the SROC shall:

...annually calculate any state expenditures that have been avoided by reductions in the revocation rate...develop rules and regulations for calculating the savings...which shall account at a minimum for the variable costs averted, such as food and medical expenses, and also consider fixed expenditures that are avoided if larger numbers of potential inmates are avoided...report the calculations made...The report also shall recommend whether to appropriate up to thirty-five percent of any state expenditures that are avoided as calculated...to the Department of Probation, Parole and Pardon Services....

In 2012, the SROC made a recommendation that SCDPPPS be transferred \$1.067 million from SCDC for the reduction in revocations from 2010 to 2011, but it was not transferred. The General Assembly has to approve the transfer of the funds from SCDC to SCDPPPS during the budget process, but it was not approved.

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## 579 Fewer Offenders Revoked for 2011

During the discussion of the calculation of the revocation rate formula, questions were raised about how many fewer offenders were revoked to SCDC custody for technical violations and who those offenders were. The two agencies agreed that there were 579 fewer offenders revoked to SCDC custody for technical violations in 2011 than in 2010. In 2010, there were 3,293 offenders revoked and, in 2011, there were 2,714 offenders revoked. However, these are not actual individuals with a name and identification number; these 579 offenders are just a subtraction of one year (2011) to the previous year (2010). As a result, the agencies are unable to provide a listing of offenders whose probation or parole was not revoked, since this number is a comparison number only.

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## New Revocation Rate Formula

In the fall of 2012, the SROC hired the Vera Institute of Justice to work with SCDPPPS and SCDC to determine a formula for the two agencies to use to compute the reduction in revocations. After several meetings between SCDPPPS, SCDC, and the Vera Institute, a new formula was issued. The new revocation rate uses bed days avoided by offenders not in SCDC, variable costs of the offender avoided (such as food and medical costs), and includes step-fixed costs avoidance (such as staff salaries and benefits avoided). The formula compares the number of revocations admitted to SCDC in the current fiscal year to the number of revocations admitted to SCDC in the base year of FY 09-10.

In December 2012, the two agencies reported that for FY 11-12:

- 1,114 fewer revocations to SCDC were made than in FY 09-10.
- 335,325 bed days were avoided.
- The variable costs avoided were \$1,871,114.
- The step-fixed costs avoided were \$1,122,226.
- The total savings were \$2,993,340.

This new formula was approved by the directors of SCDPPPS and SCDC. The reporting of the new formula resulted in a recommendation to the SROC that \$1,047,669 (35% of \$2,993,340) be given to SCDPPPS for the implementation of evidence-based practices, risk-reduction programs, and grants.

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## Conclusion

According to a Pew Center on the States report:

People on probation and parole who violate their conditions of supervision are a major driver of prison populations and costs. Yet if community corrections agencies keep minor violators on community supervision, rather than revoke them to prison, the agencies get more cases but not more money to manage them.

It further states:

If corrections agencies are successful in cutting the rate of offenders sent back to prison for new crimes or rule violations, the state reaps savings by avoiding prison costs. By sharing some of those savings with the successful agencies, states can help build stronger community corrections systems without appropriating new funds.

SCDC ran a deficit in FY 07-08 of \$3,958,387, in FY 08-09 of \$45,504,056, and in FY 09-10 of \$27,148,029. Taking funds from an agency that often runs deficits may not be the best approach.

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## Mentoring Program

SCDPPPS participates in two mentoring programs — the Self Paced In-Class Education (SPICE) program and the On The Outside program. The SPICE program is an education and employment initiative with a faith-based community partnership between the S.C. Department of Corrections (SCDC), SCDPPPS, and technical colleges. The On The Outside program, run by SCDPPPS, is usually done in coordination with churches, and provides adult mentors to non-violent SCDPPPS offenders. SCDPPPS teaches and advises church volunteers on how to mentor offenders. The On The Outside program is a pilot program that is not yet statewide; it is currently concentrated in the midlands area, with only one church outside of the midlands in the program.

The agency has at least four employees operating the mentoring programs; however, we found that SCDPPPS does not evaluate the effectiveness of the On The Outside mentoring program to see if it is successful. SCDPPPS does not collect any data on the mentoring program, such as the number of participants, the success of the offender after completing the program, etc.

We also found that local agents were not fully aware of the program or what it did. We contacted two midlands area Agents-in-Charge (AIC) and both of the AICs either did not know of the On The Outside mentoring program or confused it with the SPICE program. If AICs in the service area do not know the program exists, or are unclear how the program works, then it is not clear how offenders would be referred to the program or how successful the program could be. The agency did not provide us with information as to how offenders are referred to the On the Outside program.

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## Recommendations

25. The South Carolina Department of Probation, Parole and Pardon Services should create evaluation tools for its On The Outside mentoring program.
26. The South Carolina Department of Probation, Parole and Pardon Services should ensure that its staff is aware of the mentoring programs the agency offers.

# Use of State Resources

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One of our audit objectives was to determine if SCDPPPS has adequate policies and procedures addressing the use of state resources. We reviewed the policies and procedures regarding the use of agency computer equipment, cell phones, and state vehicles. We found that SCDPPPS did not investigate an allegation of misuse of agency computer equipment appropriately. In addition, SCDPPPS could improve its controls over its state vehicles to ensure they are used in the most efficient and effective manner. Finally, SCDPPPS has significantly reduced its cell phone expenditures and taken steps to eliminate personal use. However, it could further reduce cell phone costs.

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## Investigation of Personal Use of Agency Computers

SCDPPPS did not investigate potential misuse of agency computer equipment and an allegation of employees conducting private business on state agency time in an appropriate manner.

SCDPPPS has a policy that each employee who has a side business or is also employed outside the agency must complete a form to make the agency aware of the business/employment. This form has to be approved by the employee's supervisor and upper agency management. The policy allows for disciplinary action or termination if an employee does not receive the proper prior approval. In addition, the agency also has a policy that agency computer equipment will not be used except for agency business.

In 2008, SCDPPPS received a complaint that some employees in the Information Technology (IT) division were using agency computer equipment for their own personal side businesses. SCDPPPS conducted an investigation lead by the deputy director responsible for the IT division. The deputy director interviewed the employees cited in the complaint, one of whom was a direct report to the deputy director. The investigation found no proof of the allegations and no employees were reprimanded.

The agency provided a summary of the allegations and the employees' answers to the allegations. We requested copies of employee interviews and other records; however, the agency stated it could not provide the documents relating to the investigation because they were destroyed in accordance with SCDPPPS's administrative records retention policy. The agency also has not provided any records to show they attempted to verify claims by employees that "flex" time or annual leave was used when they either left the agency during working hours or conducted personal business at the agency during regular business hours.

- There were a total of 14 allegations that one employee was engaged in personal, outside business activities while on state agency time. Each allegation listed the specific time and/or date, and the outside business activity in which the employee was engaged. However, there was no documentation provided that any action was taken to verify the employee's response. For example, when accused of working on his own business and leaving the agency during regular business hours, this employee said he did leave to work on his own company business but used flex time earned the previous week.
- When another employee was accused of leaving for the day and not returning to work in order to work for a personal business client, the employee said he was not performing work for an outside client, he was at home with his family.
- Other accusations directed at the accused employees resulted in responses such as "I do not recall . . ."; "I do not recall this exchange"; "I do recall pricing out a . . . server for a client . . . but it was done . . . on my lunch hour."

The investigation found that some employees did not have current outside employment forms on file, flex time and weekend work lacked appropriate documentation, and employees had limited knowledge of state ethic laws. None of the employees accused in the complaint of having a side business had a signed disclosure form on file. We found no evidence that any employees were disciplined for not having the forms on file. As a result of this investigation, all agency employees were required to update outside employment forms, section managers were required to document flex time, and all employees in the administration services division were required to attend ethics training.

SCDPPPS has an internal audit division, however, it was only involved in the investigation by participating in what the agency called "split-level" interviews with various IT staff. These split-level interviews involved surveys of IT staff who were not accused in the complaint. It is unclear from the split-level process, as well as the types of questions that were asked, how this relates to the investigation of the complaint.

Of the ten questions asked the employees, none were directly related to the investigation. For example, some of the questions asked were:

- “What is your current job title and how long have you been employed with the agency?”
- “Have you ever held any other positions within the agency? If so, what other positions have you held?”
- “What do you like about your job?”

According to an agency official, the former director of SCDPPPS authorized the investigation to be conducted through the employees’ chain of command since these allegations regarded ethical, not criminal matters.

SCDPPPS also has a special operations unit at the agency for investigating internal matters, but this unit was not involved in the IT investigation. SCDPPPS has an agency policy that states that the Chief of Special Operations shall conduct internal investigations of alleged misconduct by agency employees, “whether it involves a violation of policy and procedure, codes of ethics, state or federal law or other recognized standards of conduct.”

SCDPPPS also has another agency policy that states that the deputy director shall handle “any allegation of conduct that is unconstitutional or unlawful or in violation of Department policy.”

Finally, SCDPPPS has yet another policy that states that the internal audit division will “foster effective and efficient use of assigned resources.”

It is unclear how these three agency policies relate to each other and which policy is to be followed for an allegation received. It is also unclear why the special operations unit at the agency could not investigate an ethical matter or the internal audit division could not investigate the use of agency resources, since both of those agency divisions are given that power in the agency’s own policies.

By allowing the deputy director to conduct an investigation regarding a complaint of a division under that deputy’s control, SCDPPPS did not conduct the most independent investigation possible. Independence can ensure an unbiased investigation and avoids the appearance of conflict of interest. If SCDPPPS had referred the IT investigation to the internal audit division or the special operations unit, there would have been greater assurance that an impartial and thorough investigation was conducted.

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## Recommendations

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27. The South Carolina Department of Probation, Parole and Pardon Services should refer any accusations of misuse of agency computer equipment and agency time to the internal audit division or the special operations unit and update the agency's policies to reflect this change.
  28. The South Carolina Department of Probation, Parole and Pardon Services should restate its investigation policies to clearly define which internal division or outside party should investigate various types of allegations and ensure that an independent investigation is conducted.
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## State Vehicles

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We reviewed the permanent assignment of state vehicles and found that SCDPPPS should review the permanent assignment of these vehicles to ensure that they are used in the most efficient and effective manner, that the agency should track the number of on-call responses, review its residential requirement for employees assigned vehicles, and submit separate confidential tag requests for law enforcement and other staff. In addition the General Assembly should revise state law to eliminate the assignment of state vehicles to agency heads based solely on their positions.

The objectives of the S.C. Motor Vehicle Management Act include:

- (a) To achieve maximum cost-effectiveness management of state-owned motor vehicles in support of the established missions and objectives of the agencies, boards, and commissions.
- (b) To eliminate unofficial and unauthorized use of state vehicles.
- (c) To minimize individual assignment of state vehicles.

SCDPPPS has 143 vehicles, of which 20 are permanently-assigned to individual employees. Among the employees with permanently-assigned vehicles are hearing officers, deputy directors (including the deputy director for administration), and the agency director. SCDPPPS states that all the vehicles are assigned to certified law enforcement officers with statewide responsibilities who are "on-call" to respond to any emergencies, such as extraditions, interstate compact, and the state's emergency operations plan.

The B&CB’s State Fleet Management (SFM) directives state the use of a vehicle to drive between home and work is considered an unauthorized use, “the fact that an employee is ‘on call’ does not in itself justify this authorization. The urgency of employee availability and frequency of actual recall must be factually justified to the SFM in order to qualify as authorized use.” SCDPPPS does not keep records on the number of actual on-call responses made by any of the employees permanently-assigned a vehicle.

## Commuting

SCDPPPS also does not collect information on the number of commuting miles for any vehicles, because law enforcement vehicles are exempt from this reporting requirement. We attempted to estimate the number of commuting miles being driven by employees with permanently-assigned vehicles. We identified 11 employees assigned to the central office location in Columbia. Six have a daily commuting mileage of more than 150 miles. The deputy director for paroles and pardons commutes 218 miles round trip. We estimated a total of 218 days available for commuting, allowing for 260 workdays in a year, less 12 holidays and 30 days of sick and annual leave. Table 4.1 shows the results of our analysis for five vehicles where the estimated commuting miles constitute a significant percentage of the vehicles’ total mileage. For example, one of SCDPPPS’s deputy directors drove a total of 10,316 miles in FY 11-12 and we estimate the commuting mileage to be 5,232 or 50% of the total miles driven. This vehicle is a standard vehicle, not equipped with a police package.

**Table 4.1: Sample of Commuting Mileage FY 11-12**

CAR	TOTAL ANNUAL COMMUTING MILEAGE	TOTAL ANNUAL OFFICIAL MILEAGE ESTIMATE	TOTAL ANNUAL MILEAGE	COMMUTING AS A % OF TOTAL MILEAGE
1	6,104	8,396	14,500	42%
2	5,232	5,129	10,361	50%
3	9,156	7,013	16,169	57%
4	4,796	11,490	16,286	29%
5	2,180	9,331	11,511	19%

Source: SCDPPPS, B&CB, and LAC

Several of the SCDPPPS employees we examined have commutes that, if made each day, would exceed the actual total mileage reported for the year. For example, three employees' distances from home to the Columbia office is over 100 miles one way. Commuting the estimated 218 days per year would result in over 44,000 commuting miles for each. According to the trip logs, the actual total miles driven were between 33,000 and 40,000 miles. The job description for at least one of the employees does not include duties requiring frequent travel. Without a mileage log, we cannot determine why total mileage exceeds the estimated commuting mileage. We requested information from SCDPPPS concerning the number of trips made to the central office each week by these employees, but SCDPPPS could not provide this information and stated employees are not required to log daily trips. Allowing employees to commute over 200 miles per day may be an inefficient use of state resources.

SCDPPPS's human resources policy 201 includes a residency requirement clause that "employees in probation and parole agent career track positions are encouraged to reside within reasonable proximity to the assigned county within which they work." Reasonable proximity is defined in the policy as within approximately 30 minutes. We found that at least one regional director lives outside of Charleston and logs daily trips to the midlands and upstate area, well over a 30-minute drive.

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## Breakeven Analysis

State Fleet Management has performed a breakeven analysis to determine that an employee should drive at least 8,160 official miles in order to justify the permanent assignment of a state vehicle. We found that, after allowing for commuting mileage, two of the five vehicles did not meet the minimum mileage criteria for being permanently assigned and had a commuting percentage of at least 50%.

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## Agency Head Assignment

Section 1-11-270 of the S.C. Code of Laws allows for the assignment of a vehicle to an agency head based solely on the position. Assignment of a vehicle based solely on job title may not be the most efficient use of state resources. Based on our review, we estimate that approximately 42% of the mileage placed on the car by SCDPPPS's agency director is commuting from home to office.

According to B&CB State Fleet Management, 11 agency heads are currently assigned vehicles. This number excludes constitutional officers and those college and university presidents provided vehicles by foundations. Use of a vehicle for commuting can be a means of increasing compensation. The Agency Head Salary Commission currently does not approve the assignment of cars to agency heads nor does it collect information on the number of agency heads with assigned vehicles or the amount of personal use. However, as required by proviso 89.16 of the FY 12-13 Appropriations Act, the commission does approve any housing supplements provided to state agency heads and also receives information on the fair market value of any housing provided to state agency heads. Agency heads could still be assigned vehicles where warranted by job duties similar to other state employees.

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## Confidential Tags

All of SCDPPPS's vehicles are exempt from state vehicle identification requirements and have confidential tags. The use of confidential tags must be approved by the B&CB's State Fleet Management division. In the case of confidential tags for law enforcement vehicles, the State Law Enforcement Division (SLED) must approve the tags. SCDPPPS's confidential tag request for its 143 vehicles was approved by B&CB but was not reviewed by SLED because SCDPPPS selected the justification "For other than Certified Law Enforcement Officers" and did not check the "Certified Law Enforcement Officers" box on the form. This resulted in allowing confidential tags for vehicles driven by agency administrative personnel who were not eligible for such tags.

SCDPPPS stated that all its vehicles are assigned to certified law enforcement officers with statewide responsibilities who are "on-call" to respond to any emergencies, yet on its confidential tags exemption form stated all its vehicles were "for other than certified law enforcement officers." In its narrative, SCDPPPS states that confidential tags are needed because staff is involved in the "supervision of offenders" and that the tags are needed for "public safety and the safety of our employees." The request notes that agents perform various duties including offender home visits, warrant teams, extraditions, and state emergency operations.

Given the duties performed by SCDPPPS staff and considering that agents are certified law enforcement officers, the confidential tag request should have been reviewed by SLED. The confidential tag request applies to all of the agency's 143 vehicles, including those assigned to executive-level staff and the car assigned to the deputy director for administration. Allowing state vehicles to be exempt from state identification requirements can make unauthorized use more difficult to detect.

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## Conclusion

A former SCDPPPS employee was terminated for using a state vehicle while on leave. During a deposition, the employee testified that personal use of vehicles is common practice in his office and other employees drive vehicles to other jobs. He specifically identified another employee with personal use of an assigned vehicle. According to an agency administrator, an investigation was offered but has not been authorized by the agency director.

According to agency budget documents, due to a reduction in funding, SCDPPPS has had to reduce the number of fleet vehicles available to agents to conduct home visits. SCDPPPS does not track the number of on-call responses or the total commuting miles for any of the permanently-assigned vehicles. It is questionable whether reducing the number of fleet agency vehicles available to agents, while maintaining the number of permanently-assigned vehicles, is the most efficient use of state resources. In order to make certain that vehicles are used in the most efficient and cost effective manner possible, as well as reduce the likelihood of unauthorized use, SCDPPPS should monitor its permanently-assigned vehicles to ensure the assignments are justified.

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## Recommendations

29. The General Assembly should amend §1-11-270 of the S.C. Code of Laws to eliminate the assignment of state vehicles to agency heads based solely on their position.
30. The General Assembly should revise the Appropriations Act proviso on allowances for residences and compensation to require that state agencies report to the Agency Head Salary Commission the assignment of state vehicles to agency heads and the amount of personal use.
31. The South Carolina Department of Probation, Parole and Pardon Services should re-evaluate the permanent assignment of state vehicles to ensure that state vehicles are used in the most efficient and cost-effective manner.
32. The South Carolina Department of Probation, Parole and Pardon Services should track the actual number of on-call responses for individuals assigned state vehicles to determine if the assignment is justified based on the number of emergency responses.

33. The South Carolina Department of Probation, Parole and Pardon Services should revise the residential requirement it imposes for employees on the agent career track to include all employees assigned vehicles and have public safety and emergency on-call situations listed in their job functions.
  34. The South Carolina Department of Probation, Parole and Pardon Services should submit separate confidential tag requests for law enforcement officers and for other staff to ensure that vehicle exemption justifications are appropriate.
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## Cell Phone Use

We reviewed agency cell phone use and found that SCDPPPS has significantly reduced its cell phone expenditures and taken steps to eliminate personal use. It has a written policy for cell phone use by employees; however, SCDPPPS needs to develop written policies and procedures for the issuance of cell phones and can also further reduce its cell phone costs.

In the June 2008 review of state agency cell phone use, we identified a number of concerns with SCDPPPS's cell phone use. We found that the agency was incurring significant overage charges and that there were instances of inappropriate personal use by agency employees. In FY 06-07, SCDPPPS had cell phone expenditures of \$465,828. SCDPPPS reduced its expenditures to \$138,958 in FY 11-12, a 70% decrease from FY 06-07. In addition, according to the cell phone vendor's account representative, data downloads are now blocked. We reviewed the account summaries from October to December 2012 for the ten longest calls documented for the agency. We called one of the numbers that appeared most often and the number that resulted in the highest charge. We found that both numbers called were business-related; one belonged to a bail bonding office, and the other to a local SCDPPPS office.

As of November 2012, SCDPPPS had approximately 400 individual lines for wireless devices. SCDPPPS does not have a written policy and procedure for the issuance of these devices. iPads have been issued to SCDPPPS's board members, the executive management team, and others based on job function or special request. Cell phones have been issued to staff based on their job functions or at the request of management, and have also been assigned to agency vehicles. However, we found an instance in which two employees held the same position but only one was issued a cell phone.

Since the June 2008 review, SCDPPPS has issued a written policy regarding employee cell phone use. The policy provides procedures for non-business calls, receipt of cell phones, lost or stolen devices, abuse of cell phones, and privacy rights. Also, employees sign an employee cell phone usage agreement form that makes them financially responsible to reimburse the agency at 25¢ per minute for non-business related calls. However, the policy does not address which employees are to be assigned cell phones or discuss the procedure for requesting a cell phone. Employees are not required to submit a written justification detailing the need for a cell phone.

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## Usage Charges

SCDPPPS has four different usage plans on its account. In our review of the agency's cell phone account summary, we found that SCDPPPS incurred an average of approximately \$1,700 per month in usage charges from January 2012 through December 2012. Usage charges are billed for voice minutes, text messages, or data usage exceeding plan allowances. These usage charges include per minute charges for plans that do not provide an allotment of minutes to share among plan users.

One of the four plans that SCDPPPS uses is a flat rate plan that charges an access rate of \$2.99 per month allowing unlimited mobile-to-mobile calls and 100 monthly text messages. The usage charges for this plan are 16¢ per minute for all other types of calls and 2¢ to 10¢ for additional text messages. SCDPPPS also uses a plan that provides 400 minutes and costs \$48 per month.

We analyzed SCDPPPS reports and found that the agency could potentially save money by switching some of its users to different plans.

- From June to December 2012, five users on the \$2.99 flat rate plan had usage charges of more than \$48 during at least five of the seven months.
- In a sample of 14 users assigned to the \$37.99 per month mobile broadband plan which allows unlimited monthly kilobyte use, we found 7 did not use data during the June to December 2012 period. Therefore, the cost of the plans that went unused during those months totaled \$1,861.51.
- A quarterly report from SCDPPPS indicates that 115 of its users are assigned to the mobile broadband plan, of whom 41 had an average data use of zero.

According to an SCDPPPS official, the agency reviews its account usage each month, users on per minute plans review their bills each month, and the agency meets with its provider at least quarterly to review the account. As of January 2, 2013, the agency was awaiting recommendations from its provider about its plans and use. The agency identified 31 lines on the \$2.99 access plan to switch in January 2013 to a new \$14.99 share plan that allows 40,400 shareable minutes, which would result in a cost savings of \$9,228 per year.

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## Recommendations

35. The South Carolina Department of Probation, Parole and Pardon Services should establish written policies and procedures for the issuance of communication devices, including requiring a written justification for devices.
36. The South Carolina Department of Probation, Parole and Pardon Services should ensure that its employees are on the most cost-effective device plan and to avoid unnecessary usage charges.

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**Chapter 4**  
**Use of State Resources**

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# Agency Comments

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The following agencies were provided all or portions of our report for their review. The Agency Head Salary Commission chose not to provide a response for publication in our report.

Department of Probation, Parole and Pardon Services

S.C. Public Employee Benefit Authority

S.C. Budget and Control Board Division of Procurement Services

S.C. Budget and Control Board Agency Head Salary Commission

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**Appendix**

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**South Carolina Legislative Audit Council (LAC)  
Report to the General Assembly  
SCDPPPS Summary of Response to Audit Report**

The South Carolina Department of Probation, Parole and Pardon Services (SCDPPPS) acknowledges the recommendations of the Legislative Audit Counsel. The Department, with its commitment to full transparency, welcomes the examination and input from an outside agency.

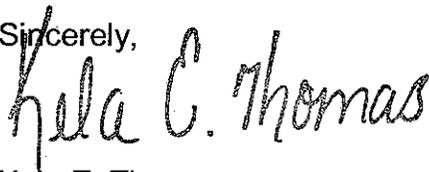
I am especially encouraged and pleased that the audit revealed nothing illegal occurring under my tenure as Director. Since the start of my administration, the Department has taken the following steps to correct some of the issues identified in the LAC audit.

- PPP has implemented the removal of all candidate photos from hiring packets before the Agency Head's final approval to hire the individual.
- In November 2012, the Department implemented the new automated billing practice and discontinued the "netting" practice.
- The Department has terminated the MOU with the local church and will retrieve the computers in July 2013.
- The Department is developing strategies to increase retention and stimulate recruitment of qualified individuals who will make it through our rigorous hiring process.

SCDPPPS is an organization that believes in continuous improvement and is committed to serving at the highest levels. Audits like this allow us to identify areas in which we may improve, and again thank the LAC for its study.

The Department is ever on the watch for opportunities to improve on its mission to prepare offenders for a successful future, provide assistance to victims of crime and the court system, and protect the public safety.

Sincerely,



Kela E. Thomas  
Director

**SC Department of Probation, Parole and Pardon Services Response to Report and Recommendations**

**Human Resources and Finance**

**Human Resources**

**Response to Recommendations:**

1. PPP has complied with Agency Policy and Procedure 201 (Applicant Recruitment, Consideration and Selection) regarding hiring practices. PPP has also complied with the State Human Resources Division Rules and Regulations. PPP has exercised the full scale of the policy regarding promoting from within and rewarding the hard work of existing employees with providing the latitude for upward growth. PPP has also appointed employees to permanent positions who were initially hired into temporary positions. A temporary position is a training ground where an individual in that capacity can develop professional competence in that particular work area.
2. The Agency concurs with this recommendation and has implemented a more extensive rotation of the Applicant Consideration Team members as not to allow for any one “standing member” except for that of Human Resources representation.
3. The department believes that it fully complies with its policy regarding Applicant Recruitment, Consideration and Selection. The Department only convenes the ACT for positions at the band 6 level (band 5 Asst. AIC level) and higher. While Agency policy does mandate the use of application consideration teams (ACT) for specified positions, this policy in no way excludes or precludes the use of Interview panels for other positions. Department Policy 201 specifically promotes the use of a multi member interview panel consideration process with the following language, “qualified applicants (internal and external) responding to a position announcement will be considered by the immediate supervisor of the position to be filled and any other supervisory or peer staff as directed by the Recommending Official”. “Interview panels” are held for other positions below band 5 level to ensure demographic representation and equity. The Agency does use the evaluation (interview) panels for positions below band 6 to ensure that a demographically representative “best practices” consideration process exists that is both fair and equitable.
4. PPP has not violated the Federal EEO Act nor the State Human Affairs Commission guidelines with regards to taking a photograph of final candidates after all of the background checks have been conducted on the potential new employee. Policy and Procedure 201 – Applicant Recruitment, Consideration and Selection - reflects that this is conducted pre-employment (pre-hire) but post-offer of employment. However, PPP does recognize that this process could be misunderstood and misinterpreted and concurs with the recommendation of the LAC. PPP has implemented the removal of all candidate photos from hiring packets before the Agency Head’s final approval to hire the individual.
5. PPP conducted a review with the State Human Resources Division, other state agencies, the Budget & Control Board’s human resources office and none of the agencies advertise/announce/post temporary positions. The department could not find any requirement either legal, federal or state that temporary positions must be advertised/announced/posted. PPP also checked with the State Human Resources Division, other state agencies and the Budget & Control Board’s human resources office and found that not all agencies have a policy statement regarding temporary employees. PPP does have a standard operating procedure, a process and a paperwork packet for hiring individuals into temporary positions as does the Budget & Control Board’s human resources office.
8. The department will comply with PEBA’s recommendations, practices and guidelines.

## **Ignition Interlock Device Program Response to Recommendations:**

9. PPP disagrees with this recommendation. Section 56-5-2941(Q) of the SC Code of Laws states:

The Department of Probation, Parole and Pardon Services shall develop policies including, but not limited to, the certification, use, maintenance and operation of the ignition interlock devices and the Interlock Device Fund.

11. Management receives SCEIS generated reports on a monthly basis with revenue and expenditure information related to the IID program. In addition, the Department requested a specific fund code to be established to further assist with identifying revenue and expenditures for the program.

12. The Department concurs and initiated the development of a new billing process in 2011. In November 2012, the Department implemented the new automated billing practice and discontinued the "netting" practice.

13. The Department plans to implement this recommendation in the FY 2013 Accountability Report.

## **Composite Bank Accounts Response to Recommendations:**

### **Offender Money Used to Offset Fraud Loss**

PPP did not use Offender Funds to offset the fraud loss in the Columbia Residential Center. The Composite Accounts are held in the State's General Account and the transactions and balances are recorded on the Composite Account ledger associated with the Agency checking account. The transfer of funds from one account to the other was completely a paper transaction to clear the balances on the closed bank accounts tied to the Composite Account ledger. PPP still holds the funds owed to the offenders associated with the \$20,000 balance which remained on the Composite Account ledger.

14 and 15. PPP concurs with the recommendations. The corrective action has been taken and was noted in the FY 2010 AUP audit. However, we do not plan to utilize composite bank accounts in the future. All checks will be processed through SCEIS.

16. PPP has identified the offenders to whom monies are owed (total amount of \$20,901.51). The Department will notify the offenders and checks will be issued through SCEIS.

## **Procurement Response to Recommendations:**

### **Offender Management System, page 28-29**

NWN Corporation purchased all of the assets of TiBA Solutions LLC including all its contracts and copywrited code modules on August 1, 2009. Therefore, the original restrictions on the use of TiBA Solution's code modules, as stated in the original agreement: "The following components are provided on a value-added basis expressly for SCDPPPS use and are the property of TiBA Solutions: iFramework, iSecurity, iForms, and iReports. Source code will be to SCDPPPS for the purpose of developing and maintaining SCDPPPS applications, but cannot be distributed by SCDPPPS to any entity other than governmental entities without written authorization from TIBA," is in full effect. NWN Corporation expects SCDPPPS to take the same care in protecting these assets as it would with any of the Department's own intellectual property.

SCDPPPS signed a Memorandum of Understanding (MOU) in 2010 with a local church in good faith to assist offenders who were seeking employment. In no way did SCDPPPS intend to violate the state procurement code when this MOU was created. While the mentoring staff has remained in contact with the church (via phone calls and site visits), the agency is in the process of terminating the MOU.

17. The Department will continue to utilize this process until a resolution has been determined by the State Chief Information Officer and Chief Procurement Officer. The Department currently does not have sufficient staff to meet our technological and system needs and we are procuring outside vendors to meet our system needs.
18. The Department consistently follows state law when issuing sole source and emergency procurements. (SC Code of Laws 11-35-1560 and 11-35-1570). A ten year procurement audit was initiated in 2012 and the Department was notified during this audit that our documentation and justification for sole source and emergency procurements should be enhanced. At no time during the previous ten years was the agency notified by state procurement that the documentation was insufficient. Please note that the Department reports all sole source and emergency procurements quarterly to the State procurement office as required by state law.
20. The Department is in the process of terminating the MOU with this organization and will surplus the computers.
21. In 2009 the Department contacted State Surplus for guidance related to donating state assets and were told that we were not authorized to donate any items. Therefore the previous administration decided to allow the agency computers to be loaned to the non-profit organization. The five year old agency computers were placed in a community resource building for purposes of a job training pilot program. A MOU was initiated and signed by both parties clarifying that the computers remained State property and would be available for use by our offenders who are seeking employment. Currently the State does not have policies or procedures for partnerships of this nature and the agency believed the MOU would serve as a contract and would be satisfactory.

## Program Issues

### Caseload/Workload

#### Response to Recommendations:

22. The Department recognizes that it has not been consistent with its methodology for seeking additional FTEs in recent years. However, the Department would like the report to reflect the period of time selected by the LAC is not reflective of a standard operating period for any state Agency in South Carolina. The period of time reviewed encompassed one of the most severe extended budget reduction cycles in decades for the State of South Carolina and the Nation. The Department, like most Cabinet Agencies at the time, did not seek new FTEs during much of the period reviewed (FY 2008 – 2010), but instead submitted budget reductions proposals as requested.

The Department has now employed an evidence-based practices approach to its determination of need for Field Agent FTEs. The budget request for FY 2013-14 provides for a three year plan based on sound national research on Departments with similar goals and mandates, national models for effective/recommended caseload sizes, and a statistical model for projected offender population growth inclusive of regression analyses. The model is sound and allows for review after three years to consider changes to the Criminal Justice System that may impact the original proposal and its methodology. The LAC was provided with a copy of the FTE funding model as supporting information for this year's budget request. The Department will document the model as a White Paper for on-going use and interpretation by this administration and future administrations.

One of the leading reports on FTE calculations for the community corrections profession, the American Probation and Parole Association (APPA), Probation and Parole's Growing Caseloads and Workloads Allocation: Strategies for Managerial Decision Making, extensively reviewed the issues and challenges associated with establishing a static, defined workload/caseload model. The report indicates that there is not a definitive model for the profession but suggests each model (caseload and workload) has significant and unique value, and that the ever changing issues such as new legislation, funding cycles, sentencing trends, non-caseload work demands, etc., require that a Department's methodology for determining Field Agent and other staffing remain flexible.

In reference to the Department's definition of a baseline of 444 Field Agents, this number was used by a former administration of the Department and it was never submitted as a budget request for FTEs and did not represent any type of FTE needs calculation on the part of the Department. It appears that the number was provided in the budget informational packet to highlight the impact to critical operational issues during on-going budget reductions. The number was also intended to be used as a measure of how far the Department was below its preferred caseload standards and workload standards.

23. The Department concurs with this recommendation, however the costs associated with conducting the update and validation study are extensive and should not be invested until such time as the full implementation of all major Sentencing Reform strategies are achieved. The Department is committed to the use of evidence-based tools and data to provide for caseload and workload allocation strategies. As recognized by the LAC, the Department has invested extensive resources into the development and use of caseload and workload models to assist with workload and FTE decisions. The Department has not conducted an update and validation study since 2008 for valid reasons: (1) It was inappropriate to consider utilizing the Department's limited and diminishing resources to conduct a workload study and validation while the Department was experiencing budget reductions, staff furloughs and RIF actions during the State's fiscal crisis of FY 2008 – 2010; (2) The Department believes that the resources required to complete a workload study and validation make it more feasible to wait until such time as full implementation of Sentencing Reform initiatives has been finalized and integrated into Department practices. The studies involve purchases, training, fees, agent time/FTEs, agent turnover and re-training, etc., and are extensive in costs and other resources to conduct. The Department is committed to updating and re-validating its workload model upon full implementation and integration of all major Sentencing Reform initiatives.
24. The Department did fully encumber funding for all of the FTE'S provided through the Sentencing Reform Act of 2010. The funding provided a total of 47 FTE's over two years. Announcements for the positions began in September 2010 with an active count of 329 Field Agent positions (Sentencing Reform baseline of 329 Agent FTE's). During the FY 2011 and 2012, the Department announced 36 Agent FTE's and 11 Other FTE's to support the full range of Sentencing Reform mandates. The actual number of staff actually employed at DPPPS has remained fairly stagnant due to low retention rates, caused by challenges with Competitive Salary/Staff Retention, Staff Recruitment Strategies, Retirement System Rule Changes, etc. During FY 2011 and 2012, the Department recruited and hired 92 new staff. However, during the same time frame, the Department experienced 86 separations from the Department. As late May 2013, the Department was actively recruiting approximately 26 Agent positions with an additional 7 Agent positions pending recruiting announcement. This retention issue has a direct bearing on the potential versus realized increase in personnel expenditures during FY 2011 and 2012.

Again, the Department has consistently recruited and hired new staff to fill the available positions, but the turnover rate has effectively minimized the Department's ability to rapidly grow its Agent staff levels. While the Department has diligently sought to recruit, employ and retain qualified staff for the positions provided through the Sentencing Reform Act, several factors impacted the Department's ability to reach its desired hiring goal. In response, PPP has initiated multiple study committees in 2012 to identify solutions to key challenges. It is the goal of PPP to increase staff strength at functional levels – officers, counselors, community outreach personnel, and intensive case managers.

**Offender Revocation  
Recommendations – None.**

## **Mentoring Program**

### **Response to Recommendations:**

25. We concur with this recommendation and policy is in the process of being revised and an evaluation component will be included to document deliverables and measurable outcomes. The mentoring program only employs one staff member who is located in the Executive Programs Section.
26. The On The Outside Mentoring Program has been in existence with the Department since 2004. Previous efforts to inform staff of the program included featuring the program in the Department's newsletter and presenting program details during new Agent-In-Charge (AIC) and employee orientation training sessions. In addition, when presentations are made in the community, the presentations are summarized in the Director's Weekly Update. To ensure that all staff are aware of the programs offered by the Department, a more concentrated approach will be implemented to include distributing the Department's strategies and initiatives document to all staff, ensuring all AIC's and managers receive a copy of the On The Outside Mentoring brochure and that the program coordinator present updates at an annual AIC meeting.

## **Use of State Resources**

### **Investigation of Personal Use of Agency Computers**

#### **Response to Recommendations:**

Investigation of Personal Use of Agency Computers pgs. 51-53

In September 2008 the Department received an anonymous letter via US mail alleging misconduct by certain employees within our Information Technology Systems and Services (ITSS) section. Due to the nature of the allegations, and in accordance with Department Policy & Procedure, the investigation and response was handled by the Deputy Director of Administration. Department Policy No. 1104 states, "The Deputy Director shall log, review and respond to any expression of dissatisfaction or any allegation of conduct that is unconstitutional or unlawful or in violation of Department policy." The former agency director authorized for this investigation to be conducted through the employees' chain of command. Special Operations only assists with investigations as requested to help determine if a policy violation has occurred. If during the review of compliant, evidence is discovered that indicates an internal or criminal investigation is warranted, the investigation is rerouted based on the newly discovered information. Upon authorization from the Director, the complaint is then logged as an internal investigation and assigned to Special Operations at which time policy 1103- Internal Investigation is followed.

#### **Response to Recommendations**

27. We do not agree with this recommendation. These anonymous allegations regarded ethical not criminal matters. The Office of Internal Audit did participate in the investigation by providing Split-Level Interviews with a cross-section of staff in the IT Section to assess the work climate and environment, employees' feelings about management and the opportunities for improvement in the IT Section. Special Operations only assists with investigations as requested to help determine if a policy violation has occurred. If during the review of the complaint, evidence is discovered that indicates an internal or criminal investigation is warranted, the investigation is rerouted based on the newly discovered information. Upon authorization from the Director, the compliant is then logged as an internal investigation and assigned to Special Operations at which time policy 1103- Internal Investigation is followed.
28. We do not agree with this recommendation. The Department's current policies are clear regarding ethical violations and criminal violations and our investigation practices of each.

## **State Vehicles**

### **Response to Recommendations:**

- 31. We do not agree with this recommendation. Individuals who are permanently assigned vehicles are C-1 certified and use the vehicles in their scope of duty. These vehicles were assigned upon the Director's approval and in accordance with BCB State Fleet Management Division guidelines. These staff members have state-wide coverage responsibilities and/ or their vehicles are considered their office. Authorizing these staff members to have permanently assigned vehicles also allows rapid on-call responses to emergency deployments which increases levels of enforcement.**
- 32. This finding disregards the nature and role of our agency as C-1 law enforcement personnel and as state-wide emergency first responders. The Department maintains a critical incident plan to guide responses to situations affecting staff and public safety. All members of the Department's management team are subject to respond to a critical incident. The Department Director and Deputy Director of Field Operations are mandated to be notified of all critical incidents and they are subject to respond based on the situation level and need. A critical incident is any situation that forces a person to face vulnerability and mortality or that potentially overwhelms a person's ability to cope. They can jeopardize one's sense of self-control and disrupt one's beliefs and values. They can affect a person mentally, physically and/or emotionally. Critical incidents are usually sudden and unexpected. Management staff is expected to be prepared to respond within a short time frame to any location in the state where the emergency is occurring. A major incident is also any statewide or agency emergency that requires an immediate response from the department including any or all of the department's resources and manpower.**
- 33. The Department concurs with the recommendation and will review the requirements and practices recommended by the BCB's State Fleet Management Division regarding vehicle utilization and will update position descriptions of affected staff.**
- 34. The Department will continue to comply with the requirements and practices recommended by the BCB's State Fleet Management Division regarding use of these plates.**

## **Cell Phone Use**

### **Response to Recommendations:**

- 35. Currently the agency has procedures in places that justify issuance of communication devices based on work requirements and 24/7 response needs. The agency will consider formalizing our procedures going forward.**
- 36. The department is in compliance with this recommendation. The department currently meets with the cellphone provider at least quarterly to ensure we are utilizing all electronic devices in an efficient and cost effective manner. We have one FTE dedicated monitoring communication device use, auditing billing and vendor payment.**



South Carolina  
PUBLIC EMPLOYEE BENEFIT AUTHORITY

**PEBA**

David K. Avant  
Interim Executive Director  
Retirement Benefits

June 6, 2013

E. Bradshaw Hanley, Jr.  
Audit Manager  
Legislative Audit Council  
1331 Elmwood Avenue, Suite 315  
Columbia, SC 29201

RE: Comments on the Legislative Audit Council's Limited-Scope Review of the  
Department of Probation, Parole and Pardon Services

Dear Mr. Hanley:

Pursuant to the instructions provided in the May 30, 2013 letter from your office, the South Carolina Public Employee Benefit Authority ("PEBA") would like to provide the following comments for inclusion in your audit report entitled "A Limited-Scope Review of the Department of Probation, Parole and Pardon Services," and, in particular, that portion of the report entitled, "Administration of PORS," which addresses the participation of certain DPPPS employees in the South Carolina Police Officers' Retirement System ("PORS"). The comments are focused upon three areas of concern raised in the report—the PORS initial enrollment process, the ongoing monitoring or auditing of PORS eligibility, and the participation of certain supervisory personnel in PORS.

Before discussing these areas of concern, I would like to emphasize that PEBA takes its responsibility to properly administer the retirement plans entrusted to it very seriously, and it endeavors to ensure that all aspects of those plans, including the PORS eligibility requirements, are implemented as equitably and accurately as possible. And, in that vein, we have welcomed the opportunity presented by the audit report to re-examine certain aspects of the administration of PORS, particular for those agencies, like DPPPS, that have positions that may require close analysis to determine PORS eligibility.

1. Initial PORS Enrollment Process

In its discussion of the participation of certain DPPPS employees in PORS, the audit report contains a description of the process by which employees are enrolled in PORS by a participating employer and makes a recommendation that PEBA implement an audit process to ensure that applicants for PORS meet the qualifications for PORS membership upon initial enrollment. In light of that discussion, PEBA would like to provide additional information regarding the initial enrollment process for PORS membership.

In order to enroll an employee in PORS, a participating PORS employer initiates the enrollment process by submitting a Retirement Plan Enrollment form (Form 1100) to PEBA requesting the employee's enrollment in PORS. The instructions on the reverse side of the form describe the eligibility requirements for PORS and the employer's signature on the form requires a certification that the employee "is eligible for the retirement plan selected." If the description of the employee's position on the enrollment form clearly indicates that the position is eligible for PORS membership, such as a full-time sheriff's deputy or a magistrate, PEBA may enroll the member in PORS without requiring further documentation from the employer.

If, however, the position described on the enrollment form is not self-evidently a PORS-eligible position, PEBA will generally request that the employer submit an Employer Certification of Police Officers Retirement System (PORS) Eligibility form (Form 1107) for the position. This form, which is in the form of a sworn, notarized affidavit, requires the employer to certify, under oath, that the employee's duties satisfy the eligibility requirements for PORS membership. During this review, PEBA may also require the employer to submit a written position description for the employee in question. After consideration of the documentation submitted by the employer, PEBA will then notify the employer of its determination as to whether the employee in question is eligible for participation in PORS. While the employer's sworn certification is given appropriate weight during this review process, the certification is not, in itself, conclusive to establishing PORS eligibility, and PEBA retains discretion to determine that a position is not eligible for PORS participation if PORS eligibility is not supported by the position description or other evidence.

## 2. Ongoing Monitoring of PORS Eligibility

In addition to the concerns about the initial enrollment process, the audit report also recommends that PEBA implement an audit process to ensure that members of PORS remain eligible for PORS membership on a continuing basis.

As described above, upon an initial request to enroll an employee in PORS, PEBA does require employers to submit documentation certifying that the employee is eligible for participation in PORS. However, beyond this initial verification of eligibility, it was not previously a common practice to audit an employee's ongoing eligibility for PORS participation with a particular employer. Rather, pursuant to the certification requirements of Section 9-11-40(4) of the Code of Laws, employers are charged with the responsibility for monitoring the ongoing eligibility of employees for PORS participation. Nevertheless, with the establishment of PEBA in July 2012, PEBA has increased its field auditing efforts with regard to retirement systems matters and it anticipates that future field audits will examine PORS enrollment issues.

Further, regardless of any ongoing, regular audits, PEBA has always reviewed questions of PORS eligibility when presented with information or evidence that might suggest that an

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employee or group of employees may not be properly enrolled in PORS. Most notably, in response to the findings made in the audit report, PEBA has begun an evaluation of the thirty (30) questionable positions with DPPPS identified in the report to determine whether the employees in those positions are properly enrolled in PORS. Because this evaluation process involves not only a review of the employer's records, but also a continuing dialogue with the employer to fully examine the positions in question, the final evaluation of these positions has not yet been completed and cannot be included in these comments.

However, in considering the prioritization of these recommended audits, it should be emphasized that an audit of the proper classification of PORS participants would not be expected to have a material financial impact upon the PORS pension plan. Because PORS members and their employers pay an increased contribution rate compared to the South Carolina Retirement System ("SCRS") that reflects the additional benefits provided by PORS, the inclusion of misclassified employees in PORS would not be expected to have any adverse fiscal impact upon the plan or its beneficiaries, or any adverse fiscal impact upon the other pension plans. The only additional costs reflected by such misclassified enrollments would be the additional PORS contributions paid by the employee and employer that requested the enrollment compared to the lower SCRS contribution rate.

### 3. Participation of Supervisory Personnel in PORS

The audit report finds that, out of the approximately 425 DPPPS employees that are active members of PORS, there are 30 employees who are members of PORS, but who hold administrative positions that do not have law enforcement duties, including the agency director. Initial findings suggested that nearly all of these 30 employees were properly initially enrolled in PORS as active law enforcement agents for DPPPS, but had migrated out of those frontline law enforcement positions into their administrative positions with the agency. As a recommendation related to these concerns, the audit report suggests that the General Assembly consider amending the PORS statutes to allow PORS members with a certain number of years of service in frontline law enforcement positions to continue PORS membership in administrative positions.

The South Carolina Retirement Systems, and now PEBA, has consistently interpreted the eligibility provisions of PORS to allow certain law enforcement and firefighter supervisory personnel to participate in PORS, even if the day-to-day requirements of their positions are largely administrative in nature. With regard to employees in administrative positions or agency head positions for agencies that have PORS employees, eligibility for participation in PORS is still based upon the statutory definition of a police officer (or firefighter, where applicable). In order to be eligible for participation as a police officer under Section 9-11-10(23)(a) and 9-11-40(4), an employee must be required "to give his time to the preservation of public order, the protection of life and property, and the detection of crimes in this State" and must perform such duties for at least 1600 hours per year (and for a salary of at least \$2000 per year). In implementing such statutes, the South Carolina Supreme Court has instructed that the retirement

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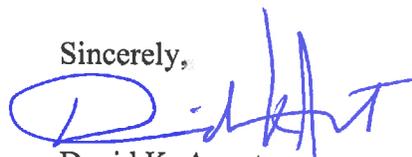
systems' statutes "should be liberally construed in favor of those to be benefited and the objects sought to be accomplished," see King v. S.C. Ret. Sys., 319 S.C. 373, 376, 461 S.E.2d 822, 823 (1995), and the South Carolina Attorney General's office has advised the retirement systems over the years that supervisory law enforcement and firefighter personnel, such as a city chief of police/public safety director, a county detention center manager, and the State Fire Marshal, are eligible for participation in PORS. Consequently, the PORS eligibility statutes have generally been construed to allow an employee who is not necessarily in a frontline police officer position to participate in PORS where that employee is directly responsible for the supervision of other employees who are required to preserve public order, protect life and property, and detect crimes and remains charged with a duty to ensure that such responsibilities are carried out. As the audit report recognizes, without such a construction of the PORS statutes, law enforcement personnel that are promoted to supervisory positions that are more administrative in nature, whether as department or agency heads or as intermediate supervisory personnel, would be ineligible for continued participation in PORS. It does not appear that such an interpretation of the PORS statutes would be consistent with the intent of the General Assembly or the liberal construction of the retirement systems' statutes mandated by the Supreme Court.

However, it is important to recognize that, if an employee is employed in a purely administrative position that does not have direct or supervisory responsibility for the preservation of public order, the protection of life and property, and the detection of crimes, and that is entirely collateral to the chain of command related to such activities, he would not generally be eligible for participation in PORS, regardless of whether he has prior PORS service or not.

It should also be noted that, while PEBA is comfortable with the permissibility of appropriate supervisory personnel participating in PORS as part of the natural progression of a law enforcement career, it would certainly welcome clarifying legislation as suggested by the audit report that would remove any potential doubt about the propriety of such participation.

In closing, PEBA appreciates the opportunity to provide these comments and would request that these final comments be included as an appendix to the audit report in the manner described in your May 30, 2013 letter.

Sincerely,



David K. Avant

Interim Executive Director

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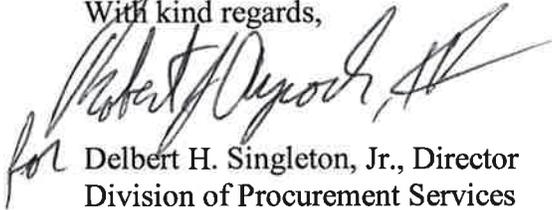
June 5, 2013

E. Bradshaw (Brad) Hanley, Jr.  
Audit Manager  
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Dear Brad,

Thank you for the opportunity to respond to the Legislative Audit Council's audit report of the South Carolina Department of Probation, Parole and Pardon Services entitled "A Limited-Scope Review of the Department of Probation, Parole and Pardon Services." We have reviewed the draft of the procurement section of your audit report provided to us. We appreciate the consideration given to our input during the audit process. Since none of your recommendations causes the Division of Procurement Services to initiate any actions, we have no further comments to offer. Please let us know if we can assist you in future endeavors.

With kind regards,

  
for Delbert H. Singleton, Jr., Director  
Division of Procurement Services  
SC Budget and Control Board

C: Perry Simpson  
Marcia Adams  
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Jimmy Aycock



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This report was published for a  
total cost of \$50;  
46 bound copies were printed  
at a cost of \$1.09 per unit.

