



MEMORANDUM

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TO: Members, Senate Judiciary Committee
FROM: Scott Frank, Legislative Post Auditor
DATE: February 18, 2015
SUBJECT: Update on pending audit of the Larned Sexual Predator Treatment Program

As you consider Senate Bill 149, I appreciate the opportunity to provide the committee a brief update on the status of our office's audit of the Larned Sexual Predator Treatment Program (SPTP). A scope statement which outlines the parameters of the audit is included as **Attachment A**. These parameters include three basic audit questions:

1. How does Kansas' Sexual Predator Treatment Program compare to similar programs in other states and best practice?
2. What actions could be taken to reduce the number of offenders committed to Kansas' Sexual Predator Treatment Program?
3. Is the Sexual Predator Treatment Program appropriately managed to ensure the safety and wellbeing of program staff and offenders?

This audit has been conducted in two parts. The first part was released in September 2013 and addressed Question 3 (safety and security concerns). Those findings are summarized in the highlights document that is included as **Attachment B**.

The second part of the report will address the first two questions of the scope statement (comparisons to other states and options for reducing the offender population). Part 2 is currently in process and we anticipate releasing the final report in April, at the start of the Veto Session.

Please let me know if you have any questions, or if there is anything else we can do for you.

SCOPE STATEMENT

Larned State Hospital: Reviewing the Operations of the Sexual Predator Treatment Program

Kansas' Sexual Predator Treatment Program was established in 1994, and has been provided primarily through the Larned State Hospital. The program provides treatment for convicted sex offenders who have completed their prison sentences but have been determined by the courts to be violent sexual offenders in need of involuntary inpatient treatment.

In 2005, Legislative Post Audit issued a report on the Sexual Predator Treatment Program. In that report, we estimated that the size of the offender population could increase to about 235 offenders or more by 2015. The reasons for this included the continuing commitment of new offenders to the program and Kansas' stringent requirement that the risk of a re-offense be reduced to "practically nil."

As of January 2011, the Sexual Predator Treatment Program at Larned State Hospital had almost reached full capacity with 200 of 214 available beds filled. SRS officials estimate that, in the coming years, the program will grow by about 18 offenders per year.

Legislators have expressed concern about the growing size of the offender population, employee workload, and working conditions at the Larned facility. They would like to know how Kansas' program compares to other state programs in terms of cost and treatment, what actions could be taken to limit program growth, and whether the Larned facility is being adequately managed.

A performance audit in this area would address the following questions:

- 1. How does Kansas' Sexual Predator Treatment Program compare to similar programs in other states and best practice?** To answer this question, we would work with Larned State Hospital Officials to determine the program's statutory requirements, its cost, admission and exit criteria, treatments provided, and the effectiveness of those treatments. As part of that work, we would determine whether the program provides services to offenders that are not required by the Kansas Constitution. Further, we would review program data to determine how many offenders have been committed, released, returned, or are still in the program since it began. We would work with officials in a sample of other states to collect similar information. We would also review academic literature and contact officials from relevant organizations such as the Center for Sex Offender Management to identify best practices or benchmarks related to sex offender programs. Based on that cumulative information, we would assess how Kansas' program compares to other states and best practices in terms of its structure, cost, treatment, and results. We would perform additional work in this area as needed.
- 2. What actions could be taken to reduce the number of offenders committed to Kansas' Sexual Predator Treatment Program?** To answer this question, we would assess possible long- and short-term options for reducing offenders committed to the

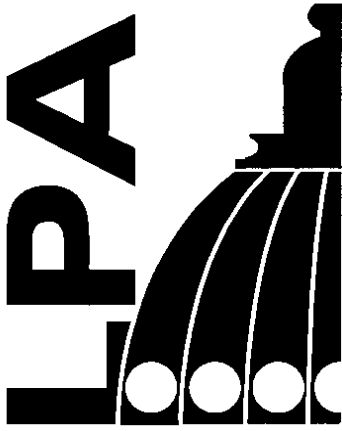
program. One long-term option we would assess is amending Kansas Sentencing Guidelines to lengthen the time that a convicted offender stays in prison. We would work with officials from the Department of Corrections, the Kansas Sentencing Commission, and any other relevant agencies to determine how changing sentencing guidelines for sex-related crime might affect the program's offender population over time. A short-term alternative we would assess is making changes to the process for committing a sex offender to the Sexual Predator Treatment Program. We would work with officials from the Attorney General's office and any other relevant agencies to determine the consequences of adopting stricter screening criteria and other similar program changes. To the extent possible, we would develop cost estimates for any long- or short-term options we identify. We would perform additional work in this area as needed.

3. **Is the Sexual Predator Treatment Program appropriately managed to ensure the safety and well being of program staff and offenders?** To answer this question, we would look for or would work with other states to develop acceptable workload standards and staffing ratios. We would compare the program's current staffing level to those standards and identify any potential problem areas. We would also survey program staff and review offender complaints to identify issues concerning employee and offender safety, as well as employee working conditions. To the extent possible, we collect program information relevant to any potential issues we identify such as security or safety incidents, regulatory citations, offender complaints, and program accreditation results. For concerns raised by staff or offenders that have merit based on information we are able to collect, we would follow-up with program managers to determine what actions they have taken or plan to take to address these issues. We would perform additional work in this area as necessary.

Estimated Resources: 3 LPA staff

Estimated Time: 6 months (a)

- (a) *From the audit start date to our best estimate of when it would be ready for the committee. This time estimate includes a two-week agency review period.*



Legislative Post Audit Performance Audit Report Highlights

ATTACHMENT B

Highlights

Larned State Hospital: Reviewing the Operations of the Sexual Predator Treatment Program

Report Highlights

September 2013 • R-13-011

Summary of Legislator Concerns

Legislators have expressed concern about management and staffing of the Larned Sexual Predator Treatment Program as it relates to safety and security.

Background Information

In 1994, the Legislature passed the Sexually Violent Predator Act to confine convicted sex offenders who are likely to reoffend to a secure treatment facility once they have completed their prison sentence. The goal of the treatment program is to eliminate the likelihood that sex offenders will re-offend after their release.

Most of Kansas' civilly committed sexual predators reside and receive treatment at Larned State Hospital. In April 2013, the Larned-based program had 219 residents.

QUESTION: *Is the Sexual Predator Treatment Program Appropriately Managed to Ensure the Safety and Well Being of Program Staff and Offenders?*

- We identified a few safety and security issues that could affect staff and resident safety. We examined safety and security policies and practices in five areas and identified three areas that needed improvement. However, agency officials appeared to adequately manage the two other areas: monitoring resident movement and investigating incidents and complaints.
- The Sexual Predator Treatment Program did not have adequate policies or controls to ensure keys and doors were secure.
 - Some staff were allowed to take their assigned keys offsite, which increases the risk that facility keys could be lost or stolen, thereby compromising the facility's physical security.
 - Management did not have oversight of facility keys through a centralized inventory. Additionally staff did not consistently follow good controls.
 - Facility doors were not always kept closed, locked, and secure.
- Security controls to prevent and detect prohibited items were inadequate.
 - Although the program had some controls in place, some residents were still able to obtain prohibited items, such as alcohol, cell phones and pornography.
 - Security officers did not conduct adequate security checks on staff entering the facility. Staff did not have to pass through metal detectors and their belongings were not searched.
 - Mailed packages sent to residents were opened in front of staff but very few packages were scanned through an x-ray machine.
 - Program records indicate management conducted targeted and random searches of residents' rooms, but management had not implemented technological solutions to detect prohibited electronic devices.
 - Finally, program officials did an adequate job of searching guests before they visited residents and monitoring visits between residents and guests.
- Despite participating in conflict avoidance training, some staff did not feel adequately prepared for resident altercations.
 - A majority of survey respondents reported experiencing verbal or physical altercations with residents.
 - Despite recurring safety training, several survey respondents reported they did not feel adequately trained for their job.

- A significant number of direct care staff positions were vacant. These employees tend to residents' treatment and medical needs including safety and security.
 - In April 2013, about 30% of the program's direct care positions were vacant.
 - Several factors likely caused the high vacancy rates including a limited pool of applicants, and undesirable working conditions.
 - As the program's resident population grows, the understaffing problem is likely to get worse.
- Program staff worked a significant amount of overtime to provide safety, security, and treatment. The facility must be staffed 24 hours a day.
 - In calendar year 2012, program staff worked more than 38,000 overtime hours.
 - During a recent 20-week period, the majority of staff worked some overtime hours and 7% of staff worked excessive overtime (10 to 30 a week).
 - The majority of program staff who responded to our survey reported working long shifts, and too much overtime.
- Even with significant overtime, the program often failed to meet its internal minimum staffing goals.
 - Program Management has established minimum staffing levels that are intended to ensure the safety and security of staff and residents.
 - Staffing data and employee survey results strongly suggest the program often did not meet its own minimum staffing goals.
 - Program management said they have to cancel resident activities and services when shifts are understaffed.

SUMMARY OF RECOMMENDATIONS

- We made several recommendations to address safety and security issues related to improving key controls, preventing and detecting prohibited items, and improving staff conflict avoidance training. We also recommended the agency review recruitment, compensation, and relocation options to address staff vacancies.

AGENCY RESPONSE

- Agency officials concurred with most of the report's findings and recommendations. However, officials disagreed that the program often failed to meet its internal minimum staffing goals. Additionally, agency officials told us they will not implement the recommendation to examine the feasibility of relocating all or part of the program to a new location.

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

The Sexual Predator Treatment Program's resident population has grown steadily since the program's inception. From 2002 to 2012, the program added an average of about 18 residents each year. Based on the average growth rate, the program will reach its current maximum physical capacity during 2018. Because so few residents are released, program enrollment is likely to grow well beyond the physical capacity at Larned State Hospital.

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