

State of South Carolina
Department of Probation, Parole and Pardon Services

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March 18, 2020

VIA EMAIL (THROUGH MR. APPLEBY) AND US MAIL

The Honorable Edward R. Tallon, Sr.
Subcommittee Chair, Ad Hoc Department of Corrections Subcommittee
House Legislative Oversight Committee
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Tallon:

On March 3, 2020, I received an email inquiry from General Counsel Charles L. Appleby, IV, of the House Legislative Oversight Committee (HLOC). Mr. Appleby explained that in your capacity as chair of the Ad Hoc Department of Corrections (SCDC) Subcommittee, you were requesting feedback from the Department of Probation, Parole, and Pardon Services (PPP) on the potential recommendations for SCDC for discussion, which had been submitted by individual members of the subcommittee. As I understand the request, you are asking for any questions or potential revisions from PPP on those recommendations, so that information is available for the subcommittee meeting currently scheduled for March 30, 2020. Please find below my responses, on behalf of PPP, to the specific recommendations referenced by Mr. Appleby in his email.

(36) Convene impacted parties to determine specific proposed statutory language that would address conceptual revisions to the Youthful Offender Act, recommended by SCDC and provide those recommendations to the Committee.

This item notes that SCDC has several specific conceptual recommendations for the Youthful Offender Act (YOA), and that SCDC recommends several entities, including PPP, be engaged in the evaluation of the YOA.



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Although PPP is still supervising some "legacy" YOA offenders [34 offenders in FY18], we no longer supervise this population because SCDC has resumed control of the program. As a result, PPP does not have questions or potential revisions to most of the conceptual recommendations made by SCDC, with the exception of acknowledging the need to "clarify sentence timeframes for suspended sentences that are activated, i.e., Baxter v. Myers."

In Baxter, a state habeas corpus case filed in the Richland County Court of Common Pleas, the Honorable Tanya A. Gee was asked to consider the terms of the YOA, particularly Section 24-19-120 of the SC Code which provides: "[a] youthful offender . . . shall be discharged unconditionally on or before six years from the date of his conviction." In an order dated February 22, 2016, Judge Gee held this language is unambiguous and evidences the General Assembly's intent that defendants sentenced under the YOA are to be unconditionally released from incarceration within six years of their conviction. As noted by SCDC, this interpretation has led to some confusing results where a sentencing judge suspends a YOA sentence to probation, and that sentence is later activated due to a probation revocation. PPP submits it also leads to confusing results where someone with a YOA sentence suspended to probation absconds supervision. In both instances, the six year clock runs from the date of conviction regardless of when or if the defendant has served any actual time in prison, and arguably provides an incentive to abscond. Clarification of sentence timeframes by amending this language could eliminate these confusing results.

(37) Convene impacted parties to determine specific proposed statutory language addressing SCDC's conceptual recommendations for the Shock Incarceration Program (i.e., boot camp).

As noted by SCDC, PPP has expressed support of SCDC's recommendation. Indeed, we continue to support SCDC's efforts to replace the Shock Incarceration Program with an evaluation process that would provide the court with information to assist in determining whether an intensive level of supervision with prescribed services may provide a more productive outcome than incarceration. That intensive level of supervision with prescribed services could likely be accomplished with the imposition of special conditions of probation. However, until SCDC has specific proposed statutory language for its proposal, PPP is unable to offer more than generalized support for the overall concepts. Of course, PPP would welcome the opportunity to work with SCDC to discuss and edit any language that is ultimately proposed.

(38) Reconvene the S.C. Reentry Interagency Collaborative Team.

PPP fully supports SCDC's efforts to create sustained inter-agency cross organizational communication as it relates to reentry initiatives, and it recognizes the benefits of sustained efforts to collaborate with other state agencies and stakeholders rather than continuing to have individual agencies operate in silos. In fact, this support is reflected by a number of ongoing initiatives currently shared by PPP and SCDC, including the joint PPP/SCDC Task Force.



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In early May of 2019, after several productive joint meetings which led to improvements in release processes and improvements to daily inter-agency communication, Director Bryan Stirling and I decided to formalize this meeting arrangement by establishing the SCDPPPS/SCDC Task Force, with the joint directive to name four to five task force members from each agency, and to meet no less than quarterly going forward. The membership is comprised of specific representatives from the sections of each agency which are deeply involved in effecting inmate releases and in ensuring the integrity of release programs, including the respective Offices of General Counsel and Information Technology.

The documented task force meetings include establishment of agenda items, discussion of those items, and notation of steps to be taken to resolve or address any issues raised. The task force also discusses the best methods for communicating critical information about inmate releases in a timely fashion. Summaries of task force action items are provided to each agency Director when requested, and the Directors meet to discuss as needed.

Another example of cross-organizational cooperation has been demonstrated in PPP's extensive cooperation with SCDC as it performs its ongoing special audit of inmates to address the proper application of jail credit. The agencies have had extensive communications about the proper scope of the audit and how PPP can best find and share the documents relevant to that scope so SCDC can ensure proper jail credit is being awarded.

(39) Request offender employment preparation program member agencies provide employment trends as they must do pursuant to S.C. Code Section 24-13-2130.

This item explains that: "Agencies that are part of the offender employment preparation program (e.g., Department of Employment and Workforce, Department of Probation, Parole and Pardon Services, the Department of Vocational Rehabilitation, Alston Wilkes Society, and other private sector entities) must survey "employment trends within the state" and provide "proposals to the Department of Corrections regarding potential vocational training activities" pursuant to S.C. Code Section 24-13-2130."

Although Section 24-13-2130 provides that the named agencies must collectively survey employment trends and provide proposals to SCDC regarding potential vocational training activities, it also indicates that the "role of each agency" in doing so must be established by the memorandum of understanding described in Section 24-21-2120.

PPP regularly communicates with SCDC regarding the safe release of inmates to PPP supervision programs, and it coordinates with SCDC's efforts to assist these inmates in preparing for meaningful employment upon release from confinement. However, PPP is not aware of the adoption of a memorandum of understanding establishing the role of each agency working with SCDC in these efforts. As a result, it has not been actively surveying employment trends in South Carolina in conjunction with this statute, or providing SCDC with proposals regarding potential training activities. Nevertheless, in an effort to stay on top of employment trends and how they impact supervision, PPP



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receives monthly reports from the South Carolina Department Employment and Workforce which provide the seasonally adjusted unemployment rates for the United States, South Carolina as a whole, and each county in South Carolina. PPP is happy to share this report with SCDC and to provide SCDC with statistics regarding the percentage of inmates released to PPP supervision programs who are employed.

I hope I have adequately answered your questions about these four recommendations. If you require additional information, please do not hesitate to contact me.

Sincerely,



Jerry B. Adger
Director



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