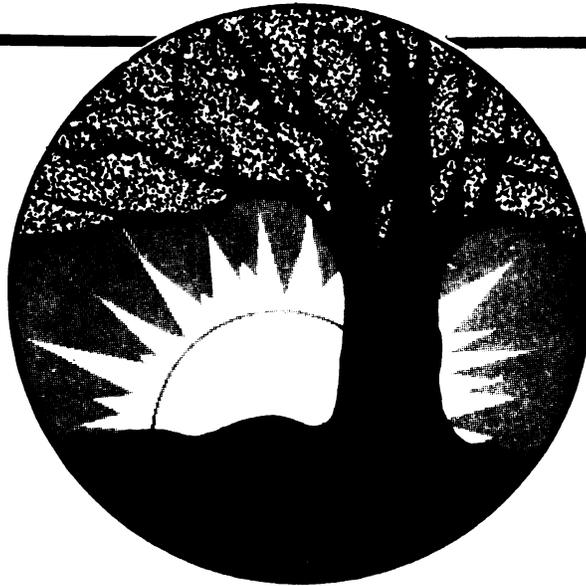


# PERFORMANCE AUDIT

**Board of Probation and Parole  
September 2012**



**Justin P. Wilson  
Comptroller of the Treasury**



**State of Tennessee  
Comptroller of the Treasury  
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September 18, 2012

The Honorable Ron Ramsey  
Speaker of the Senate  
The Honorable Beth Harwell  
Speaker of the House of Representatives  
The Honorable Mike Bell, Chair  
Senate Committee on Government Operations  
The Honorable Jim Cobb, Chair  
House Committee on Government Operations  
and  
Members of the General Assembly  
State Capitol  
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the performance audit of the Board of Probation and Parole. This audit was conducted pursuant to the requirements of Section 4-29-111, *Tennessee Code Annotated*, the Tennessee Governmental Entity Review Law.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the Board of Probation and Parole should be continued, restructured, or terminated.

Sincerely,

Arthur A. Hayes, Jr., CPA  
Director

AAH/dj  
12-036

State of Tennessee

# Audit Highlights

Comptroller of the Treasury

Division of State Audit

Performance Audit  
**Board of Probation and Parole**  
September 2012

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## AUDIT OBJECTIVES

The objectives of the audit were to determine whether probation and parole officers are monitoring offenders as required; determine whether probation and parole officers with a Global Positioning System (GPS) caseload are monitoring and following up on alarms as required by policy; determine the level of review of offender case files being completed by the probation and parole officers' supervisors; determine how the board ensures offenders have been notified of their appeal rights; determine the timeliness of notifications of parole decisions; determine the risk factors included in technical violation decision-making and whether decisions made by the Administrative Case Review Committee (ACRC) are consistent; determine the requirements of the fee collection Request for Proposal and its status; determine whether the divisions of Internal Audit and Research, Policy, and Planning duplicate efforts in reviewing all activities of the board; determine whether the board complies with state laws regarding open meetings and provides adequate public notice regarding meetings; determine whether board staff and members are receiving all required training and sign a conflict of interest statement annually; determine if employees are provided training on topics including time management and prioritizing caseloads; determine the number of offenders who have participated in Victim Impact and Courage to Change training, then (if possible) determine the number of offenders participating in these programs who have reoffended within one year of completing the programs; determine the status of the Justice Assistance Grant through the American Recovery and Reinvestment Act; and gather and report Title VI information, staff demographic information, and performance measures data.

## FINDINGS

### **Comparison of Offender Social Security Numbers to the Department of Health Death Records Found 82 Offenders Were Still Actively Monitored After Their Death**

After comparing the offender's social security numbers to the Tennessee Department of Health death records, we conducted simple Google searches and reviewed the social security death master file available online to obtain additional evidence of the offenders' death. The 82 offenders we were able to find additional evidence for had been deceased from less than 6 months to over 19 years. In addition, we found 2 instances where probation and parole officers entered information into the Tennessee Offender Management Information System (TOMIS) indicating the offender was alive after the offender died. While 82 is a small number compared to the over 60,000 offenders monitored each year, the board (and now the Department of Correction) should consider regularly comparing offender information to either state or social security administration death records (page 10).

### **As Noted in the May 2006 Audit, the Board's Probation and Parole Officers Are Still Not Completing All Supervision Requirements Resulting in Increased Risk That the Board Will Not Achieve Its Mission of Minimizing Public Risk and Maximizing Lawful Behavior**

During the current audit, we found 8 of 70 GPS-monitored offender files and 69 of 120 regular offender files that were in compliance with all board supervision requirements during calendar year 2011. While board policy allows for entries in TOMIS when an offender fails to arrive for a face-to-face meeting or an attempted home visit found no one home, etc., we still found

many instances where there was no evidence of an attempt at supervision by the probation and parole officers. The board and the Department of Correction (TDOC) should develop a formal corrective action plan which ensures information in TOMIS is complete and accurate (page 11).

### **The Board's Disaster Recovery Plan Lacks the Elements Necessary to Ensure Resumption of Functioning and Performing Essential Duties in the Event of an Emergency**

State law requires each agency to have an emergency services coordinator who is responsible for a disaster preparedness plan. The plan should be reviewed by the local emergency management agency and approved by the Tennessee Emergency Management Agency (TEMA). The wording of this finding does not identify specific vulnerabilities because disclosing these vulnerabilities could present a security risk by providing readers with information that might be confidential pursuant to Section 10-7-504(i), *Tennessee Code Annotated*. The board should thoroughly document specific disaster recovery procedures and actions to be taken, from the declaration of a disaster until the time that normal business operations are resumed. The plan should contain adequate detailed information to permit staff to use it as a stand-alone field manual. The plan should be reviewed, updated, tested, and reapproved as processes change and, at a minimum, on an annual basis. The plan should be submitted to TEMA and made readily available to board employees (page 30).

### **The Board Should Reevaluate Current Procedures for Posting Meeting Notices, to Better Ensure Compliance With Public Meetings Law**

Currently the board only posts meeting notices in the elevator lobby at the central office on the 13<sup>th</sup> floor of the Parkway Towers Building in downtown Nashville and on the Public Meetings area of the state website less than 48 hours prior to the meetings; however, state law stipulates that all meetings of any governing body are public meetings and open to the public at all times. State law also requires adequate public notice of both regularly scheduled and special meetings. The board should strengthen policies and procedures regarding public meeting notices to better ensure compliance with state law and ensure that board personnel and the general public are aware of the meetings of the board. Further, the board should ensure its notices are posted at a time sufficiently in advance of the actual meeting in order to give citizens both an opportunity to become aware of and to attend the meeting (page 32).

### **In Some Instances, the Board Still Fails to Comply With State Law Regarding Hearing Decisions; Further, Letters Denying Parole Omit Appeal Rights (Repeated from May 2006 and June 2001 Performance Audits)**

In reviewing files for this audit, we found no problems with timeliness for sending out the notifications for scheduled hearings to offenders, but problems still exist for sending out notifications of hearing decisions to offenders and interested parties. State law requires notices of decisions be sent within 30 days of the finalized decisions. Of the 48 files we reviewed, 15 hearing decision notifications were sent more than 30 days after the board's decision was finalized. We also determined that information related to appeal rights was not

included in the letters to offenders whose parole was denied or revoked. The board needs to strengthen existing parole hearing notification procedures to ensure compliance with statute. The board should also revise the notification of hearing decision letters to include appeal rights for the offender to ensure the board's communication of appeal rights to the offender is documented (page 34).

### **Weaknesses in the Tennessee Offender Management Information System could result in inaccurate analysis of some programs**

We found instances in two separate programs where offenders were allowed to participate in programs without first being referred to the program as required by board policy. This means TOMIS lacks appropriate edit checks to help PPOs ensure they are completing all required steps for getting offenders into programs. It also negatively affects the board's ability to analyze and rely on the information in TOMIS. The board and TDOC should work together to ensure that appropriate edit checks and data validation tools are developed and implemented for TOMIS (page 37).

### **Approximately Half of the Cases in Our Sample Were Not Reviewed by PPO Supervisors During Calendar Year 2011**

A March 2010 Directive established guidelines for supervisory reviews to ensure that 100% of cases received a review each year. We reviewed TOMIS and documentation of supervisory reviews provided by PPO supervisors and found that only 50% of the 230 files in our sample received at least one review during calendar year 2011. The board and TDOC should use all available tools for monitoring to determine if supervisory reviews are being completed. The board and TDOC should

also ensure that the supervisory reviews are discussed with PPOs as required by board policy (page 40).

**The Board's Field Services Division Does Not Adequately Document and Monitor Administrative Case Review Committee (ACRC) Actions for Offenders Who Commit Technical Violations and, in Some Instances, Fails to Administer Proper Sanctions**

State law allows the board to use intermediate administrative sanctions when appropriate to better manage offenders. Board policy establishes the ACRC as a means of dealing with "technical violations," failures to comply with supervision conditions which do not amount to criminal offenses. Through the ACRC, a

system of progressive interventions and sanctions has been established based on the severity of the technical violation. For 2 of the 13 regular supervision offenders and 1 of 3 GPS-monitored offenders, PPOs did not document that appropriate sanctions had been imposed. For 1 of 4 IOT offenders there were no sanctions documented. Additionally, PPOs are not consistently using the appropriate TOMIS code to indicate when an offender has participated in ACRC. The board and TDOC should ensure adequate records of ACRC activities are maintained, appropriate sanctions are imposed for all violations, and that staff enter TOMIS codes and thoroughly document sanctions imposed. ACRC sanctions should be considered during supervisory reviews of case files (page 43).

**OBSERVATIONS AND COMMENTS**

The audit discusses the following issues: the board's Information Systems Division does not maintain an adequate record of source code changes; conflict of interest disclosures do not adequately document compliance with policy; board policy regarding pre-service orientation is not consistent with practice but most employees received training required by board practice; over 80% of GPS-monitored offenders' alarms appear unmonitored; the Division of Internal Audit and the Division of Research, Policy, and Planning duplicate efforts in completing reviews of all board activity; the board's Office of Victim Liaison Services does not have an effective system for evaluating or even measuring completion or success rates for the offenders referred to the Victim Impact and Courage to Change classes; weaknesses in the fee collection process previously noted in the June 2001 and May 2006 performance audits and the 2007 financial and compliance audit still need to be rectified (page 49).

# Performance Audit Board of Probation and Parole

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# **Performance Audit Board of Probation and Parole**

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## **INTRODUCTION**

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### **PURPOSE AND AUTHORITY FOR THE AUDIT**

This performance audit of the Board of Probation and Parole was conducted pursuant to the Tennessee Governmental Entity Review Law, *Tennessee Code Annotated*, Title 4, Chapter 29. Under Section 4-29-234, the board is scheduled to terminate June 30, 2013. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the agency and to report to the Joint Government Operations Committee of the General Assembly. The audit is intended to aid the committee in determining whether the board should be continued, restructured, or terminated. (Prior to the end of our fieldwork, the General Assembly passed legislation that transferred supervision of probationers and parolees to the Department of Correction, with full implementation to be accomplished by January 1, 2013; however, our reviews focused on instances that had occurred or were occurring with the board and its supervision of probationers and parolees prior to the beginning of this transition.) As of July 1, 2012, the board's name changed to the Board of Parole.

### **OBJECTIVES OF THE AUDIT**

The objectives of the audit were to

1. determine whether probation and parole officers are monitoring offenders as required;
2. determine whether probation and parole officers with a Global Positioning System (GPS) caseload are monitoring and following up on alarms as required by policy;
3. determine the level of review of offender case files being completed by the probation and parole officers' supervisors;
4. determine how the board ensures offenders have been notified of their appeal rights;
5. determine the timeliness of notifications of parole decisions;
6. determine the risk factors included in technical violation decision-making and whether decisions made by the Administrative Case Review Committee (ACRC) are consistent;
7. determine the requirements of the fee collection Request for Proposal and its status;

8. determine whether the divisions of Internal Audit and Research, Policy, and Planning duplicate efforts in reviewing all activities of the board;
9. determine whether the board complies with state laws regarding open meetings and provides adequate public notice regarding meetings;
10. determine whether board staff and members are receiving all required training and sign a conflict of interest statement annually;
11. determine if employees are provided training on topics including time management and prioritizing caseloads;
12. determine the number of offenders who have participated in Victim Impact and Courage to Change training, then (if possible) determine the number of offenders participating in these programs who have reoffended within one year of completing the programs;
13. determine the status of the Justice Assistance Grant through the American Recovery and Reinvestment Act; and
14. gather and report Title VI information, staff demographic information, and performance measures data.

## **SCOPE AND METHODOLOGY OF THE AUDIT**

The activities of the Board of Probation and Parole were reviewed for the period January 2011 to May 2012. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Methods used included

1. review of applicable legislation, rules, and board policies and procedures;
2. examination of board files, documents, and offender information in the Tennessee Offender Management Information System (TOMIS), the GPS monitoring system Veritracks, and the Board Operations Application Suite;
3. review of reports, and information summaries from other states; and
4. interviews with the board chairman, board members, board staff, vendors, and staff of other state and local agencies that interact with the board.

## **ORGANIZATION AND RESPONSIBILITIES**

The Board of Probation and Parole is a full-time board composed of seven members appointed by the Governor, charged with deciding which eligible felony offenders will be granted parole and released from incarceration. The board is then responsible for the supervision of parolees granted release and of felony offenders who are placed on probation by the Criminal Courts. See organization chart on page 4.

The administrative duties of the board include setting criteria for granting and revoking parole and developing a strategic plan, an annual budget and staffing plan, and policies and procedures.

The board's executive director is responsible for the day-to-day functioning of the agency and for assisting the board in the development and implementation of policies, procedures, strategic plans, budgets, and reports. The executive director also has responsibility for recruitment and supervision of staff and for developing and maintaining communication and cooperation between the Department of Correction and the board.

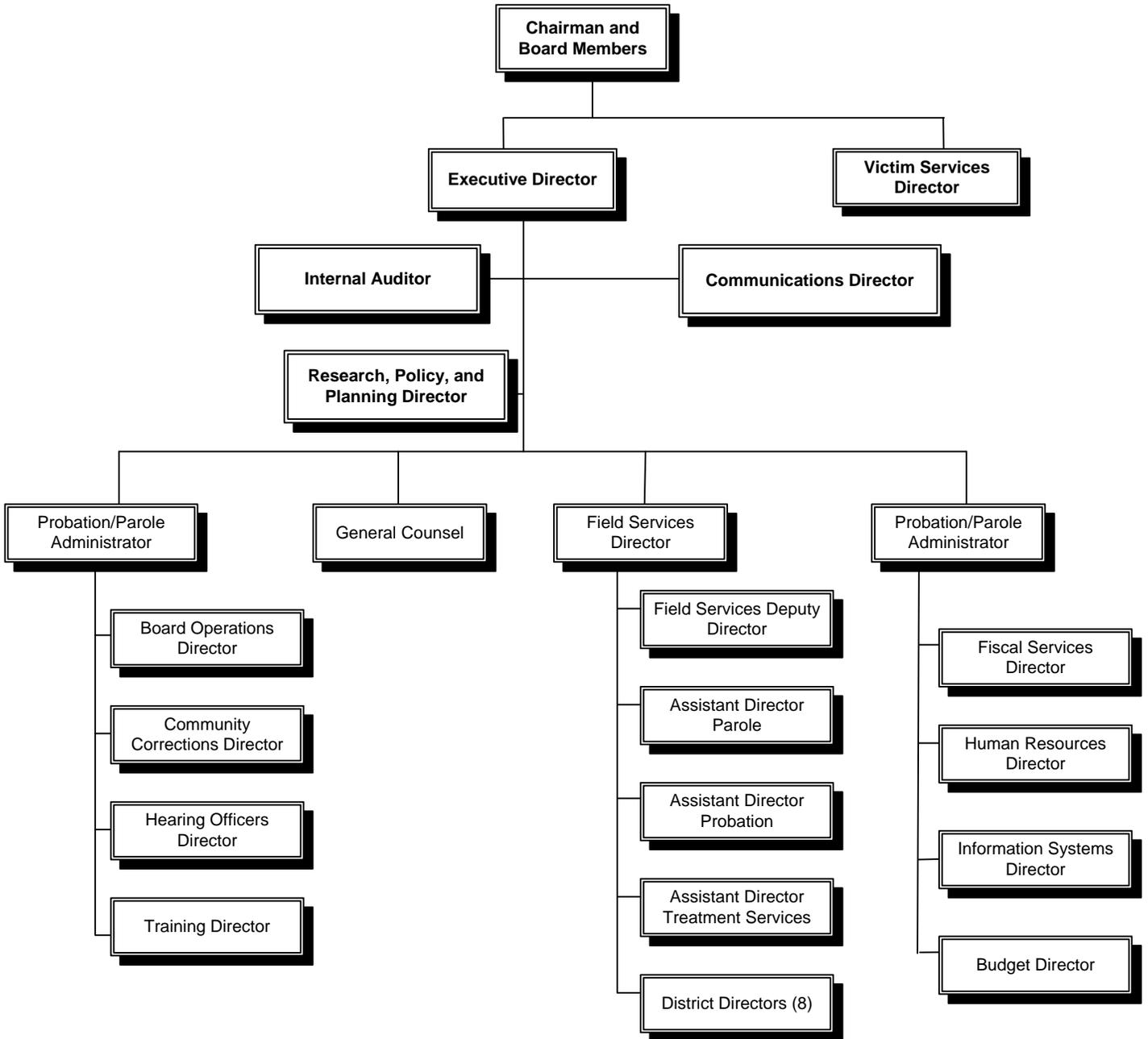
Two probation and parole administrators assist the executive director and, along with the directors of Field Services, Communications, and General Counsel, provide the senior level of management for the board. Each administrator is responsible for several of the divisions. The two probation and parole administrators are responsible for the following divisions:

- Fiscal Services;
- Budget;
- Research, Policy, and Planning;
- Information Systems;
- Human Resources;
- Board Operations;
- Community Corrections;
- Parole Hearing Officers; and
- Training.

The Fiscal Services Division provides a variety of services to agency staff including general accounting and payables for the board and the Community Corrections agencies; offender fee accounting; purchasing; contract management; facility and property management; and printing, communications, records management, and other miscellaneous responsibilities.

The Budget Division, in conjunction with the board and senior management, is responsible for the continual process of budget development, budget training, and monitoring.

# Board of Probation and Parole Organization Chart June 2011



Source: Board of Probation and Parole Annual Report 2010-2011.

The Research, Policy, and Planning Division provides internal and external compliance reviews of all board offices, including the central office and the Community Corrections programs. These reviews include analysis of program activities and fiscal management. In addition to compliance reviews, the division also provides statistical information to the agency, researches a variety of criminal justice topics, oversees other research conducted by external parties that involves the board, and has responsibility for policy and forms development and grant writing and administration.

The Information Systems Division is composed of two teams: Technical Support and Development. The Technical Support Team assists board staff in carrying out their duties. The Development Team provides business process analysis and modeling, and application design, development, and implementation for the agency.

The Human Resources Division administers, monitors, and processes employee programs that involve payroll, civil service transactions, and retirement. This includes position and staff job classifications and compensation, attendance, sick leave, the sick leave bank, the Family Medical Leave Act, donated leave, workers compensation, employee assistance programming, Americans with Disabilities Act compliance, insurance, regular and disability retirement, performance evaluations, disciplinary and grievance actions, and human rights and EEOC issues.

Board Operations is responsible for scheduling parole hearings, issuing parole and determinate release certificates, maintaining the board offender files, obtaining psychological evaluations for offenders prior to parole hearings, processing requests for executive clemency, and responding to agency correspondence.

The Community Corrections Program was created by the passage of the Tennessee Community Corrections Act of 1985. The intent was to provide services and programs in local jurisdictions for eligible felony offenders in lieu of incarceration in state penal institutions or local jails. The Board of Probation and Parole provides broad oversight of independent local agencies who deliver these short-term community residential treatment options and individualized evaluation and treatment services.

The Parole Hearing Officers Division is responsible for conducting parole granting and revocation hearings. Parole hearing officers are appointed by the board chairman to conduct parole hearings at state penal institutions and local jails to gather information, take testimony, and make non-binding recommendations that assist board members in determining which eligible offenders will be granted parole and placed under community supervision. Hearing officers also conduct parole revocation hearings. The hearing officers are assigned to four hearing regions, and as of January 2012, there were 18 parole hearing officers in the state.

The Training Division is responsible for developing and implementing training at a district/local level that will ensure adherence to policy, give staff the knowledge and techniques to effectively perform their assigned job task, seek the input of line staff and supervisors in training issues, and aid staff in personal and professional development. Each new full-time employee is to participate in 40 hours of pre-service orientation. Full-time employees are to receive annual training: 40 hours for specialized staff and 16 hours for support staff.

## Field Services

The Field Services Division has a district director in each of its eight district offices, each serving a designated number of counties. In addition to the district offices, there are 49 field offices. Probation and parole officers (PPOs) supervise and monitor the conduct, behavior, and progress of probationers and parolees assigned to them. They also report to the court and to the board on the progress of probationers and parolees. Violation of any of the conditions of parole is a potential cause for revocation or other sanctions ordered by the board. PPOs report violations of parole to the board and may make recommendations about what action should be taken. Likewise, any violation of the conditions of probation is a potential cause of revocation or other sanctions by the court. For the fiscal year ending June 30, 2011, the total offender population was 74,248, consisting of 12,429 parolees, 54,235 probationers, and 7,584 offenders in the Community Corrections Program. During fiscal year 2011, 1,222 individuals had their parole revoked and were reincarcerated. For the fiscal year ending June 30, 2012, the total offender population was 77,432, consisting of 13,006 parolees, 56,833 probationers, and 7,593 offenders in the Community Corrections Program. During fiscal year 2012, 1,536 offenders had their parole revoked and were reincarcerated.

In recent years, the Field Services Division has been working with the Department of Correction (TDOC) on a Joint Offender Management Plan to cut expenses, increase offender accountability, and effectively manage the offender population without forced early releases. The plan provides the agencies with tools to reduce the risk of new offenses and improve offender outcomes by using evidence-based practices shown to be effective in other jurisdictions, and ensures offenders are evaluated by the same criteria.

As part of the Joint Offender Management Plan, in FY 2010, Field Services, Community Corrections and TDOC began using the Level of Service Case Management Inventory (LS/CMI), a nationally recognized and validated risk and needs assessment and case management tool. Since all three programs are now using a common assessment instrument, offenders should experience continuity of services as they transition through the Tennessee criminal justice system.

Additionally, the Joint Offender Management Plan uses evidence-based behavior modification tools such as motivational interaction and Thinking for a Change. Motivational interaction is an interview style based on the principle that people have the capacity to change when there is collaborative effort that respects their autonomy to make self-improving choices. Thinking for a Change is a behavior change program for offenders, teaching offenders to restructure their thinking patterns, reasoning, social skills, and problem-solving skills to lead to positive changes in behavior.

### *New Offender Supervision Methods*

Since our May 2006 performance audit, the board has implemented two new ways of monitoring offenders: Interactive Offender Tracking and Programmed Supervision.

Interactive Offender Tracking allows low-risk offenders to phone in on a web-based program each month and answer a series of questions programmed just for that offender. In the event an offender does not call in, a call can be sent to the offender with modified questions and/or instructing the offender to report to the probation and parole office.

After the board implemented Global Positioning System (GPS) Monitoring, they created a Programmed Supervision Unit comprised of officers specifically trained in best practices for supervising violent and sex offenders. Offenders convicted of rape of a child, other serious violent felonies, and/or sex offenders at high risk of reoffending are monitored using GPS technology. Programmed Supervision Unit offenders are closely supervised with targeted treatment strategies monitored with frequent contact with offenders, their employers, families, treatment providers, and law enforcement.

#### *Additional Programs and Services Provided by the Board of Probation and Parole's Division of Field Services*

Apprehension Unit – The board created an apprehension unit in the Memphis and Jackson area to work with local law enforcement to locate and apprehend offenders under board supervision who are absconders or are in warrant status. These officers often find themselves in high-risk areas and situations so they are armed and receive the Peace Officers Standards and Training (POST) like other certified law enforcement officers.

Forensic Social Workers – This program is budgeted to have 24 forensic social workers located within the eight districts at assigned board offices statewide. Forensic social workers can determine whether offenders' needs can be met; they make community referrals or can provide in-house services such as group or individual counseling.

Treatment Services Network – In fiscal year 2010, the board entered into an agreement with the Department of Mental Health to create a Treatment Services Network to address offenders' alcohol and drug-related problems. The LS/CMI currently being used provides an indication of any alcohol or drug-related concerns. Offenders who score in the medium to high range on this part of the assessment are referred to the forensic social workers for further screenings.

Employment – In November 2009, the board began an offender employment development initiative by placing employment specialists in Memphis, Nashville, Chattanooga, and Knoxville. Employment specialists provide job readiness classes as well as screening and referrals for employment.

Gender Specific Programs – In April 2009, the board began a gender-specific project that applies gender-responsive strategies to the supervision of women.

Work Project Program – Created by the General Assembly in 1984 as a special condition added to probation certificates, the program requires probationers to complete a certain number of community service work hours for nonprofit and governmental agencies. Parolees may also be ordered to perform community service for technical violations in lieu of incarceration.

Institutional Probation and Parole Officers – Institutional probation and parole officers (IPPOs) work with inmates and officers in all TDOC prisons and metropolitan jails to plan the offender’s return to the community. IPPOs ensure board members and hearing officers have the necessary information for parole hearings and provide information about board procedures and policies to the inmates and to jail and prison staff.

Interstate Compact for Adult Offender Supervision – Tennessee participates in the interstate compact with 49 other states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The compact controls the movement of offenders between states and provides tracking, supervision, and rehabilitation.

Administrative Case Review Committee (ACRC) – Section 41-1-113, *Tennessee Code Annotated*, allows the board to impose sanctions for technical violations in order to promote improved behavior and aid in the rehabilitation of the offender. Offenders on probation or parole are expected to comply with set supervision standards and behaviors. Offenders face revocation and re-incarceration when found to be out of compliance. Noncompliance may include commission of minor criminal acts, or simply failure to meet minimum supervision requirements. These are technical violations. A committee made up of several officers and/or managers will meet with a technical violator to impose sanctions in an effort to bring the offender back into compliance. Sanctions can include increased drug testing, mandatory participation in a drug or alcohol treatment program, referral to other programs, curfews, etc.

### Victim Services

The Office of Victim Services is responsible for responding to requests from victims of offenders supervised by the Board of Probation and Parole. The office deals with victim notifications and victim confidentiality issues, coordinates victim attendance at parole hearings, and in some instances attends hearings with victims.

### Internal Audit

The board receives routine internal audits and risk assessments from its internal auditor. The internal auditor is responsible for the board’s compliance with the Financial Integrity Act and sends annual reports and internal audits to the Comptroller’s Office and the Department of Finance and Administration.

**REVENUES AND EXPENDITURES**

**Statement of Revenues and Expenses\*  
Revenues by Source  
For the Fiscal Year Ending June 30, 2011**

Source	Board of Probation and Parole	Field Services	Community Corrections	Total	% of Total
State	\$ 2,556,700	\$ 69,591,000	\$ 13,355,400	\$ 85,503,100	99.3%
Other	-	614,300	2,000	616,300	0.7%
<b>Total Revenue</b>	<b>\$ 2,556,700</b>	<b>\$ 70,205,300</b>	<b>\$ 13,357,400</b>	<b>\$ 86,119,400</b>	
<b>% of Total</b>	<b>3.0%</b>	<b>81.5%</b>	<b>15.5%</b>		

**Statement of Revenues and Expenses\*  
Expenditures by Account  
For the Fiscal Year Ending June 30, 2011**

Source	Board of Probation and Parole	Field Services	Community Corrections	Total	% of Total
Payroll	\$ 2,310,500	\$ 53,647,300	\$ -	\$55,957,800	65.0%
Operational	246,200	16,558,000	13,357,400	30,161,600	35.0%
<b>Total Expenditures</b>	<b>\$ 2,556,700</b>	<b>\$ 70,205,300</b>	<b>\$13,357,400</b>	<b>\$86,119,400</b>	
<b>% of Total</b>	<b>3.0%</b>	<b>81.5%</b>	<b>15.5%</b>		

**Budget and Anticipated Revenues\*  
For the Fiscal Year Ending June 30, 2012**

Source	Board of Probation and Parole	Field Services	Community Corrections	Total
State	\$3,114,300	\$73,238,800	\$13,810,500	\$90,163,600
Other		837,200		837,200
<b>Total Revenue</b>	<b>\$3,114,300</b>	<b>\$74,076,000</b>	<b>\$13,810,500</b>	<b>\$91,000,800</b>

\*The source of the above data, the State of Tennessee's *The Budget Fiscal Year 2012-2013*, already shows Field Services and Community Corrections as part of the Department of Correction. However, because Field Services and Community Corrections were part of the Board of Probation and Parole during fiscal years 2011 and 2012, we have included Field Services and Community Corrections revenues and expenditures as part of the board's totals for these years.

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## FINDINGS AND RECOMMENDATIONS

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### **1. Comparison of offender social security numbers to Department of Health death records found that 82 offenders were still actively monitored after their death**

#### **Finding**

During our audit, we compared the list of offenders provided by the Board of Probation and Parole during January 2012 to the list of death records from the Tennessee Department of Health through December 2011. When compared to social security number alone, we found 47 parole matches and 233 probation matches. With the knowledge that offenders are not always honest about their names or social security numbers, we then reviewed the 280 records for matches based on social security number, first name, last name, and date of birth. We found 107 cases (13 parole and 94 probation) actively monitored where all of these items matched. One parole record indicated that the offender had faked his own death three times prior to 2008 so this offender was not considered as part of our population. Simple Google searches and a review of the social security death master file found additional evidence of death in 10 of the 12 remaining parole cases and 72 of 94 probation cases. These offenders had been deceased from less than six months to over 19 years. See the table on page 11 for the 82 offenders broken down by supervision level and type of supervision required.

In two probation files where the offender's supervision is a residential treatment program, we found that the offenders received contact codes in TOMIS indicating their probation and parole officer had verified their placement after their death. In one file, the TOMIS entry was made 19 days after the offender died and documents contact with the offender's wife regarding the offender still being sick and in a nursing home. In the second file, the offender died on October 22, 2011; however, there are TOMIS entries on October 31, 2011; November 29, 2011; December 20, 2011; January 15, 2012; and February 23, 2012, documenting the offender was bedridden at home. In both of these instances, there is risk that the PPO was not actually verifying the offenders' placement and simply entering the same information month after month.

#### **Recommendation**

While the number of offenders (82) actively monitored after their death is small compared to the over 60,000 offenders monitored each year, the Board of Probation and Parole (and now the Department of Correction) should consider regularly comparing offender information to either state or U.S. Social Security Administration death records.

<b>Deceased Offenders Supervised</b>			
<b><u>Supervision Level</u></b>	<b><u>Supervision Required</u></b>	<b><u>Probation Deceased - Auditors Found Additional Evidence of Offenders' Death</u></b>	<b><u>Parole Deceased - Auditors Found Additional Evidence of Offenders' Death</u></b>
Absconder	Monthly Arrest Check	8	1
In Custody		0	0
Intake Parole	Monthly Monitoring	1	0
Interstate Custody Agreement	Annual Update	1	0
Judicial Suspension of Supervision	Quarterly Arrest Check, Monthly fee monitoring	5	0
Medium Supervision	Monthly Monitoring	1	0
Minimum Supervision	Monthly Monitoring	3	0
Not in Arrest	Annual Arrest Check	50	7
Residential Treatment Placement	Monthly Placement Verification	2	0
Warrant	Monthly Arrest Check	1	2
<b>Total</b>		72	10

### **Management's Comment**

#### Department of Correction Comment

We concur. A more thorough review of death records including state and national will be added to the annual review of offender files. We are retraining staff on how to search for deceased offenders and it will become part of the annual standards for Absconders and Not In Arrest cases. All staff will be fully trained by December 21, 2012.

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- 2. As noted in the May 2006 audit, the board's probation and parole officers are still not completing all supervision requirements, resulting in increased risk that the board will not achieve its mission of minimizing public risk and maximizing lawful behavior**

#### **Finding**

During the May 2006 audit we found probation and parole officers (PPOs) were not completing all of the offender supervision requirements. We recommended the Board of Probation and Parole work with the PPOs to develop corrective actions to ensure that officers meet appropriate supervision standards. We also recommended that the board review and approve the developed corrective actions and establish a timetable for completion, specify

responsibility for ensuring implementation, and monitor staff's continuing compliance with the supervision standards. The board concurred and provided detailed, step-by-step corrective action plans for each supervision standard for which we found problems.

During our current audit, we found only 8 of 70 GPS-monitored offenders' files and 69 of 120 regularly monitored offenders' files that were in compliance with all board supervision requirements. Failure to adequately supervise offenders results in increased risk that the board will not achieve its mission of minimizing public risk and maximizing lawful behavior by the prudent, orderly release and community supervision of adult offenders.

The Board of Probation and Parole's Field Services Division establishes the standards for offender supervision. The current Standards of Offender Supervision require PPOs to complete the following activities at regular intervals:

- face-to-face contacts (i.e., scheduled appointments where the offenders meet with PPOs at board offices);
- home visits;
- drug tests;
- arrest/continued incarceration/placements checks;
- monitoring special conditions established by the board or courts;
- employment verification;
- monitoring of fee payments; and
- risk assessments.

The frequency of these activities depends on an offender's supervision level and is summarized in the table on page 14.

In addition to the requirements shown in the table on page 14, risk assessments "must be documented after the initial intake period and a minimum of every 2 years thereafter" for offenders being supervised at the following supervision levels:

- Enhanced;
- Maximum;
- Medium;
- Minimum;
- Judicial Suspension of Supervision; and

- Sex Offenders, Violent Sex Offenders, and Other Violent Offenders Monitored with Global Position System Technology

All sex offenders must receive a Vermont Assessment of Sex Offender Risk (VASOR) annually.

For the purposes of our review, we identified three types of supervision: Regular, Interactive Offender Tracking (IOT), and Global Positioning System (GPS). All of the supervision requirements of the regular offenders are listed in the table on page 14. For the sex offenders, violent sex offenders, and other violent offenders monitored with GPS, PPOs must also conduct monthly checks to verify that the offenders are attending sex offender treatment.

The IOT system is used to more efficiently monitor low-risk offenders who do not require close supervision. The Field Services Division relies on a web-based phone-in program that allows these offenders to call in each month and answer a series of pre-programmed questions. PPOs are also required to conduct annual arrest checks for IOT offenders, and all IOT calls, arrest checks, and any other supervision information must be recorded in the Tennessee Offender Management Information System (TOMIS).

### Sample Selection

During this audit, we reviewed supervision histories in TOMIS and paper files for 230 probationers and parolees (115 each) who were supervised during calendar year 2011. We considered population size and risk in determining our sample size then selected a random sample of each supervision type. Since offenders subject to regular supervision make up the greatest proportion of the supervised population, we chose to review more of these files than the other two groups. Since GPS-monitored offenders are considered to be at a higher risk of reoffending than those supervised using IOT and regular supervision, we chose to review a larger percentage of the total GPS population than the IOT files or regular supervision files.

<b>Sample Size vs. Population Size</b>			
Supervision Type	<u>Sample</u>	<u>Population</u>	<u>% of Total Population</u>
IOT	40	2,821	4%
Regular	120	66,690	95%
GPS	70	662	1%
<b>Total</b>	<b>230</b>	<b>70,173</b>	

Note: This is a judgemental sample, not a statistical sample and results are not projected to the entire population.

### Supervision Requirements

<b>Supervision Level/Description</b>	<b>Face-to-Face Contact</b>	<b>Home Visits</b>	<b>Drug Tests</b>	<b>Check of Arrest Records (or Continued Incarceration or Placement)</b>	<b>Special Conditions Monitoring</b>	<b>Employment Monitoring</b>	<b>Fee Monitoring</b>
<b>Regular Offenders</b>							
Intake Probation/Parole	2 per month	1 per month	1 per 3 months or as needed	1 per month	2 per month	1 per month	1 per month
Enhanced	2 per month	2 per month	1 per 3 months or as needed	1 per month	2 per month	1 per month	1 per month
Maximum	2 per month	1 per 2 months	1 per 6 months	1 per month	2 per month	1 per month	1 per month
Medium	1 per month	1 per year	Random	1 per 2 months	1 per 2 months	1 per month	1 per month
Minimum	1 per 3 months	1 per year	Random	1 per 3 months	1 per 3 months	1 per 3 months	1 per 3 months
Judicial Suspension of Supervision	None	None	None	1 per 3 months	1 per 3 months	None	1 per month
Misdemeanor	1 per 3 months	None	None	1 per 6 months	None	None	1 per 3 months
Absconder	None	None	None	1 per month	None	None	None
Not in Arrest/Suspension of Direct Supervision	None	None	None	1 per year	None	None	None
Warrant	None	None	None	1 per month	None	None	None
Detainer	None	None	None	1 per 3 months	None	None	None
Residential Treatment Placement	None	None	None	1 per month	None	None	None
In Custody	None	None	None	1 per month	None	None	None
<b>Sex Offenders, Violent Sex Offenders, and Other Violent Offenders Monitored with Global Positioning System Technology</b>							
Maximum	2 per month	1 per month	1 per 6 months	1 per month	1 per month	1 per month	1 per month
Medium	1 per month	1 per 2 months	1 per 6 months	1 per month	1 per month	1 per month	1 per month

## Methodology

According to board policy, TOMIS is considered to be the primary repository for information about offenders and about interactions with them. If a supervision requirement cannot be met because of noncompliance on the offender's part, the PPO must document this in TOMIS, explaining in the comments why the requirement was not met and what is being done to enforce compliance.

For our purposes, we reviewed both the TOMIS record and the paper files, if available, to determine if supervision requirements were met. We reviewed the offender's information for compliance over the 12-month period, January to December 2011. This means if the offender was required to receive two face-to-face visits per month for the entire 12-month period, we looked for 24 documented visits in TOMIS or 24 documented visits in the paper file. If the offender had 24 visits in either TOMIS or the paper file, we considered this compliant. We did not add the visits in TOMIS to the visits in the paper file because we knew that dates in TOMIS and on the paper files may differ because of lag time in entering information into TOMIS.

For general risk assessments (Level of Service Case Management Inventory or LS/CMI), we reviewed information back to calendar year 2010 to determine if the assessment was completed within the initial 60-day intake period or at least every two years. For example, if an offender did not have a risk assessment in 2011 but did in 2010, this was considered compliant for our purposes. If an offender did not have an assessment in 2010 or 2011, this was considered noncompliant for our purposes.

For sex offender risk assessments (Vermont Assessment of Sex Offender Risk, or VASOR), we reviewed information back to calendar year 2010 to determine if there was an annual review for 2010 and 2011. If the offender was supervised for one year or less, we could not determine if the offender received an annual risk assessment.

## Review Results

Our review found PPOs met all applicable supervision standards for only 8 of the 70 GPS monitored offenders (11.4%) and 69 of the 120 regular supervision offenders (57.5%). The average percentage of applicable supervision requirements met for each GPS offender was 72% and for each regular supervision offender, 87%. Depending on when the offender began supervision, and the requirements for the level of supervision, we tested seven to ten supervision requirements for GPS offenders and one to eight supervision requirements for regular offenders. The results are shown in the tables below.

<b>Results of Supervision Requirements Reviewed</b>						
<b>GPS Monitored Offenders</b>						
<u># of Requirements</u>	<u>Missing 0</u>	<u>Missing 1</u>	<u>Missing 2</u>	<u>Missing 3</u>	<u>Missing 4 or more</u>	<u>Total by # of Requirements</u>
7	0	2	1	0	0	3
8	6	4	3	3	5	21
9	2	11	3	4	5	25
10	0	1	7	5	8	21
<b>Total</b>	8	18	14	12	18	70
% of total	11.4%	25.7%	20.0%	17.1%	25.7%	

<b>Results of Supervision Requirements Reviewed</b>						
<b>Regular Supervision Offenders</b>						
<u># of Requirements</u>	<u>Missing 0</u>	<u>Missing 1</u>	<u>Missing 2</u>	<u>Missing 3</u>	<u>Missing 4 or more</u>	<u>Total by # of Requirements</u>
1-4	24	6	0	0	0	30
5	4	6	1	0	0	11
6	32	12	3	1	1	49
7	9	9	5	2	2	27
8	0	2	0	1	0	3
<b>Total</b>	69	35	9	4	3	120
% of total	57.5%	29.2%	7.5%	3.3%	2.5%	

In our IOT testwork, we did not note any problems regarding the scheduled monthly calls or PPOs' follow-up actions in the event that an offender did not make the required call. Appendix 3 details the results of our review by Grand Division. The information below discusses the results of our review by supervision standard.

#### Address and Date of Birth

We found 15 instances each in the regular and GPS offender groups (30 total) and 7 instances in the IOT offender group where the address in TOMIS did not match the address shown in the offender's file. Without the correct address, the board cannot ensure that offenders will receive necessary correspondence and that PPOs will be able to complete required home visits. We also found one instance in each offender group (3 total) where the offender's date of birth in TOMIS did not match the date of birth recorded in the file.

#### Face-to-Face Contacts

For 9 regular offenders and 16 GPS offenders in our sample, PPOs failed to complete or document their attempt to complete all of the required face-to-face contacts during 2011. Board

standards require that PPOs and offenders have up to two face-to-face contacts per month, depending on the offenders' level of supervision. Since TOMIS allows for contact codes to be entered when a supervision requirement cannot be met, we considered these instances compliant; however, in the cases noted above, there was no record in TOMIS or the offender's file that face-to-face visits were attempted or the offender failed to arrive for a scheduled appointment. Twenty-seven of the regular supervision files did not require face-to-face contacts because of the offender's supervision status.

<b>Face-to-Face Contacts</b>				
<b>Supervision Requirements Met</b>	<b>Regular Supervision</b>	<b>Compliance Rate</b>	<b>GPS Supervision</b>	<b>Compliance Rate</b>
Yes	84	90.3%	54	77.1%
No	9	9.7%	16	22.9%
N/A	27		0	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

Based on our review of the Monthly Reporting Form in offenders' case files, PPOs typically use face-to-face appointments as an opportunity to conduct drug tests; perform arrest record checks; and verify that offenders are employed, are current on their fees, and are otherwise meeting their special conditions. Therefore, the failure to meet this supervision requirement often resulted in one or more other requirements not being met.

### Home Visits

PPOs did not perform all required home visits for 10 of the regular offenders and 27 of the GPS offenders in our sample. Board standards require PPOs to conduct home visits up to twice a month depending on the offenders' level of supervision. While home visits are not routinely documented in offenders' case files (i.e., paper files), the PPOs have multiple ways of documenting home visits or their inability to complete a home visit in TOMIS. For example, if PPOs are unable to complete a home visit because no one is home, they should enter an "XHOM" code in TOMIS and explain this. If the offender is not home but another member of the household or a neighbor verifies the offender's residence, a code of "HOMC" should be used. In the 37 cases noted above, there were not enough of any of these codes entered in TOMIS for us to conclude that the home visits were completed or even attempted. Thirty-three regular supervision files did not require home visits because of the offender's supervision status.

Home Visits				
Supervision Requirements Met	Regular Supervision	Compliance Rate	GPS Supervision	Compliance Rate
Yes	77	88.5%	43	61.4%
No	10	11.5%	27	38.6%
N/A	33		0	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

We noted weaknesses in allowing multiple “XHOM” codes in a row. For one sex offender under maximum (not GPS) supervision, handwritten notes in the case file state “no one has seen offender at home.” Of the 8 required home visits, 6 were XHOM, 2 were HOMC “left callback.” While the codes in TOMIS record that the PPO adequately supervised the offender by making attempts at home visits, there may still be problems with the offender’s compliance and meeting supervision requirements.

PPOs conduct home visits to verify the offenders’ address, determine if the offenders are in compliance with special conditions such as curfews, and to determine/verify that GPS equipment is working properly. Without these verifications, the board risks losing track of some offenders, and for sex offenders, the verifications can serve to identify that there is a school or other public place where children play close to the offender’s home.

### Drug Tests

Board standards require PPOs to conduct drug testing at several different intervals including once per six months, once per three months, once per three months as needed, or at random, depending on the offender’s supervision level. PPOs failed to administer or did not document administering drug tests for 19 regular offenders and 21 GPS offenders in our sample. Twenty-four GPS offenders were not under supervision for enough time in calendar year 2011 to require a drug test and therefore were considered not applicable. Seventy-nine regular offenders were either not under supervision for enough time in calendar year 2011 or were only required to have drug testing on an as-needed or random basis, and these were also counted as not applicable.

Drug Tests				
Requirements Met	Regular Supervision	Compliance Rate	GPS Supervision	Compliance Rate
Yes	22	53.7%	25	54.3%
No	19	46.3%	21	45.7%
N/A	79		24	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

Based on our review of offenders’ files, as well as discussion with district managers, there is no standard or requirement for documenting negative drug tests in case files but a code is

required to be entered in TOMIS. While some PPOs include all drug test forms in the case files, most documented only positive drug screens. Based on our review of case files, however, we found that the files for 9 regular offenders and 8 GPS offenders contained records of drug screens that were not documented in TOMIS. This indicates that, contrary to board policy, the computerized system is not consistently being used as the primary repository for offender information.

Arrest/Incarceration/Placement Checks

PPOs or other board staff did not conduct required checks for arrests or continued incarceration, or placement verifications for one IOT offender, 10 regular offenders, and 11 GPS offenders in our sample.

<b>Arrest/Incarceration/Placements Checks</b>				
	Regular	Compliance	GPS	Compliance
<u>Requirements Met</u>	<u>Supervision</u>	<u>Rate</u>	<u>Supervision</u>	<u>Rate</u>
Yes	110	91.7%	59	84.3%
No	10	8.3%	11	15.7%
N/A	0		0	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

Arrest record checks are conducted to determine whether the offenders have had an incident that would be a violation of their probation or parole. An offender may not willingly report incidents to the PPO, and if the offender is an absconder, this information can be helpful in locating the offender. During our review, we also noted weaknesses in arrest checks in that it cannot always be determined from TOMIS where the arrest check, etc. was completed. For instance, in Davidson County, the PPO may fail to record whether they only checked with the Metropolitan Police Department or if they also checked with the Davidson County Sheriff’s Office.

Special Conditions and Employment

PPOs failed to complete or document their attempt to complete monitoring of special conditions in 15 of the regular offender and 23 of the GPS files we reviewed. Further, PPOs failed to complete or document employment verifications in 11 regular offender files and 15 GPS offender files. The offender’s supervision status did not require monitoring of special conditions or employment in 37 and 33 regular supervision files respectively.

<b>Special Conditions Monitoring</b>				
Supervision <u>Requirements Met</u>	Regular <u>Supervision</u>	Compliance <u>Rate</u>	GPS <u>Supervision</u>	Compliance <u>Rate</u>
Yes	68	81.9%	47	67.1%
No	15	18.1%	23	32.9%
N/A	37		0	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

<b>Employment Monitoring</b>				
Supervision <u>Requirements Met</u>	Regular <u>Supervision</u>	Compliance <u>Rate</u>	GPS <u>Supervision</u>	Compliance <u>Rate</u>
Yes	76	87.4%	55	78.6%
No	11	12.6%	15	21.4%
N/A	33		0	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

Board supervision standards require the PPOs to verify that special conditions (substance abuse treatment, payment of court costs, etc.) are being followed and that the offender is employed. For most supervision classifications, the special conditions monitoring frequency ranges from two per month to one every three months. For employment verifications, the frequency ranges from one per month to one every three months. Special conditions can be monitored via contact with the treatment provider or court clerk (for payment of court costs) and employment verifications can be completed by obtaining the offender's pay stub.

#### Fee Payment

PPOs failed to adequately document offender fee payments for 7 regular offenders and 7 GPS offenders in our sample. Board supervision standards require the PPOs to monitor the offender's fee payments from once per month to once every 3 months depending on the offender's level of supervision. See page 61 for additional information regarding the fee system. Twenty-six regular supervision files did not require monitoring of fee payments because of the offender's supervision status.

<b>Fee Monitoring</b>				
	Regular	Compliance	GPS	Compliance
<u>Requirements Met</u>	<u>Supervision</u>	<u>Rate</u>	<u>Supervision</u>	<u>Rate</u>
Yes	87	92.6%	63	90.0%
No	7	7.4%	7	10.0%
N/A	26		0	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

### Sex Offender Treatment Monitoring

The programmed supervision manual requires sex offender treatment monitoring to be completed monthly for all sex offenders. Our sample of regular offenders included only 8 sex offenders who required sex offender treatment monitoring. PPOs at least attempted to make all of the required monthly checks to ensure that these offenders were receiving treatment; however, one offender was monitored using GPS until February 2011 and was taken off based on a psychological assessment. It was noted in the offender's information that he "should be given some careful supervision, especially while he is early in his sex offender supervision." While the case technically meets supervision requirements, the PPO was unable to successfully complete home visits and sex offender treatment verifications for 3 of the 11 applicable months in 2011. Based on a review of information in TOMIS, no action had been taken to revoke the offender's parole or change his supervision level as of May 31, 2012.

Our sample of offenders monitored by GPS equipment showed that 26 offenders had not been properly monitored for sex offender treatment which is also a monthly requirement for all of these offenders. One offender in our sample was being monitored using GPS due to the violent nature of his crimes, not because of a sex-related crime.

<b>Sex Offender Treatment Monitoring</b>				
	Regular	Compliance	GPS	Compliance
<u>Supervision Requirements Met</u>	<u>Supervision</u>	<u>Rate</u>	<u>Supervision</u>	<u>Rate</u>
Yes	8	100.0%	43	62.3%
No	0	0.0%	26	37.7%
N/A	112		1	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

### Risk Assessments

Section 41-1-412, *Tennessee Code Annotated*, requires the development (using a validated instrument to evaluate risks and needs) of an individual treatment/supervision plan for each offender. The board chose the Level of Service Case Management Inventory (LS/CMI) for all offenders and the Vermont Assessment of Sex Offender Risk (VASOR) for sex offenders.

All offenders should receive a Level of Service Case Management Inventory (LS/CMI) needs assessment to target supervision, services, and treatment to the offenders' needs that have a direct correlation with criminal behavior. This tool uses multiple levels of risk to identify offenders at higher risk of recidivism and offers guidance on treatment and services to reduce that risk. After the initial 60-day intake period, LS/CMI assessments must be completed at least every two years.

We reviewed risk assessments dating back to calendar year 2010 to determine whether the biannual requirement had been met. We found 5 offenders in our regular supervision sample and 12 in the GPS sample who did not have the required biannual LS/CMI assessments. For an additional 7 regular supervision offenders, there were risk assessments but they were not completed within the initial 60-days, totaling 12 that were not in compliance. For 5 GPS offenders, there were risk assessments, but they were not completed within the initial 60 days of supervision, totaling 17 that were not in compliance. Twenty-eight regular supervision files did not require LS/CMI risk assessments because of the offenders' supervision status. Three GPS supervision files did not require LS/CMI risk assessments because they were supervised for less than 60 days.

<b>LS/CMI Risk Assessments</b>				
<u>Requirements Met</u>	<u>Regular Supervision</u>	<u>Compliance Rate</u>	<u>GPS Supervision</u>	<u>Compliance Rate</u>
Yes	80	87.0%	50	74.6%
No	12	13.0%	17	25.4%
N/A	28		3	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

With a few clearly defined exceptions, all sex offenders should receive the Vermont Assessment of Sex Offender Risk (VASOR). VASOR is an actuarially based and validated risk assessment scale for adult male sex offenders ages 18 and over. Because of the current lack of an acceptable alternative, the creator of the assessment states that, although not validated on females, the VASOR can be used with caution on female sex offenders. According to the board's *Case Management Protocol Manual*, these assessments must also be completed within 60 days of intake by the board and at least once a year thereafter.

We reviewed TOMIS records and case files back to calendar year 2010 to determine if the assessments were being completed annually. We found 3 regular offender files and 19 GPS offender files that did not have the VASOR completed annually. In 5 regular offender files and 10 GPS offender files, we were not able to determine whether the VASOR was completed annually or not. In these files, there was not an annual VASOR in the offender's hard copy file and TOMIS codes did not have indications in its case notes of which risk assessment was completed. For 112 regular supervision files, the offender was not a sex offender and therefore was not required to have a VASOR. For 35 GPS supervision files, the offender had been supervised for one year or less and therefore we could not determine if they received an annual assessment.

<b>Vermont Assessment of Sex Offender Risk</b>				
<u>Requirements Met</u>	<u>Regular Supervision</u>	<u>Compliance Rate</u>	<u>GPS Supervision</u>	<u>Compliance Rate</u>
Yes			6	24.0%
No	3	100.0%	19	76.0%
Unable to Determine	5		10	
N/A	112		35	
<b>Total Files Reviewed</b>	120	100.0%	70	100.0%

Deficiencies in offender supervision can be attributed to high caseloads, multiple mandated activities a PPO must complete on each offender, lack of time management training, and a lack of supervisory reviews to catch problems in a timely manner. For PPOs supervising offenders on GPS, there is the additional task of reviewing and clearing alarms generated by the GPS system when offenders enter prohibited areas (exclusion zones), when they tamper with their GPS ankle bracelets, etc.

According to the Director of Field Services, on average, regular PPOs supervise 113 offenders and GPS officers have an average caseload of 40 offenders. The board's goals for regular and GPS officers are 70 and 25 offenders, respectively. In spite of their large caseloads, officers rarely receive time management training to enhance their skills for managing a list of over 50 tasks to be completed on each offender (see page 53 regarding training). We also noted in this audit that supervisory reviews were conducted for less than half of the cases in our sample during calendar year 2011. (See finding 7 regarding supervisory reviews.) We also observed inefficiencies in the number of alarms the GPS system generates. (See observation and comment on page 54.)

Failure to adequately supervise offenders results in increased risk that the board will not achieve its mission of minimizing public risk and maximizing lawful behavior through the prudent, orderly release and community supervision of adult offenders. Without correct addresses and date of birth records in TOMIS, the board may not be adequately communicating with and monitoring offenders. Also, PPOs' failure to use TOMIS as the main repository of information as required by the board creates the problem of the board lacking complete records of offender supervision. Furthermore, the failure to adequately monitor sex offenders and other violent offenders monitored via GPS and known to have a high risk of reoffending jeopardizes public safety.

### **Recommendation**

The Board of Probation and Parole and the Department of Correction should work with the Field Services Division and others within the agencies to develop a formal corrective action plan which ensures the information in TOMIS is complete and accurate. Specifically, the plan should focus on ensuring the following:

- all drug screens and other offender interventions are properly documented in TOMIS;
- required arrest checks or verifications of continued incarceration/placement are completed for offenders, including those not actively supervised by Field Services staff;
- notes indicating that offenders' special conditions have been terminated are entered only once during a supervision period, include the necessary details, and are not followed by other special conditions notes;
- all X-type case notes specify the reason that the supervision requirement was not met as well as the planned corrective action, and are carefully reviewed to determine the effectiveness of the corrective action and whether further action is required;
- risk assessments, including VASOR risk assessments for sex offenders, are completed in a timely manner on all cases;
- address and date of birth information is accurately maintained in TOMIS; and
- all offender supervision requirements are otherwise being met.

The board and the Department of Correction should also ensure that TOMIS includes the appropriate edit checks and data validation tools.

### **Management's Comment**

#### Department of Correction Comment

We concur and will ensure the following:

- All drug screens and offender interventions will be documented in TOMIS.
- Required arrest checks or verifications of incarceration/placement are completed for offenders including inactive cases.
- Notes indicating offender termination of special conditions are entered only once and contain necessary details and are not followed by other special condition notes.
- All X-type case notes specify the reason the requirement was not met as well as planned corrective action and are carefully reviewed to determine the effectiveness of the corrective action and whether further action is needed.
- Risk assessments, including VASOR risk assessments for sex offenders are completed in a timely manner on all cases.
- Address and Date of Birth information is accurately maintained in TOMIS and
- All offender supervision requirements are met.

We make the following observations to clarify our current actions and future activities:

### **Address and Date of Birth**

Some or all of the cases found to have a different date of birth in TOMIS and the file might have the correct date of birth entered into the ALIAS conversation. Protocol for TOMIS entries from its inception in 1992 has been to use the identifiers attached to the offender at the time of sentencing and to record new identifiers as aliases. Because offenders often use many deceptive practices to hide their identities all identifiers ever used by an offender must be maintained. Should subsequent identifiers be revealed they will be recorded in TOMIS. Checking the address in TOMIS with the case file was added to the manager's annual file review checklist and will be reiterated in training with managers and officers.

### **Face-to-Face Contacts**

This standard is part of the annual case file review process and is used to assess the Probation and Parole Officer's job performance. One issue to consider is that once a standard is missed it can never be met but it can be mitigated by officer action in the future. This will continue to be a point of emphasis on case file reviews. It must also be pointed out that during the year reviewed a significant number of officers had personnel action taken, including termination, when they were found to have violated the standards in a significant manner. Also, as noted in the audit, the workload on individual officers is enormous and continues to grow. Our Top-to-Bottom review is intended to identify potential time savings and position reallocation to address these caseloads. That process has begun and will be completed by December 31, 2013.

### **Home Visits**

Like Face-to face contacts, home visits are a significant part of the annual case file review and will continue to be a point of emphasis. Managers have the responsibility to monitor missed home visits and are being held accountable. Changes in management of PSU units have been undertaken where these standards were not met. By December 31, 2012 there will be a directive in place to re-emphasize that Home Visits are priority number one in routine offender supervision.

### **Drug Tests**

Drug testing is done according to the supervision level of the offender and by means of a random drug testing list issued quarterly. Records of drug tests are recorded in TOMIS in two ways. One is via a contact note and one is via a conversation that lists the drugs for which the offender is tested and the results. That conversation is inelastic and must be improved to identify all of the current drugs for which we test. This process will be initiated immediately and will be completed by June 30, 2013 to accommodate ongoing technology changes that are already in process.

### **Arrests/Incarceration/Placement Checks**

Beginning in November 2011 we instituted a program in conjunction with the Administrative Office of the Courts that automatically notifies the Officer, their Manager and a Director via email any time an offender is arrested in Tennessee, if the arresting agency uses the proper

State Identification (SID) number that matches the number in TOMIS. It also will post a contact note to TOMIS. In the sample reviewed the arrest checks would have been in the county of residence only as that was the policy and restating that seems redundant, however, the new system records the arresting authority as well as the charge in TOMIS. Incarceration and other placements still must be addressed individually and is part of the case file review. We will begin retraining managers on this immediately with a completion date of June 30, 2013.

### **Fee Payments**

BOPP and now TDOC use an accounting program called Great Plains to handle Fee Transactions. Great Plains has been a difficult program to use and resulted in BOPP paying for training for two staff members to learn to write the code necessary to make needed charges. That is now in place. Great Plains is in need of replacing as it will not be supported technology within 18 months. Meetings are already under way to find the proper replacement. We expect this process to be completed and a changeover accomplished by December 31, 2013. One significant issue with fees has been the waiver process which depends on cooperation for offenders, officers, managers and central office staff. To streamline and improve this process we undertook a LEAN Event beginning in August 2011. It included staff from a probation parole office and made suggestions for improvement. Those suggestions included establishing one fee specialist in the office at Blanton Avenue and were piloted for four months beginning in April 2012. The results are promising and the amount of waivers has fallen, the amount of money has increased and it has freed officers and managers to do other supervision tasks. It will be continued in Blanton Avenue and we will begin to roll out the process in other major offices by January 1, 2013. Another LEAN Event to work on the process for smaller offices is in the planning stages and should take place by December 31, 2012.

### **Sex Offender Treatment Monitoring**

Managers have responsibility to ensure this standard is being met. There has been renewed emphasis on training, as outlined later in this report, and treatment attendance will be enforced without fail. As a follow-up to this report we will investigate the one case mentioned in the audit report to see what the issue is and get it corrected. We will ensure every sex offender ordered to attend treatment is in fact in treatment as required by October 31, 2012 or sooner. All those not in compliance will be reported to the releasing authority.

### **Risk Assessments**

The VASOR is the assessment utilized for evaluating a sex offender's risk to reoffend sexually and is required to be performed within the first 60 days of opening a case, and annually thereafter. There are categories of sex offenders who are not required to have a VASOR completed, which are noted on the BP0239 PSU Override/VASOR Exemption form. For example, the VASOR cannot be used if the offender's sexual offense occurred prior to the last ten years the offender has been in the community. It cannot be discerned from the audit results if this was taken under consideration.

The VASOR form was designed with a "Submit" button which would email the assessment to central office staff, where it was maintained in a spreadsheet. This spreadsheet could

periodically be sent out for managers' review. The state's transition from GROUPWISE to OUTLOOK removed this capability. In order to forward the information, the officer has to print and scan the assessment to email it. This may have impacted the number of assessments submitted. The Administrative Services Assistant position which was tasked with maintaining this data and had been reviewing the scanned assessments and entering the information manually, was abolished due to budget cuts. In an effort to better monitor its completion, the VASOR was added to the PSU Manager's initial Case File Review Checklist and annual Case File Review Checklist. Since sex offenders have two different assessment tools, a separate contact note code and supervision standard requirement for the VASOR completion will be established as an additional tool to monitor and improve compliance.

### **LS/CMI (assessments) not completed according to policy**

There is a segment of our population for which an LS/CMI was never mandated and those would be Cases in Custody, Absconders, Not In Arrest, and those already Minimum Supervision. For the rest an LS/CMI is required and we will begin an LS/CMI audit immediately and have it completed by October 31, 2012 to ensure that by December 31, 2012 all offenders required to have an LS/CMI have one completed. This is and will continue to be part of the case file audits.

### **Supervision Standards for Sex Offenders**

In the methodology utilized, the auditor's determination of compliance used is absolute, which is their mandate. The missing, through omission or being conducted outside a specified time frame, of one single standard, over the course of a 12-month period, of approximately 101+ standard total occurrences for an individual GPS case, has been considered non-compliant, despite the possibility of a case being in *substantial* compliance. The number of missed standards in comparison with the total number of standard occurrences might be a more valuable tool, i.e., *8 cases were 100% compliant, 22 cases were 95-99% compliant, etc.* Although the department continues to strive for 100%, individual officers' monthly compliance scores are considered acceptable if 95% or better.

### **Special Conditions**

The definition of the contact code documenting special conditions are terminated (SPET) will be expanded to include information on how the condition was satisfied and noting that subsequent special condition notes are not needed by December 31, 2012.

### **Managing Xcodes**

Xcode monitoring will be revised to ensure that managers, upon seeing an Xcode on a standard review prior months to ensure they are not sequential and being used to avoid the standard. This will be done as part of the training to be completed by June 30, 2013.

### **GPS Alerts**

The department believes that some confusion remains on what an event is versus what an **alarm** or/and an **alert** is. What is characterized in the report as *alarms* and *alerts* are actually *events*, and as noted, 27,129 of the total 38,476 events were simply noting that the offender had plugged in their unit to charge. The current vendor's system has an additional step beyond the original vendor's system, which provides a place to check that the event is

confirmed or acknowledged, as well as the event's start and stop times. If an event has a *stop time*, it has been *cleared*. Open critical events reports can be requested by any GPS user to determine if any alerts remain unresolved/in progress (not cleared yet) longer than a specified period of time.

In training, the focus has been on *clearing* the alerts within the protocol. Confirming was not stressed early in the transfer to the new vendor for the very reasons noted in the audit report. Department procedures have not required confirmation of *non-alert* events. Managers were trained in November 2011 on how to pull reports to review from VeriTracks. A follow-up webinar was presented on 3-14-12 and is stored on the website where it can be reviewed at any time. It has been stressed with managers, in training and manager conference calls, that officers should be following through on the final step of confirming after clearing an event. This will continue to be monitored more closely to assure that confirmations are entered. The suggestion of programming to eliminate the need to confirm charging events or otherwise streamline the process is duly noted and will be pursued with the vendor by November 1, 2012.

### **GPS Protocol Manual**

A temporary protocol manual was issued in June 2011, but was revised twice as we became more familiar with the new vendor system. The current protocol manual was approved by the Director of Field Services in August 2011, and disseminated to all PSU staff *as a directive* and posted on the N drive, where it was available to all staff, pending formal finalization by the legal division and official posting on the intranet page. Training has taken place, including all sessions of in-service training at the academy.

### **Significant events that impacted Program Supervision Unit**

1. The Programmed Supervision Unit target caseload size is 25 offenders to each officer. This is based upon the American Probation Parole Association's suggested caseload size for a specialized supervision unit. Case sizes are averaging approximately 40. The merger of the Enhanced Supervision Unit with the Programmed Supervision Unit was put into place July 2011 in effort to bring more officers into the unit, equalize caseloads and mitigate the impact of having an unmanageable number of GPS offenders on individual caseloads.
2. The department's in house GPS Operation (GO) Center, which managed all initial alerts and was manned 24 hours a day was closed due to budget cuts in the spring of 2011. The department currently contracts for monitoring services through the vendor. This has resulted in an increase of the number of alerts that are forwarded to the officer and more difficulty in communications. The GO Center monitors knew the officers, were familiar with the offenders and districts. This ensured the correct staff was contacted to address alarms. The GO center staff provided a sense of security for officers when they had to go out on an alarm and could provide remote assistance while they were in the field. Because it was comprised of trained officers, the GO center was empowered to make informed decisions. Restoration of the GO Center is a priority as part of our Top-to-Bottom Review process which is ongoing at present.
3. The GPS alert response protocols were modified to escalate all alerts to the next level if the officer does not answer the phone immediately. Since this means sometimes an officer who couldn't pick up the phone prior to it going to voicemail may be calling the center back

at the same time another officer has already been called, it frequently results in multiple officers and monitors working the same incident.

4. The categories of offenders designated as mandatory for GPS monitoring has been expanded from Rape of a Child and high/very high VASOR scoring offenders, resulting in the number of offenders on active monitoring rising from approximately 350 in early 2011 to over 800 at this time, at the same time the GO center was closed and the protocols increased.

5. Community Supervision for Life offenders continue to be released and added to caseloads. These are cases that effectively never expire, require more court time for prosecution of violations and are the highest risk offender we supervise.

### **Steps taken to Improve PSU**

1. Merger of PSU and Enhanced Unit July 2011.
2. PSU-specialized 16-hour training session at the academy for managers November 2011.
3. 3 PSU-specialized 16-hour training sessions at the academy for officers were presented on various dates in early 2012.
4. Technical assistance grant request were submitted to CASOM. In 2012, a grant was received for technical assistance with a consultant, to review procedures, make recommendations for adjustments to the program, and present two days of training. The department has contracted to add an additional third day of training. The training will build upon FY 12 in-service training, with an added training session on Compassion Fatigue.

### **Planned steps for further improvement**

1. Field Services received a \$113,000 Adam Walsh grant in August 2012 which will go toward equipment upgrades and improvements, specialized training on development and creation of web-based training modules. This will contribute to increased efficiency.
2. The TOP to BOTTOM review is taking place, and coupled with the recommendations from the CASOM consultant, will be used to review the current procedures for potential areas of improvement, focusing on evidence-based practices.
3. Time management training will be requested for both Pre-service and In-service.
4. In-service PSU specialized training will be continued.
5. Returning to in-house GPS monitoring will be evaluated.
6. Capability to electronically submit VASOR completion via OUTLOOK is requested, however, it will have to be added to the technology list and may take until December 31, 2013 to accomplish.
7. Upgrading of Field Service Staff laptops.
8. Examine PSU officer turnover rates and pursue measures to improve officer retention is on-going and targeted for the end of FY 2013 based on budget.
9. Review PSU offender population and explore potential options for reducing caseload sizes is on-going with recommendations to be made by 11/30/12 with improvements by January 1, 2013.

### **3. The board’s disaster recovery plan lacks the elements necessary to ensure resumption of functioning and performing essential duties in the event of an emergency**

#### **Finding**

Section 58-2-108, *Tennessee Code Annotated*, states that, at the direction of the Governor, each agency should have an emergency services coordinator who is responsible for preparing a disaster preparedness plan. This plan should be reviewed by the applicable local emergency management agency and approved by the Tennessee Emergency Management Agency (TEMA). Governor Bredesen’s Executive Order 23 established the National Incident Management System (NIMS) as the state standard for incident management. NIMS is a comprehensive, systematic approach to incident management which includes a core set of concepts, principals, terminology, and organizational processes for all hazards. The first NIMS concept is preparedness, which requires the validation and maintenance of plans, policies, and procedures that define priorities and coordinate, manage, and support information and resources. This can also be referred to as a Continuity of Operations Plan (COOP). The COOP serves as a disaster recovery plan, ensuring that the agency can resume functioning and perform essential duties in the event of a disruption of normal operations. The COOP template created by NIMS’ parent agency, the Federal Emergency Management Agency (FEMA), recommends that plans should, at a minimum, include the following elements:

- Readiness and Preparedness (how to identify and respond to a “continuity event”);
- Activation and Relocation (how to establish basic operational capabilities at a new location);
- Continuity Operations (how personnel should operate at the new location); and
- Reconstitution Operations (how to return to normal operations).

This document should also prioritize essential functions and define the personnel who are responsible for implementing each part of the disaster recovery plan.

The wording of this finding does not identify specific vulnerabilities that could allow someone to exploit certain weaknesses. Disclosing these vulnerabilities could present a potential security risk by providing readers with information that might be confidential pursuant to Section 10-7-504(i), *Tennessee Code Annotated*. We provided the Board of Probation and Parole with detailed information regarding specific vulnerabilities as well as our recommendations for improvement.

#### **Recommendation**

The Board of Probation and Parole should thoroughly document specific disaster recovery procedures and actions to be taken, from the declaration of a disaster until the time that normal business operations are resumed. The plan should contain adequate detailed information to permit staff to use it as a stand-alone field manual. The plan should be reviewed, updated,

tested, and reapproved as processes change and, at a minimum, on an annual basis. The plan should be submitted to TEMA and made readily available to board employees.

## **Management's Comments**

### Board of Parole Comment

We concur. The Board currently has a limited plan which includes a staff notification list for communication and IS allocation of resources. The Board, prior to July 1, 2012, also had access to operational space at the closest BOPP office. In May 2012, with this limited plan and the assistance of TDOC, the Board was able to reestablish operations of all critical functions within the first 24 hours of Parkway Towers being uninhabitable.

### Board of Parole Corrective Action Plan

The Board will build on the limited disaster recovery plan currently in place to thoroughly document specific disaster recovery procedures and actions to ensure continuity of operations. The plan will include at a minimum the key elements as outlined by FEMA: readiness and preparedness, activation and relocation, continuity operations, and reconstitution operations. All staff will be trained on the plan once it is completed. The plan will be submitted to TEMA and posted on the Board's intranet. On an annual basis the plan will be reviewed and updated as needed.

### Department of Correction Comment

We concur. The Department will develop disaster recovery plans that ensure continuance of services in an emergency.

### Department of Correction Corrective Action Plan (Field Services/Community Supervision)

Within days of the merger of Field Services into TDOC the Director of TDOC's Emergency Operations Unit contacted the Assistant Commissioner and the planning process for developing an enhanced disaster recovery project has begun. Each office will have its own plan on which all staff will be trained. Secondary work sites, all necessary telephone numbers and other contact information will be established.

- There will be a Team Leader for each location who will be trained in the duties required.
- Personnel Notification Levels will be established
- General and specific task lists will be developed
- Vital Supplies and location of such will be identified
- Computer needs and their location will be established

- External Contacts will be developed
- A Continuation Strategy that ensures a quick and effective return to business will be implemented
- A manual of all items will be published and trained on

This process will be completed by March 31, 2013.

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#### **4. The board should reevaluate current procedures for posting meeting notices, to better ensure compliance with public meetings law**

##### **Finding**

Currently, the Board of Probation and Parole posts meeting notices in the elevator lobby at the central office on the 13<sup>th</sup> floor of the Parkway Towers Building in downtown Nashville. Notices are not posted in field offices or on the board's website. The board did post the January and April 2012 administrative meetings to the Public Meetings area of the state website, but these notices were posted less than 48 hours prior to the meetings.

Section 8-44-101, *Tennessee Code Annotated*, declares it to be "the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret." Section 8-44-102 stipulates that all meetings of any governing body are declared to be public meetings open to the public at all times. Further, Section 8-44-103 requires adequate public notice of both regularly scheduled and special meetings.

In the decision on *Englewood Citizens for Alternate B v. Town of Englewood*, No. 03A01-9803-CH-0098, slip op. (E.S. Tenn. Ct. App. June 24, 1999), the Tennessee Court of Appeals for the Eastern Section outlined the following three-prong test for "adequate public notice."

- notice must be posted in a location where a member of the community could become aware of such notice;
- contents of the notice must reasonably describe the purpose of the meeting or the action proposed to be taken; and
- notice must be posted at a time sufficiently in advance of the actual meeting in order to give citizens both an opportunity to become aware of and to attend the meeting.

The board's current procedure communicates to an audience including central office board staff, field services leadership staff, district field staff who attend the meetings via teleconference on a rotating basis, and other state and legislative officials involved in the corrections process. Notice would only reach the general public if they visited the 13<sup>th</sup> floor of the Parkway Towers Building in Nashville or visited the Public Meetings area of the state website less than 48 hours before the

meeting. Additionally, the posting of meeting notices to the state's website less than 48 hours prior to the meeting may not fulfill the requirements of "adequate public notice" as defined by the Tennessee Court of Appeals.

### **Recommendation**

The Board of Probation and Parole should strengthen formal, written policies and procedures for complying with the requirements for public meeting notices by mandating the posting of meeting dates on its website, in field offices, and/or advertising meeting dates in local newspapers. Implementing these procedures would better ensure that board personnel and the general public are aware of the meetings of the board. Further, the board should ensure its notices are posted at a time sufficiently in advance of the actual meeting in order to give citizens both an opportunity to become aware of and to attend the meeting.

### **Management's Comment**

#### Board of Parole Comment

We concur. The Board notes that in addition to the physical posting of the notice on the 13<sup>th</sup> floor of our central office building and on the State Calendar website that the Notice was forwarded electronically to various State departments as well as to the Associated Press. While notices are not posted in field offices, it is to be noted that District Directors received electronic notice of the meetings and in turn informed their senior staff.

#### Board of Parole Corrective Action Plan

The Agency will strengthen procedures for complying with the requirements of the Act. The Board will post meeting Notices at least five days in advance of meetings. The Notices will be physically posted in the lobby of the central office building as well as on the 13<sup>th</sup> floor. In addition to electronically posting the Notice on the State Calendar, the Board will electronically post the Notice on the BOP website, BOP intranet and Facebook. The Board will also continue to forward notice to key State and legislative contacts and the Associated Press.

Target date of implementation is September 19, 2012.

**5. In some instances, the board still fails to comply with state law regarding hearing decisions; further, decision letters denying parole omit appeal rights**

**Finding**

The two previous performance audits of the Board of Probation and Parole (May 2006 and June 2001) found problems in the parole hearing and final decision notification procedures. The June 2001 audit found the board failed to notify public officials of hearing results in the statutory time frame of 30 days. The board concurred with the finding and stated it would begin sending monthly reports regarding decisions and continue with plans to post final decisions on the agency website. The May 2006 audit found the procedures regarding hearings still needed improvements. The board concurred with the finding and provided a corrective action plan regarding policy changes, monthly audits, training, and reviews before accepting completed notices.

During the current audit, we found that notifications of parole hearings and notifications of final decisions were still not sent to offenders and interested parties as required by board policy and state statutes.

Board of Probation and Parole policy requires written advisement of a parole or grant hearing for a given offender, including time and place. The board requires that offenders eligible for parole be given due consideration in a timely manner. Section 40-28-505(b) and (c), *Tennessee Code Annotated*, requires notification at least 30 days prior to a scheduled parole hearing and 3 days prior to a parole revocation hearing conducted pursuant to Section 40-28-122. The board is to send a notice of the date and place of the hearing to the following individuals:

- The trial judge for the county in which the conviction occurred, or the trial judge's successor;
- The district attorney general in the county in which the crime was prosecuted;
- The sheriff of the county in which the crime was committed; and
- The victim or the victim's representative who has requested notification of the date and place of the scheduled hearing or notice of the board's final decision.

The board must send notice of its decision to those required to receive notice (see above) no later than 30 days after a parole or parole revocation decision has been finalized.

The Board Operations Division's Docket Unit is responsible for preparing dockets for parole hearings held throughout the state at Department of Correction institutions and county jails. Preparing a parole hearing docket includes, but is not limited to, sending hearing notices and final hearing dispositions to the parties listed above in accordance with state law and board policy.

Prior to the 2006 audit, the board developed an in-house process to automatically generate all hearing notification letters. Currently, the Board Operations Application Suite interfaces with TOMIS to generate the notices for parole hearings and the hearing decision letters

to offenders and interested parties. The docket technician has a checklist by which to confirm that the notice has been sent and received.

Notice to Offenders

We reviewed a random sample of 48 offender files from dockets in fiscal years 2009, 2010, and 2011.<sup>1</sup> In reviewing files for this audit, we found that there were no problems with timeliness of sending out the notifications for the scheduled hearings to offenders but that problems still exist for sending out notifications of hearing decisions. Of the 48 files reviewed, all of the offenders had at least a 30-day notice of the scheduled hearing date based on the information in the offender’s paper file. The average number of days from the offender’s notice of a hearing to the actual hearing was 44 days. For notification of hearing decisions, the average number of days from the date of the finalized decision to the date the offender was notified was 30 days. However, we found 15 instances where the time from the final vote to offender notification exceeded 30 days (ranging from 32 to 86 days). Additionally, our review revealed that “Offender Hearing Decision Notices” were not on file for two offender files and one “Offender Hearing Decision Notice” was not dated by the offender or the institutional probation and parole officer (IPPO), which would have shown when the offender received the notice.

We also determined that information related to appeal rights was not included in the letters to offenders whose parole was denied or revoked.

Notice to Interested Parties

We discovered that problems also exist with sending notifications to interested parties for hearings and hearing decisions. We determined that interested parties were listed in TOMIS for each offender in our sample but that documentation of notification to those parties was only included in 4% of the offender files reviewed. According to the Director of Board Operations, the division changed notification procedures for interested parties from written letter to e-mail communication during fiscal year 2006-2007 or fiscal year 2007-2008; however, this change only applied to officials, not victims.

**Review of Hearing Notices**

	<b>Hearing Notices Average Days</b>	<b>Hearing Notices Not in Compliance</b>	<b>Hearing Decisions Average Days</b>	<b>Hearing Decisions Not in Compliance</b>
<b>Offender</b>	44	No issues of non-compliance based on requirement for at least 30-day notification	30	18 of 48 or 38% tested (ranging from 32 to 86 days)
<b>Interested Parties</b>	Undetermined because of lack of support in offender file	Undetermined because of lack of support in offender file	13 (This average was based on support obtained from only 7 of 48 files tested.)	46 of 48, or 96% tested, due to lack of support

<sup>1</sup> The sample size reflects a non-statistical sample, and results are not projected to the entire population of 49,378 hearing dockets in fiscal years 2009, 2010, and 2011.

The Director of Board Operations acknowledged problems existed because IPPOs do not always return the Offender Hearing Decision notifications to the central office/file room in a timely manner. The issue was addressed with Field Services during April 2012. The director also stated that hearing officials and IPPOs discuss appeal rights with offenders during the hearing process.

Lack of compliance with state law could call into question the decisions made by the board and put the board in a position of having to reconsider multiple cases because of its lack of timely notifications.

### **Recommendation**

The Director of Board Operations should collaborate with other divisions of the Board of Probation and Parole such as Information Systems and Field Services (now at the Department of Correction), to implement manual and automated controls to strengthen existing parole hearing notification procedures in order to ensure compliance with the statutes. Any revisions/updates should be made to the operating procedures/manuals of the board and posted to the intranet. The board should also revise the notification of hearing decision letters to include appeal rights for the offender to ensure that the board's communication of appeal rights to the offender is documented.

### **Management's Comment**

#### Board of Parole Comment

We concur. BOP complies with statutory requirements for parole hearing notifications, however, in some instances parole hearing decision notifications were not completed within 30 days from the final vote. Decision letters denying parole omit appeal rights.

#### Board of Parole Corrective Action Plan

The Director of Board Operations and the automation Project Lead are currently collaborating with BOP Information Systems and DOC Field Services to strengthen existing parole hearing notification controls. This will include establishing formal timelines for dissemination, delivery and return of signed parole hearing decision notification letters to Board Operations.

The procedure of sending parole hearing notifications and parole hearing decision notifications to officials and other interest parties is different. Officials are notified by email and other interested parties are notified by letter. Operating procedures are maintained in the Unit Manual of Operations. During the course of this audit, the Board Operations unit manual of operations was updated to comport with the procedures currently in place. The Board Operations unit manual of operations will continue to be posted on the intranet and updated promptly to comport with changes in operating procedures.

The appeal process is only applicable to those offenders whose parole has been denied, revoked, or rescinded. Advising offenders of their appeal rights has been the responsibility of the Hearing Official and Institutional Probation/Parole Officers and there is no formal requirement to include appeal rights on parole hearing decision letters. To ensure conspicuous and undisputed conveyance of offender appeal rights, all parole hearing decision notification letters will be modified to include offender appeal rights.

Target date of implementation is November 1, 2012.

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## **6. Weaknesses in the Tennessee Offender Management Information System (TOMIS) could result in inaccurate analysis of some programs**

### **Finding**

During our review, we found instances in two separate programs where offenders were allowed to participate in programs without first being referred to the program as required by board policy. This means the Tennessee Offender Management Information System (TOMIS) lacks appropriate edit checks to help probation and parole officers (PPOs) ensure they are completing all required steps for getting offenders into programs. The lack of edit checks also negatively affects the ability to analyze and rely on the information in TOMIS.

### Victim Impact and Courage to Change

According to the Victim Liaison Services Director, all Victim Impact and Courage to Change class participants should be referred to these classes by their PPO, and the PPO should document the referral in TOMIS. The district facilitator should enter a code into TOMIS upon the participant's successful completion of the class. (Also see the observation and comment on page 58 for additional information regarding this program.) Based on information documented in TOMIS, the board provided us with four lists from calendar year 2011:

- Referrals to Courage to Change;
- Completed Courage to Change;
- Referrals to Victim Impact; and
- Completed Victim Impact.

Our intent was to compare the referrals listing to the completed listing for each class in an effort to get a completion rate and then to determine how many individuals who had completed the programs had been rearrested; however, we found multiple issues with the data provided. First we found that some offenders were on the referral list multiple times. Next, we found individuals on the completed lists who did not always have a referral. With this knowledge, we reviewed TOMIS to determine if some of these individuals had a referral date or completion date outside of our original data request. Thus, we reviewed TOMIS for any referral date prior to

calendar year 2011 (classes began in January 2011) and for completion dates through May 2012. The following tables show what we found.

<b>Victim Impact</b>		
	<b>Referral List</b>	<b>Completion List</b>
# of items on list reviewed for calendar year 2011	234	161
# of individuals on list reviewed for calendar year 2011	218	161
<u># of Individuals</u>	<b>Referred</b>	<b>Completed</b>
Referral Code in TOMIS, No Completion Code	140	
Referral Codes and Completion Code in TOMIS	72	72
Completion Code in TOMIS, No Referral Code		101
Referred and completed but no completion code in TOMIS	8	
<b>Total</b>	220	173
Completion Rate = # Completed with a referral divided by total referrals		36.4%
2 referrals obtained from December 2010 by review of TOMIS data		
12 offenders on the referral list completed Victim Impact between January and May 2012		

<b>Courage to Change</b>		
	<b>Referral List</b>	<b>Completion List</b>
# of items on list reviewed for calendar year 2011	224	87
# of individuals on list reviewed for calendar year 2011	191	87
<u># of Individuals</u>	<b>Referred</b>	<b>Completed</b>
Referral Code in TOMIS, No Completion Code	132	
Referral Codes and Completion Code in TOMIS	53	53
Completion Code in TOMIS, No Referral Code		63
Referred and completed but no completion code in TOMIS	8	
<b>Total</b>	193	116
Completion Rate = # Completed with a referral divided by total referrals		31.6%
2 Referrals obtained from December 2010 by review of TOMIS data		
29 offenders on the referral list completed Courage to Change between January and May 2012		

The lack of an edit check in TOMIS that would require a person to be referred to a program before attending or completing the program provides multiple opportunities for problems with the reliability of the data in TOMIS' and with statistics the board provides to the citizens of Tennessee resulting in erroneous conclusions.

## Interactive Offender Tracking

We found a similar issue regarding TOMIS' lack of edit checks during our review of 40 offender files. According to the Interactive Offender Tracking (IOT) manual, PPOs are to record in TOMIS when an individual is referred to and approved for IOT monitoring. We found six instances where an offender was not referred to IOT but was accepted into the IOT program. We also found six instances where an offender was not accepted into the IOT program but did have a referral code in TOMIS.

The lack of appropriate edit checks to keep offenders from being accepted into a program before they are referred to it can cause problems with the analysis of successful completion rates for the IOT program, resulting in erroneous conclusions.

### **Recommendation**

The Board of Probation and Parole and the Department of Correction should work together to ensure that appropriate edit checks and data validation tools are developed and implemented for TOMIS.

### **Management's Comment**

#### Department of Correction Comment

We concur. The Department will work to see that the proper edit checks and data validation tools are developed and implemented for TOMIS.

### **Victim Impact and Courage to Change**

We will increase checks and balances in the TOMIS entry system through additional training of officers and facilitators relative to all appropriate TOMIS codes. In addition, we will add checking TOMIS for a referral code for all participants in a program prior to entry of attendance or other program TOMIS codes by December 31, 2012.

It is possible an offender might be on a referral list more than once if the offender dropped the class or was terminated from the class at one point, but was again referred to the class at a later time. Additionally, the additional training previously mentioned will address the need to ensure there is no duplication of referral code entry for a single referral.

### **Interactive Offender Tracking**

Additional training will be added for managers and officers. A system will be put in place for managers to review the TOMIS entries when an offender is referred to IOT. We will be

using the BI01MJQ report for checks and balances when reviewing files. This will be in place by June 30, 2013.

We are currently in the process of working with Fieldware to develop a report that will edit entries to prevent offenders from being accepted into a program before they are referred. Completion date is not known at this time as it may require contract modification or added funding.

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**7. Approximately half of the cases in our sample were not reviewed by probation and parole officer supervisors during calendar year 2011**

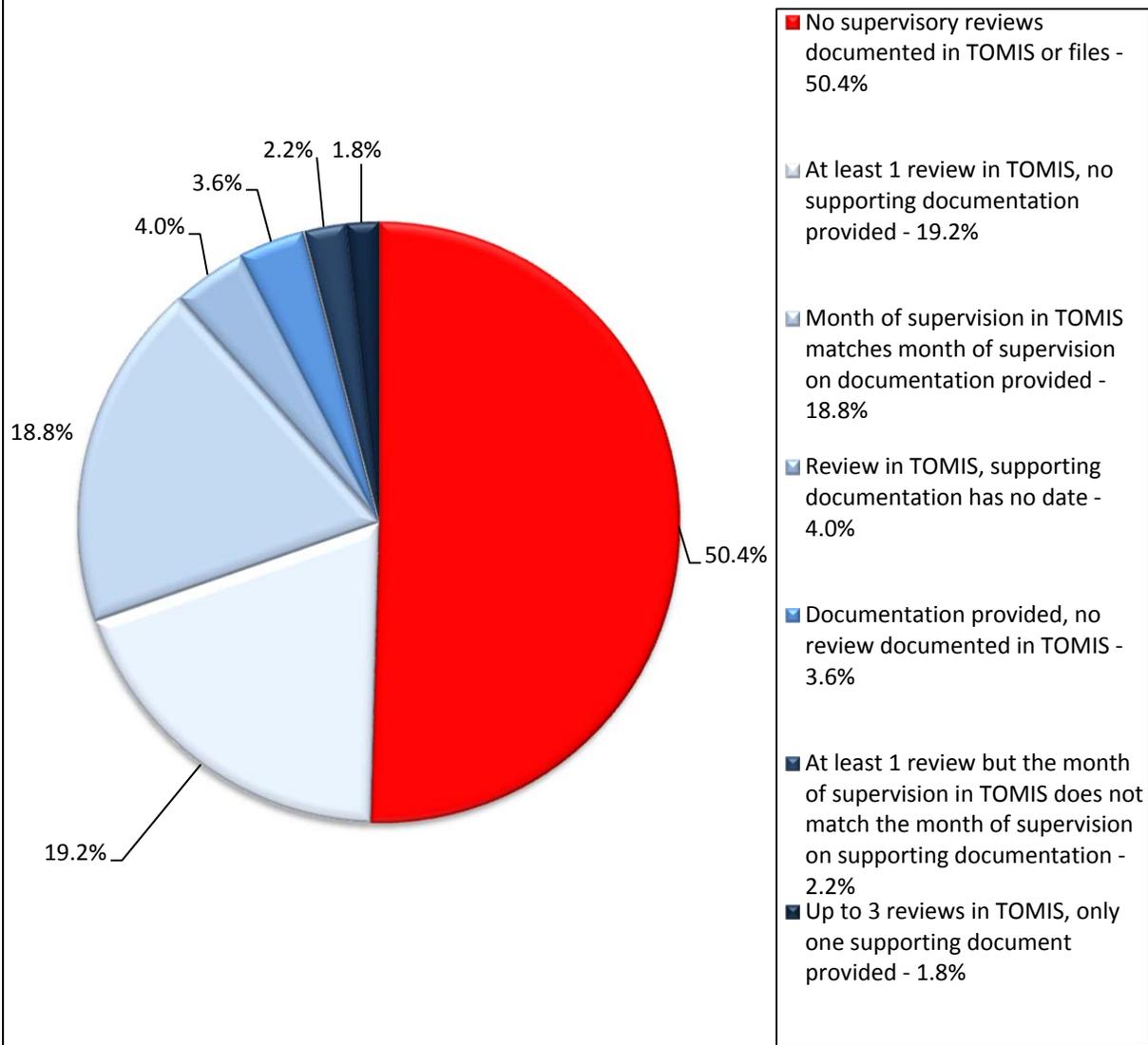
**Finding**

The May 2006 performance audit of the Board of Probation and Parole reported problems with contradictory policies for supervisory reviews, making it difficult for the board (and auditors or others reviewing case files) to determine with any accuracy the extent to which supervisors reviewed case files as required. We recommended board management review and revise the policies as needed to ensure clarity and consistency in how supervisors' reviews are to be documented. The current audit found that policies have been clarified in an effort to ensure all files receive at least one supervisory review per year; however, only about 50% of the cases we reviewed had documentation of any type of supervisory review during calendar year 2011.

We reviewed 230 offender files for documentation of supervisory review, and requested documentation of reviews from supervisors during field visits. We found instances where

- no supervisory review codes were in the Tennessee Offender Management Information System (TOMIS) and no documentation of a review was provided;
- supervisory review codes were present in TOMIS but no documentation of a review was provided;
- documentation of a review was provided but there were no supervisory review codes in TOMIS;
- multiple supervisory review codes were present in TOMIS but only one supervisory review document was provided;
- supervisory review codes were present in TOMIS and documentation of a review was provided, but the review was not dated; and
- supervisory review codes were present in TOMIS and documentation was provided, but the reviews were dated in different months.

## Supervisory Reviews Calendar Year 2011



A March 2010 Directive classified supervisory reviews into 3 types: initial, annual, and closing. For each type of review, the directive defines what is to be reviewed. Initial and closing reviews have timelines for when the review should be conducted. By providing guidelines for each review type and establishing timeliness standards for initial and closing reviews, the board intended to ensure that 100% of cases were reviewed each year. Additionally, the directive states that managers are to maintain spreadsheets of the reviews and refer to them during

performance evaluations and other personnel actions. An August 2011 Directive clarified the differences in supervisory reviews in TOMIS by changing the contact codes entered for each review type but leaving all other requirements the same. Pursuant to a December 2011 Directive, the board developed a monitoring process using TOMIS information to determine if supervisors complete their reviews.

Each type of review includes a list of items or activities that require the supervisor to review from multiple sources including TOMIS, the case file, the offender's Transitional Assessment Plan-Behavioral Intervention Goals, and others to get a complete picture of the PPO's supervision of the offender. As with the PPO's list of over 50 items to complete for each offender, the supervisor is then required to review these items to ensure the PPOs are completing their requirements. With multiple items to look for and multiple places to look for information, this becomes cumbersome and time-consuming in an environment that also requires the supervisor to be reactive to issuing violations and warrants for rearrests, and responding to court summons, etc.

Even though these reviews may be cumbersome, a lack of supervisory reviews can lead to lack of appropriate monitoring by PPOs, which can then lead to offenders not being rearrested for violations of probation and parole. This in turn interferes with the board's goals regarding public safety.

### **Recommendation**

The Board of Probation and Parole and Department of Correction should use all available tools for monitoring to determine if supervisory reviews are being completed. The board and Department of Correction should also ensure that the supervisory reviews are discussed with PPOs as required by board directive.

### **Management's Comment**

#### Department of Correction Comment

We concur. The Department will use all tools available for monitoring to determine if supervisory reviews are completed and discussed with PPOs as required by directive.

This issue became apparent in early 2011 and we began a process of improvement that included adding new contact codes that identified each type of supervisory review followed by a report called the ZZZ report that tracks when supervisors are doing the reviews. This has greatly expanded our ability to track who has had the review and who has not, however, the old computers that many of our managers have cannot use the best and most productive version of this report so another version has been devised but is not nearly as useful. Currently we are reviewing as part of our Top-to-Bottom Review whether 100% case file reviews is reasonable or if it can be managed better with technology. We are reviewing whether an old report under case management assistance can be expanded to do some of the most detailed work for us and reduce

the amount of time each review takes. Results of the case file reviews will be part of the Job Performance Planning process and will be monitored by Director level staff. This should be completed by June 30, 2013.

**8. The board’s Field Services Division does not adequately document and monitor Administrative Case Review Committee actions for offenders who commit technical violations and, in some instances, fails to administer proper sanctions**

**Finding**

Section 41-1-413, *Tennessee Code Annotated*, grants the Board of Probation and Parole the authority to use intermediate administrative sanctions when appropriate to manage offenders. Board policy establishes the Administrative Case Review Committee (ACRC) as a means of dealing with “technical violations,” failures to comply with supervision conditions which do not amount to criminal offenses. The board’s ACRC manual provides guidance to the probation and parole officers (PPOs) and Field Services Division management who serve on ACRC panels. The manual sets forth a system of progressive intervention whereby violations are labeled as low, moderate, and high severity (i.e., Level 1, 2, and 3). The manual also lists the sanctions that would be appropriate at each level (e.g., one failed drug test would be a Level 1 violation and might result in another drug or alcohol test being conducted). See the following table for a list of the sanctions for each level of violation.

**ACRC Sanctions by Violation Level**

<b>Level 1 - Low Severity</b>	<b>Level 2 - Moderate Severity</b>	<b>Level 3 - High Severity</b>
<b>Sanctions</b>		
Deliver oral reprimand	Review condition/reinstruct	Mandatory transitional housing
Deliver written reprimand	Staffing with supervisor	Electronic monitoring or GPS
Set limits	Letter of warning, written reprimand	Request parole or probation violation warrant except where special circumstances warrant a less serious response
Establish deadlines	Increase drug testing	Arrest with revocation
Assign minor restrictions	Curfew (with or without electronic monitoring)	Recommend for Technical Violation Program
Establish behavior expectations	Home detention	Inpatient treatment
Increase reporting	Placement in halfway house for monitoring	Recommend special treatment program while incarcerated, followed by supervised release as approved by the supervisor

Level 1 - Low Severity	Level 2 - Moderate Severity	Level 3 - High Severity
<b>Sanctions</b>		
Increase supervision level	Community service hours	
Conduct drug/alcohol test	Request revocation optional	
Review conditions	Counsel	
Counsel	Refer for counseling services	
Provide job assistance	Refer for psychiatric evaluation	
Refer for services	Refer for budget/financial services	
Refer to self-help group	Refer to self-help group	
Provide budget/financial help	Refer to job/training placement	
Enlist collateral support	Refer to anger management group	
Refer to marriage counseling		
Refer to a parenting shelter		

The board's *Contact Notes Manual* states that ACRC hearings should be documented in the Tennessee Offender Management Information System (TOMIS) using a contact note with the OPHC contact note type and with comments that list the violation and the "decision of the ACRC determining what sanctions shall be used/given to [the] offender." Board policy states that "statistics will be kept, by the ACRC Chairperson on all ACRC meetings held and on the offender's level of compliance for one year." Based on discussion with a Probation/Parole Program Specialist in the board's Research, Policy, and Planning Division, the ACRC chairpersons in each district office are required to submit reports each month listing the offenders who have had some type of ACRC activity in their cases. These monthly summary reports, along with the TOMIS case notes, are the only two methods that board management has of monitoring ACRC activity.

As a part of our audit, we reviewed the ACRC activity from January 2009 to December 2011 for the offenders in our regular, Global Positioning System (GPS), and Interactive Offender Tracking (IOT) testwork samples discussed in Finding 2 on page 11. As noted in Finding 2, the results of this review are not projected to the entire offender population.

#### Regular Supervision Sample

For the offenders in our regular testwork sample, 13 had ACRC action. For 2 of these 13 offenders (15%), we found that TOMIS notes and the case files did not document that appropriate sanctions had been imposed for drug violations. One of these two offenders (a parolee) had failed a drug screen and, as a result, was scheduled for an ACRC intervention. Later TOMIS case notes state that the offender received a substance abuse screening and a referral for clinical services; however, there was nothing entered under an OPHC case note or in the case file to indicate whether this was done as a result of the ACRC hearing. The other

offender where we noted a problem with sanctions was a probationer who, at the time of his hearing, had three positive drug screens within the preceding three months. At the time of the September 22, 2009, drug screen that prompted the ACRC referral, the PPO noted that the offender would be retested in 30 days. However, according to the board's ACRC manual, increased drug testing is only identified as an appropriate sanction for one or two positive drug screens, which are Level 1 and 2 violations. Three positive drug tests should have been considered a Level 3 violation, which requires court intervention or mandatory inpatient treatment. Moreover, neither the OPHC case note in TOMIS nor the case file documented that the ACRC addressed the failed drug tests. (The only sanctions listed as having been imposed were for the failure to pay fees and complete community service work.) The retest, which should have been administered within 30 days of the September 22, 2009, drug screen, was not administered until November 18, 2009, almost a month late.

### GPS Supervision Sample

Our testwork on offenders who were subject to GPS monitoring included one parolee and two probationers with ACRC activity. Out of these three cases, we found that adequate sanctions were not noted as having been imposed for the parolee (33%). The parolee was referred to the ACRC for the following Level 1 violations: travel out of county without permission, failure to seek employment, and failure to pay fees/financial obligations. Based on our review of TOMIS and the case file, the field supervisor who conducted the Level 1 ACRC hearing restricted the offender's travel privileges but did not impose any sanctions addressing the offender's failure to pay fees or seek employment. Based on the available information, we could not find any indication that the travel restrictions were also intended as a penalty for the other two violations. No issues were noted regarding the two probationers with ACRC activity.

### IOT Supervision Sample

For one of the four offenders with ACRC action in our IOT sample, we found that sanctions were not noted as having been imposed for all of the offender's violations. This offender, a probationer, was referred to the ACRC for failure to provide proof of employment, failure to meet financial obligations, and a positive drug screen. The ACRC issued the offender a written reprimand to provide proof of employment monthly and make regular restitution payments, but did not address the failed drug test. According to the board's ACRC manual, the field staff should have issued a verbal or written reprimand, conducted an additional drug/alcohol test, or referred the offender for some type of services as a result of a positive drug screen.

### TOMIS Codes

For the offenders in our testwork, we examined whether Field Services personnel entered OPHC case notes in TOMIS and found that these notes were missing for 7 of 13 offenders (53.8%) in our regular supervision sample. The committee members did enter case notes for all of the GPS and IOT offenders in our testwork. (As noted above, however, we could not determine whether all of the necessary content was included in these case notes.)

## Monthly Summary Reports

During our audit, we also reviewed the monthly summary reports for calendar year 2011 and found that they also lacked complete information on ACRC hearings. The template for the district's monthly reports follows the system of dividing violations and sanctions into three different levels and, in a final set of columns, reports successful/unsuccessful completions of ACRC-imposed sanctions, continuances, revocations, and hearing non-appearances. Although the ACRC reports should include data for more offenders than just the ones who had hearings, the ACRC chairpersons in the districts and the program specialist in the Research, Policy, and Planning Division did not begin using a reporting template that included all three ACRC levels until mid-year. (Level 1 violations are not required to be formally heard by an Administrative Case Review Committee made up of three PPOs; they can be handled by the offender's "PPO/Supervisor and do not require ACRC.") As a result, not all ACRC hearings would have been reported at the start of 2011. For this reason and because of the inconsistent use of OPHC case notes, we were unable to fully reconcile the reports and TOMIS. In spite of this limitation, we checked months where no ACRC activity was reported against a report of all OPHC case notes for 2011. Based on our comparison, we found that ACRC chairpersons in several districts did not submit any ACRC reports for the following months, despite the fact that OPHC case notes in TOMIS documented that there were hearings.

**Missing ACRC Summary Reports for Districts and Months With OPHC Case Notes**

District	Month	Number of Hearings Per OPHC Case Notes No Reported ACRC Activity Per Monthly Report
1	October 2011	2 hearings
3	January 2011	4 hearings*
3	June 2011	5 hearings*
3	August 2011	25 hearings
3	September 2011	8 hearings
3	October 2011	7 hearings
3	November 2011	4 hearings
3	December 2011	9 hearings
5	June 2011	85 hearings
5	September 2011	2 hearings
5	October 2011	9 hearings
5	December 2011	4 hearings
6	March 2011	8 hearings*
6	September 2011	7 hearings
7	March 2011	64 hearings*
7	April 2011	63 hearings*
7	May 2011	48 hearings*
7	June 2011	75 hearings*
7	July 2011	50 hearings*
7	August 2011	60 hearings*
7	September 2011	53 hearings*
7	October 2011	13 hearings*
7	November 2011	21 hearings*

\*The number of hearings reported here is based on OPHC case notes in TOMIS, some or all of which may have been Level 1 hearings. Based on our review of other ACRC Summary Reports, the ACRC chairperson for this district may not have been reporting Level 1 hearings on the monthly reports at this time since, as noted in the discussion above, these cases were not heard by a formal committee.

PPOs may be unable to adequately review ACRC cases, document the sanctions imposed during hearings, or perform the necessary follow-up on these sanctions because of their large caseloads. PPOs might also be assisted in following up on ACRC recommendations for offenders if they could rely on accurate records from their districts' ACRC chairpersons. However, neither the board's ACRC manual nor its policy include any formal, documented instructions regarding the monthly summary reports or the other summary information that should be maintained. Without imposing sanctions for all violations and documenting these sanctions properly in TOMIS, PPOs may not be able to ensure that offenders receive the intervention necessary to address their failures to comply with supervision provisions. At an organizational level, the board cannot effectively manage the ACRC program if adequate records are not being maintained in TOMIS and if the monthly summary reports provided by the districts

are inaccurate or incomplete. Further, without adequate, accurate, and complete records, the success or failure of the program cannot be determined.

### **Recommendation**

The Board of Probation and Parole's (now the Department of Correction's) Field Services Division management should ensure that PPOs and supervisors who are reviewing ACRC cases impose sanctions for all violations. The Field Services Division should also ensure that PPOs and supervisors enter OPHC case notes and thoroughly document the sanctions that have been imposed. The Field Services Division should consider incorporating a review of OPHC case notes and the sanctions imposed into the supervisory reviews of case files. The Field Services Division should also take the necessary steps to ensure that the ACRC chairpersons in each district are maintaining adequate records of ACRC activities. The management of the Field Services and the Research, Policy, and Planning Divisions should document the requirements for the monthly ACRC reports and take whatever other steps are necessary to ensure that these reports are properly submitted.

### **Management's Comment**

#### Department of Correction Comment

We concur. The Department will ensure that PPOs and supervisors who are reviewing ACRC cases impose sanctions for all violations as per policy and directive. The correct contact codes will be entered and sanctions will be documented upon imposition. A review of the OPHC case notes and sanctions will become part of the case file review. We will ensure accurate and up to date records on all ACRCs are kept. The agency will develop the standards for documentation and ensure these reports are properly submitted.

We are currently in the process of developing an automated system for referrals to ACRC to reflect violations with appropriate sanction options, review and completion information, as well as an offender's ACRC history. The automated system envisions a direct referral from the PPO to the ACRC chairperson to be used throughout the ACRC process through offender completion/termination/warrant request. The review and development of this process encompasses revision of the ACRC manual and policy, as well as development of the technological process. Training on the updated system will be provided to PPOs, managers, deputy district directors, and district directors. Scheduling this process will be driven by the workload of the research division and will be completed no later than December 31, 2013.

In the interim, as part of the policy review related to the transfer of Field Services to the Department of Correction, all Field Services policies are currently under review for revision. Pending completion of the automated process, the current ACRC policy revision will incorporate instructions regarding submission of monthly summary reports. As noted in this Finding, Level 1 violations are not required to be formally heard through ACRC. This will continue to be true under the revised policy so monthly reports will continue to reflect only Level 2 or 3 violation activity. Distribution of the revised policies will include direction regarding appropriate OPHC

contact notes. In addition, ACRC training will be developed and provided to field staff, focusing on the responsibilities of the PPO, the ACRC chairperson and the other members of the committee to ensure each participant fully understands the responsibilities of each role in the ACRC process.

#### **GPS Supervision Sample**

Due to the seriousness of the offender type, there is more of a “Zero Tolerance” approach to their violations and very few are referred for ACRC.

#### **IOT- Supervision Sample**

IOT cases are transferred from the IOT officer back to the original officer when a violation occurs. However, in light of the fact all technical violations are to be addressed during an ACRC referral, reinforcement of this policy will take place for all staff by October 31, 2013.

#### **TOMIS Codes**

Missing Contact Codes can occur from time to time in PPO efforts to meet the number of tasks on one case with a focus on speed and accuracy. We will continue to train, reinforce, and check for accuracy.

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## **OBSERVATIONS AND COMMENTS**

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The topics discussed below did not warrant a finding but are included in this report because of their effect on the operations of the Board of Probation and Parole and on the citizens of Tennessee.

### **The Board’s Information Systems Division Does Not Maintain an Adequate Record of Source Code Changes, Increasing the Risk of Unauthorized Changes and Interruptions of Service**

Best practices dictate that agencies should keep a record of changes to source code (a text listing of commands to be compiled into an executable computer program) with source control software and that there should be documented approval of all program changes. Regarding control over program changes, the U.S. Government Accountability Office’s *Federal Information System Controls Audit Manual* (FISCAM) states the following:

Library management software provides an automated means of inventorying software (ensuring that differing versions are not accidentally misidentified) and maintaining a record of software changes. Specifically, such software can be used to

- produce audit trails of program changes and maintain version number control,

- record and report program changes made,
- automatically number program versions,
- identify creation date information,
- maintain copies of previous versions, and
- control concurrent updates so that multiple programmers are prevented from making changes to the same program in an uncontrolled manner.

The Board of Probation and Parole's Information Systems (IS) Division does not use a library system to keep a record of changes to source code and does not maintain documented approval of program changes. The IS director stated that there are relatively few applications that are developed and maintained in-house by the board. For example, the Tennessee Offender Management Information System (TOMIS) is administered by the Department of Correction, and the call-in Interactive Offender Tracking (IOT) system and the VeriTracks system for monitoring offenders with global positioning system (GPS) devices are maintained by vendors. However, portions of the Offender Fee System and the Board Operations Application Suite rely on code that is updated by the board's IS staff. According to the IS Director, instead of using source control software, a record of old code is kept in the current code. The old code is "commented out" by adding syntax around it that makes it a comment that will not be executed when running the program. The IS Director stated that, while changed programs are reviewed by IS management, this review is not documented.

According to the IS Director, the Offender Fee System and the Board Operations Application Suite primarily display information from TOMIS and, in the case of the fee system, from INovah, the State of Tennessee's cashiering system. The risk of any unauthorized changes being made to these read-only systems is, therefore, reduced.

While the risk of source code changes being made for fraudulent purposes may be mitigated due to the nature of these systems, the risk of unauthorized changes for malicious purposes still exists. In addition, storing old source code within current code could make it difficult to rely on previous versions if needed, resulting in interruptions of service and monetary losses.

The board's IS Division should begin using source control software to keep a record of changes to the source code for the Offender Fee System, the Board Operations Application Suite, and any other in-house applications that it currently maintains. IS management should use source control software to ensure that source code is labeled, dated, inventoried, and organized in a way that diminishes the risk that programs will be misidentified or lost. IS management should also maintain documented approval of all program changes.

## **Conflict of Interest Disclosures Do Not Adequately Document Compliance with Policy**

Board of Probation and Parole policy requires board members and staff to annually sign a form acknowledging receipt of the Conflict of Interest Policy; however, this form does not document an individual's compliance with the policy or provide space for disclosures of potential conflicts.

Section 12-4-101, *Tennessee Code Annotated*, prohibits officers and board members from any involvement in the letting or administration of any contract in which they have a direct interest. Governor Haslam issued Executive Order 1 concerning Ethics Policy and Disclosures by the Executive Branch; however, this order did not supersede Executive Order 3 concerning Ethics and Conflicts of Interest issued by former Governor Bredesen.

Additionally, Board of Probation and Parole Administrative Policy 202.01 prohibits employees from engaging in any activity that directly or indirectly constitutes a conflict of interest.

We determined that the board's mechanism for compliance with the Conflict of Interest Policy is documented by having the employee sign a form to acknowledge receipt of the policy. Conflict of Interest acknowledgement forms are maintained in the personnel files of the Human Resources Division. The forms do not include space for disclosure of potential conflicts. As a result, the board is only allowing board members and employees to acknowledge receipt of the policy, not actual compliance with it.

In reviewing personnel files for this audit, we discovered that annual declarations were not always on file for members of the board and staff. We reviewed all seven board members and a sample of 50 staff composed of new and existing employees for the period 2009, 2010, and 2011 to determine whether policies were being followed and statements were updated regularly.<sup>2</sup>

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<sup>2</sup> Since we reviewed the entire population of the board members' annual declarations, no projection is required. The sample size of 50 employees reviewed reflects a nonstatistical sample and results are not projected to the entire population of 1,104 board employees at the time of the sample.

Based on our review, we determined the following:

<b>Area Reviewed</b>	<b>File Review Results</b>	<b>Problem</b>	<b>Range</b>
New Hires 2011	3 of 25 files 12% tested	No form on file for retirees on 120 day contracts.	
New Hires 2011	16 of 25 files 64% tested	Acknowledgement form was not signed on or before the date of hire or rehire.	1-129 days after the date of hire or rehire.
Board Members 2011	3 of 7 members 43% tested	No acknowledgement form on file.	
Board Members 2010	1 of 7 members 15% tested	No acknowledgement form on file.	
Board Members 2009	3 of 7 members 43% tested	No acknowledgement form on file.	
Existing Employees 2011	12 of 25 files 48% tested	No acknowledgement form on file.	
Existing Employees 2010	2 of 25 files 8% tested	No acknowledgement form on file.	
Existing Employees 2009	6 of 25 files 24% tested	No acknowledgement form on file.	

Although no issues with the appearance of a conflict of interest were identified from a review of the actual employee disclosure forms on file, the risk for potential conflicts to go unidentified is high because the current mechanism used by the board does not allow for adequate disclosure.

We also determined that the Employee Handbook does not state that annual declarations for conflict of interest are required and there is no link to the disclosure form on the board's intranet. Additionally, we observed that the acknowledgement form is not available on the Authorized Forms page of the board's intranet, but a link to the ethics policy is there.

The Board of Probation and Parole should create a new form that includes an acknowledgement that board members and staff have received and understand the Conflict of Interest Policy, as well as space for board members and staff to disclose any potential conflicts of interest. The form should be completed and signed by all board members and employees on a regular basis and in a timely manner to readily identify and address potential problems or issues of appearance. The form and policy should require the individual to promptly update the form anytime a conflict arises. Disclosure forms should also be accessible to all employees to ensure that changes are swiftly reported to the board.

We also recommend that the board update the Employee Handbook to include information on the annual disclosure for conflicts of interest.

## **While Board Policy Regarding Pre-service Orientation Is Not Consistent With Practice, Most Employees Received Training Required by Board Practice; However, There Is Room for Improvement in the Training Offered to New and Rehired Employees**

We reviewed a random sample of 49 Board of Probation and Parole employees who were newly hired or rehired in calendar year 2011 to determine if these probation and parole officers, graduate associates, and other employees received the training required by the board and to determine whether any time management or case management training was provided.<sup>3</sup> We found 84% of new/rehired employees received the 83.5 pre-service orientation training hours required by board practice. Of the 49 employee training histories we reviewed, only 2 (4%) had received time management or case management training and these were rehires who had received the training during their previous employment with the board.

Board Administrative Policy 210.05 requires full-time employees and specialized staff to participate in 40 hours of pre-service orientation training; however, board practice requires 83.5 hours. When new probation and parole officers (PPOs) are hired, they are scheduled to attend pre-service training at the Tennessee Correction Academy in Tullahoma as soon as possible. This training takes two full weeks and two days. One week is devoted to the LS/CMI (Level of Service/Case Management Inventory) risk assessment tool used to evaluate new parolees/probationers. Two days are scheduled for motivational interaction training. The other week is spent on various other topics including but not limited to computer systems, supervision standards, self-defense, and investigative report writing.

Since more than half of the board's employees and two-thirds of our sample are probation and parole officers, we focused our comments and conclusions below on training for the probation and parole officers.

In addition to pre-service training, each new officer must complete a New Employee Orientation Program within the first four to six weeks of orientation. This program has a mentoring component, where new hires "shadow" an established officer in the same district to learn various techniques and styles for handling cases and an overview of the day-to-day activities of the position. The new officers may also perform some of the job duties under the supervision of their mentors.

Often, when new officers complete their initial training, they have an established caseload waiting for them. This puts the new officers in the position of learning the process of managing a caseload and actually supervising those cases before they complete the New Employee Orientation Program.

A study by the American PPO Society shows that the issue of proper case management relates more to the number of services provided to the offender than the number of offenders

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<sup>3</sup> The sample size reflects a nonstatistical sample and results are not projected to the entire population of 97 new employees. All new employees are required to receive 83.5 pre-service orientation training hours. Graduate Associates were included in our sample because they are considered new employees of the board.

supervised. The Board of Probation and Parole provided documentation that for each case that an officer supervises, there are 22 mandated actions that must be completed daily.

In reviewing files for this audit, we found files of a few officers who had been terminated at the end of their probationary period. The terminations were a result of the officers being unable to properly manage all the requirements for case and client supervision. Without proper training in time management or caseload management, new probation and parole officers are left in a position of being given an active caseload that they are not prepared to manage. Further, without properly prepared and trained staff, the board is left in a precarious position where turnover rates for probation and parole officers can be high and public safety is put at risk because offenders may not be properly supervised.

The Board of Probation and Parole and the Department of Correction should implement policy that reflects current practices regarding training and should consider including time management and case management training as part of pre-service orientation for new employees. In addition, the board and department management should consider implementing a suggestion shared with the auditor by board training coordinators that new officers be able to observe established officers for at least a week or two before being assigned a caseload. The suggestion included having weekly panel meetings consisting of new hires, trainers, and managers in order to address any concerns/problems so a plan of action can be established before an officer becomes overwhelmed.

### **Over 80% of GPS-Monitored Offenders' Alarms Reviewed Appear Unmonitored**

Eighty-two percent of alarms we reviewed from the GPS monitoring system, VeriTracks, were not cleared or confirmed by probation and parole officers (PPOs). When GPS-monitored offenders enter a prohibited area, leave an area they are required to be in, remove their monitoring equipment, allow their battery charge to drop too low, or charge their battery, the computer system issues an alarm. From March to December 2011, 68 GPS-monitored offenders in our sample generated 38,476 alarms. The types of alarms and their definitions are shown in the table on page 55.

From March to August 2011, there was no clear protocol for how alarms in VeriTracks should be handled; however, there were protocols issued in May 2010 for the previous GPS system which was similar to VeriTracks. We compared the definitions of alarms and activities in the two protocol manuals and found several similarities. For instance, the August 2011 protocol for VeriTracks requires PPOs to confirm certain alarms while the previous system required PPOs to record actions in violation notes. Board personnel stated that confirming an event in VeriTracks would be the equivalent of recording actions in violation notes in the previous system. However, our review found the following alarms in both protocol manuals required the PPOs to either confirm an alarm or enter information into the computer system:

- 911 Exclusion Zone Alarm
- Exclusion Zone Alarm
- Global Exclusion Zone Alarm

- Inclusion Zone Alarm
- Master Tamper Alarm
- Message Gap Alarm

With this information, we refined our review to focus on these types of alarms and still found that over 80% of the alarms were not cleared or confirmed by a PPO. The table on page 56 shows the types of alarms and whether they were cleared or confirmed by a PPO.

<b>All VeriTracks Alarms</b>				
<b>March 2011 - December 2011</b>				
<b>Alarm Name</b>	<b>Alarm Definition</b>	<b>Received</b>	<b>Cleared</b>	<b>% Cleared</b>
911 Exclusion Zone Alarm	Offender entered a prohibited area, may be victim's residence	1	1	100.0%
Exclusion Alarm	Offender entered a prohibited area	221	14	6.3%
Global Exclusion Alarm	Offender entered a prohibited area preloaded in system: schools, parks, daycares, etc.	5,232	980	18.7%
Inclusion Alarm	Offender exited an area in which they are required to stay	830	135	16.3%
Low Battery Alarm	Battery needs recharging	886	128	14.4%
Master Tamper	Bracelet's strap may have been tampered with, except the tamper event does not close until the agent rectifies the strap connection issue and personally acknowledges the action in VeriTracks	31	26	83.9%
Message Gap	Unit failed to call in a specified time period	635	172	27.1%
Jamming Possible	Illegal equipment is being used to disrupt GPS signal	1	-	0.0%
No GPS	Unit has not called in its GPS location - usually caused by line-of-site issues such as tall buildings, being inside a building, etc.	1,879	693	36.9%
On Charger	Unit is plugged in to charge the battery	27,129	4,414	16.3%
Press Button	Enrollee presses button for unit to call- in data immediately instead of waiting for the 10-minute call in time	228	59	25.9%
Shielding Possible	Metallic substance is wrapped around the device and blocks history	318	1	0.3%
Zone Start Location Unknown	The offender does not have a GPS point at a specified scheduled time	1,085	350	32.3%
	<b>Total alerts</b>	<b>38,476</b>	<b>6,973</b>	<b>18.1%</b>

<b>VeriTracks Alarms</b>					
<b>March 2011 - December 2011</b>					
		%	Not	% Not	
	Cleared	Cleared	Cleared	Cleared	Total
911 Exclusion Alarm	1	100.0%	-	0.0%	1
Exclusion Alarm	14	6.3%	207	93.7%	221
Global Exclusion Alarm	980	18.7%	4,252	81.3%	5,232
Inclusion Alarm	135	16.3%	695	83.7%	830
Master Tamper	26	83.9%	5	16.1%	31
Message Gap	172	27.1%	463	72.9%	635
	1,328	19.1%	5,622	80.9%	6,950

Several of the May 2010 protocols allow at least 5 minutes for an alarm to self-clear before a PPO would be contacted. We reviewed the above data further to determine if maybe the PPOs were only confirming alarms if they were over 5 minutes. Our review found 78% of the alerts over 5 minutes were not cleared or confirmed either.

<b>VeriTracks Alarms Over 5 Minutes</b>					
<b>March 2011 - December 2011</b>					
		%	Not	% Not	
	Cleared	Cleared	Cleared	Cleared	Total
911 Exclusion Alarm	-		-		-
Exclusion Alarm	-	0.0%	85	100.0%	85
Global Exclusion Alarm	304	23.6%	982	76.4%	1,286
Inclusion Alarm	71	12.2%	511	87.8%	582
Master Tamper	24	92.3%	2	7.7%	26
Message Gap	171	27.0%	462	73.0%	633
<b>Total</b>	570	21.8%	2,042	78.2%	2,612

As of July 26, 2012, the August 2011 protocol manual has not been finalized with the board's or now the Department of Correction's Legal Division. Without official or finalized protocols, it is difficult to determine exactly what the board expects the PPOs to do with the data in VeriTracks.

Not all of the offenders in our sample were monitored using VeriTracks for the entire period we reviewed so the number of alarms has the potential to be even larger and the number of alarms that each PPO has the potential to receive in a given day adds up. When added to all of the PPOs' other tasks, it seems that including trying to work their way through multiple alarms in VeriTracks would be difficult and some important alarms could be overlooked.

Board staff stated that the PPOs requested a "Confirm All" button, but the board said no on the advice of the vendor. According to the board, a "Confirm All" button would invite PPOs

to quickly skim case alarms which would increase their chance of missing an important alarm. In addition to notification in VeriTracks, the PPOs receive e-mail reports for each alarm that required action by the Solution Center. This is a lot of information that could be narrowed down using data mining tools and summary reports. Specifically, the “On Charger” alarm generated 27,129 of the 38,476 alarms in our review and programming or summary reporting could allow the PPOs to only be notified if someone is not charging as required by board rules.

Requiring the PPOs to at least see all of the alarms increases the risk of missing important alarms; however, without requiring PPOs to confirm alarms in VeriTracks, the board has no way of knowing if the alarms are being reviewed by the PPOs. It seems the PPOs have too many items to review and the task of reviewing or confirming alarms in VeriTracks is not completed regularly. Not reviewing the alarms in VeriTracks could lead to some of the most violent offenders and sex offenders not being monitored properly, which increases the risks to public safety.

The Board of Probation and Parole and Department of Correction should finalize protocols for offenders monitored using GPS that allow PPOs to focus on alarms that pose the greatest risk to communities. Also, the board and the Department of Correction should work with the Field Services Division and the vendor to determine how the information gathered by the system can be more efficiently used by the PPOs. They may want to consider reporting functions for offenders who do not meet charging requirements, summary reports of alarms that clear themselves within 5 minutes, etc. They may also want to consider programming the system to allow the PPOs to confirm alarms that meet charging requirements at one time and to confirm alarms that clear themselves within a certain time frame.

### **The Division of Internal Audit and the Division of Research, Policy, and Planning Duplicate Efforts in Completing Reviews of All Board Activity**

The Division of Internal Audit and the Division of Research, Policy, and Planning in the Board of Probation and Parole conduct compliance reviews and audits of board activity. A review of the divisions’ methodologies and reports issued revealed some duplication of effort and similarities in purpose and function.

During a review of a sample of reports from the Division of Internal Audit and the Division of Research, Policy, and Planning, we found that some audit periods overlapped and similar procedures were often performed in the areas of training and field services. We also identified similarities in scope and overall purpose of the reviews and audits, which was to determine compliance with applicable state laws and rules, regulations, and policies of the board. We did note that the annual reviews were typically not as detailed as the internal audit reports.

Board policy requires the Division of Research, Policy, and Planning to perform annual compliance reviews of all central office divisions or units and all field services, districts, and areas or programs during each fiscal year. These reviews focus on compliance with current office procedures and administrative policies of the board. State law authorizes the board to

formulate, develop, and implement policies and procedures; however, we determined the board has not developed any policies for the Division of Internal Audit.

Based on interviews with management, an underlying cause for the duplication of efforts among the divisions could be the absence of board policy for the Internal Audit function and a lack of communication between the two divisions. The overlapping reviews by two different divisions could result in inefficient use of state resources.

Our review occurred prior to the move of Field Services to the Department of Correction. This transition may eliminate some instances of duplication of efforts; however, moving forward, the board should determine the most efficient use of resources regarding internal reviews and develop policies regarding the Division of Internal Audit.

At a minimum, the Board of Probation and Parole should consider posting internal audits and compliance reviews on its intranet site so the results are readily accessible for board staff. The board may also want to consider posting internal audits and compliance reviews on its website.

We also noted that none of the fieldwork performed for the internal audits we reviewed related to follow-up on prior audit findings from external audits. Per the narrative in the Audit Schedules, the internal audit function is often used to correct issues as they occur and ensure that issues are resolved prior to external audits to potentially avoid external findings. We recommend that the internal audit function implement procedures to focus on activities in the area of monitoring and correcting/resolving findings from external audits to prevent repeat findings.

The Research, Policy, and Planning audits cite board policy in their annual reviews, but the internal audits do not cite statute or a governing board policy. We recommend that applicable statute or board-approved policy be cited as the authority for all internal audits.

### **The Board's Office of Victim Liaison Services Does Not Have an Effective System for Evaluating or Even Measuring Completion or Success Rates for the Offenders Referred to the Victim Impact and Courage to Change Classes**

In addition to its primary role of working with victims, the Board of Probation and Parole's Office of Victim Liaison Services also administers the Victim Impact and Courage to Change courses for offenders. Victim Impact is a 12-week evidence-based program that teaches offenders about the human consequences of crime. The intent of this class is to discourage offenders from committing new crimes by demonstrating how these actions affect them, their families and friends, and their communities. Courage to Change is a 24-week batterers' intervention program that is aimed at exploring and ending male violence against women. These classes are administered by trained facilitators in the board's district offices across the state.

As a best practice, the Office of Victim Liaison Services should measure the completion rates for these programs and whether the classes are successful in deterring offenders from committing new crimes.

According to the Director for the Office of Victim Liaison Services, the board does not monitor the completion or success rates for program participants. Offenders in the Victim Impact classes are required to complete surveys before and after attending the program. These surveys can be scored to measure the changes in offenders' understanding and attitudes toward crime. However, based on discussion with the director, the Office of Victim Liaison Services receives copies of these tests but does not perform any review of the results for the offenders in the Victim Impact classes. For the Courage to Change program, the director stated that the office only receives from the district offices rosters of offenders who have completed the program.

Based on case notes entered in the Tennessee Offender Management Information System (TOMIS), we performed limited testwork on the offenders referred to these programs during calendar year 2011 and the offenders who completed the program during calendar year 2011, as summarized in the tables below. For those referred during calendar year 2011, we reviewed TOMIS to determine if they had completed the program by May 31, 2012.

**Program Referrals During Calendar Year 2011, Completed by May 31, 2012**

<b>Program</b>	<b>Completed</b>	<b>Total Referrals During Calendar Year 2011 (Less Offenders Still Enrolled on May 31, 2012)</b>	<b>Percent Completed</b>
Victim Impact	83	223	37%
Courage to Change	59	179	33%

Of the 223 offenders who were referred to the Victim Impact program during 2011 (and who were not still enrolled), 83 (37%) had TOMIS case notes that they had completed the program as of May 31, 2012. For the Courage to Change program, 59 of 179 offenders (33%) referred to the program in 2011 had TOMIS case notes showing they had completed the class by May 31, 2012. However, in our review of separate listings of offenders noted as having completed these programs during 2011, we found that, based on a review of TOMIS, many of them lacked a program referral date. As noted in the table below, 102 of the 161 offenders (63%) who completed Victim Impact and 63 of the 87 offenders (72%) who completed Courage to Change did not have case notes that they had been referred to the programs. We discussed this discrepancy with the Victim Liaison Services Director, who confirmed that all program participants should have a referral date. (See additional information in Finding 6.)

### Program Completions During Calendar Year 2011

Program	Total Completed	Number with No Program Referral Date	Percentage with No Program Referral Date	Number Arrested Since Completing Program (as of 5/31/12)	Percentage Arrested Since Completing Program (as of 5/31/12)
Victim Impact	161	102	63%	40	25%
Courage to Change	87	63	72%	29	33%

In our review of TOMIS case notes for the offenders who completed the classes in 2011, we found that 40 of the 161 who completed Victim Impact (25%) and that 29 of the 87 who completed Courage to Change (33%) were, as of May 31, 2012, known to have been rearrested after finishing the programs. While these statistics indicate that the programs have some potential to reduce crime, we did not conduct a more detailed review of the offenders' arrests (e.g., verifying which arrests were for violence against women or other criminal violations) since the board lacks any statistics that could be used for direct comparison.

The Office of Victim Liaison Services has not yet been able to measure the overall success of the Victim Impact and Courage to Change programs (how much less likely those who have completed the programs are to commit crimes) because of the problems with the TOMIS data. Given the number of offenders who were labeled as having completed the program but who did not have a program referral date, it appears that either facilitators are not entering all of the required case notes in TOMIS or offenders are getting into the programs without first being referred. Without accurate and complete data in TOMIS, the Office of Victim Liaison Services cannot compile accurate statistics on the Victim Impact and Courage to Change programs. It should also be noted that the Courage to Change classes began in January 2011. The recidivism rate, which is considered to be the benchmark measurement of success in rehabilitating offenders, is calculated as the percentage of offenders who are reincarcerated within three years of having been released. While offenders are not necessarily referred to these programs immediately upon their release, the board does not yet have a three-year time period to determine if offenders have been rehabilitated since they have only recently completed the classes.

Without complete and accurate information in TOMIS, the Board of Probation and Parole cannot effectively monitor individual offenders or large-scale programs such as Victim Impact and Courage to Change. Unless the Office of Victim Liaison Services performs some type of monitoring for the programs, it cannot determine the extent to which these programs are successful in reducing crime and/or the changes that could be made to improve the efficacy and the completion rates for these programs.

As a part of offering the Victim Impact and Courage to Change classes to offenders, the Office of Victim Liaison Services should consider reviewing data including, but not limited to, the following:

- the number of offenders attending and completing these programs out of the total number referred;
- the reason that offenders who were referred to the programs were unable to attend or complete them;
- any available pre-/post-class surveys completed by the offenders; and
- the post-class arrest histories for the offenders who have been referred to and who have completed either of these classes.

Additionally, the facilitators in the board's field offices should ensure that all of the required case note entries are made in TOMIS regarding offenders' referral, attendance, and completion of these programs. If necessary, the board should work with the Department of Correction, which maintains TOMIS, to ensure that edit checks and data validation tools are developed for the system and that all of the logical, required case note entries are made.

### **Weaknesses in the Fee Collection Process Previously Noted in the June 2001 and May 2006 Performance Audits and the 2007 Financial and Compliance Audit Still Need to Be Rectified**

The June 2001 and May 2006 performance audits and the June 2007 financial and compliance audit found problems with the Board of Probation and Parole's fee collection process. The board concurred with our findings and responded with plans to correct weaknesses in the process. In calendar year 2010, four internal audits of board districts found problems with fee collections. There were also two internal audits of board districts in 2009 that found problems with fee collections. These reports cover six of the eight board districts, suggesting a continuing systemic problem.

When fieldwork on this audit began, the Director of Field Services stated that the fee collection process had not changed since the May 2006 audit and the board was in process of issuing a request for proposal (RFP) for a collection agency to take care of offender fee collections. In 2012, legislation passed transferring offender supervision responsibilities to the Department of Correction (TDOC). According to the Director of Field Services (previously at the board, now at TDOC), the RFP and the building of an application regarding offender fees were last discussed in January, when it was noted that policies and manuals would have to be revised under TDOC before a new fee application could be built or an RFP issued.

Given that these same issues regarding fee collections have been raised in at least 3 different audits over the last 11 years, the board and Department of Correction should pursue a solution to their fee collection and assessment problems as soon as possible.

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## RESULTS OF OTHER AUDIT WORK

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### **JAG/ARRA Grant Agreement Implementation Status**

In 2009, the Board of Probation and Parole received a Justice Assistance Grant through the American Recovery and Reinvestment Act (JAG/ARRA) to procure, install, and implement program evaluation software to enable the board and the Department of Correction to retrieve data, monitor performance, evaluate programs, conduct predictive modeling, and analyze statistical data. The grant also covered procurement and implementation of job readiness and training software, KeyTrain, for assisting ex-offenders in obtaining employment.

The grant for \$207,950 began on July 1, 2009, and ran until June 30, 2011, with implementation of both software programs to be completed by May 2010. An amendment to the grant was signed in March 2011, which changed the implementation date of the program evaluation software to June 30, 2011, and reallocated funds to purchase hardware and upgrade software.

#### Program Evaluation Software

As of July 2012, the program evaluation software is live, but only 50 users at the board and TDOC can access the data in the software. The parts that are accessible include data on population served, revocations, successful discharges of sentences, and community corrections. Each section includes key performance indicators with bar charts and line graphs. The data can also be reviewed by district, program, or probation and parole officer.

#### KeyTrain Software

The board had a one-year license to use the KeyTrain software from July 1, 2009, through June 30, 2010, and did not renew the license because there were logistical issues with the board's staff being able to monitor offenders while they were using a computer and having computer work space available. The software was designed to improve ex-offender's skills in the following areas:

- reading for information;
- applied mathematics;
- locating information;
- applied technology;
- writing;
- listening;
- observation;

- teamwork; and
- business writing.

Upon successful completion of training and testing, the ex-offender would receive a career readiness certificate. The grant agreement included two performance measures with one specifically relating to the KeyTrain software regarding the percentage of those under Board of Probation and Parole supervision who completed the software training, received the career readiness certificate, and were employed either full-time or part-time. According to the Assistant Director of Field Services, this program was one part of the board's workforce development effort and not a "stand-alone program" so statistical information regarding this program on its own is not available.

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## RECOMMENDATIONS

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### ADMINISTRATIVE

The Board of Probation and Parole and the Department of Correction should address the following areas to improve the efficiency and effectiveness of the operations of the board and the Field Services Division (now part of the Department of Correction) .

1. While the number of offenders (82) actively monitored after their death is small compared to the over 60,000 offenders monitored each year, the Board of Probation and Parole (and now the Department of Correction) should consider regularly comparing offender information to either state or U.S. Social Security Administration death records.
2. The Board of Probation and Parole and the Department of Correction should work with the Field Services Division and others within the agencies to develop a formal corrective action plan which ensures the information in TOMIS is complete and accurate. Specifically, the plan should focus on ensuring the following:
  - all drug screens and other offender interventions are properly documented in TOMIS;
  - required arrest checks or verifications of continued incarceration/placement are completed for offenders, including those not actively supervised by Field Services staff;
  - notes indicating that offenders' special conditions have been terminated are entered only once during a supervision period, include the necessary details, and are not followed by other special conditions notes;
  - all X-type case notes specify the reason that the supervision requirement was not met as well as the planned corrective action, and are carefully reviewed to determine the effectiveness of the corrective action and whether further action is required;
  - risk assessments, including VASOR risk assessments for sex offenders, are completed in a timely manner on all cases;
  - address and date of birth information is accurately maintained in TOMIS; and
  - all offender supervision requirements are otherwise being met.
3. The Board of Probation and Parole should thoroughly document specific disaster recovery procedures and actions to be taken, from the declaration of a disaster until the time that normal business operations are resumed. The plan should contain adequate detailed information to permit staff to use it as a stand-alone field manual. The plan should be reviewed, updated, tested, and reapproved as processes change

and, at a minimum, on an annual basis. The plan should be submitted to TEMA and made readily available to board employees.

4. The Board of Probation and Parole should strengthen formal, written policies and procedures for complying with the requirements for public meeting notices by mandating the posting of meeting dates on its website, in field offices, and/or advertising meeting dates in local newspapers. Implementing these procedures would better ensure that board personnel and the general public are aware of the meetings of the board. Further, the board should ensure its notices are posted at a time sufficiently in advance of the actual meeting in order to give citizens both an opportunity to become aware of and to attend the meeting.
5. The Director of Board Operations should collaborate with other divisions of the Board of Probation and Parole such as Information Systems and Field Services (now at the Department of Correction), to implement manual and automated controls to strengthen existing parole hearing notification procedures in order to ensure compliance with the statutes. Any revisions/updates should be made to the operating procedures/manuals of the board and posted to the intranet. The board should also revise the notification of hearing decision letters to include appeal rights for the offender to ensure that the board's communication of appeal rights to the offender is documented.
6. The Board of Probation and Parole and the Department of Correction should work together to ensure that appropriate edit checks and data validation tools are developed and implemented for TOMIS.
7. The Board of Probation and Parole and Department of Correction should use all available tools for monitoring to determine if supervisory reviews are being completed. The board and Department of Correction should also ensure that the supervisory reviews are discussed with PPOs as required by board directive.
8. The Board of Probation and Parole's (now the Department of Correction's) Field Services Division management should ensure that PPOs and supervisors who are reviewing ACRC cases impose sanctions for all violations. The Field Services Division should also ensure that PPOs and supervisors enter OPHC case notes and thoroughly document the sanctions that have been imposed. The Field Services Division should consider incorporating a review of OPHC case notes and the sanctions imposed into the supervisory reviews of case files. The Field Services Division should also take the necessary steps to ensure that the ACRC chairpersons in each district are maintaining adequate records of ACRC activities. The management of the Field Services and the Research, Policy, and Planning Divisions should document the requirements for the monthly ACRC reports and take whatever other steps are necessary to ensure that these reports are properly submitted.

## **Appendix 1**

### **Title VI and Other Information**

In response to a request from members of the Government Operations Committee, we compiled information concerning federal financial assistance received by the Board of Probation and Parole, results of the Tennessee Human Rights Commission's most recent review of the board's Title VI Implementation Plan, and demographic information on board members and staff.

According to the state's Budget documents, the Board of Probation and Parole did not receive any federal funding for fiscal years 2010 and 2011, and no federal funding was estimated to be received for fiscal year 2012.

According to the *Tennessee Title VI Compliance Program Report to the Governor and General Assembly for Fiscal Years 2009 to 2011*, completed by the Tennessee Human Rights Commission, a Title VI implementation plan must consist of the following sections:

- an overview;
- a description of the federal programs or activities;
- the organization of the Civil Rights Office and duties of the Civil Rights Coordinator;
- data collection and analysis, including total number of complaints received;
- definitions;
- discriminatory practices;
- Limited English Proficiency (LEP);
- complaint procedures;
- a compliance review of subrecipients;
- compliance/noncompliance reporting;
- a Title VI training plan;
- public notice and outreach;
- evaluation procedures of Title VI implementation; and
- responsible officials.

The report lists the Board of Probation and Parole among 20 entities whose plans were in compliance with the guidelines and requirements but notes that two of the plans were submitted untimely. According to Human Rights Commission records, the board's 2011 Title VI plan was received on October 10, 2011, instead of the October 1 due date. Further, the Human Rights Commission's report does not show any Title VI complaints about the Board of Probation and Parole received directly by the commission or reported by the board in its Title VI Implementation Plan.

Detailed below is the breakdown of board members and staff by title, gender, and ethnicity.

**Board of Probation and Parole  
Staff Ethnicity and Gender by Position  
January 31, 2012**

Title	Gender		Ethnicity		
	Male	Female	Black	White	Other
Account Clerk	2	12	3	10	1
Accountant 3	1	0	0	1	0
Accounting Manager	1	0	0	0	1
Accounting Technician 1	0	1	0	1	0
Accounting Technician 2	1	1	0	1	1
Administrative Assistant 1	0	1	0	1	0
Administrative Assistant 2	0	7	2	4	1
Administrative Assistant 3	0	1	0	0	1
Administrative Secretary	0	21	10	11	0
Administrative Services Assistant 2	0	1	1	0	0
Administrative Services Assistant 3	0	4	3	1	0
Administrative Services Assistant 4	1	1	1	1	0
Administrative Services Assistant 5	0	2	1	1	0
Administrative Services Manager	0	2	1	1	0
Attorney 3	0	2	1	1	0
Auditor 3	1	0	0	1	0
Clerk 2	1	1	2	0	0
Clerk 3	1	1	1	1	0
Correctional Program Director 1	0	4	1	3	0
Correctional Program Director 2	0	1	1	0	0
Correctional Program Manager 1	1	1	1	1	0
Executive Secretary 2	0	2	1	1	0
Fiscal Director 1	1	1	0	2	0
General Counsel 1	0	1	0	1	0
Graduate Associate	5	14	10	9	0
Grants Program Manager	1	0	0	1	0
Human Resources Analyst 1	0	1	1	0	0
Human Resources Analyst 2	0	1	0	1	0
Human Resources Director 2	1	0	0	1	0
Human Resources Manager 1	0	2	2	0	0
Human Resources Technician 2	1	0	0	1	0
Human Resources Technician 3	1	0	0	1	0
Information Resource Support Specialist 3	4	1	1	4	0
Information Resource Support Specialist 4	2	1	1	2	0
Information Resource Support Specialist 5	1	0	0	1	0
Information Officer	0	1	0	1	0
Information Systems Director 2	1	0	0	1	0
Legal Assistant	0	1	0	1	0
Parole Board Chairman	1	0	1	0	0

Title	Gender		Ethnicity		
	Male	Female	Black	White	Other
Parole Board Member	4	2	2	4	0
Parole Hearings Assistant Director	0	1	0	1	0
Parole Hearings Director	1	0	0	1	0
Parole Hearings Officer	4	10	4	10	0
Parole Hearings Regional Supervisor	3	1	1	3	0
Probation/Parole Administrator	1	1	1	1	0
Probation/Parole Assistant Field Director	0	3	1	2	0
Probation/Parole Board Executive Director	1	0	0	1	0
Probation/Parole Deputy District Director	3	4	2	5	0
Probation/Parole District Director	4	3	0	7	0
Probation/Parole Field Director	1	0	0	1	0
Probation/Parole Field Services Administrator	0	1	1	0	0
Probation/Parole Manager	40	42	31	51	0
Probation/Parole Officer 1	10	23	16	17	0
Probation/Parole Officer 2	216	355	162	403	6
Probation/Parole Officer 3	78	68	50	94	2
Probation/Parole Program Specialist	2	3	3	1	1
Probation/Parole Technical Services Director	1	0	1	0	0
Probation/Parole Training Director	0	1	1	0	0
Procurement Officer 2	0	1	0	1	0
Programmer/Analyst 3	2	0	0	2	0
Programmer/Analyst 4	2	0	0	2	0
Programmer/Analyst Supervisor	1	0	0	1	0
Property Officer 2	1	0	0	1	0
Psychiatric Social Worker 1	1	19	9	10	1
Psychiatric Social Worker 2	0	1	0	1	0
Secretary	0	62	20	42	0
Sentence/Docketing Technician 1	0	1	0	1	0
Sentence/Docketing Technician 2	0	4	3	1	0
Sentence/Docketing Technician 3	1	5	4	1	1
Statistical Analyst 3	0	1	1	0	0
Statistical Programmer Specialist 1	1	0	1	0	0
Statistical Programmer Specialist 2	1	0	0	1	0
Training Specialist 2	0	1	1	0	0
	408	703	361	734	16

## Appendix 2 Performance Measures Information

As stated in the Tennessee Governmental Accountability Act of 2002, “accountability in program performance is vital to effective and efficient delivery of governmental services, and to maintain public confidence and trust in government.” In accordance with this act, all executive branch agencies are required to submit annually to the Department of Finance and Administration a strategic plan and program performance measures. The department publishes the resulting information in two volumes of *Agency Strategic Plans: Volume 1 - Five-Year Strategic Plans* and *Volume 2 - Program Performance Measures*. Agencies were required to begin submitting performance-based budget requests according to a schedule developed by the department, beginning with three agencies in fiscal year 2005, with all executive-branch agencies included no later than fiscal year 2012. The Board of Probation and Parole began submitting performance-based budget requests effective for fiscal year 2010.

Detailed below are the Board of Probation and Parole’s performance standards and performance measures, as reported in the September 2011 *Volume 2 - Program Performance Measures*. Also reported below is a description of the agency’s processes for (1) identifying/developing the standards and measures; (2) collecting the data used in the measures; and (3) ensuring that the standards and measures reported are appropriate and that the data are accurate.

### Performance Standards and Measures

#### 324.02 – Probation and Parole Services

##### Performance Standard 1

Improve the offender success rate by decreasing the percentage of probation offenders who are revoked to 5.2%.

##### Performance Measure 1

Percent of total probation population served during the year whose community supervision status is revoked during the fiscal year.

Actual (FY 2010-2011)	Estimate (FY 2011-2012)	Target (FY 2012-2013)
5.9%	5.2%	5.2%

##### Performance Standard 2

Improve the offender success rate by decreasing the percentage of parolees who are revoked to 6.8%.

##### Performance Measure 2

Percent of total parole population served during the year whose community supervision status is revoked during the fiscal year.

Actual (FY 2010-2011)	Estimate (FY 2011-2012)	Target (FY 2012-2013)
8.3%	6.8%	6.8%

The Field Services Division is responsible for the direct supervision of felons granted parole, as well as offenders sentenced to probation by the courts. Probation and parole officers supervise the conduct and progress of probationers and parolees and report to the board and the courts on the progress of those under their supervision.

According to the board, one of the best measures of community safety is how many offenders on probation or parole are returned to prison as a result of revocation. A lower revocation percentage rate should demonstrate a decrease in crimes committed along with fewer victims. This measure should also reflect the quality of the supervision and the programming associated with it.

Research, Policy, and Planning Division staff calculate the revocation rate using data entered into TOMIS by probation and parole officers. The formula takes the number of revocations for a period of time and divides it by the total population served during this same time period to arrive at the revocation rate. The measures are reviewed at multiple levels at the Board of Probation and Parole from the district directors to the board chairman. This information is also reviewed by the Department of Correction. The board shares the calculation with the General Assembly and the Governor and publishes it in its annual report.

The board does not have formal written procedures used to collect the data. Research, Policy, and Planning staff discuss methodology in detail before any data is assembled and disseminated. The staff place emphasis on consistency in methodology from year to year.

According to the board, TOMIS is very old technology that limits and makes statistical analysis difficult. Analyzing data from TOMIS requires relying on one metric of whether an offender was revoked or not. According to staff, it would be better if there were additional metrics for cross-referencing offenders by offense, risk at the time of supervision, program referral, and program completion, etc. Although there are plans to use a new program, staff stated it is “years and a lot of money away from completion.” (See finding 6 on page 37 for further discussion of issues noted with TOMIS during our review.)

### **324.04 – Community Corrections**

#### Performance Standard 1

Improve offender success by decreasing the percentage of the total program population who are revoked from the program prior to successful discharge to 8.9%.

#### Performance Measure 1

Percentage of total offender population who are revoked from the program prior to successful discharge.

Actual (FY 2010-2011)	Estimate (FY 2011-2012)	Target (FY 2012-2013)
10.6%	8.9%	8.9%

The Community Corrections Program is a cost-lowering alternative to incarceration. The program is intended to provide services and programs in local jurisdictions for eligible felony offenders in lieu of incarceration in state penal institutions or local jails. State grant dollars fund 19 local agencies responsible for the programming for probationers sentenced by the courts.

Community Corrections personnel collect data from TOMIS entries monthly. The Research, Policy, and Planning Division then assembles the data and calculations are made using the following programs: Excel, Access, Statistical Analysis Software (SAS), and Statistical Package for Social Sciences (SPSS), and eventually, Micro-Strategy.

The measure is calculated by dividing the number of revocations by the number of clients served during the fiscal year.

There are three stages of review to ensure and verify the measures and calculations are appropriate and accurate. In the first stage, the data are analyzed, compared, and researched for accuracy by board staff. The second stage of review is done by middle management including the Community Corrections Division directors and others. In the second stage of review, board staff review the data collection, compare past calculations, and analyze the data to expose any inaccuracies or inconsistencies. In the final review stage, the results are presented to administrative level staff for review.

**Appendix 3**  
**Finding 2 Testwork Results by Grand Division**

Face to Face Contacts by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Supervision Requirements Met	Regular	%	GPS	%												
Yes	35	90%	17	81%	31	97%	27	75%	18	82%	10	77%	84	90%	54	77%
No	4	10%	4	19%	1	3%	9	25%	4	18%	3	23%	9	10%	16	23%
N/A	5		0		11		0		11		0		27		0	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%
Home Visits by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Supervision Requirements Met	Regular	%	GPS	%												
Yes	33	89%	11	52%	25	86%	23	64%	19	90%	9	69%	77	89%	43	61%
No	4	11%	10	48%	4	14%	13	36%	2	10%	4	31%	10	11%	27	39%
N/A	7		0		14		0		12		0		33		0	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%
Drug Test by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Requirements Met	Regular	%	GPS	%												
Yes	12	60%	10	71%	5	42%	12	50%	5	56%	3	37%	22	54%	25	54%
No	8	40%	4	29%	7	58%	12	50%	4	44%	5	63%	19	46%	21	46%
N/A	24		7		31		12		24		5		79		24	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%
Arrest/Incarceration/Placements Checks by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Requirements Met	Regular	%	GPS	%												
Yes	41	93%	19	90%	40	93%	31	86%	29	88%	9	69%	110	92%	59	84%
No	3	7%	2	10%	3	7%	5	14%	4	12%	4	31%	10	8%	11	16%
N/A	0		0		0		0		0		0		0		0	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%

Special Conditions Monitoring by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Supervision Requirements Met	Regular	%	GPS	%												
Yes	29	81%	14	67%	20	83%	22	61%	19	83%	11	85%	68	82%	47	67%
No	7	19%	7	33%	4	17%	14	39%	4	17%	2	15%	15	18%	23	33%
N/A	8		0		19		0		10		0		37		0	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%
Employment Monitoring by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Supervision Requirements Met	Regular	%	GPS	%												
Yes	31	84%	17	81%	25	89%	29	81%	20	91%	9	69%	76	87%	55	79%
No	6	16%	4	19%	3	11%	7	19%	2	9%	4	31%	11	13%	15	21%
N/A	7		0		15		0		11		0		33		0	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%
Fee Monitoring by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Requirements Met	Regular	%	GPS	%												
Yes	36	92%	18	86%	30	94%	35	97%	21	91%	10	77%	87	93%	63	90%
No	3	8%	3	14%	2	6%	1	3%	2	9%	3	23%	7	7%	7	10%
N/A	5		0		11		0		10		0		26		0	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%
Sex Offender Treatment Monitoring by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Supervision Requirements Met	Regular	%	GPS	%												
Yes	2	100%	17	81%	4	100%	23	64%	2	100%	3	25%	8	100%	43	62%
No	0	0%	4	19%	0	0%	13	36%	0	0%	9	75%	0	0%	26	38%
N/A	42				39		0		31		1		112		1	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%

LS/CMI Risk Assessments by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Requirements Met	Regular	%	GPS	%												
Yes	35	90%	14	74%	29	97%	30	86%	23	100%	6	46%	80	87%	50	75%
No	4	10%	5	26%	1	3%	5	14%	0	0%	7	54%	12	13%	17	25%
N/A	5		2		13		1		10		0		28		3	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	100%	13	100%	120	100%	70	100%
VASOR Assessments by Tennessee Grand Division																
	Eastern				Middle				West				Total			
Requirements Met	Regular	%	GPS	%												
Yes	0	0%	2	67%	0	0%	3	19%	0	0%	1	17%	0	0%	6	24%
No	1	100%	1	33%	2	100%	13	81%	0	0%	5	83%	3	100%	19	76%
N/A	42		14		39		15		31		6		112		35	
Unable to Determine	1		4		2		5		2		1		5		10	
Files Reviewed	44	100%	21	100%	43	100%	36	100%	33	0%	13	100%	120	100%	70	100%