

Senator Suzanne Geist
Committee Chair
P.O. Box 94604, State Capitol
Lincoln, NE 68509
402-471-2731

Legislative Performance Audit Committee

Legislative Audit Office
Martha Carter, Legislative Auditor
P.O. Box 94604, State Capitol
Lincoln, NE 68509
402-471-1282

FOR IMMEDIATE RELEASE
CONTACT: Senator Suzanne Geist, (402) 471-2731

March 3, 2021

Legislative Performance Audit Committee releases report on Inmate Clinical Programming and Staffing Data at the Department of Correctional Services

A preaudit report regarding clinical programming and staffing data at the Department of Correctional Services and the Board of Parole was released Wednesday by the Legislative Performance Audit Committee.

In light of the current prison overcrowding problem, the Committee was mainly interested in whether availability of clinical programming was delaying inmates' parole eligibility. While the report did not find that availability was an issue, it examined 200 cases from FY2017 to FY2019 where parole had been denied, at least in part, based on inmates' failure to complete required clinical programming. Among other things, the report found that in 70 percent of these cases, programming was not completed due to inmate behavior, i.e., refusal or termination from the program, and that substance abuse treatment programming had the highest noncompletion rate (59 percent).

The report also examined 18 clinical programming staffing and mental health positions and found nine positions with high three-year vacancy rates. Of these positions, six may warrant additional study to determine to assess whether positions with lower vacancy rates but more FTEs have a greater impact on the Department's ability to provide clinical programming and mental health services than vacancies in positions with higher rates but fewer FTEs.

Sen. Suzanne Geist, chair of the Legislative Performance Audit Committee, said, "This preaudit report provides valuable information relating to inmate programming that will be useful as the Legislature continues to review issues relating to prison overcrowding and ensuring needed clinical programming and mental health services are available to inmates. The Committee will work to pursue the memo's suggestions that the Board of Parole be encouraged to more consistently document the reasons when parole is denied and will consider a full performance audit in this area."

The report is available on the Legislative Performance Audit Office's website: nebraksalegislature.gov/reports/audit.php

Memorandum

To: Legislative Performance Audit Committee
From: Legislative Audit Office
Dana L. McNeil, Martha Carter, and Clarence Mabin, Auditors
Date: February 3, 2021
Re: Inmate Clinical Programming and Staffing Data, FY2017 to FY2019

The Legislative Performance Audit Committee (Committee) directed the Legislative Audit Office (Office) to conduct a preaudit of the availability of inmate programming at the Department of Correctional Services (DCS). The Board of Parole (Board) was later added to the preaudit because it had much of the data necessary to answer the Committee's questions.

The Committee's primary concern was whether inmates were able to obtain recommended clinical programming prior to their parole eligibility date and, if not, the potential impact on Nebraska's current prison overcrowding crisis. The Committee was also interested in whether a lack of clinical programming staff was an issue at DCS and whether this might be a contributory factor in the overcrowding problem.

Summary

Inmates Denied Parole Due to Incomplete Programming

Although the Committee's interest was in whether inmates were being denied parole due to a lack of available programming, data provided by the Board of Parole did not indicate any cases in which parole was denied because programming was unavailable. However, there were cases in which parole was denied because programming had not been completed and that is the issue we address in this memo.

Board data for FY2017 to FY2019¹ indicate that in 200 cases, an inmate's inability to complete clinical programming was at least one factor in parole being denied. In reviewing the Board's data, we found that documentation of the reasons for parole denial sometimes used inconsistent language and the specific documentation of why programming was not completed was not always noted. Consequently, the following figures should be understood as estimates.

Of the 200 cases in which incomplete programming was a factor in parole denial, there were no cases in which the Board indicated that the programming had not been available to the inmate in time for the inmate to complete it in time to be eligible for parole. Of the four types of clinical programming reviewed, substance abuse programming had the highest incompleteness rate (59%).

¹ Nebraska state fiscal years run from July to June. For example, FY2017 refers to July 1, 2016 to June 30, 2017.

In most of the 200 cases (139 or 70%), the programming was not completed due to the inmate's behavior, such as refusal to participate in or complete the programming. Additionally, in 22 (11%) of the 200 cases, the Board specifically noted that the inmates were deferred to their mandatory discharge date and programming could not be completed because their sentences were shorter than the time needed to complete the programming.

The total number of parole denials and the number of denials with incomplete programming both dropped from FY2017 to FY2018 and then increased in FY2019. The increase in denials with incomplete programming in FY2019 was mostly due to a 65% increase in denials for incomplete substance abuse programming, and a 21% increase in denials for incomplete sex offender programming.

Parole Delayed Beyond Parole Eligibility Date

From FY2017 to FY2019, 1,280 inmates were deferred to a future hearing. These deferrals had the potential to cause inmates to remain incarcerated beyond their parole eligibility date; a concern given Nebraska's prison overcrowding problem. Of the 1,280 inmates, 81 (6%) remained incarcerated beyond their parole eligibility date. The annual numbers, though relatively small, increased notably in FY2019.

Position Vacancies

We reviewed vacancy rates for FY2017 through FY2019 for 18 DCS positions—13 involved in providing clinical programming and 5 involved in providing mental health treatment. The mental health positions were included on the assumption that inmates with unmet mental health needs could be less likely to participate in or complete clinical programming.

Of the 18 reviewed, we identified nine positions with high three-year vacancy rates. For those positions, we examined the total number of months in which vacancies occurred, taking into account all of the full-time equivalents (FTEs) for each position. Nine of the 18 positions had vacancy rates of 17% to 55%, and the 5 mental health treatment positions had the highest vacancy rates. The remaining 9 positions had vacancy rates from 0 to 7%.

Based on additional review of those cases, we believe six positions may warrant further study. Additional study may also be warranted to assess whether vacancies in positions with lower vacancy rates but more FTEs, have a greater impact on the department's ability to provide clinical programming and mental health services than vacancies in positions with higher rates but fewer FTEs.

Suggestions to the Performance Audit Committee

- 1) Consider working with the Judiciary Committee to encourage, and if necessary require, the Board of Parole to improve its documentation of the reasons for parole denials to ensure that consistent terminology is used and that the specific reason(s) programming was not completed is always recorded.
- 2) Consider authorizing a full performance audit to further examine the extent to which vacancies in selected positions at the Department of Corrections may be impacting the ability of inmates to complete clinical programming, especially substance abuse programming. The audit could also examine other reasons for the increase in non-completion of substance abuse programming.

Methodology

We reviewed, but did not independently verify, DCS and Board data regarding decisions on the 5,580 parole hearings held between FY2017 and FY2019. During that time, 68% of the inmates were paroled, 23% were deferred to a future parole hearing, and 9% were denied parole. We defined “denied parole” as those inmates directly denied parole and those deferred to their mandatory discharge dates, who were essentially denied parole because they were unlikely to receive another parole hearing.

The remainder of this memo presents general background information on parole and the parole review process, followed by a discussion of parole denial data, and concluding with programming staff position vacancy information.

Board of Parole

Generally, every inmate is eligible for parole when they have served one half of the minimum term of their sentence.² Decisions about whether and when to release an inmate are made by the Board of Parole (Board). Inmates who are not paroled will be released on their mandatory discharge date, which is the last day of their sentence.

The Board consists of five full-time members appointed by the governor for terms of six years. The Board’s duties include but are not limited to: determining the time of release for inmates, setting parole conditions, determining the time of mandatory discharge from parole, and annually reviewing the records of all parole-eligible inmates when inmates are within three years of their earliest parole eligibility date.

² This would not apply to inmates who have mandatory minimum sentences pursuant to Neb. Rev. Stat. § 83-1,107. Additionally, the minimum term of an inmate’s sentence can be reduced by earning good time, pursuant to Neb. Rev. Stat. § 83-1,110.

Case Reviews and Key Reviews

As an inmate approaches their parole eligibility date, the Board conducts two types of review hearings—case reviews and key reviews—to assess the inmate’s readiness to be paroled. Case reviews are statutorily required annual reviews that begin when an inmate is three years from their parole eligibility date. Case reviews provide feedback to the inmate on their progress toward obtaining parole. In a case review, at least two members of the Board review the inmate’s behavior, programming status, and assessments.

At key reviews, which start when an inmate is two years from their parole eligibility date, the Board decides whether an inmate will receive a parole hearing date. If so, the Board will set a date for parole hearing within two years of the review. If an inmate is not ready, the Board can schedule an additional review in 12 months or allow the inmate to serve their full prison sentence.

Minimum Board Reviews Prior to Parole Eligibility Date (PED)	
Years Before PED	Type of Review
3	First Case Review
2	First Key Review
1	Annual Case Review
PED—in most cases, the midpoint in an inmate’s minimum sentence	

Parole Hearings

A minimum of three members of the Board sit for parole hearings to determine whether an inmate is ready for release into the community. The Board’s main options at a parole hearing are to: vote to parole the inmate, set another parole hearing in the future, or decide that parole is not possible and the inmate will serve their full sentence in prison.³

LB 625 (2019)

LB 625 was introduced by Senator Pansing Brooks in 2019 to appropriate \$5.8 million for inmate programming, which included costs for programming portables and additional staffing.⁴ During the Appropriations Committee hearing, Senator Pansing Brooks submitted 2018 data from the Board of Parole regarding the number of deferrals for additional correctional treatment for case and key reviews. We used this testimony as a starting point for the preaudit and began by requesting additional data from the Parole Board in order to be able to fully understand the significance of the figures presented at the Appropriations Committee hearing.

Main Parole Board Hearing Actions	
Action	Description
Grant Parole	Inmate will be released from incarceration
Defer to Future Hearing	Board will reconsider the inmate’s parole at a future hearing
Defer to Mandatory Discharge	Board believes parole is not possible for the inmate, who will serve their full sentence

³ Board of Parole, Parole Process Diagram, email to auditors, November 27, 2019.

⁴ Nebraska Legislature, *LB 625 (2019), Statement of Intent*, Senator Patty Pansing Brooks.

Clinical Programming Analysis

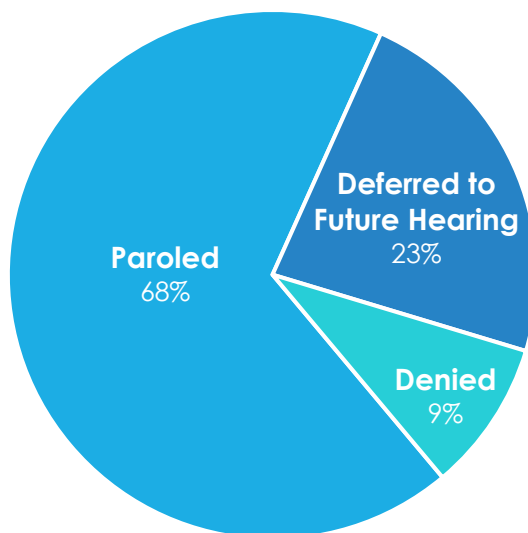
We began our analysis by requesting data from the Board of Parole, for the three most recent fiscal years (FY2017 to FY2019), to determine the number of inmates who were denied parole solely because they had not completed the recommended clinical programming. According to the Board, the types of clinical programming (programming) that would prevent or delay an inmate from being granted parole are: substance abuse treatment, anger management, sex offender treatment, and the violence reduction program. We focused on denials for these four types of clinical programming.

We also present the data for parole hearings only, and not key or case reviews, which are not final dispositions of an inmate's parole status. If an inmate has not completed recommended clinical programming at one of these review hearings, they will still have the opportunity to complete it prior to their parole eligibility date.

Parole Hearing Decisions

From FY2017 to FY2019, the Board made decisions at 5,580 parole hearings. Figure 1 shows that in 91% of the hearings, inmates were either paroled (3,785 or 68%) or the decision about whether to parole was deferred to a later hearing (1,280 or 23%). Only 515 (9%) of the decisions denied parole. The 515 cases were almost evenly divided between inmates denied parole directly (256) and those deferred to mandatory discharge (259). When an inmate's case is deferred to mandatory discharge, the inmate is required to serve their full prison sentence. We include those cases as parole denials because it is unlikely the inmates would appear before the Board before they were discharged. Appendix A provides a further breakdown of dispositions by fiscal year.

Figure 1. Less than 10% of parole hearings resulted in parole being denied.



Source: Audit Office analysis of data provided by Board of Parole.

Parole Delayed Beyond Parole Eligibility Date

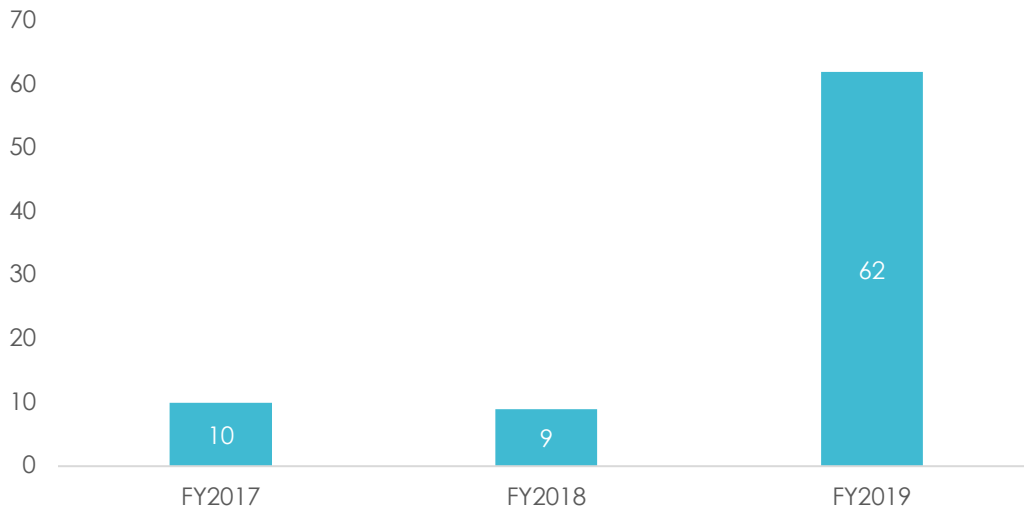
Of the 23% of cases that were deferred to a future hearing, it is possible that the deferral would cause the next hearing (and the possibility of parole) to occur after the inmate's parole eligibility date. Because Nebraska faces a prison overcrowding problem, the Committee was concerned about the number of inmates incarcerated beyond their parole eligibility date.

To determine if there was a significant number of cases where a deferral to a future hearing for lack of clinical programming would extend an inmate's period of incarceration past their parole eligibility date, we asked the Board to provide the number of cases for the review period. An inmate was considered to be deferred past their parole eligibility date if the Board voted to defer and either:

- the parole hearing was held the same month as the inmate's parole eligibility date, or
- the inmate's parole eligibility date was in the first half of the month (before the 15th) following the month of the hearing.⁵

Of the 1,280 cases that were deferred to a future hearing, incomplete programming played a role in delaying parole beyond an inmate's parole eligibility date in relatively few cases. As shown in Figure 2, there were 10 (3%) such cases in FY2017, 9 (4%) in FY2018, and 62 (9%) in FY2019. Although the increase to 62 in FY2019 was notable, it represents less than 10% of all cases deferred to a future hearing that year.

Figure 2. In FY2019, more inmates with incomplete programming were incarcerated beyond their parole eligibility dates than in the two previous years.



Source: Audit Office analysis of data provided by Board of Parole.

⁵ Board of Parole, email to auditors, December 19, 2019. We did not independently verify this data.

Parole Denial Reasons

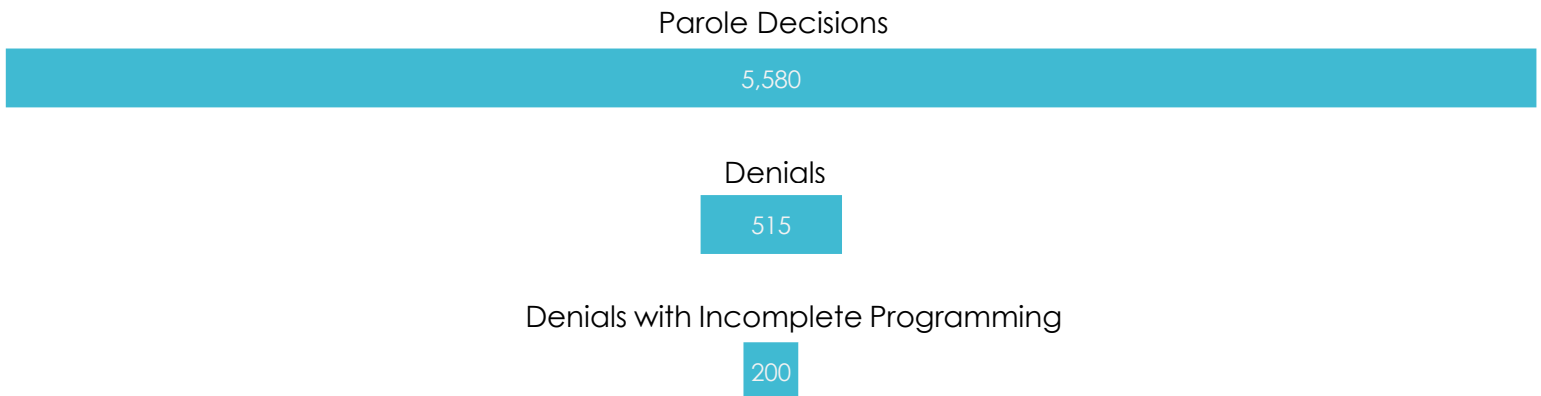
In order to determine how often inmates were denied parole or deferred to mandatory discharge because of incomplete clinical programming, we requested the Board provide data on the reasons for the 515 parole hearing denials made from FY2017 to FY2019. The data showed that, in most cases, there was more than one reason that an inmate was denied parole. Because of the way parole hearings are currently documented, it is not possible to determine the number of parole denials where programming was the sole factor for denial.

The language used in parole hearing records to describe clinical programming reasons for denials included:

- Continued Corrections Treatment Needed,
- Failed to complete SAU/RTC,⁶
- Programming/Treatment Needed,
- Clinical Programming Needed,
- Evaluation/Recommendation Needed, and
- Refused Programming.⁷

We looked at all inmate cases in the above categories and recorded the denial reasons that appeared in the DCS data tracking system, NICAms (Nebraska Inmate Case Management System). We found that clinical programming was at least one of the reasons for parole denial in 200 (39%) of the 515 cases. Figure 3 shows the number of cases we analyzed in the remainder of this section compared to the total number of parole denials.

Figure 3. Less than half of parole denials had incomplete clinical programming as a reason for denial.



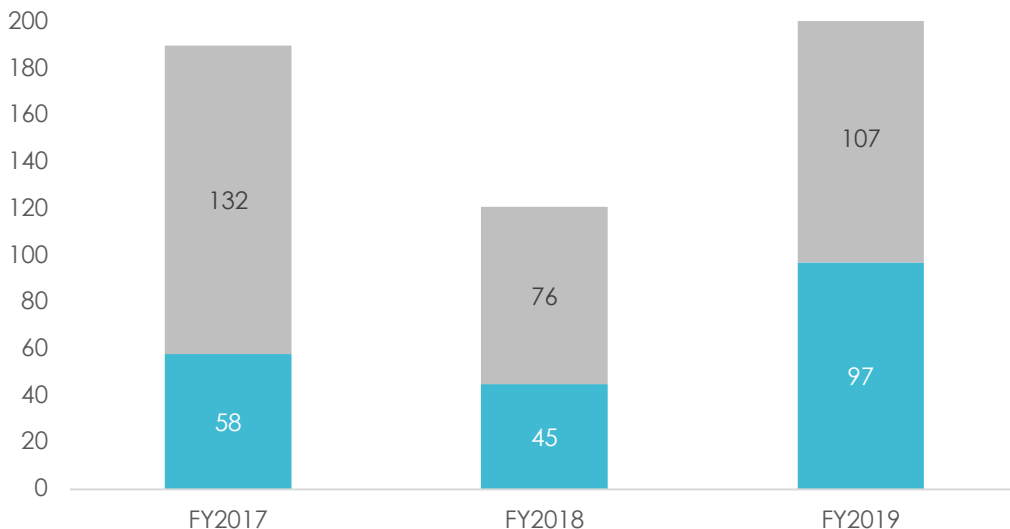
Source: Audit Office analysis of data provided by the Board of Parole.

⁶ Substance Abuse Unit/Residential Treatment Community. RTC is used to designate the program at the Nebraska State Penitentiary; SAU is used at the other facilities. The programs are the same across institutions. Department of Correctional Services, email to auditors, August 14, 2020.

⁷ See Appendix B for the full list of denial reasons.

The total number of parole denials dropped from 190 in FY2017 to 121 in FY2018 and then increased to 204 in FY2019. As shown in Figure 4, denials with incomplete programming followed the same pattern, dropping from 58 in FY2017 to 45 in FY2018 then increasing to 97 in FY2019.

Figure 4. From FY2017 to FY2019, the number of denials with incomplete clinical programming increased.



Source: Audit Office analysis of data provided by Board of Parole and the Department of Correctional Services.

There were 52 more incomplete programming denials in FY2019 than in FY2018. In most of those cases (34 or 65%), the type of programming was for substance abuse, followed by 11 (21%) additional denials for incomplete sex offender programming. As shown in Figure 5, the remaining programming categories increased only slightly, except for violence reduction programming, which decreased by one case.

Figure 5. The FY2019 increase in denials with incomplete programming were mostly for incomplete substance abuse programming.

PROGRAM TYPE	FY2018	FY2019	DIFFERENCE
Substance Abuse	28	62	+34 (65%)
Sex Offender	3	14	+11 (21%)
Violence Reduction	5	4	-1 (2%)
Anger Management	4	5	+1 (2%)
Multiple Programs	3	7	+4 (8%)
Unknown*	2	5	+3 (6%)
TOTAL	45	97	+52 (100%)

Source: Audit Office analysis of data provided by Board of Parole and the Department of Correctional Services.

* The type of programming was not recorded in the Board's tracking system.

**Breakdown of Denials That Include a Programming Issue:
FY2017 to FY2019**

As shown in Figure 6, in the 200 cases of parole denial in which incomplete programming was a factor, substance abuse programming had the highest incompleteness rate. Of the 200 hearings, 117 (59%) cited the need for completed substance abuse programming as one of the reasons parole was denied. The remaining types are also shown.

Figure 6. Substance abuse programming was the type of clinical programming least-often completed.

PROGRAM TYPE	NUMBER OF INMATES
Substance Abuse	117 (59%)
Sex Offender	26 (13%)
Violence Reduction	16 (8%)
Anger Management	12 (6%)
Multiple Programs	13 (7%)
Unknown*	16 (8%)
TOTAL	200

Source: Audit Office analysis of data provided by Board of Parole and the Department of Correctional Services. Percentages may not total 100% due to rounding.

* The type of programming was not recorded in the Board's tracking system.

Reasons Programming was Not Completed

As noted earlier, Board documentation of the reasons parole is denied do not allow identification of cases in which incomplete programming was the sole reason for parole denial, and terms used to indicate why parole was denied sometimes overlap. We were therefore unable to provide a complete breakdown of the reasons for parole denial. However, we were able to provide some detail in two categories we believed the Audit Committee was interested in: the most common reason cited for parole denial, which was inmate behavior, and the number of inmates who had insufficient time to complete programming prior to parole because their sentences were not long enough. A discussion of each of these areas follows.

Additionally, we found no cases where it was documented by the Board that programming was not completed because it was not available and consequently prevented an inmate from being granted parole.

Inmate Behavior

According to Board records, the most common reason inmates were denied parole for incomplete programming was the inmates' behavior, i.e., refusing, being terminated, or failing to complete the programming. Of the 200 cases where clinical programming was cited as a reason for denial, 139 (70%) were due to the inmates' behavior. However, there may have also been non-programming reasons supporting the denial.

In most (94 or 68%) of the 139 cases, the programming that had not been completed was substance abuse programming. Figure 7 shows the complete breakdown.

Figure 7. Of parole denials due to inmate behavior, substance abuse programming was the type of clinical programming least-often completed.

PROGRAM TYPE	NUMBER OF INMATES
Substance Abuse	94 (68%)
Sex Offender	14 (10%)
Violence Reduction	10 (7%)
Anger Management	7 (5%)
Multiple Programs	9 (6%)
Unknown	5 (3%)
TOTAL	139

Source: Audit Office analysis of data provided by Board of Parole and the Department of Correctional Services. Percentages may not total 100% due to rounding.

Insufficient Time to Complete Programming

We identified 22 (11%) of the 200 cases, in which the Board specifically noted the inmates were deferred to their mandatory discharge date and their sentences were shorter than the amount of time it would have taken to complete the program.⁸ In 13 (59%) of these cases, the programming that had not been completed was substance abuse programming.

It is likely that these numbers underestimate how often an inmate’s sentence is not long enough for completion of required programming because, according to the Board, it is not always separately noted in the parole record. Additionally, some of these cases may be recorded as a failure to complete programming and may be duplicated in the count of parole denials due to inmate behavior shown in Figure 7.⁹

Cases that Also had Non-clinical Programming Reasons for Denial

Of the 200 denial cases in which incomplete programming was a factor, 82 (41%) also had at least one *non-clinical programming* reason for the parole denial. Among this group of 82 inmates, there were 106 non-clinical programming reasons for denial. Figure 8 shows that denials related to inmate misconduct issues (57%) and inmate opposition to parole (13%) account for the vast majority (70%) of non-clinical programming factors.

⁸ Board of Parole, meeting with auditors, October 29, 2019.

⁹ Board of Parole, email to auditors, May 6, 2020.

Figure 8. Inmates denied parole due in part to a clinical programming reason often had non-clinical programming reasons as well.

DENIAL REASON	NUMBER OF INMATES
Misconduct Issues Excessive/Serious Misconduct Reports, Loss of Good Time, Drug Misconduct Reports, Removal from Community Custody	60 (57%)
Inmate Opposition Offender Request, Opposition, Waiver	14 (13%)
Board Opposition Lack of Board Support, Substantial Risk Inmate Won't Conform to Conditions of Parole, No Parole Plan	14 (13%)
Need for Mental Health Assistance/Evaluation	7 (7%)
Would Depreciate Seriousness of Crime	2 (2%)
Would Have Adverse Effect on Institutional Discipline	4 (4%)
Misc. No Access to Short Term Residential, Refused Strong-R, Parole Eligibility Date has Changed, No Approved Residence	5 (5%)
TOTAL	106

Source: Audit Office analysis of data provided by Board of Parole and the Department of Correctional Services. Percentages may not total 100% due to rounding.

Inmates Deferred to Mandatory Discharge Date

As noted earlier, when an inmate is deferred to mandatory discharge, it means they were denied parole and must serve the remainder of their sentence in prison. Another opportunity for a parole hearing is not normally given unless there are extenuating circumstances, which are determined on a case-by-case basis.¹⁰

Of the 200 denials in which incomplete programming was a factor, 91 resulted in deferral to mandatory discharge. The number of these deferrals decreased from 25 in FY2017 to 11 in FY2018 but increased to 55 in FY2019. In just over half of these cases (46, or 51%) substance abuse programming had not been completed.

Vacancies in Selected Department of Correctional Services Positions

In this section, we analyze vacancy rates for 18 Department of Correctional Services (DCS) positions that staffed clinical programs or provided mental health services from FY2017 to FY2019.¹¹ Clinical treatment programs are structured programs in areas such as substance abuse, violence reduction, anger management, and sex offender treatment. DCS does not consider mental health treatment to be clinical programming because it consists of individualized plans for behavioral concerns including, in some cases,

¹⁰ However, a case review is scheduled within one year to ensure that there have not been any changes in the inmate's situation which would extend the period of incarceration. Board of Parole, email to auditors, January 30, 2020.

¹¹ There were no obvious errors in the data but because this was a preaudit, we did not verify the data.

prescription medications.¹² An inmate’s inability or unwillingness to participate in either clinical programming or mental health treatment may result in their parole being denied.

Calculating Vacancy Rates

For each position, we calculated the annual vacancy rate and the three-year rate for the period reviewed. Because some positions had more than one full-time equivalent position (FTE) we incorporated the number of FTEs into our calculations. Figure 9 provides an example using a hypothetical position with 2 FTEs that was vacant for 8 months in FY2017. The FY2017 vacancy rate was 33% (8 months divided by 24 FTE months), and the 3-year rate was 17% (8 months divided by 72 FTE months).

Figure 9. How vacancy rates were calculated.

POSITION	FTEs PER YEAR	MONTHS VACANT IN 3 YEARS	FTE MONTHS IN		VACANCY RATES*	
			1 YEAR	3 YEARS	1-YEAR (8/24)	3-YEAR (8/72)
Hypothetical	2	8	24	72	33%	17%

Source: Audit Office analysis of data provided by the Department of Correctional Services.

*Percent of months vacant.

Three-year Vacancy Rates

The 18 positions had three-year vacancy rates ranging from 0 to 55%. Half of the positions had three-year rates of 0 to 7%, and the other half had rates between 17% and 55%. The five mental health positions had the highest three-year vacancy rates. Figure 10 lists the 18 positions and their three-year vacancy rates.

¹² Scott Frakes, DCS Director, email to auditors, November 20, 2020.

Figure 10. The five mental health services positions had the highest three-year vacancy rates.

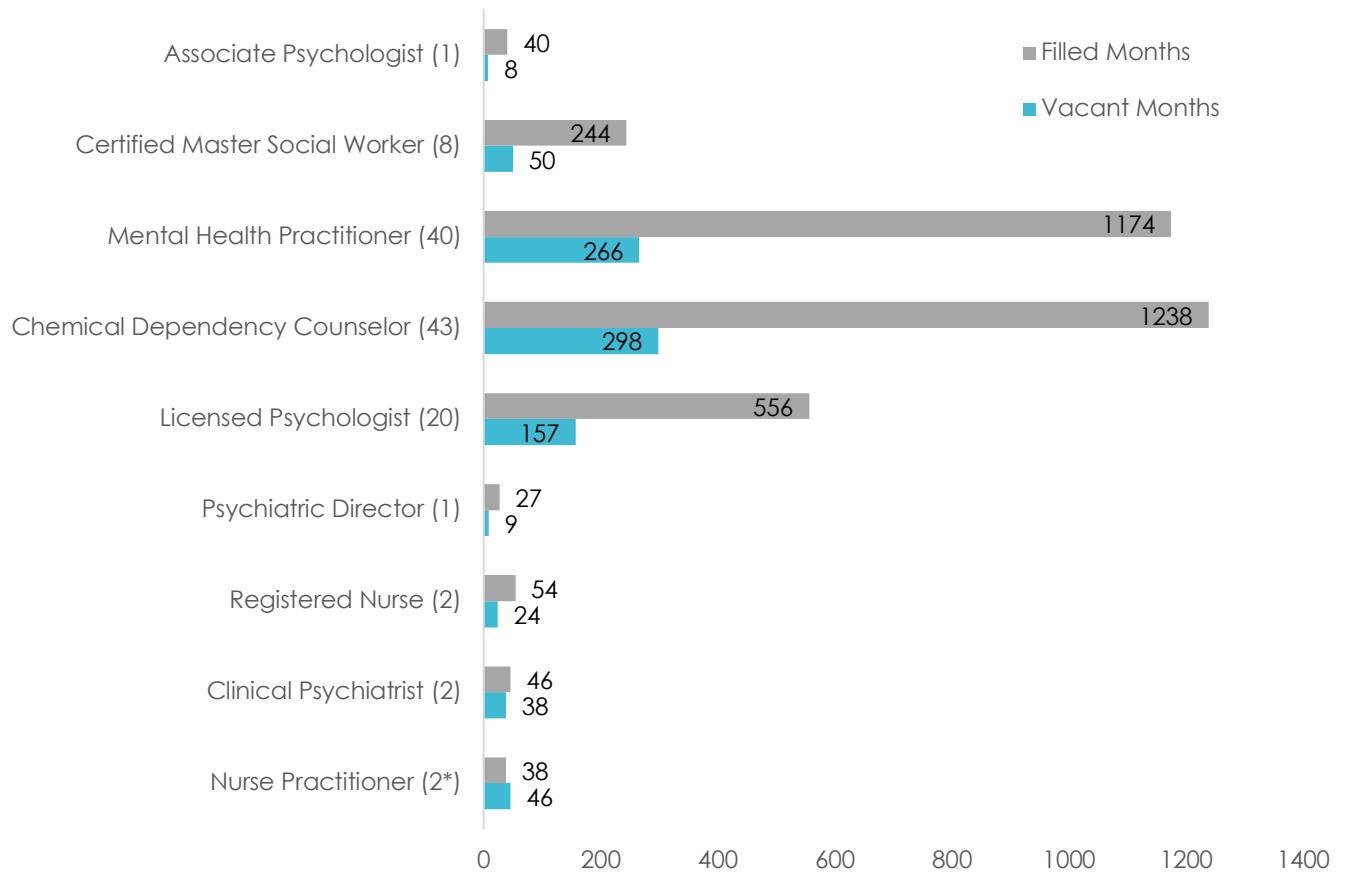
Position Title	3-year Vacancy Rate	Position Type
Nurse Practitioner	55%	Mental Health
Clinical Psychiatrist	45%	
Registered Nurse	31%	
Psychiatric Director	25%	
Licensed Psychologist	22%	
Chemical Dependency Counselor	19%	Clinical Treatment Programs
Mental Health Practitioner II	18%	
Certified Master Social Worker	17%	
Associate Psychologist	17%	
Clinical Program Manager	7%	
Corrections Program Coordinator	6%	
Director of Social Work	6%	
Mental Health Practitioner Supervisor	4%	
Certified Mental Health Worker Supervisor	3%	
Psychology Director	3%	
Chemical Dependency Counselor Supervisor	1%	
Behavioral Health Administrator	0	
Psychologist I	0	

Source: Audit Office analysis of data provided by the Department of Correctional Services.

Positions with High Three-year Rates—Number of FTEs

We reviewed the nine positions with vacancy rates of 17% or more to see how many FTE months were vacant. The nine positions had from 1 to 43 FTEs per year. Figure 11 shows the percent of vacant months and filled months for all FTEs for each position.

Figure 11. Positions with higher three-year vacancy rates had between 8 and 298 vacant months.



Source: Audit Office analysis of data provided by the Department of Correctional Services.

* The average number of FTEs per year.

Annual Vacancy Rates

We reviewed the annual vacancy rates for these nine positions to see if the rate was high in all or just some of the three years. The results of that review suggest that the vacancy rates for three positions are probably less concerning from a policy standpoint than the other six. They are the:

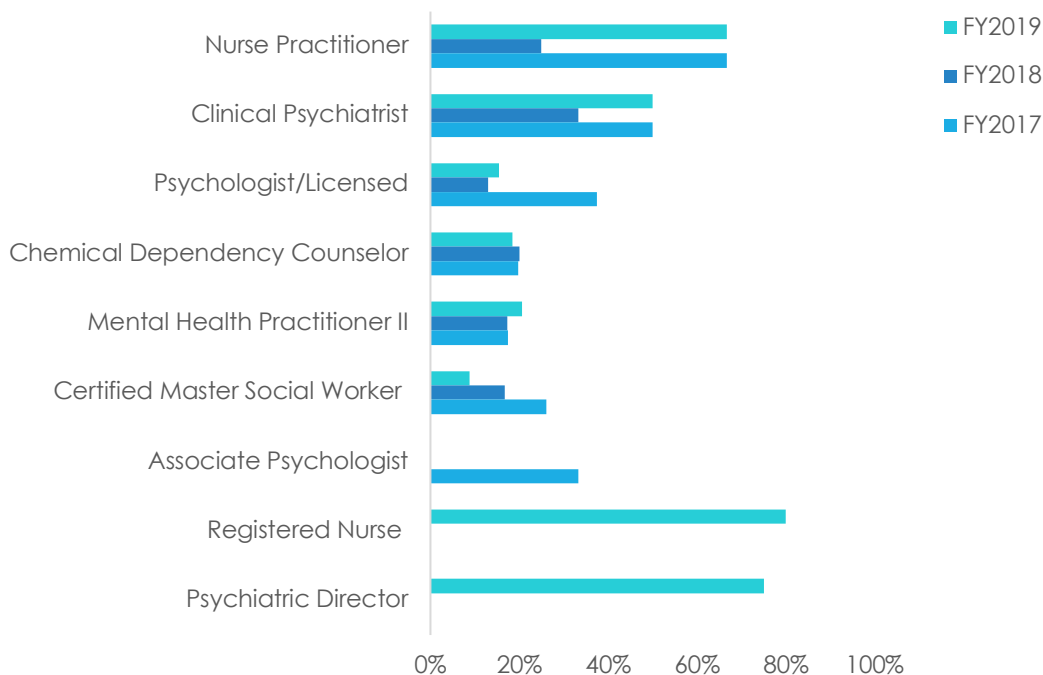
- Associate Psychologist, which had a high vacancy rate (33%) in FY2017 but no vacancies in the two more recent years,
- Certified Master Social Worker, which had a decreasing vacancy rate from 26% in FY2017 to 9% in FY2019, and
- Licensed Psychologist, which had a decreasing vacancy rate from 38% in FY2017 to 15% in FY2019.

Of the six positions with more concerning annual vacancy rate patterns, two had high rates only in FY2019 but those rates were very high (the Psychiatric Director, 75%, and the Registered Nurse, 80%). The remaining four positions had rates that either held steady over the three years, increased slightly, or dropped in FY2018 before returning in FY2019 to the higher FY2017 level. Specifically, the

- Mental Health Practitioner II and the Chemical Dependence Counselor positions each had annual vacancy rates between 17% and 21%, and
- Clinical Psychiatrist and the Nurse Practitioner positions each had noticeable decreases in vacancy rates in FY2018 but returned to higher levels in FY2019—50% and 67%, respectively.

This breakdown is shown in more detail in Figure 12.

Figure 12. Four positions had high vacancy rates in at least two years, while two had very high rates in a single year.



Source: Audit Office analysis of data provided by the Department of Correctional Services.

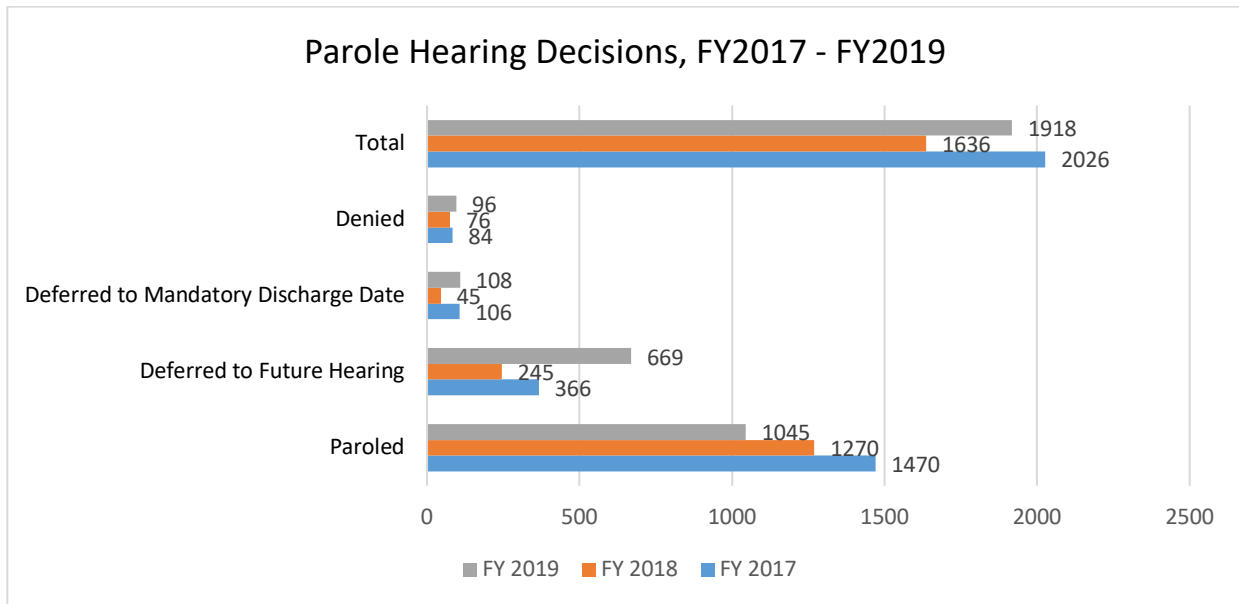
Impact of Vacancy Rates

In this preaudit, we describe the vacancy rates for key clinical programming and mental health treatment positions. However, it was beyond the scope to assess how the vacancies in each position actually impacted the department’s ability to provide the programs and treatment and, if so, whether that impacted inmates’ ability to receive parole.

One factor that may warrant additional study is the potential impact of positions with multiple FTEs but a lower vacancy rate on the Department's ability to provide programming or treatment. For example, the Chemical Dependency Counselor position had 42 to 43 FTEs in each year reviewed. While the vacancy rate of 19% was not as high as for some positions, when it is applied to the large number of FTEs, the result is 298 vacant FTE months during the three-year period.¹³ Without additional information, we cannot know how much impact those vacancies had on the Department's ability to provide chemical dependency programming.

¹³ The position had 43 FTEs in FY2017 and FY2019, and 42 in FY2018. Multiplying the number of FTEs in each year by 12 months and adding them results in a total of 1,536 FTE months for the three-year period.

APPENDIX A: Parole Hearing Dispositions by Fiscal Year



APPENDIX B: List of Parole Hearing Denial Reasons, FY2017 to FY2019

The highlighted denial reasons were those that were based on clinical programming.

DENIAL REASON	FY2017	FY2018	FY2019	Total
Misconduct report issues	28	36	50	114
Continued correctional treatment needed	29	8	50	87
Failed to complete SAU/RTC	18	21	46	85
Substantial risk inmate will not adhere to parole rules	21	12	28	61
At offender's request	3	18	35	56
Not interested in parole	0	20	24	44
Programming/treatment needed	6	11	23	40
Waived hearing/walked out	9	10	20	39
Failure at community custody/behavior	6	16	14	36
No parole plan	5	9	18	32
Lack Board support	3	6	23	32
Not parole eligible/sentence-related/new charges	12	6	10	28
Loss of good time	6	16	5	27
Opposition	3	4	19	26
Clinical programming needed ¹	9	8	3	20
Release would have adverse effect on NDCS discipline	17	2	3	22
Evaluation/recommendation needed	4	10	7	21
Release would depreciate seriousness of offense	5	7	5	17
On escape status	3	9	4	16
Refused programming	4	4	6	14
Other ²	4	5	5	14
Total	195	238	398	831

¹ According to an email from the Parole Board, the correct amount for FY2017 is 9; for FY2018, 8, for a total of 20. In the November 27, 2019 data, these amounts were reported as 11, 10, and 24, respectively.

² This includes the following denial reasons: refused STRONG-R screening; detainer; lack institutional support; need for transition; failed parole history; and behavioral health needs. Parole Board data provided to auditors, November 27, 2019.