STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2025-033
October 2024

COMMISSION ON OFFENDER REVIEW

Administration of Victim Rights Notifications

Sherrill F. Norman, CPA
Auditor General

Commission on Offender Review

The Commission on Offender Review is established by Article IV, Section 8(c) of the State Constitution and operates under the authority of Sections 20.32 and 947.13, Florida Statutes. Pursuant to Section 947.04, Florida Statutes, the head of the Commission is the Chair, and the three members of the Commission are appointed by the Governor and Cabinet subject to confirmation by the Senate. The Commission also serves as the administrative and investigative body that supports the Board of Executive Clemency, composed of the Governor and Cabinet. During the period of our audit, the following individuals served as Commission members:

Melinda N. Coonrod	Chair
Richard D. Davison	Vice Chair
David A. Wyant	Secretary

The team leader was Kimberly Roberts, CPA, and the audit was supervised by Melisa Hevey, CPA.

Please address inquiries regarding this report to Melisa Hevey, CPA, Audit Manager, by e-mail at melisahevey@aud.state.fl.us or by telephone at (850) 412-2935.

This report and other reports prepared by the Auditor General are available at:

FLAuditor.gov

Printed copies of our reports may be requested by contacting us at:

State of Florida Auditor General

Claude Pepper Building, Suite G74 · 111 West Madison Street · Tallahassee, FL 32399-1450 · (850) 412-2722

COMMISSION ON OFFENDER REVIEW

Administration of Victim Rights Notifications

SUMMARY

This operational audit of the Commission on Offender Review (Commission) focused on the administration of victim rights notifications. Our audit disclosed the following:

Finding 1: Commission processes and procedures did not adequately promote, and Commission records did not always evidence, the administration of victim rights notifications in accordance with the State Constitution and other applicable requirements.

Finding 2: Commission document scanning and imaging controls need improvement.

Finding 3: Certain Commission security controls related to storing confidential victim records need improvement.

BACKGROUND

The Commission on Offender Review (Commission) functions as a quasi-judicial, decision-making body that administers post-prison supervisory release programs such as parole,[1] conditional release,[2] and conditional medical release,[3] as well as acts as the administrative and investigative arm of the Governor and Cabinet who sit as the Board of Executive Clemency. To fulfill its mission of ensuring public safety and providing victim assistance through the post-prison release process, the Commission operates through a central office in Tallahassee and 11 regional field offices. The Legislature appropriated $12.3 million and $14.2 million to the Commission and authorized 145 and 161 positions for the 2022-23 and 2023-24 fiscal years, respectively.

[1] Parole is the release of an inmate, prior to the expiration of their court-imposed sentence, with a period of supervision to be successfully completed by compliance with the terms and conditions of the release agreement ordered by the Commission.

[2] Conditional release requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment at a State or Federal correctional institution, or who are sentenced as a habitual offender, violent habitual offender, violent career criminal, or court-designated sexual predator. Unlike parole, conditional release is not discretionary release.

[3] Conditional medical release is a discretionary release allowing the Commission to release inmates on supervision who the Department of Corrections deem terminally ill or permanently incapacitated and who are not a danger to others.

The Commission administers victim[4] rights notification processes related to parole, control release,[5] conditional release, conditional medical release, clemency,[6] and addiction recovery[7] case proceedings. The Commission, Division of Central Office Operations (Division), Victims' Services Office (Victims' Services), with assistance from the Division, Office of the Commission Clerk (OCC), was responsible for the administration of victim rights notifications.

Pursuant to Article I, Section 16(b)(6) of the State Constitution (Constitution), upon request a victim is entitled to certain specific rights, including the right to be:

- Provided reasonable, accurate, and timely notice of any proceeding during which a right of the victim is implicated.
- Informed of:
  - Any scheduled release date of the offender.
  - All postconviction processes and procedures, to participate in such processes and procedures, and to provide information to the release authority to be considered before any release decision is made. The parole or early release authority is to extend the right to be heard to any person harmed by the offender.
  - Clemency and expungement procedures, to provide information to the Governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made.
- Notified of:
  - Any release decisions regarding the offender or, in the case of clemency, in advance of any decision before release of the offender.

The Commission utilizes Department of Corrections (Department) information technology (IT) services necessary for the operation of the Commission, including the Department-maintained Commission Management System (CMS) to maintain victim contact information and victim documents. Additionally, the Commission utilizes the Department's OnBase imaging system (OnBase) to maintain scanned documents, including confidential victim documents.[8] According to Commission management, 10,432,496 Commission documents were stored in OnBase as of August 16, 2023.

[4] Article I, Section 16(b)(11)(e) of the State Constitution defines a victim as a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act against whom the crime or delinquent act is committed. The term includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon showing that the interest of such individual would be in actual or potential conflict with the interests of the victim. The term does not include the accused.

[5] Control release is a program established by the Legislature in 1989 to maintain the prison population between 99 and 100 percent capacity. The Commission does not currently review the inmate population for control release as there are sufficient prison beds for the current prison population. However, there are a small number of control releasees who are still under supervision.

[6] Clemency is the State Constitutionally authorized process that provides the means through which convicted offenders may be considered for relief from punishment and seek restoration of their civil rights.

[7] Addiction recovery supervision requires mandatory post-prison supervision of offenders released from a State correctional facility who have a history of substance abuse or addiction or have participated in any drug treatment and have not been convicted of a disqualifying offense.

[8] Confidential victim documents include, for example, confidential victim memoranda detailing verbal victim statements and search efforts to locate a victim and letters and e-mails received from a victim and the victim's family and friends. Such documents may include personally identifiable information that can be used to distinguish or trace a person's identity to a specific individual and are exempt from public disclosure pursuant to Section 945.10, Florida Statutes.

FINDINGS AND RECOMMENDATIONS

Finding 1: Administration of Victim Rights Notifications

To administer the Constitutionally established victim rights notification process, the Commission must consider relevant State laws, as authorized and necessary, establish related rules, and implement policies and procedures for day-to-day process management and documentation requirements. As part of our audit, we inquired of Commission management and evaluated State law,[9] Commission rules,[10] *Rules of Executive Clemency*, and Commission policies and procedures to determine whether State law, applicable rules, and Commission policies and procedures were consistent with and promoted the notification of victims of their Constitutional rights. Our audit procedures found that:

- Commission rules[11] for parole, conditional medical release, and control release victim input had not been updated since 2013 and, contrary to the Constitution and State law,[12] required victims to receive advance notification any time a parole, conditional medical release, or control release case was placed on the docket for Commission action, rather than upon request.
- As victim notifications could bring back memories that the victim may not want to relive, and victims are entitled to certain rights upon request, the Commission developed a procedure directive[13] for administering victim rights notifications in accordance with applicable requirements. However, our review of the procedure directive found that the directive did not promote the adequate oversight of Commission victim rights notification activities and included conflicting guidance. Specifically:
    - The procedure directive did not require, and consequently Commission records did not evidence, supervisory review of Commission victim rights notification activities for parole and clemency case proceedings. Although Commission management indicated that supervisory reviews were conducted, evidence of such reviews was not included in Commission records.
    - The procedure directive at times assigned overlapping victim rights notification responsibilities to Victims' Services and the OCC. For example, the directive specified that, when contacted by a victim, the OCC was to notify the victim of all Commission parole, conditional medical release, conditional release, addiction recovery, and control release proceeding actions. The directive, however, also specified that upon request Victims' Services personnel were to notify victims of the outcomes of conditional release, addiction recovery, and control release proceedings.

    The absence of adequate supervisory review controls and conflicting Commission procedure directive requirements may have contributed to the subsequently described issues regarding the appropriate administration of victim rights notifications.

We interviewed Commission management, reviewed Commission policies and procedures, and examined Commission victim notification records for the period July 2021 through December 2022 to determine whether Commission processes and procedures facilitated the notification of victims of their rights related to parole, control release, conditional release, conditional medical release, clemency, and

[9] Sections 944.4731, 947.06, 947.1405, 947.146, and 960.001, Florida Statutes.

[10] Commission Rules, Chapters 23-21, 23-22, 23-23, and 23-24, Florida Administrative Code.

[11] Commission Rules 23-21.004(2), 23-22.007(1), and 23-24.025(1), Florida Administrative Code.

[12] Section 960.001, Florida Statutes.

[13] Commission Procedure Directive 3.01.05, *Victims' Services*.

addiction recovery case proceedings in accordance with the Constitution and other applicable requirements. Our audit procedures found that the Commission did not always administer victim rights notifications in accordance with the Constitution and other applicable requirements. Specifically:

- Although victims are entitled under the Constitution to certain rights upon their request, such as the right to be informed of all postconviction processes and procedures, to participate in such processes and procedures, and to provide information to the release authority to be considered before any release decision is made, our audit found that it was not apparent of record whether Commission efforts were sufficiently comprehensive to identify and locate victims for parole-related cases and inform them of their right to participate in Constitutionally provided processes. Commission efforts included the following:
    - OCC staff generated from Department of Corrections data a monthly listing of parole-eligible inmate cases with each inmate's next Commission interview date. Upon receipt of the monthly interview listing from the OCC, Victims' Services personnel were to review each case to verify that all victims had been identified and located, including whether the victims were listed in CMS and designated as active or inactive.[14] According to Commission monthly interview listing records, 860 parole interviews were scheduled for the period July 2021 through December 2022.
    - If victims had not been identified or located for docketed parole, conditional medical release, or clemency cases, Victims' Services staff were to utilize, at a minimum, a specified list of data sources (e.g., court information, police reports, State attorney files) to identify and locate victims. For conditional medical release case proceedings, due to time sensitivity issues, Victims' Services staff were initially to attempt to contact a victim by telephone. However, if contact could not be made with a conditional medical release case victim, or upon the identification of new parole or clemency case victims, a search letter was to be sent to the victim to inform them of their Constitutional rights and to ask whether the victim wished to be notified of proceedings involving the inmate and to have input. Parole and conditional medical release case search letters were to be saved to OnBase while clemency search letters were to be saved to an internal drive.
    - According to Commission management and the procedure directive, victims requesting to receive notifications for parole, conditional medical release, conditional release, addiction recovery, and control release cases were to be entered into CMS.[15] CMS included a comment field the Commission could use to document conversations with a victim or any items of special note pertaining to the victim, such as whether a victim had requested to be notified of a proceeding or wished to waive their notification rights. During the period July 2021 through December 2022, the Commission recorded 4,301 victim records in CMS.

  Despite these processes and procedures, Commission records did not adequately evidence that monthly listings of parole-eligible cases had been reviewed to verify that victims had been identified and located or whether additional search efforts were necessary to identify victims for docketed parole cases. Although Commission management indicated that reviews were conducted and review documents scanned into OnBase, no such records could be found on audit. Consequently, it was not apparent of record whether Commission efforts to identify and locate victims for parole-related cases and inform them of their right to participate in Constitutionally provided processes were sufficiently comprehensive. Additionally, while the Commission was to use CMS to document victim-related communications and whether a victim's case was active,

[14] Victims who did not wish to have further contact or who were deceased were to be designated as inactive in CMS.

[15] Victim information for conditional release, addiction recovery, and control release cases is maintained by the Department of Corrections, which is responsible for notifying victims within 90 days of an inmate's release from prison. However, upon contact, Victims' Services will provide necessary assistance, including notification of the conditions set and ensuring that the victim's input is provided to the Commission.

and OnBase to maintain search records, as later described, the Commission did not always clearly document how no-victim parole cases were determined and whether a victim requested to be contacted about parole or conditional medical release case proceedings.

- Commission records did not evidence for 2 of the 9 initial interviews of inmates with active victims conducted during the period July 2022 through December 2023 that the Commission sent a search letter to 2 victims related to the cases. According to Commission management, 1 of the victims may have been notified through family and contact information for the other victim may not have been available due to the victim's prior employment with law enforcement.
- Commission records did not evidence for 2 of 30 tested parole cases that the Commission had sent Next Interview Date (NID) letters to the victims. Pursuant to the procedure directive, the Commission was to timely contact victims via NID letters notifying them of upcoming inmate parole interview dates, as well as informing them of their right to speak at the Commission meeting, the opportunity to write a letter if they were unable to appear, and the type and purpose of the hearing.
- For a tested parole case, while CMS comments indicated that the victim did not wish to be contacted regarding their case, the victim was not marked as inactive. Pursuant to State law,[16] a victim may waive notification at any time, and such waiver is to be noted in Commission files.
- For 3 of 26 applicable tested parole cases, the NID letters to the victims did not inform them of their right to speak and appear at the Commission meeting or to write a letter if they were unable to appear at the Commission meeting. According to Commission management, Commission staff may have used outdated or incorrect NID letter templates which did not include the required language.
- For a tested parole case, the NID letter to the victim did not specify the date of the offender's next interview date. Instead, the letter indicated that the interview was scheduled for "*month year*".
- For 5 tested parole cases noted in CMS as having no active victims, Commission records did not evidence the basis for this conclusion. For 3 other tested parole cases with no active victims, Commission records did not evidence that the minimum required sources were used to attempt to identify and locate victims. Instead, only a single data source was used. According to Commission management, the source used provides the most current information on victims and is the primary source used. If victims cannot be located using that primary source, other sources are used. Notwithstanding, the single data source did not produce successful search results for the victims and Commission records did not evidence that staff expanded their search efforts to use the other specified sources to identify and locate victims.
- While the procedure directive required Commission Action Forms be sent by the OCC to the victims of conditional medical release cases notifying them of the result of Commission actions, Commission records for 5 of 11 tested conditional medical release cases did not evidence that the selected victims marked as active in CMS had been notified of the Commission actions. According to Commission management, it was not Commission practice to retain copies of Commission Action Forms.
- For 1 of 15 tested conditional medical release cases, Commission records did not clearly evidence the basis for marking the victim as inactive and not notifying the victim of a hearing. While the victim was marked inactive in CMS, CMS comments indicated that the victim feared for their life as well as the lives of their family should the inmate be released but did not specify whether the victim waived their right to be contacted. In response to our audit inquiry, Commission management indicated that they were unable to locate any record indicating why the victim had been marked as inactive.

[16] Section 960.001(1)(e), Florida Statutes.

Commission rules that align to Constitutional and statutory requirements, clear and consistent Commission procedures, and adequate supervisory review controls would better ensure that the Commission manages, and Commission records evidence, the administration of victim rights notifications in accordance with the Constitution and other applicable requirements.

Recommendation: We recommend that Commission management update Commission victim input rules for parole, conditional medical release, and control release proceedings to clearly align to Constitutional and statutory requirements, review Commission procedures for clarity and consistency then revise the procedures as appropriate, and enhance controls to provide for documented supervisory review of Commission activities and the administration of victim rights notifications in accordance with the Constitution and other applicable requirements.

Finding 2: Document Scanning and Imaging Controls

Effective document scanning and imaging controls, such as independent quality assurance reviews, are necessary to ensure that, prior to the destruction of original paper documents, the documents were properly scanned and imported into the imaging system. Accordingly, Victims' Services desk procedures, effective October 2021, required the Victims' Services Supervisor to complete a quality assurance review after scanned documents were imported into OnBase and prior to the destruction of the original records. According to Commission management, 59,891 Commission documents were scanned and imported into OnBase during the period July 2021 through December 2022.

As part of our audit, we inquired of Commission management, reviewed Commission policies and procedures, and observed Commission document scanning and imaging processes to determine whether Commission document scanning and imaging controls were adequate to ensure that all documents, including confidential victim documents, scanned and imported into OnBase were subject to an independent quality assurance review prior to the destruction of the original documents. Our audit procedures disclosed that Commission document scanning and imaging controls need improvement. Specifically, we noted that:

- Contrary to established procedures, victim documents scanned and imported into OnBase by the Victims' Services Supervisor and other Victims' Services employees were not subject to independent quality assurance reviews.
- While Victims' Services desk procedures provided for an independent quality assurance review, non-Victim Services' personnel with scanning and imaging duties utilized a separate set of desk procedures that did not require independent quality assurance reviews. Although not required by the desk procedures, we noted that victim documents scanned and imaged by non-Victims' Services employees were independently reviewed; however, the independent review by one employee did not include follow-up to ensure that scanning and imaging errors had been corrected. In response to our audit inquiry, the employee indicated that they were not aware of established procedures for the quality assurance process.
- Commission desk procedures did not include a time frame for scanning and importing original documents into OnBase and we noted that two parole-related NID letters were scanned and imported into OnBase 518 and 293 days after the letters were mailed to victims. According to Commission management, ideally the Commission would like to digitally save documents at the first opportunity; however, shifting roles and responsibilities associated with a Division transition contributed to the delays in scanning and importing the documents into OnBase. As noted in

Finding 3, our audit found that controls related to the storage of confidential victim records need improvement.

The establishment of uniform procedures that provide for independent quality assurance reviews of the results of the scanning and imaging of all victim documents received by the Commission, including a review to confirm that necessary corrections were made, would promote Commission efforts to ensure that victim documents are properly scanned and imported into OnBase prior to the destruction of original records. In addition, specifying a time frame for promptly scanning and importing original victim documents into OnBase would better ensure the security of such documents.

Recommendation: To ensure that victim documents are properly scanned and imaged prior to the destruction of the original records, we recommend that Commission management establish uniform policies and procedures for the conduct of independent quality assurance reviews of all scanned Commission documents, including confirmation that necessary corrections were made. We also recommend that Commission management enhance policies and procedures to provide a time frame for promptly scanning and imaging victim documents into OnBase.

Finding 3: Confidential Victim Record Security Controls

Security controls are intended to protect the confidentiality, integrity, and availability of Commission records, including records containing confidential information. Our audit procedures disclosed that certain Commission security controls related to storing confidential victim records need improvement. We are not disclosing the specific details in this report to avoid the possibility of compromising confidential victim records maintained by the Commission. However, we have notified appropriate Commission management of the issues noted on audit.

Without appropriate security controls related to storing confidential victim records, the risk is increased that the confidentiality, integrity, and availability of Commission records may be compromised.

Recommendation: We recommend that Commission management improve certain security controls related to storing confidential victim records to ensure the confidentiality, integrity, and availability of Commission records.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from March 2023 through March 2024 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.

This operational audit of the Commission on Offender Review (Commission) focused on the administration of victim rights notifications. For those areas, the objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed into operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in internal controls significant to our audit objectives; instances of noncompliance with applicable governing laws, rules, or contracts; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed the State Constitution, applicable laws, rules, *Rules of Executive Clemency*, Commission policies and procedures, and other guidelines, and interviewed Commission personnel to obtain an understanding of Commission victim rights notification processes and responsibilities.
- Inquired of Commission management regarding whether the Commission made any expenditures or entered into any contracts under the authority granted by an applicable state of emergency during the period July 1, 2021, through March 10, 2023.

- From the population of 860 parole-eligible cases reported on monthly interview listings during the period July 2021 through December 2022, examined Commission records for 15 selected cases appearing on the monthly interview listings during the period July 2021 through June 2022 and 25 selected cases appearing on the monthly interview listings during the period July 2022 through December 2022 to determine whether Commission victim rights notification processes were administered in accordance with the State Constitution, applicable laws, rules, Commission policies and procedures, and other guidelines.
- Examined Commission records related to the 9 initial interviews of inmates conducted during the period July 2022 through December 2023 involving 20 victims to determine whether the Commission sent search letters to the victims informing them of their Constitutional rights and asking whether the victims wished to be notified of proceedings involving the inmates and to have input.
- From the population of 93 conditional medical release cases docketed during the period July 2021 through December 2022, examined Commission records for 20 selected cases to determine whether Commission victim rights notification processes for conditional medical release cases were administered in accordance with the State Constitution, applicable laws, rule, Commission policies and procedures, and other guidelines.
- From the population of 77 clemency cases and 1 Request for Review (RFR) for Commutation of Sentence case docketed during the period July 2021 through December 2022, examined Commission records for 20 selected clemency cases and the 1 RFR for Commutation of Sentence case to determine whether Commission victim rights notification processes for clemency and RFR for Commutation of Sentence cases were administered in accordance with the State Constitution, *Rules of Executive Clemency*, Commission policies and procedures, and other guidelines.
- Inquired of Commission management; reviewed the State Constitution and State law; evaluated Commission rules, *Rules of Executive Clemency*, and Commission policies and procedures; and examined Commission victim rights notification records to determine whether the Commission administered victim rights notifications in accordance with applicable requirements.
- Inquired of Commission management, reviewed Commission policies and procedures, and observed Commission document scanning and imaging processes to determine whether Commission document and scanning controls were adequate to ensure that victim documents were properly scanned and imported into OnBase prior to destruction of the original documents.
- Inquired of Commission management, reviewed Commission policies and procedures, and observed Commission processes for storing physical victim records to determine whether Commission security controls related to storing confidential victim records were adequate.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading ***MANAGEMENT'S RESPONSE***.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

Sherrill F. Norman, CPA
Auditor General

FLORIDA COMMISSION ON OFFENDER REVIEW

October 14, 2024

Sherrill F. Norman
Auditor General
Claude Denson Pepper Building
Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

Re: Preliminary and Tentative Audit Findings and Recommendations

Dear Ms. Norman:

The Florida Commission on Offender Review ("Commission") is in receipt of your September 16, 2024, list of preliminary and tentative audit findings and recommendations that may be included in a report to be prepared on your operational audit of the Commission's administration of victim rights notifications.

Please find enclosed here, pursuant to s. 11.45(4)(d), Fla. Stat., the Commission's written statement of explanation concerning all the preliminary and tentative audit findings and recommendations, including the Commission's actual and proposed corrective actions.

In closing, my staff and I would like to thank your auditors for their professionalism and able assistance during this process.

Sincerely,

David A. Wyant
Chairman

DAW/rmw

Enclosure

Finding 1: Administration of Victim Rights Notifications

Recommendation: We recommend that Commission management update Commission victim input rules for parole, conditional medical release, and control release proceedings to clearly align to constitutional and statutory requirements, review Commission procedures for clarity and consistency then revise the procedures as appropriate, and enhance controls to provide for documented supervisory review of Commission activities and the administration of victim rights notifications in accordance with the constitution and other applicable requirements.

Commission Response: The Commission does not dispute the finding. Prior to the receipt of the audit findings, the Commission understood its rules to provide additional services to victims, in addition to those which are required by the constitution and statute. For example, Commission rules currently require victim notification each time a parole or conditional medical release case is brought before the Commission for a vote, instead of only upon request of the victim as set out in the constitution and statute.

The Commission sets out here the steps it will take to ensure compliance of Commission rules, procedure directives, and desk and (or) training manuals with art. I., section 16, Fla. Const., and s. 960.001, Fla. Stat., and to ensure appropriate oversight and documentation of administration of victim rights notifications.

- Within the coming six months, the Commission will begin the rulemaking process to amend the Florida Administrative Code rules governing victim input, including Rules 23-21.004, 23-22.007, and 23-24.025, F.A.C., to bring the rules in line with the mandates of article I, section 16, Fla. Const., and s. 960.001, Fla. Stat.

- Within the coming twelve months, the Commission will revise its procedure directive(s) to include provisions requiring supervisory review of victim rights notification activities for parole and clemency cases. These revisions will include method(s) and process(es) for documenting these supervisory reviews.

- Within the coming six months, the Commission will review the victim rights notifications responsibilities currently split between the Office of Commission Clerk and the Victims Services Unit. If these responsibilities can operationally be made more efficient and assigned to solely either the Office of Commission Clerk or the Victims Services Unit, the Commission will amend its procedure directive(s) to reflect any operational changes as to the office responsible for sending and (or) documenting these notifications.

- Within the coming twelve months, the Commission will review its current method(s) and process(es) for identifying and locating victims for parole cases in order to inform these victims of their right to participate in constitutionally protected processes. This review will include what method(s), process(es), and data sources the Commission uses to locate victims and the documentation of same, including whether victims have been identified or whether additional search efforts are necessary to identify and locate these victims. As needed, Commission procedure directive(s) will be revised and (or) updated to:

  (1) ensure accountability as to the use of all available methods, processes, and data sources to identify and locate victims to ensure victims are informed of their right to participate in constitutionally protected processes and to documentation of the same,

(2) include accountability for documenting whether a parole case is a no-victim case,

(3) include accountability as to identifying whether a victim in a parole or conditional medical release case has requested to be contacted about the proceedings or has waived his or her right to be contacted about the proceedings and documentation of the same,

(4) include accountability for documentation related to a determination that a victim is either not identified or not located, including what data source(s) were used to attempt to identify and (or) locate a victim,

(5) include accountability for notification of the outcome of the proceedings for those victims wishing to be notified of the proceedings, and

(6) include accountability for documenting the reason(s) any victim is designated or made "inactive" in the Commission Management System ("CMS") database.

Within the coming six months, the Commission will review all form letters and hearing notices sent to victims and the Commission will revise and (or) update these letters and notices as necessary to ensure that all applicable victim rights notifications are included in the letters and notices, including their right to be heard and the various forms or formats in which they can exercise this right.

Within the coming twelve months, the Commission will revise and (or) update any training and (or) desk manuals to reflect the changes made to Commission rules, procedure directive(s), and policy as a result of the audit.

Finding 2: Document Scanning and Imaging Controls

Recommendation: To ensure that victim documents are properly scanned and imaged prior to the destruction of the original records, we recommend that Commission management establish uniform policies and procedures for the conduct of independent quality assurance reviews of all scanned Commission documents, including confirmation that necessary corrections were made. We also recommend that Commission management enhance policies and procedures to provide a time frame for promptly scanning and imaging victim documents into OnBase.

Commission Response: The Commission does not dispute the finding. Victim Services imaging and uploading responsibilities were transferred to Commission staff outside of the Victim Services Unit, without the requisite modification to desk manuals and procedures for these staff as to quality assurance reviews. Within the coming twelve months, the Commission will update the procedure directive(s), other procedures and (or) position specific and desk manuals of all staff responsible for scanning and uploading Victim Services documents to the imaging system, to:

- include a form(s) ensuring accountability for timely imaging and quality assurance review(s) on each batch of documents scanned and uploaded into the imaging system(s), and
- specifically instruct scanning staff that the imaged documents must be reviewed for quality assurance purposes and to instruct staff on proper quality assurance method(s) and process(es) and documentation of the same, and
- specifically require management staff perform a higher-level quality assurance review each month, to include instruction of proper quality assurance method(s) and process(es), and documentation of the same.

Finding 3: Confidential Victim Records Security Controls

Recommendation: We recommend that Commission management improve certain security controls related to storing confidential victim records to ensure the confidentiality, integrity, and availability of Commission records.

Commission Response: The Commission does not dispute the finding. As of September 26, 2024, all issues identified within Finding 3 were fully resolved.