

Criminal Justice Oversight Committee

Minutes of the October 19, 2006 Meeting

Chairman's Welcome

A meeting of the Criminal Justice Oversight Committee (CJOC) was held on this date at the RI Department of Administration. The meeting was called to order by Chairman Jackvony at 8:45 AM. Introductions were made.

Attendance

Bernard A. Jackvony, Esq., Chair
Colonel Steven Pare, Supt., RIS^P
Director A.T. Wall, DOC
Public Defender John Hardiman
Jake McGuigan for Clark Greene, Governor's Office
Lisa Holley, DOC
Erin Boyar, DOC
Bree Derrick, DOC
Kristen Meuse, RIJC
Kathleen Loiselle, RIJC

Approval of August 17, 2006 Minutes

There being no changes, Colonel Pare made a motion:

**TO ACCEPT THE MINUTES OF THE AUGUST 17, 2006
MEETING AS SUBMITTED.**

The motion was seconded by Public Defender Hardiman and was unanimously passed.

The Chairman noted that because of the increasing inmate population discussed at the last meeting, the CJOC decided to meet to receive an update.

Population Update

Erin Boyar presented a prison population update. She advised that the prison population has shown a generally upward trend. From FY06 through September 07 the population went from 3510 to 3735 or 7% higher. Additionally, Ms. Boyar pointed out that the population for June 06 data was 10% higher than June 05. The last time the prison experienced all time highs was in FY02 which was partly due to housing INS detainees. This year the population is high but there are few INS detainees (less than 10 on average) – most inmates are from Rhode Island. Ms. Boyar noted that the prison population is not climbing at the same rate so that DOC may be at a plateau point. Currently the prison

population is high rate because of an increase in both the Pre-trial and Sentenced populations. She noted that commitments have also seen an increase during the past 10 years. Commitments thus far in FY07 are averaging much higher than previous years, and if they stay on course DOC projects commitments will exceed over 20,000 for FY07. Ms. Boyar noted that possible contributors to the overall population increase are a complex combination of many factors including probation violators, release types, length of sentence and the number of court cases disposed.

Director Wall noted that it is important to note the number of cases disposed by the court, if there is more court activity then the RIDOC population will increase.

Ms. Boyar stated that court data does not show an increase in dispositions or filing during the first part of 2006. However, she noted that the Courts are not able to provide data related to the types of dispositions (i.e. how many are sentenced to incarceration versus probation versus fined or dismissed). She added that she was still discussing this matter with court personnel.

Director Wall pointed out that DOC is willing to work with the courts to determine this data.

Ms. Boyar pointed out that this question does not appear to be high on the court's list of priorities as the court's priorities are to process cases in a timely fashion while the DOC needs to know the outcomes.

Ms. Boyar stated that there had been a question at the last meeting regarding if the DOC has seen a change in commitments by offense type. She advised that she had researched the question and the count shows that there has been no increase or change in any one offense type. Ms. Boyar noted that when commitments exceed releases the population will grow because more inmates are coming in than going out. She pointed out that the population is highest on Sunday at midnight. The population is lowest on Thursday due to housing pre-trial inmates over the weekend.

Ms. Boyar noted that there was also a question from the last meeting with respect to whether more individuals were being held without bail at the DOC and how many were being held for low bail amounts. She stated that from Jan-September there were 1994 Awaiting Trial (AT) Releases (19% of all AT releases) with a total bail amount of \$500 or less (598 were released on the same day). Of the remaining 1396, 277 were bailed after serving an average of 3 days; 1070 were discharged at court after serving an average of 5 days; 28 were sentenced after serving an average of 9 days; and 21 were discharged to IMM after serving an average of 1 day. Ms. Boyar noted that the percent of individuals getting sentenced from a bail amount of \$500 or less is miniscule. She noted that it would cost the state approximately \$200,000 more to house inmates if they were not able to post bail and get out on the same day.

With respect to the Population vs. Operational & Federal Capacity, Ms. Boyar noted that the federal capacity is set lower than the operational capacity. The total average

population for September 2006 was 3712. This figure represents 95.3% of an Operational Capacity of 3892 and 90.9% of a Federal Capacity of 4085.

Director Wall stated that the CJOC's charge with respect to prison overcrowding necessitates a meeting if one of the following 2 things happened: 1) if any one facility reached 100% capacity for 5 conservative days; or 2) if the entire system reached 95% capacity for 30 days. Director Wall noted that some of the prison's facility did, in fact, reach federal court capacity but not for 5 consecutive days. He added that the total population did not exceed capacity in August or September 2006. The highest average total population was 3741 during the month of August 2006. The RIDOC population increased significantly at the end of FY 06 and beginning of FY07. It has moderated a bit, but is still at historically high levels.

Ms. Boyar noted that the April 2006 population averaged 3563 and the July, August, and September populations all averaged above 3700. Thus far October is averaging 3735. Ms. Boyar noted that the Federal court-ordered capacity exceed was exceeded on a couple of days but never came close to threatening the court order of notification to this committee. She added that DOC has not seen any indication of the population dropping, but also does not anticipate it to climb much higher. The projected population figure for FY 07 is 3718.

Lisa Holley inquired if the population increases in late November before the holidays.

Ms. Boyar responded that the population is lower, in fact, in November and December because fewer court cases are heard. She added that usually the population drops in the winter and increases in the spring.

Public Defender Hardiman noted that September and October are the busiest months in court, but the winter months slow down.

Director Wall stated that when there is more activity in the courts the population fluctuates. He noted that often in November through December fewer arrests are made.

Lisa Holley stated that she had heard that major sweep will take place over the next few months.

Director Wall responded that he had heard the same and that it is helpful to have this information in advance of the sweep. DOC does not always get this information beforehand.

Colonel Pare stated that he has no information relative to this activity.

Public Defender Hardiman noted that he believes the Providence Police Department's arrest rates have significantly increased and asked if the DOC had any data regarding rates of arrest.

Erin Boyar noted that there has been a change in the way in Police Departments report data. Many now use Incident Based Reporting. The Providence Police Department has not yet converted to the new system and it is therefore difficult to aggregate police data at this time.

Public Defender Hardiman noted that although the rates of persons committed to the DOC on a violation have stayed the same, the courts are hearing more violations.

Ms. Boyar noted that the data presented regarding violations includes only those individuals who have been sent to the DOC.

Director Wall reiterated that the data can only reflect those individuals who have been sent to the DOC. He added that there has been an increase in violent crime across the country and Chief Esserman was determined that the increase not be seen on the east coast. To combat this crime wave, the Chief deliberately flooded Providence streets with police officers in the summer and fall. This action was designed to keep Providence violent crimes rates lower than in other communities. Director Wall stated that he did not want to criticize that strategy nor criticize other police departments, but DOC has a statutory responsibility to report changes.

Colonel Pare noted that the DOC is projecting 20,000 commitments for FY07. He asked if the DOC kept data or knew if the same trends were seen in the states of Massachusetts and Connecticut.

Bree Derrick responded that it is difficult to make those comparisons as the RIDOC is a unified system and neighboring states are not. She stated that she would research this information and report back to Colonel Pare.

Colonel Pare asked who sets the operational capacity.

Director Wall responded that DOC sets the operational capacity, but the federal capacity is set by the courts.

Conclusion

Director Wall stated that the DOC prison population is not at the point where action is required by the CJOC. He explained that DOC population figures can fluctuate and level off on a day-to-day basis. Director Wall stated that the DOC has been at a population capacity of 3500 for years, but the new reality is a capacity of 3700.

Director Wall commended Erin Boyar and Bree Derrick of DOC's Planning and Research office for their hard work and efforts.

Chairman Jackvony also thanked Ms. Boyar and Ms. Derrick for answering all of the CJOC's questions.

Ms. Boyar told the committee to feel free to call the Planning and Research office with any other questions.

Set Next Meeting

The next meeting was scheduled for Tuesday, January 9, 2007. There was no other business discussed and the meeting was adjourned at 9:23 AM.

Respectfully submitted,

Approved:

Kathleen M. Loiselle
Recording Secretary

Thomas H. Mongeau
RIJC Executive Director