

Criminal Justice Oversight Committee
Minutes of the January 9, 2007 Meeting

Chairman's Welcome

A meeting of the Criminal Justice Oversight Committee (CJOC) was held on this date at the RI Department of Administration, One Capitol Hill, Providence, RI. The meeting was called to order by Chairman Jackvony at 8:32 AM. Introductions were made.

Attendance

Bernard A. Jackvony, Esq., Chair
Col. Steven Paré, Supt., RISP, Vice-Chair
Director A.T. Wall, DOC
Presiding Justice Joseph Rodgers
Anthony Capraro for Public Defender Hardiman
Magistrate Joseph Ippolito for Chief Judge Albert DeRobbio
Jake McGuigan for Clark Greene, Governor's Office
Ellen Evans Alexander, DOC
Erin Boyar, DOC
Fred McCarthy, DOC
Lisa Holley, Parole Board
Thomas Mongeau, RIJC
Kathleen Loiselle, RIJC

Approval of October 19, 2006 Minutes

There being no changes, Colonel Paré made a motion:

**TO ACCEPT THE MINUTES OF THE OCTOBER 19, 2006
MEETING AS SUBMITTED.**

The motion was seconded by Jake McGuigan and was unanimously passed.

The Chairman advised that it was decided at the last meeting to meet again in January to receive an inmate population update from the Department of Corrections.

Population Update

Erin Boyar presented a slide presentation which provided an overview on DOC's on population. She advised that the FY07 prison population is 3741 which represents a 6% increase from FY06. If the numbers stay on the same track DOC will reach the highest increase seen since the 1990's. Ms. Boyar noted that the highest levels began to be seen at the beginning of FY06 when in July the population exceeded 3700. Since July of 2006

the number have somewhat moderated with 3760 recorded in December 2006. Ms. Boyar noted that DOC is a unified correctional system housing both a Pre-Trial and Sentenced Population. She added that the Sentenced Population increased by 5.05% (139 inmates) during Calendar Year 06. The Pre-Trial population increased by 12.7% (98 inmates) during Calendar Year 2006 therefore increases are being seen in both segments.

Ms. Boyar noted that the average number of commitments over a 12 month period has typically been about 17,000-18,000. She noted that in FY07 commitments will exceed 19,752 and be closer to 20,000 which will represent an all time high.

Ms. Boyar reviewed possible contributors to the population increase and provided data to indicate the degree to which each may or may be causing an increase. They include the following:

Probation Violators continue to account for approximately 41% of Sentenced and 16% of Awaiting Trial admissions;

Release types – an increase in the percent expiring and/or a decrease in the percent being paroled would also contribute to a population increase; no such pattern has been observed in CY06;

Length of Sentence – there have been only minimal increases in Length of Sentence from FY98 to FY06;
To FY06;

Number of Court Cases Disposed – there has been no observable increase in past few years, but the percent sentenced to the RIDOC remains unknown;

Commitments to RIDOC have increased and moderated, but remain at a high level since June 2006.

With respect to the impact of commitments and releases on the population, Ms. Boyar pointed out that for FY06 and FY07 commitments have exceeded releases so the population remains high.

Ms. Boyar referred the committee to a chart showing the total population on a Sunday night and Thursday night. She noted the highest levels occurred at midnight on Sunday night and the lowest levels on Thursday night. Ms. Boyer pointed out that DOC reached an all time high record in December when the population reached 3831. She noted that many inmates released from awaiting trial status had bail amounts of \$500 or less.

With respect to the population vs. Operational and Federal Capacity levels, Ms. Boyar stated that 2 facilities have been operating above operational capacity during the month of December 2006. The total average population for December 2006 was 3760. The population reached 96.6% of Operational Capacity with a population of 3892 and 92% of

Federal Capacity.

Ms. Boyar noted that the Intake Service Center (North) reached Federal Capacity many times during October, November and December; however, the number of consecutive days at or above capacity never exceeded 3 consecutive days. She added that the total Intake Service Center population exceeded Federal Capacity only 3 days in November and 1 day in December, but not consecutive days. The total RIDOC population did not exceed 95% of Federal Capacity during October, November or December. On December 10, 2006, the RIDOC total population reached an all time high of 3831. The previous record was on November 19, 2006 when the population reached 3821. The average total population for the month of December 06 was 3760.

Ms. Boyar recalled that a question was asked at the previous meeting regarding population trends in our neighboring states of Connecticut and Massachusetts. She commented that both jurisdictions are seeing increases in both their Sentenced and Pre-Trial population. Massachusetts has seen a 5% increase in their prison population and Connecticut saw an increase of 5.3% in their prison population.

Summary

The RIDOC population has increased significantly at the end of FY06 and beginning of FY07. All recent months have averaged over 3700 with the highest average recorded in November 06 of 3767. Federal court-ordered capacities were exceeded in only a few instances, but were almost immediately lowered. Ms. Boyar stated that there is no indication that the DOC population will be dropping any time soon. She added that DOC remains close to the JFA population projections which shows some moderating, but at high levels. An FY07 projection was issued at 3718.

Chairman Jackvony inquired if it is normal that the level of commitments and releases track each other.

Ms. Boyar acknowledged that this commitment and release is accounted for from the Pre-Trial commitments and releases. She added that inmates are coming in and going out at the same rate due to short stays.

Conclusions

Director Wall advised that RIDOC is holding its own with respect to inmate population. He added that the population has moderated, but has moderated at a higher level. Director Wall noted that in terms of the numbers exceeding the federal court capacity, DOC is not yet at emergency levels. With respect to fiscal implications, Director Wall acknowledged that DOC is consuming an ever larger portion of the state's budgets because of the increased population. Director Wall stated that DOC will continue to keep the CJOC apprised of the inmate population as they are obligated by law to do.

A discussion ensued relative to what is contributing to the higher inmate population.

Magistrate Ippolito noted that a project that the State Police is doing with the Providence Police Department has contributed to double the court arraignments at District Court. He added that a certain number of people may have a new charge added to their record and may be deemed a probation violator. This may also contribute to the increase in population numbers. Magistrate Ippolito noted that legislation passed this year states that people who are detained for the purpose of their next court date will be given a \$150 per day credit toward court costs. He added that because of this legislation we may see lower population numbers in the future.

Director Wall stated that the driver of the current increase in population is due to the number of arrests. He added that they are aware that violent crime has been increasing nationwide. Director Wall noted that Rhode Island hasn't seen the same increase because the police have been pro-active.

Judge Rodgers agreed that law enforcement is doing their job and are more efficient with the number of arrests. He added that someone must look at the concept of court costs. Judge Rodgers believes that the obligation of paying court costs should be abolished because most individuals do not have the money to pay these assessments. He stated that it is time to study the issue of court costs and if they need to be imposed.

Lisa Holley advised that the Council of State Governments is currently addressing this issue. She noted that it is a huge problem in Rhode Island and across the country. Ms. Holley stated that she recently attended a summit in Washington, DC and the issue of court costs will be addressed nationwide. She added that the study will address those that are assessed and those that are incarcerated for lack of payment.

Judge Rodgers stated that this information should be communicated to the Speaker of the House and Joseph Montalbano.

Magistrate Ippolito noted that he had recently had a conversation with someone on the national level and the individual specifically mentioned that he had had a conversation with Senator Paiva-Weed regarding this issue. He added that this is a policy question and we defer to the legislators on this issue.

Responding to a question from Magistrate Ippolito, Ms. Boyar noted that 2% of the pre-trial commitments are for failure to pay costs/fines and 32% were committed for failure to appear.

A further discussion took place relative to those inmates who are incarcerated because of failure to pay court costs.

Director Wall acknowledged that those individuals may not appear because they do not have the money to pay court costs.

Anthony Capraro stated that many judges would probably want a discussion to waive court costs. He noted that some statutes prohibit a judge from assessing costs.

Magistrate Ippolito noted that in a crisis situation, DOC may release inmates who are there because of failure to pay court costs. He added that a discussion could take place regarding the use of home confinement.

Set Next Meeting

Chairman Jackvony scheduled the next meeting for Tuesday, April 10th at 8:30 AM. He added that he is hopeful to receive feedback from the legislature regarding the issue of assessing court costs. The Chairman asked Lisa Holley to follow-up with legislators on this issue.

There was no other business discussed. Colonel Paré made a motion to adjourn the meeting. The motion was seconded by Presiding Justice Rodgers. The meeting was adjourned at 9:14 AM.

Respectfully submitted,

Kathleen M. Loiselle
Recording Secretary

Approved:

Thomas H. Mongeau
RIJC Executive Director

