

Criminal Justice Oversight Committee

Minutes of the April 10, 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 8:40 AM.

Attendance

Bernard A. Jackvony, Esq., Chair
Director A.T. Wall, DOC
Presiding Justice Joseph Rodgers
Public Defender John Hardiman
Magistrate Joseph Ippolito for Chief Just Albert DeRobbio
Ellen Evans Alexander, Doc
Erin Boyar, DOC
Martin Davis, DOC
Lisa Holley, Parole Board
Alan Goulart, for Attorney General Patrick Lynch
Thomas Mongeau, RIJC
Kathleen Loiselle, RIJC

Approval of January 9, 2007 Minutes

There being no changes, Lisa Holley made a motion:

**TO ACCEPT THE MINUTES OF THE
JANUARY 9, 2007 MEETING AS SUBMITTED.**

The motion was seconded by Alan Goulart and was unanimously passed.

Population Update

Erin Boyar presented a slide presentation which provided an overview of DOC's past and present inmate population. She explained that the average total population increased by 16% from FY97 to FY07 and by 7% from FY06 to FY07. Ms. Boyar noted that in the past 11 years, there has been a 15% increase in the inmate population. She added that the average monthly population was unusually low in FY05 and now in FY07 there are over 3700 incarcerated inmates. This fiscal year the numbers have flattened out. The year started out at 3730 inmates and currently the number is 3792 which is a 2% increase.

Ms. Boyar also noted that the sentenced population has increased and the pre-trial population has been decreasing.

Ms. Boyar referred to a chart showing commitments for FY97-2007. She pointed out that the population is driven by commitments – the number of inmates coming into the prison. In 1997 the number of commitments was 14,939 and in 2007 the number is 19,752. Ms. Boyar noted that there has been an increase in the sentenced commitments. With respect to the impact of awaiting trial commitments and releases on the awaiting trial population, during the months of January and February releases exceeded commitments so the prison population went down.

Possible contributors to the population increase include an increase in offenders sentenced to less than 6 months, an increase in violent and sex offenders, an increase in drug law violators, the number of probation violators and a minimal increase in length of sentence received.

Magistrate Ippolito discussed the number of probation violators and asked how many violations was the result of a new crime versus how many were technical probation violators.

Ms. Boyar responded that in some cases the data in the court system does not allow the RIDOC committing staff to decipher which crimes are new or what is a technical violation. She noted, however, that in a sample of 500 inmates in December 2005 mostly new crimes were seen rather than technical violations.

Justice Rodgers acknowledged that he did not realize there were problems with the court's system until now. He added that it is quite critical that we gain a true understanding of what the problem is and what the solution might be. Justice Rodgers asked that Superior Court and his office be notified immediately if the problem continues. He stated that he was under the impression that the violations were of a technical nature and now he has learned that they are all new crimes. Justice Rodgers also suggested that RIDOC let him know if there is a potential solution to this problem.

Ms. Boyar responded that she would like to have a conversation with the court regarding their system.

Alan Goulart inquired if most of the commitments for sentences of 6 months or less were from District or Superior Courts.

Ms. Boyar answered that her office has not looked at that data, but that information could be garnered.

Director Wall asked Ms. Boyar to look into which courts had the most commitments for these types of sentence lengths.

Ms. Boyar noted that the prison population is at its highest Sunday nights at midnight. As inmates go to court and cases are disposed during the week, the lowest population occurs on Thursday night. Ms. Boyar noted that 30% of the inmates held over the weekend leave on Monday. She added that some inmates are held for \$500 or less and many are released the same day. The average total bail amount for AT offenders with a total bail amount of \$500 is approximately \$323.

Ms. Boyar advised that most ACI facilities are operating close to federal capacity and in some cases over operational capacity, but the number of consecutive days at or above federal capacity never exceeded 3 consecutive days. In April the operational capacity reached 97.4% (3892 inmates), and the federal capacity was 92.8% (4085 inmates).

Summary

Ms. Boyar commented that the RIDOC increased its prison population significantly at the end of FY06. The population has remained somewhat steady in FY07 averaging between 3700-3780 inmates. Ms. Boyar added that it does not appear that the total population will decrease any time soon. A population figure for FY07 is projected at 3718.

Conclusions

Director Wall stated that the good news is that the population will not reach those numbers that would trigger action on the part of the CJOC. He added that it is also true that the trend has moved steadily up and the ACI has reached a point where it is putting a strain on operations. This increase affects everyone including uniformed staff, mental health workers, caseworkers, etc. Director Wall noted that the DOC continues to consume more and more of the state's budget. He added that a few years ago a non-partisan group, The Council of State Governments, was invited to address the legislature to take a look at our correctional policy. The group made a presentation in 2005 and made recommended changes.

Director Wall noted that when DOC officials met with the Governor and his staff regarding budget figures, the Governor's staff said it is important to look at the numbers to see how the budget could be reduced. The proposed budget contemplated a reduction of 500 inmates resulting in a savings of 4 million dollars of which 1 million dollars would be invested to secure management in the community. The Council of State Governments has asked both the Governor and legislature what it would take to moderate prison growth and what measures could be considered. Dr. James Austin, a premiere criminal justice consultant on prison projects, was engaged to look at prison growth. Dr. Austin reviewed the problem and delivered a presentation in December 06 at which time he proposed the following:

- Expand the Residential Substance Abuse Treatment System;
- Improve the Parole Board's use of data regarding offenders' risks/needs to ensure that release decisions are science-based;

- Improve the effectiveness of parole supervision;
- Target probation resources to supervise offenders when they are most likely to reoffend;
- Make probation supervision responsive to the risks/needs of offenders;
- Ensure that prisoners' complete programs i.e. drug treatment and job training to reduce their risk to public safety before they are released;
- Provide less serious offenders with the same incentive for good behavior as more serious offenders:
- Make the standardized "earned time" policy retroactive for all currently Sentenced offenders;
- Ensure the payment of restitution to victims;
- Reduce the number of people held at the ACI awaiting trial with bail set as less than \$500;
- Increase the number of people placed on home confinement who would otherwise be held at the ACI.

Director Wall noted that some options may be acceptable, some less desirable than others. It was agreed that a working group would be put together by the Governor's Office to address these options and see if there can be a reachable consensus. Director Wall stated that he is hoping that decisions could be made for this legislative session regarding moderating the growth of the prison population and to improve outcomes. He noted that the current rate of recidivism is high with 1 out of 3 inmates coming back on a new sentence within 12 months. Additionally, 1 out of 2 inmates is back in custody after 12 months.

Chairman Jackvony inquired if copies of the State Council of Governments report can be made available.

Director Wall agreed to make copies of the report available to the CJOC.

Justice Rodgers noted that neither officials from Superior Court or the Attorney General's office were invited to attend the meeting referred to by Director Wall. He added that Magistrate Ippolito and Joe Baxter provided a copy of the meeting proceedings and the Superior Court Justice and the Attorney General would have liked the opportunity to comment on these proposals. Justice Rodgers pointed out that some of the proposals would have serious consequences. He added that if some of the proposals are adopted,

prison numbers would increase not decrease. Justice Rodgers noted that the State of Massachusetts had just recommended lengthy probation times for those released from custody. He added that Rhode Island appears to be going in the opposite direction. Justice Rodgers noted that someone made a big mistake in not inviting anyone from Superior Court or the Attorney General's office to attend this meeting.

Director Wall responded that DOC officials were under the impression that both the Superior Court and Attorney General's office had been invited to attend the meeting. He added that DOC did not issue the meeting invitations and he thought representatives from both offices would be attending. Director Wall indicated that the Governor also thought someone had been invited from both offices. He noted that everyone at the meeting would agree that both offices should have been represented at the meeting. Director Wall added that Justice Rodger's observation on unintended consequences is valid and is why decisions should not be made in a vacuum. He added that while DOC has the problem, decisions about solutions should be made above the DOC. Director Wall noted that they can build and run prisons, but DOC's request is that decisions be made now so that they are not in the position of having to release inmates inappropriately as happened in the 1980's.

Lisa Holley echoed Director Wall's sentiments. She noted that she was called the afternoon before the meeting and she asked who was invited. Ms. Holley noted that she was told that both Superior Court and the Attorney General had been invited. She indicated that it was not purposeful in not including Superior Court or the Attorney General's office.

Magistrate Ippolito indicated that he had received a similar call the day before the meeting.

Public Defender Hardiman stated that everyone must be at the table in order to reach successful conclusions.

Magistrate Ippolito stated that we all live by the same principles. He added that it does not serve a useful purpose to borrow statistics from one state or another noting that each state's prison system is set up differently. Magistrate Ippolito noted that Rhode Island was thought to have shorter sentences and longer probations. He added that to change that structure now may cause a huge spike in the prison population.

Public Defender Hardiman asked how Rhode Island's 6 months or less sentence compared to other states.

Director Wall noted that would be difficult to compare because some states jail is a county function and prison is a state function. He noted that Rhode Island has an Intake Center and once sentenced an offender goes to Minimum, Medium, or Maximum security.

Erin Boyar pointed out that Rhode Island has a unique prison/jail system, and other state prisons do not see the short sentences that RI sees.

Justice Rodgers stated that one proposal made sense. He added that the proposed option giving the same credit to those in prison 6 months or less as given to the more serious offender was a good one. Justice Rodgers noted if that change was made it would dramatically change the numbers of those people serving 6 months or more. He added that it would double the parole bid applications.

Lisa Holley noted that it is still 6 months and a day for parole eligibility.

Justice Rodgers stated that it should be based on days earned and days served. Currently, it seems to reward the more serious offender as opposed to the less serious offender.

Director Wall noted that every other state has a policy where the more serious the offense the more benefit.

Justice Rodgers stated that Rhode Island is tougher than most states in the country in length of sentence, but he noted that crime is not up in Rhode Island and it is in Massachusetts because Rhode Island is doing a better job. He added that Rhode Island has a good system but now we are the victim of our successes.

Public Defender Hardiman noted that Rhode Island disposes cases faster than in any other state in the country.

Justice Rodgers noted that some of the proposed options might encourage having more trials which, in turn, would mean hiring more lawyers, stenographers, etc.

Set Next Meeting

The next meeting was scheduled for Tuesday, June 12, 2007 at 8:30 AM.

Adjourn

There being no further business to discuss, Justice Rodgers made a motion to adjourn the meeting. The motion was seconded by Director Wall and was unanimously passed.

The meeting was adjourned at 9:35 AM.

Respectfully submitted,

Approved:

Kathleen M. Loiselle
Recording Secretary

Thomas H. Mongeau
RIJC Executive Director