

**Criminal Justice Oversight Committee  
Minutes of the June 12, 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 8:36 AM.

**Attendance**

Bernard A. Jackvony, Esq., Chair

Director A.T. Wall, RIDOC

Barbara Hurst, designee for Public Defender John Hardiman

Alan Goulart, designee for Attorney General Patrick Lynch

Colonel Brendan Doherty, RI State Police

Lisa Holley, RI Parole Board

Jake McGuigan, Governor's Office

Ellen Alexander, RIDOC

Erin Boyar, RIDOC

Richard Ferruccio, President, RI Brotherhood of Correctional Officers

Thomas Mongeau, RI JC

Kathleen Loiselle, RIJC

**Approval of April 10, 2007 Minutes**

There being no changes, Alan Goulart made a motion:

**TO ACCEPT THE MINUTES OF THE  
APRIL 10, 2007 MEETING AS SUBMITTED.**

The motion was seconded by Director Wall and was unanimously passed.

**Population Update**

Erin Boyar advised that the general trend is that the prison population is increasing. She commented that from FY 06 to FY 07 there has been a 7% increase which represents the largest increase since the mid 90's. Ms. Boyar noted that population can go up or down but now is approximately 3800 - sometimes going over. She advised that the population had been lower in FY 05. It is not clear why it was lower in FY05 and why DOC now has a very high population that has gradually increased month after month. Ms. Boyar stated that the population reached an all time high average in May with 3821 inmates. The first couple of weeks in June are averaging 3801.

Ms. Boyar explained that the prison population is high because the sentenced population is increasing while the pre-trial population is decreasing. The sentenced population is up

therefore the population is high. June has started with the highest sentenced population ever with a current average of 3,109 sentenced inmates: only 1 year ago the sentenced population was 2,818. Ms. Boyar pointed out that over 19,000 commitments will have been processed by the end of FY 07. She stated that when commitments exceed releases the population increases. Ms. Boyar advised that at the beginning of the calendar year commitments exceeded releases by 100.

Ms. Boyar discussed other possible contributor to the population increase. She noted the following:

- Increase in Offenders Sentenced to Less than 6 months, who do not receive Good time credits and are not parole eligible;
- Increase in the number of Violent and Sex Offenders, whose average sentence Received has increased by 2 to 9 months;
- Increase in Drug Law Violators;
- Probation Violator continue to account for over 40% of DOC's sentenced Commitments;
- The overall Length of Sentence Received has increased by a couple of weeks since the late 90's.

Ms. Boyar stated that the effect this has had on the prison facilities is that many facilities are operating well above operational capacity and most facilities are close to federal capacity (operational capacity is set lower than federal capacity). Ms. Boyar pointed out that there are some beds available (in Women's or High Security Facilities), but not in the areas where they are needed.

Ms. Boyar noted that Intake Service Center North did not exceed Federal Capacity during April or May. The South facility exceeded Federal Capacity on two consecutive days in April and May. The total Intake Service Center population exceeded Federal Capacity once in April and twice in May. Ms. Boyar stated that for the first time, the RIDOC total population exceeded 95% of Federal Capacity once during May with a population of 3881. There is no indication that the population will decrease.

Ms. Boyar stated that with respect to the future, it is projected that the RIDOC will exceed total operational capacity by 2010 and federal court ordered capacity by 2013; however, RIDOC will exceed 95% of federal capacity within 3 years, when the population is expected to average 3,897.

To combat the inmate increases, the RIDOC has the potential for capacity increase through the Reintegration Center, a new building located on the Pastore Center campus. It has been under construction for the last 5-6 years. Ms. Boyar noted that federal monies

from the VOI/TIS grant had been used as the primary funding source to build this facility. It will be a 175-bed facility designed to transition offenders who would ordinarily have their sentence expire from a facility other than Minimum Security. The goals of the center are to promote a crime-free independent lifestyle within the community for released offenders, and to reduce the return to prison rate of offenders who complete the program. It is anticipated that construction will be completed by the end of August 2007.

Responding to a question from Barbara Hurst, Ms. Boyar advised that the prisoners to be housed at The Reintegration Center are not necessarily persons who have been incarcerated for a long time, rather they will be inmates who had a difficult time in prison and never went to Minimum Security.

Other options to help increase capacity include adding on to existing facilities - Medium Moran and adding 2 new modules to increase the facility by 384 beds at a cost of \$23.5 million dollars.

Ellen Alexander advised that the CJOC will need to take action when the overall population exceeds 95% of Federal Capacity for 30 consecutive days or when the population exceeds 100% of Federal Capacity in any secure facility for 5 consecutive days. The Director of the RIDOC must notify the Chair of the CJOC that a meeting be scheduled within 5 days of receiving notification in any of the above-stated instances. Ms. Alexander stated that following any of these instances, the CJOC shall initiate either of the following:

Accelerate the implementation of system improvements, for instance providing quicker bail hearings, expediting hearings for probation/parole violators, etc. or;

Implement system improvements on a temporary or permanent basis which may have a positive impact on expediting the processing of pretrial and/or sentenced inmates to reduce incarceration days.

Ms. Alexander stated that if systemic improvements fail to reduce the population after 60 days, the CJOC will consider the following options:

Measures to reduce overcrowding due to pretrial detainees;

Measures to reduce overcrowding due to sentenced inmates.

If these measures do not reduce the population, the CJOC can direct the Parole Board to consider additional good time measures for non-violent offenders.

Ms. Alexander went on to say that if, after 180 days, these measures are not enough, the Chair may contact the Governor to use emergency Good Time to move the non-violent offenders out in 10 day increments. She pointed out that the statute specifically states that the Governor shall start to release inmates in 10 day increments.

Director Wall stated that when the Governor introduced the budget earlier this year he proposed a process wherein there could be a consensus achieved to reduce the prison population. He noted that the Governor invited all relevant agencies to participate in the process as well as legislative staff. Director Wall noted that Jake McGuigan coordinated the meetings along with the Council of State Governments. He invited Mr. McGuigan to describe the outcome of that process.

Mr. McGuigan stated that it is sobering when you see the prison overcrowding statistics. He stated that the committee to discuss overcrowding was chaired by Representative Steven Costantino and Senator M. Teresa Paiva-Weed also participated in the meetings. The committee proposed that Good Time measures be standardized and given across the board to all offenders sentenced to 30 days or more. Mr. McGuigan noted that the Chairman of the House Finance Committee, Representative Costantino, had \$1 million dollars for treatment options included in the state's budget which will help but not bring down the population down. He added that he is looking for support from Senator Paiva-Weed on the Good Time options. Mr. McGuigan noted he had placed a call to her but had not heard back from her as yet. It is hoped that Senator Paiva-Weed will speak to Senator Fox to see if the legislation can be introduced. Mr. McGuigan stated that he believes it should be easy to get legislation pushed through given the current prison environment and he is hopeful to get legislation passed with respect to the Good Time measure.

Lisa Holley inquired if the committee could meet again to discuss the Good Time issue.

Mr. McGuigan responded that it is a matter of seeing if the House is willing to support that legislation right now.

Barbara Hurst stated that one would think that the leadership would support this measure.

Alan Goulart inquired what can be done to help with this issue, i.e. phone calls, meetings.

Mr. McGuigan stated that his last resort is to ask the Governor to speak with Speaker Murphy.

Barbara Hurst suggested that given the current situation it might be more successful if the Attorney General becomes the primary lobbyist for passage of this legislation.

Director Wall reminded the committee that initially this was a budgetary initiative.

Barbara Hurst realized that but added it might help if this became a law enforcement issue.

Director Wall pointed out that the issue is standardizing Good Times measure, and also for inmates to complete programs that will help them to not re-offend in the future. He advised that Rhode Island is out of sync with the rest of the country. In Rhode Island the longer the sentence the more Good Time is given. As a result, a much less serious

offender does not get the benefit of Good Time. Part of the initiative is to bring some common sense to the issue. Director Wall noted that the cost savings will not be seen right now, but structural reform in the out years will bring improvement.

Lisa Holley stated that the stumbling point for the committee seemed to be with program time. The committee seemed to grapple with what is a meaningful program.

Mr. McGuigan responded that it was a question of what is a good program, who can get into the program and can an inmate still receive Good Time if the program is not good.

Ms. Holley noted that there were different options on the table, but the committee seemed to embrace the Good Time measure that didn't rely on program completion.

Director Wall stated that all inmates released to community supervision would benefit from a responsible supervision approach which would be to add community corrections staff to account for those released to home confinement. He added that savings for housing inmates would be realized in the out years.

Chairman Jackvony inquired how the CJOC could help with this issue. He put forth the idea of all involved parties, i.e. Attorney General, RISP, Parole Board, Judges and possibly the Public Defender agreeing to move the CJOC to petition the leadership in both Houses to implement changes. Chairman Jackvony noted that if we do not move forward we could be faced with a real problem in the upcoming years.

Following this discussion, Barbara Hurst made a motion:

**THAT THE CJOC MAKE IT A PRIORITY AMONG ITS MOST AFFECTED MEMBERS TO APPROACH THE LEGISLATIVE LEADERSHIP VIA LETTER OR MEETINGS WITH RESPECT TO CREATING LEGISLATION REGARDING INMATE "GOOD TIME" AND "PROGRAM TIME". THE CJOC RECOGNIZES THAT PASSAGE OF SUCH LEGISLATION WOULD IMPART CRIMINAL JUSTICE FAIRNESS, INMATE EQUITY AS WELL AS PRODUCING A BENEFICIAL FISCAL IMPACT.**

Barbara Hurst noted that all members of the Judiciary sat in on the process and this mechanism which was created by the General Assembly was to help the prison not run out of beds.

Chairman Jackvony asked for Colonel Doherty's opinion on the motion.

Colonel Doherty stated that he saw this as a viable approach.

Lisa Holley inquired if the motion called for individual endorsement. She suggested that a committee sponsored motion would be a better approach.

Barbara Hurst responded that the motion was that the CJOC take this to the Governor's office to press forward with this legislation.

Director Wall stated that a letter from the Chair is needed.

Colonel Doherty stated that he would like to look into the matter further.

Barbara Hurst stated that if the RISP would feel comfortable pushing forward, a meeting with Senate Majority Leader Paiva-Weed and House Majority Leader Gordon Fox might help.

Director Wall added that DOC would also attend such a meeting.

Chairman Jackvony stated that there may be more creditability if the push for legislation came from the RIDOC. He added that if the CJOC were to write a letter it should explain what the committee does and who sits on the committee. The letter should ask for a meeting as well. The Chairman stated that at that point the individual committee members can decide whether or not support it. Chairman Jackvony went on to say that if a meeting is scheduled the committee members can decide whether or not to attend.

Chairman Jackvony asked Director Wall if DOC would draft a letter in this regard. He agreed to call both Superior Court Presiding Justice Rodgers and District Court Judge Albert DeRobbio to advise them of this matter.

Director Wall agreed to draft the letter and send it to Chairman Jackvony. It would then be circulated to CJOC members via e-mail.

### **Questions/Open Discussion**

Barbara Hurst inquired about juveniles and their impact on the prison population. She commented that 25% of the juvenile caseload is comprised of 17 year olds. Currently there is a budget article pending in the House that would change the age of majority from 18 to 17 years old. Ms. Hurst noted that this proposal, if passed, would have a significant impact on the prison numbers in the near future.

Director Wall noted that different states set the age of majority differently. Director Wall advised that DOC has called the DCYF regarding this matter. He added that data is needed to fully understand the impact of juveniles on the prison population. Director Wall pointed out that this proposal, if passed, would result in another load on correctional institutions that are already experiencing difficulty.

Responding to a question from Ms. Hurst, Director Wall noted that the RIDOC was not involved in the development of this proposal.

## **Conclusions**

Director Wall commented that the RIDOC is in a curious position. The initiatives that are being discussed came about not because of the fiscal crisis, but because of the looming operational and capacity crises. Director Wall noted that money for treatment to prepare greater numbers of prisoners to be able to appear before the Parole Board is not available. He added that there is no question that DOC is beginning FY 08 with a significant fiscal problem to the State of Rhode Island. Director Wall stated that the CJOC is meeting to decide when to move forward. He added that the immediate need is the numbers of inmates being held in the Intake Center until the judicial process moves them out into the prison population. To help with the conditions at the Intake Center, DOC is adding staff, bringing in mattresses, and installing toilets/sinks into the holding cells. Director Wall stated that he recognizes that this is not the best practice, but the reason there are so many inmates in the Intake Center is because there are no beds on the sentenced side. He questioned what can be done about the overcrowding. Director Wall pointed out that the new facility cannot be used in the immediate future and it will take 5 years before additional housing units can be opened. He stated that with current trends, RIDOC will be over the court ordered operational capacity well before 5 years.

Director Wall stated that he had placed a call to Chief Legal Counsel, Alvin J. Bronstein, the attorney who was involved in the Palmigiano agreement. He added that he had forwarded materials to him and asked that Mr. Bronstein come to Rhode Island to review the prison system and make recommendations. Director Wall stated that it seemed prudent to engage Mr. Bronstein because he is so familiar with the Palmigiano legislation. Mr. Bronstein will also receive meeting minutes. Director Wall promised to keep the CJOC advised of how this proceeds.

Barbara Hurst inquired if it was too premature to look into directing inmates to a private prison.

Director Wall responded that other states are dealing with the same issues. For instance Arizona is sending inmates to public and private correctional facilities in Indiana. Director Wall pointed out that the law in Rhode Island is unsettled as to what authority the state of Rhode Island has regarding moving inmates into private correctional facilities.

Ellen Alexander noted that so many offenders are housed for such a short term it makes it impossible to send those inmates out-of-state. She added that it would be costly to bring those inmates from a private facility to Rhode Island for court action.

## **Set Next Meeting/Adjourn**

The next meeting was scheduled for Thursday, September 6, 2007 at the Department of Administration, Providence, RI.

There being no further business to discuss, The Chair adjourned the meeting at 10:41 a.m.

Respectfully submitted,

Kathleen M. Loiselle  
Recording Secretary

Approved:

Thomas H. Mongeau  
RIJC Executive Director