

**Criminal Justice Oversight Committee  
Minutes of the November 20, 2007 Meeting**

**Chairman's Welcome**

A meeting of the Criminal Justice Oversight Committee (CJOC) was held on the above referenced date at the RI Department of Corrections, 40 Howard Avenue, Cranston, RI. The meeting was called to order by Chairman Jackvony at 8:34 AM.

**Attendance**

Bernard A. Jackvony, Esq., Chair  
Director A.T. Wall, RIDOC  
Colonel Brendan Doherty, RISP  
Public Defender John Hardiman  
Magistrate Joseph Ippolito, District Court representing Chief Judge DeRobbio  
Chris Long, Governor's Policy Office representing Jake McGuigan  
Patrick Burke, Speaker's Office  
Michael Cronan, Director of Legislative Affairs, Governor's Office  
Alan Goulart, representing Attorney General Lynch  
Peg Langhammer, Day One  
Ellen Alexander, RIDOC  
Erin Boyar, RIDOC  
Thomas Mongeau, RIJC  
Kathleen Loiselle, RIJC

**Approval of September 13, 2007 Minutes**

Chairman Jackvony pointed out that Lisa Holley's name had been inadvertently omitted from the list of those in attendance at the September 13<sup>th</sup> 2007 meeting.

Following Mr. Jackvony's statement, Colonel Doherty made a motion:

**TO ACCEPT THE MINUTES OF THE  
SEPTEMBER 13, 2007 MEETING AS  
CORRECTED.**

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

**Population Update**

Chairman Jackvony referenced a discussion held at the last meeting regarding the introduction of legislation to allow for a reduction in sentence for "good behavior" for inmates with short sentences. He indicated that he had communicated with the House, Senate and Governor's office in an attempt to have representation at today's meeting to discuss this matter. Unfortunately, representatives could not be present at today's

meeting because of scheduling problems. Chairman Jackvony advised that a letter had been received from the Governor asking the CJOC to establish a working group in an attempt to get legislation introduced. He indicated that he had spoken with representatives from the House and Senate and they are agreeable to this effort. Chairman Jackvony drew the committee's attention to the letter from the Governor. He asked Chris Long of the Governor's Office to read the letter aloud. Mr. Long read the letter which called for a working group to be convened to ensure reduction in the prison population especially in light of the current budget crisis.

Chairman Jackvony asked for a discussion of the letter and how to move forward.

Public Defender Hardiman stated that he was in agreement with the Governor's letter.

Magistrate Ippolito inquired if CJOC meetings were covered under the Open Meetings Act.

Chairman Jackvony indicated that the CJOC meetings did fall under the Open Meetings Act.

Magistrate Ippolito stated that this matter falls under the auspices of the CJOC and as such the group should proceed with the formation of a working group.

Public Defender Hardiman asked if the Governor was suggesting a reevaluation of the working group or to expand the CJOC's powers.

Director Wall responded that the Governor's goal in convening a working group was two-fold: 1) to avoid a fiscal and operational crisis; and 2) to avoid an outcome wherein the CJOC must make decisions on an emergency basis. He added that the goal of the previous working committee was to have some breathing room and space to make decisions without duress. Director Wall stated that he was heartened that the working group achieved consensus last spring had nothing to do with the legislative process at the end of the session. Director Wall stated that he believes the group will be able to come up with thoughtful recommendations. It was also agreed that these not be politically addressed. Director Wall advised that the DOC will staff the working group as it did previously.

Alan Goulart asked if the working committee will continue working with the Council of State Governments.

Director Wall responded that the Council of State Governments will continue to be supportive of this effort although they may not be directly involved with RIDOC. He added that this could be a window of opportunity.

Public Defender Hardiman stated that the Judiciary seemed to be opposed to many options last time. He added that he would like to see the Judiciary included in the working group this time.

Peg Langhammer stated that a stronger commitment is needed from all players especially from the House of Representatives. She added that it is essential to have that orientation from the beginning.

Director Wall stated that the Chair has been working diligently on this issue.

Chairman Jackvony commented that the legislators seem to be on board, but the working group will need to move forward by being realistic with the issues. He added that he will get back to the Governor saying we accept the challenge to form a working group and we would like to schedule a meeting before the end of this year before the budget is submitted.

Following this discussion, Public Defender Hardiman made a motion:

**TO CONVENE A WORKING GROUP  
BEFORE THE END OF THIS YEAR.**

The motion was seconded by Peg Langhammer and was unanimously passed.

Chairman Jackvony added that it would be good if the Governor or his representative be in attendance at the first working meeting with legislators.

**Population Update**

Erin Boyar distributed a packet of information which provided a population update as of November 20, 2007. She advised that the average population is higher in FY08 than it was in FY07. Ms. Boyar pointed out that largest increase in population was from FY06 to FY07. It is anticipated that the population will continue to grow in FY08 but not at the same rate as the past 2 years.

Ms. Boyar noted that the average total population showed a slight decrease in October and November, but this pattern had been seen in the past during the same time periods and often was then followed by an increase. She advised that the population seems to increase after the holidays and into the spring.

The Pretrial population is lower than last year having decreased by 24.0% from July 06 to November 07. The Sentenced population which is a significant portion of the population shows an increase of 13.6% during that same period.

Ms. Boyar noted that there has been a decrease in Pretrial commitments. She added that if there are less Pretrial inmates coming into the DOC the total population will be lower. But if there are more inmates coming in than going out from the Sentenced population the population will increase. On the Pre-trial side if releases exceed commitments the population drops. Ms. Boyar advised that possible contributors to the population increase include an increase in violent and sex offenders; an increase in drug law offenders; and

the sentence lengths are slightly longer. Additionally, probation violators still contribute to the population increase.

Ms. Boyar advised that the DOC received approval to increase the capacity of Medium Security this summer, but in other facilities the DOC still remains close to capacity. She added that every so often the Intake Service Center will exceed federal capacity. Ms. Boyar pointed out that Intake Service Center North exceeded federal capacity three days during September and one day during October. Intake Service Center South exceeded federal capacity six days during September and two days during October. The total Intake Service Center population exceeded Federal Court Ordered capacity on five days during September and one day during October. But, at no time during this period did the total population exceed 100% for five consecutive days. For the first time, the Gloria McDonald facility (Women's Division) exceeded Federal Court Ordered capacity on one day during October.

The RIDOC total population reached a new all time high of 4000 on September 16, 2007. The previous all time high of 3970 was set on September 15, 2007. The RIDOC's average total population for the month of October was 3930.

In terms of current population numbers, Ms. Boyar stated that the population had increased significantly at the end of FY06/beginning of FY07 and has continued to stay at high levels. The FY08 population from July through November 2007 is 3909. All recent months have averaged over 3900 with September experiencing the highest average of 3937. The sentenced population has steadily increased from FY07 through FY08. November 07 is showing a minor decrease. The pretrial population increased from July 06 to November 06 and began decreasing in December 06 through July 07. In August 07, it began to increase slightly followed by a decrease in September, October, and November 07. Ms. Boyar stated that the new JFA population projection for FY08 is 4,013. In terms of projected numbers, Ms. Boyar stated that although DOC is not currently housing over 4000 inmates, the current FY08 average is within a small percentage difference from the projected figure of 4,013, which is viewed as acceptable.

## **Conclusions**

Director Wall pointed out that JFA has projected population figures for the past 20 years and is considered to be the premier authority in this field with good credibility. He added that they have never been more than 3% off the mark which is quite a good track record. Director Wall noted that 4,051 is 95% of federal capacity and is the benchmark of concern for the CJOC. He added that when the population is over 95% for thirty consecutive days the CJOC must take action. Director Wall noted that the new federal capacity number is 4265 (it was 4,085 before the change). He added that it is possible that the population may reach federal capacity during the spring of FY08.

## Questions/Open Discussion

Alan Goulart inquired if the increase in population could be attributed to District Court, Superior Court or probation violators.

Erin Boyar responded that data with respect to which court contributes most to the population is difficult to extract, but her unit will look into it. She added that probation violators continue to make up a large portion of the population. Ms. Boyar stated that the Sentenced Population could be reviewed to see which court has the most activity. Director Wall agreed that the DOC knows the dispositions and also knows the numbers but cannot attribute the numbers to any particular court.

Ms. Boyar noted that the DOC sees the number of cases processed through the courts, but does not know what percentage comes to the DOC.

Magistrate Ippolito advised that this information should be available in the Banner system.

Ms. Boyar stated that the various courts enter data differently.

Magistrate Ippolito suggested that Ms. Boyar meet with Robert Baynes who heads up the Judicial Technology Center regarding this issue. He added that the number of inmates sentenced to the DOC should be easy data to acquire.

Responding to a question from Public Defender Hardiman, Director Wall stated that usually Awaiting Trial inmates are held in the Awaiting Trial Intake center. He added that the only time inmates are not housed there is when there is a question of security.

Magistrate Ippolito pointed out that if the Awaiting Trial Population had not decreased, the DOC would be at capacity right now. He cited the following reasons for the decrease in the Awaiting Trial Population: 1) District Court is holding less people for payment warrants; 2) Superior Court violation cases are being processed more quickly. Magistrate Ippolito stated that another issue to address is what has been the affect of 17 year olds on the prison population currently and in pending cases.

Director Wall stated that currently 9-12 juveniles are still in custody.

Public Defender Hardiman commented that he did not believe that the number of 17 year olds in custody would make a major difference even if the cases go back to Family Court.

Director Wall stated that if the law had not been changed it would have had an effect now and in the future.

Chairman Jackvony pointed out some success within the prison system. He noted that DOC continues to working toward keeping the population numbers down.

## **Schedule of Future Meetings**

Chairman Jackvony stated that it would be difficult to schedule the next meeting because a working group meeting needs to be set.

Peg Langhammer asked if the CJOC could receive a copy of the legislative package in anticipation of the working group meeting.

Director Wall responded that the Counsel of State Governments prepared an effective legislative package in an easy to read format. He added that he will provide a copy to the RI Justice Commission who in turn will forward the packet to the CJOC.

Magistrate Ippolito asked if a meeting with legislators would be scheduled first or would proposals to be presented to the legislators be prepared first.

Patrick Burke responded that a meeting should be held first to discuss options to go forward.

Chairman Jackvony stated that there might be some benefit to have the General Assembly leadership and the Governor meet to draw attention to the fact that this is a very important issue. The Chairman agreed to coordinate such a meeting.

## **Adjourn**

There being no other business to discuss, Magistrate Ippolito made a motion:

**THAT THE MEETING BE ADJOURNED.**

The motion was seconded by Peg Langhammer and was unanimously passed.

The meeting was adjourned at 9:15 AM.

Respectfully submitted,

Kathleen M. Loiselle  
Recording Secretary

Approved:

Thomas H. Mongeau  
RIJC Executive Director