

Criminal Justice Oversight Committee
Rhode Island Department of Corrections
Minutes of the April 16, 2010 Meeting

A meeting of the Criminal Justice Oversight Committee (CJOC) took place on this date at the Rhode Island Department of Corrections, 40 Howard Avenue, Cranston, Rhode Island.

1. Chairman's Welcome:

Chairman Jackvony welcomed everyone and opened the meeting at 8:37 a.m.

Present:

Bernard J. Jackvony, Esq., Chair
Chief Judge Jeanne E. LaFazia, R.I. District Court
Colonel Brendan P. Doherty, R.I. State Police
Director A.T. Wall, R.I. Department of Corrections
Joseph Conley, R.I. Superior Court, designee for Presiding Justice Alice B. Gibney
Lisa S. Holley, Esq., R.I. State Police/R.I. Department of Public Safety
Ms. Erin Boyer, R.I. Department of Corrections
Jeffrey Renzi, R.I. Department of Corrections
Ellen Evans Alexander, Esq., R.I. Department of Corrections
Mr. Thomas Mongeau, Public Safety Grants Administration Office
Ms. Barbara Laird, R.I. State Police, Recorder

2. Introductions

Introductions were made.

3. Approval of April 30, 2009 Minutes:

Chairman Jackvony asked for a motion to approve the minutes of April 30, 2009. Chief Judge LaFazia made a motion:

TO ACCEPT THE APRIL 30, 2009 MINUTES AS WRITTEN.

Colonel Doherty seconded the motion, and it was unanimously passed.

4. History and Charge of the Committee:

Chairman Jackvony reported that by statute the committee should be meeting four times a year, but he felt that semi-annual or annual meetings would be sufficient at this time.

Director Wall said that the Rhode Island Department of Corrections is a unified system, unlike many states, where it is a county function. Throughout the country, generally probation services are run by the county or courts. In Rhode Island, these functions are all the responsibility of the Department of Corrections, which is unique in the nation. All facilities are on the Cranston campus. Males come into the system through the Intake Service Center. Newly sentenced inmates are classified, seen by a Board, and placed in

minimum, medium, maximum, or super maximum security. Some inmates move through more than one security level during their stay. On the women's side, there are two facilities. All women come into the system through the Gloria McDonald Building. The Dix Building is the minimum security facility. Total capacities of all facilities were set by the federal government and the National Prison Project through the Palmisano agreement. Operational capacity is the more realistic count to use. This assumes that not every bed will be filled at all times and that the DOC will not always have every infirmary bed filled. This does not reflect what the true operational requirements look like, because you cannot put awaiting trial inmates with sentenced inmates.

Approximately two and one-half years ago this committee met in an emergency situation, because the Department reached 4,000 inmates on any given day. This is the highest population ever recorded. It created havoc with the state's budget. Additionally, there was pressure on operations. For example, double-celling was required in places it was never done before. Food and other services were also under pressure. A constitutional crisis was occurring, which would require this committee to take action to reduce the population by orders. To address this issue, corrections options legislation was introduced by the General Assembly to steadily reduce populations. The current population is 3,533—a significant drop since that time. The Department is now seeing decreases, which is good news for the work of this committee. We now have a higher number of people on probation and parole, who are not in prison. The cases have been brought down because the Department is more strategic in the way probationers are being supervised. Some probationers have been compliant for a few years, so we have determined they do not need supervision or some need only a low amount of supervision. Probation officers have a caseload of about 200 clients. Specialized caseloads include, for example, sex offenders, domestic violence offenders, and mental health caseloads. Those caseloads are kept lower. The Probation Board is also kept independent, and we have added more parole officers.

The total probation and parole population has steadily risen: 1 in every 21 men in Rhode Island is currently on probation or parole. In Providence, 1 in every 11 men is on probation or parole. As the crisis in the institution receded, levels of probation have gone up. We need to take a look at reform in parole issues, and since this committee has done well with institutional issues, maybe we can do something with parole. The 18-35 age group on south side and west side of Providence is the most concentrated group under the authority of the Department. In response to a question, Director Wall stated that there are no inmates in the Department of Corrections who are incarcerated as a result of first time marijuana offenses.

Ellen Evans Alexander discussed the broader charge of this committee. The challenge is not as much in the institutions now. The 1977 Palmisano case lasted 20 years and dealt

with overcrowding issues and conditions of confinement. In 1992, Governor Sundlun issued an executive order to avoid prison overcrowding and attempt to settle the ACLU case. The following year the General Assembly passed intermediate sanctions and established the Criminal Justice Oversight Commission. Palmisano was settled in 1994, due to the work of this commission. The charge of the Commission was that it would keep the population under control and maintain humane conditions. The maximum court-imposed population was approximately 3,632 inmates. The Department is now at 4,265, because increases could be negotiated cooperatively with the ACLU and through this committee's work. The crisis in 1998 came close to having sanctions imposed and this committee being required to step in. If the population rises significantly, the Department cannot build additional facilities as a solution. When the population reaches 95% for 30 days or over 100% for five days, this committee would be required to meet and discuss strategies and solutions to immediately decrease the population.

Possible options may be to increase bail hearings, expedite hearings for probation and parole, etc. The Department does not want to do this, so it tracks trends in the Planning and Research Unit to prevent this. We do not want to reach this emergency level. Today, we are so far away from that. This committee is charged with implementing ways to improve the entire criminal justice system. There are no in-house population issues at this time, but this committee may want to look at improvements to probation and parole.

5. Population Update:

Erin Boyer directed the committee's attention to the statistics that were distributed. A copy is attached to the original of these minutes.

On the Institutional Population update on page 5, the chart shows a continual drop in population for 2010. There was a drop during the winter months, which is the same as most years, and then the population usually creeps up in the spring and summer months. FY05 was the lowest population year. During the last nine months, there has been a decrease of 332 inmates.

On page 6, from FY09 to today, there has been a decrease in inmates of 11.6%. She also directed the committee's attention to the chart on the Impact of Sentenced Commitments and releases on the sentenced population for FY09-10.

Page 7 depicts the impact of awaiting trial commitments and releases on the awaiting trial population for FY09-10. The awaiting trial and releases and commitments are fairly consistent and may be a little lower, but not significantly so. Overall commitments were 20,000 a year in 2007, and since then have been dropping from FY97-09, a 7.1% decrease in commitments.

Page 8 is the average population vs. facility capacity in April 2010. This shows that some facilities are slightly over operational capacity, but none are over the federal capacity. This is good news for this committee. Since August 20, 2009 RIDOC facilities have not exceeded Federal Court Ordered capacity. Only the north side of the Intake Service Center went over capacity by one inmate.

Page 9 reviews the Correctional Options legislation. Director Wall stated that the rising population at DOC puts a strain on the department's resources. Both the Governor and General Assembly were concerned about the fiscal impact of this. New buildings were constructed, all beds were filled, and there was no interest in opening additional facilities. As a result, the General Assembly directed the Department of Corrections to secure resources to find a way to reverse this trend.

The Pew Foundation and the Council of State Governments' Justice Center began to look into these issues. The Speaker, Senate Majority Leader, and Governor signed a letter to ask them to look at ways to decrease populations. That study was completed, and the reports generated revealed that the problem would get worse and the population would continue to rise over ten years by 20 percent. This would create an immediate crisis in one to two years, which this committee would have to deal with. The Criminal Justice Oversight Committee wrote to the leadership and recommended changes to address the crisis. The Chair was asked to facilitate the work of the Foundation through the political process to accomplish this. The Committee was presented with ten options for change. Ground rules were adopted that change would be achieved by unanimous decision and would be taken off table if one person could not live with the option. This process worked and adopted three of the ten options. These options moved through the General Assembly with all parties buying in.

Option One, Enhanced Statutory Good Time. Good time was standardized. Theory suggested that if someone is compliant inside the institution, they are likely to be compliant outside. This is a good tool to manage inmates. This was applicable in Rhode Island and unique in the nation. This is accomplished by statute. In Rhode Island, the longer you are sentenced, the more time off you receive, because it is based on the number of months of the sentence. Inmates sentenced for 60 to 90 days would earn no good time as opposed to 15-year sentenced inmates, who could earn up to 33 percent of time off. This became standardized for all inmates. A large part of the population is serving less than a year. An exception is that sex offenders are not included in "good time" earning.

Option Two, Established Program Earned Time. Inmates can earn risk-reduction credits by participating and completing programs that DOC decides are relevant, such as drug addicts receiving substance abuse treatment, domestic violence inmates receiving

batterer's intervention programs/anger management. Inmates are getting out earlier, but are dealing with the issues that caused the sentence in the first place.

Option Three, Established the Use of a Standardized Parole Risk Assessment. The Parole Board had to make decisions without being given the background information to be able to make the best decision. The General Assembly passed legislation that risk assessment would be used in making decisions about granting parole. The Board adopted this voluntarily, and this provided them with a level of comfort needed to make these important decisions.

Ms. Boyer directed the committee's attention to page 10 of the handout, which shows the population both before and after corrections options. She also discussed the subsequent charts that showed the effects of not passing corrections options vs. what actually happened after passing corrections options. The chart also shows where the population is projected to go by the end of this fiscal year, which should be between 3,400 and 3,500 inmates. Looking toward 2018 without options, the population is projected at 4,800 inmates. With corrections options, the population is projected at 3,600 inmates.

Contributors to the population decrease is a formula: $\text{Population} = \text{Commitments} \times \text{Length of Stay}$. There is a decrease of about 7.7% in the sentenced population. Increases in releases and decreases in length of stay causes the population to drop. The chart at the bottom of page 10 depicts this. These statistics are all due to corrections options.

Director Wall stated that this committee's wisdom, the implementation of corrections options, and input by our state's elected officials has allowed good policy to be enacted into law.

6. Reintegration Unit/Women's Facility:

Director Wall reported that DOC secured federal funds in the late 1990s to renovate a building to use as a reintegration center. The facility would serve inmates, who are near the end of their sentence, but are not ready for minimum security or to be released. This would provide them same programs as minimum, but with more security. By the time this was constructed, corrections options took effect, which saved money. As a result, DOC had an infusion of money for programs, and was now able to provide them in the secure facilities. The need for a new women's building became greater. Neither the McDonald nor Dix buildings were meant to be correctional facilities. They have environmental and other issues, and there is no room to run programs. They were using the boiler room and other rooms for programming. They were continually requesting funding, and it was always rejected. However, the men's Reintegration Building will now be retrofitted to become the new Women's Medium/Awaiting Trial facility. The

Bernadette Building will then be converted to the Women's Minimum/Work Release facility. We are asking that the committee now look at community options for women.

Chief Judge LaFazia asked if DOC has statistics on recidivism rates for these new programs. Director Wall said they needed to re-program the computer systems and were not able to start tracking this immediately. Planning and Research prefers to measure statistics for women released and women incarcerated for a longer length of time, but they have done some preliminary work on this. Ms. Boyer showed a slide and said that although they have not used the gold standard, this is very preliminary.

Ms. Boyer changed the computers to capture statutory good time vs. program earned time. Statutory time was captured from almost the beginning, but with program earned time, there was a longer lag time. She stated that they need to look at a group, who has been released for a longer period of time to get reliable data. A preliminary look shows that it is encouraging. Length of stay does not change recidivism rate, and it does not increase the recidivism rate. It is slightly lower but virtually unchanged. She used July 1, 2008 to December 1, 2008 releases to obtain these statistics.

Chief Judge LaFazia said she hoped that DOC would see a decrease in recidivism rates, and Ms. Boyer said they hope to start looking at this with electronic data beginning with CY09 and start pulling data the beginning of 2011 for women one-year out of prison. It is best to use one year's worth of data. Director Wall said that admissions are also declining on both awaiting trial and the sentenced side.

Ms. Holley asked about incarcerating people for non-payment of fines and fees. Ms. Boyer responded that they have trouble tracking this. The Family Life Center tracks this data, as it seems to be a failure to appear at Court that triggers a person being picked up on a warrant for failure to appear for costs and fines hearings. DOC is not seeing a change, because they are not able to pull this information like Family Life Center can.

Chief Judge LaFazia said the legislature made a change so that magistrates can hear this calendar. The practice was to hold offenders for a week to see what money they could come up with. Now they are holding them overnight or for no more than 48 hours. Failure to appear/failure to pay is a release with personal recognizance, but failure to appear for trial, offenders are held. As a result, the time being held is now significantly shorter.

Director Wall stated that the Planning and Research staff does a tremendous job, and he thanked them. In response to a question about cost savings by decreasing inmates, Director Wall said this is complicated. The International Brotherhood of Correctional Officers has a pending contract, which when settled, will bump up wages, and 80 percent

of the budget is payroll. As a result, wages and salaries are a part of these costs. The public thinks that because we estimate the cost of incarcerating an inmate at \$40,000 per year, when the actual per diem rate per inmate is about \$4,000 per year. The \$40,000 includes the staffing costs in this. It is only when you can close a cellblock that you will see a dramatic decrease in costs, and we have closed cellblocks and do so whenever we can. Overtime is where we are going to see savings as populations go down. This year we are 40,000 hours under last year in overtime costs. This is where corrections options has helped, because we can close cellblocks due to the population being down. The Department's budget has gone up, but per diem and staff time is down.

Chairman Jackvony stated that direct costs shows about \$2 million in savings, but the work of this committee has saved money and has not endangered the public. This is a very efficient way to achieve goals. We still have the community corrections piece outstanding. He suggested that this committee may be able to achieve this. He thanked everyone for their help with this important work. Director Wall thanked Chairman Jackvony for effectively bringing all the stakeholders together to develop a solution to this problem.

Adjournment:

There being no further business, Chief Judge LaFazia made a motion

THAT THE MEETING BE ADJOURNED.

The motion was seconded by Colonel Doherty and unanimously passed. The meeting adjourned at 9:45 a.m.

Respectfully submitted,

Barbara J. Laird
Recorder

Thomas H. Mongeau
Administrative Manager