

*Criminal Justice Oversight Committee*  
Rhode Island Department of Labor & Training  
Cranston, Rhode Island  
Minutes of the November 7, 2011 Meeting

A meeting of the Criminal Justice Oversight Committee (CJOC) took place on this date at the Rhode Island Department of Labor and Training, Cranston, Rhode Island.

**1. Chairman's Welcome:**

Chairman Bernard Jackvony welcomed everyone and opened the meeting at 8:05 a.m.

**Present:**

Bernard J. Jackvony, Esq., Chair  
Chief Judge Jeanne E. LaFazia, Rhode Island District Court  
Colonel Steven G. O'Donnell, Rhode Island State Police  
Director A.T. Wall, Rhode Island Department of Corrections  
Presiding Justice Alice B. Gibney, Rhode Island Superior Court  
Barbara Hurst, Esq., Office of the Rhode Island Public Defender  
Ms. Peg Langhammer, Day One  
Kenneth R. Walker, Ed.D., Rhode Island Parole Board  
Ms. Joe Lindbeck, Rhode Island Department of Attorney General, representing  
Attorney General Peter Kilmartin  
Lisa S. Holley, Esq., Legal Counsel, Rhode Island State Police/Rhode Island Department  
of Public Safety  
Thomas Mongeau, Administrative Manager, Public Safety Grants Administration Office

There were also several guests in attendance at the meeting.

**2. Introductions:**

Introductions were made of committee members.

Chairman Jackvony asked for a moment of silence for Public Defender John Hardiman, who recently passed away and has been a long-standing member of this committee.

**3. Approval of the April 16, 2010 Minutes:**

Chief Judge LaFazia referenced Page 6 of the minutes regarding a legislative change. She would like to clarify that there is a \$150 per night credit for those who are held at the ACI. There is a cost to the state if an individual is held at the ACI. The Judges are actually holding defendants for a shorter period of time, so there is still a cost involved. Therefore, Chief Judge LaFazia moved:

**TO ACCEPT THE MINUTES OF THE APRIL 16, 2010 MEETING  
WITH CLARIFICATION.**

Dr. Walker seconded the motion.

**THE MOTION PASSED UNANIMOUSLY IN THE AFFIRMATIVE.**

**4. Overview:**

Chairman Jackvony stated that he has a resolution regarding good time and good time policy for prisoners. The background and mission of this committee is a result of the Palmigiano case. This committee is responsible for overcrowding at the Adult Correctional Institutions as well as mandates to address overcrowding. Approximately two years ago Governor Carcieri asked the committee to review good time. As a result, there was a change in legislation that amends the good time policy. He stated that the committee would hold its meeting first, and public comment will be heard at the end of the meeting.

By January 3, 2012, the Rhode Island General Assembly asked this committee to provide suggested changes to the good time legislation. This will be discussed today. The committee needs to review the current situation regarding population as well as other programs, including good time. Chairman Jackvony turned the meeting over to Director A.T. Wall.

Director Wall explained that the origins of the CJOC lie in the conditions of confinement, known as the Palmigiano case, which spanned over twenty years. There was a settlement agreement between the ACLU and the State of Rhode Island. The suit involved conditions of confinement and overcrowding. Conditions every day were compromised to the point where the Federal Court felt they were not acceptable. At the time, inmates were housed in hallways, access to healthcare, etc. was also compromised. There was also not enough staff available to supervise inmates. The key to settling the case was the creation of this committee, which was established by legislation. The State of Rhode Island would agree to police itself regarding overcrowding, rather than having the Federal Court do this. The CJOC was mandated to review the population at the facilities. If they exceeded capacities, then the CJOC is called in to take action. The Director of the Department of Corrections would notify the CJOC Chair to schedule a meeting to address the overcrowding. The Department of Corrections has succeeded in meeting these conditions. There has been a 45 percent increase in beds since Palmigiano; most of which came on line in 1991. By 2007, all those beds were becoming full. By the fall of 2007, there were 4,000 inmates at the ACI, which created concern. The capacity was close to the number that would trigger mandatory releases. This size population creates high costs as well as a strain on operations such as health care, food services, and programs. It also threatens to implicate constitutional issues. The CJOC met, brought these issues to the attention of the General Assembly and the Governor. Key members of the Legislature and Judiciary met, and legislation was enacted to alleviate the crisis in 2008. Director Wall stated that Kathleen Kelley,

Senior Legal Counsel for the Department of Corrections, was key in drafting the good time legislation. Director Wall introduced Kathleen Kelley.

**5. Correctional Options Legislation – 2008:**

Kathleen Kelly provided an overview and history of the good time legislation. In 1960, there were significant, substantive changes made to the statute to provide the maximum number of days, from five to ten, to earn good time. The 1960 provisions were in effect until 2008. The statute was then amended to equalize good time amounts for shorter time offenders (less than 10 years) and provide incentives for inmates to participate in programs while they are incarcerated. These changes did not affect sex offenders and those who are serving life sentences and those serving 10 years or more. They were still provided for under the 1960 version. Ms. Kelley reviewed the types of good time: Credit for good behavior, program credits, credits for work assignments, and meritorious credit (RIGL 42-56-24 Earned Time for Good Behavior or Program Participation or Completion and RIGL 42-56-26 Additional Time Allowed for Meritorious Service). Ms. Kelley reviewed each type of good time and gave examples of how each was earned.

The statute allows inmates to earn five days of good time per month in program credits. However, most programs do not allow earning that much in program participation credits. All inmates can earn two days per month for performing work assignments. Meritorious credits are acts of bravery, money-saving ideas, and programs.

She provided information on how Rhode Island compares to other states. Rhode Island is in the moderate range in providing incentives to offenders. She gave a breakdown of other states and the amount of good time that can be earned per month. Some states use a sliding scale, others use a percentage, and some states do not give good time at all.

Director Wall added that the 2008 amendments are the first and only change made to the good time statute since 1960. Two major features are that it equalized the existing good time statute. Previously, good time was upside down. The longer an inmate was at the ACI, the more good time they could earn. Those with light sentences received little good time. It expanded the time available for program participation and completion. The Legislature wanted inmates to be prepared for release and wanted them to receive necessary services, such as substance abuse treatment for drug addicts. What was not changed and has been in effect since 1960 is the ten days a month that can be earned for following institutional rules for those serving ten or more year sentences. This is one of the concerns in the Michael Woodmansee case. Nothing that happened in the 2008 legislative change affected the Michael Woodmansee case. This is something the Legislature wants the

committee to look at, as a result of the families affected by Mr. Woodmansee as well as other people who are also serving long sentences for crimes such as this.

Ms. Hurst asked Director Wall that although there have been no major statutory changes from 1960 to 2008, were there departmental changes for good time to be awarded up front and based on the calculation of the sentence, and then changed to an accrual method. Director Wall responded that good time was awarded up front, and then it was litigated to the Supreme Court, and the Department of Corrections was ordered to re-calculate the way good time was awarded. Ms. Kelley cited a Supreme Court decision, *Barber v. Vose*. Good time was calculated up front. Barber felt he was not receiving enough good time. The decision stated that the Department of Corrections was calculating good time incorrectly, and that it should be awarded on a monthly basis after the good behavior has occurred. As a result, every month the inmate's release date gets closer as good time is earned, and that it should be earned on a monthly basis rather than up front.

**6. Rhode Island Prison Population:**

Ms. Erin Boyar provided a Power Point presentation reviewing the population over the years and a history of the population from FY99 to FY12. Generally, up to 2008 there was an upward trend in the population. Since the 2008 legislative changes, the population has decreased by 16 percent. Projections from 2005 to 2018 illustrate what the population would have looked like if the 2008 legislation had not been passed. The population would have increased by 26 percent. Currently, the population is 87 percent of federal capacity. Following the 2008 legislation there were concerns for recidivism. However, within one year of release, the recidivism rate was slightly lower at 31 percent vs. 33 percent of the 2004 release group. Return rates are even lower. In a more recent study, of the 2009 group, only 28 percent returned with new sentences vs. a 33 percent return rate in 2004. The DOC is doing better overall with recidivism.

Ms. Hurst asked why recidivism has decreased. Ms. Boyar said there are no solid statistics, but they believe that it is because inmates have participated in programs, such as earning their GED, substance abuse treatment, and other program participation.

**7. National Trends and Population Projections:**

Ms. Wendy Naro-Ware stated that she is with JFA Associates and assists states in the production of population projections and drafting legislation. She is well-equipped to do forecasts. She stated that she does simulation models rather than just projections. She also looks at national trends and where Rhode Island fits.

She utilized a Power Point presentation and directed the committee's attention to how Rhode Island is doing vs. the population of the State of Rhode Island. The state's population is flat. The crime index is declining slightly but remaining flat. Looking at Rhode Island's prison population vs. prison populations nationwide, the

sentenced population figures in the United States are rather flat. Rhode Island has continued to decrease since 2008. The population of the United States is flat, but populations of the individual states depends on the specific state.

She looked at admissions and average sentences. There has been a slow decline in the numbers of the sentenced population coming in. There is also a decline in the awaiting trial population; a downward trend in both.

In sentences of offenders the trend is flat, but with a slight uptick. The average length of stay has decreased. From the time after the passage of the legislation in 2008 up to 2022, she is predicting a fairly flat forecast as long as there are no changes to the good time law, etc. Ms. Naro-Ware stated that her company has been doing this type of work for 17 years in Rhode Island, and she feels comfortable with the data, and that it would not be off more than 3 percent.

The population sensitivities simulation model mimics admissions plus length of stay equals population. If sentences increase three months, this is a 575-bed increase and 1,100 more beds if average sentences increase six months. The good time function depends on what portion of the population is affected, such as sex offenders; 25 beds, which is small. There would be a 400 to 700 bed increase if all good time is eliminated. If it is retroactive, the difference would be in the thousands. She stated that good time is a hot topic around the country. Some states give six months of good time for the completion of a GED. Mississippi gives up to 65 percent of the sentence in good time.

Ms. Naro-Ware asked for questions. Director Wall had an observation on what Ms. Boyar said. Her chart made reference to the closure of the Medium Price Security. The legislation requires the closure of Price to be completed by next week. At that time, 360 beds will be off-line, and the facility will be closed. Medium security is the majority of the Department's bed space.

**8. Public Comment:**

Chairman Jackvony stated that at this time, the public is invited to address the committee. Speakers are limited to three minutes. The public comments will be helpful to the committee in making recommendations to the General Assembly. He asked that speakers identify themselves for the record.

**Melanie Foreman:** She stated that she is married to John Foreman. She stated that it is their belief that this has little impact to the current conditions. She is requesting treatment as part of sentences. In the actual bill, the last paragraph is very vague and does not state the impact of inmates currently in prison. Lawyers could appeal this, because it is vague on future sentencing. She said that for length of sentences, it is helpful to tell the truth about the length of the sentence up front; that it helps both victims and the inmates. She stated that if you mean 20 years in prison, then sentence the inmate to 20 years in prison; that it does not mean 12 years. She said she is happy to see the study on repeat offenders. She said that she is speaking about the most violent offenders. She asked what the numbers would be if you were referring to only those types of offenders.

**John Foreman:** He stated that he is Jason Foreman's brother. He said he is interested in keeping the worst of the worst offenders incarcerated. He is not referring to drug offenders. He said that no one told the victim's families anything about good time. He said that Woodmansee did not fit into any of these categories, and again, he is talking about keeping in the worst of the worst. He said he is hoping for change for those going into prison from this day forward; that you cannot go back to those offenders who are already in prison.

**Representative Teresa Tanzi:** She stated that she is interested in seeing a breakdown by type of program participated in as well as a breakdown by type of crime. The Legislature would like to see those numbers. She introduced the legislation to take a look at good time. It would be important to know that the most violent offenders are not going to have as much as one-third of their sentence taken away due to good time earned. People should be actively participating in their own improvement, because they will be released back into our communities. She stated that earning good time this way is more helpful than earning it for not breaking a rule. She said she is talking about the worst of the worst. She stated that stakeholders should focus on them and not those who have been committed for lesser offenses. She stated that those who have committed the worst crimes should not be rewarded with good time.

**Carolyn Medeiros, Alliance for Safe Communities:** She stated that the Foreman family is still having a difficult time. On June 9, 2011, there was a murder of Shirley Donnelly, who was beaten to death by a stalker, who then burned her apartment. The offender had a violent, lengthy criminal past. When he was previously incarcerated, he earned 450 days of good time, although he had over 90 infractions while incarcerated. She asked how this could happen. She stated that this defendant is incarcerated again and earning good time. She stated that the Donnelly family is not experiencing good time. She wants to put a face on this and let people know what it is like for the families and how they are ripped apart. In terms of legislation

and programs that are awarding good time, she said that the inmate must first understand the effect of what they did on their victims, the taxpayers, families, etc.

**Richard Ferruccio, Correctional Officer:** He stated that he is here as someone who wants to share his observations. He said the presentations make it look like things are good. He said he looked at some of the classes, and that this committee also needs to look at this. He said some of the classes that inmates earn credit on are: hip hop (121 days given) and Locks of Love (280 days given). As a Correctional Officer, he said he appreciates programs to help the inmates, and he supports it. He said it is now to the extremes. When the bill was put through, it was part of the budget and heard in the House Judiciary Committee. He said that the victims' families should have been warned about the impact. He said that good time has done its job, and Price is now closing, because the population has gone down. He said that it is a failure at protecting families in Rhode Island. He asked how Mr. Woodmansee could have earned so much good time. It took eleven years off his sentence for good behavior and work days. He earned 4,046 days, which is about eleven years. If this law from 2008 was applied, Mr. Woodmansee's good time credit would have been quite different.

He cited Giarundo, who had a sentence of 36 months in prison for killing someone due to driving drunk. During his incarceration, he earned 483 days of good time off his sentence. Chairman Jackvony asked Mr. Ferruccio to sum up his remarks in 30 seconds. He cited the case of two sex offenders: Matthew Komrowski, who had 448 days taken off his sentence due to earned good time. He said the concept is being driven to save money, and this is not the purpose of the Department of Corrections and the government. Mr. Ferruccio said he would provide his information in writing to the committee. He stated that the 2008 legislation is a disservice to the state.

**Director A.T. Wall:** Director Wall stated that Mr. Ferruccio obtained some of this information under the Freedom of Information Act. He said he is not sure that this data lines up with the Department of Corrections' data. He said they will review the information and check the numbers.

Director Wall added that he is acquainted with the Foreman family. He said he has been moved by their dignity and ability to maintain rationality with regard to the Woodmansee release. He said he is impressed by what has been said about policy. The family has always been gracious and thoughtful in their dealings with the Department of Corrections and continues to do so to this day. Director Wall stated that his understanding is from their comments and a petition is that they are talking about categories of crimes and sentences that have not been looked at since 1960. Some of these include murder, sexual assault, child molestation, and kidnapping of a

minor. These are also a concern of the General Assembly. They stand out as the most horrifying crimes, and they receive the longest sentences. He further stated that it is his understanding that the Foreman family is asking this committee to take a fresh look at these categories of offenses and also see if the Legislature should revisit the amount of good time that is earned by offenders in these categories for following institutional rules.

Director Wall explained that the Department of Corrections staff is with inmates every day. They do not carry weapons and do not travel in pairs. Inmates are out of their cells and moving about the prison. The Department of Corrections needs to give inmates incentives to follow the rules for safety. He said he appreciates everyone's understanding for time off for following the rules and program participation. He said he would look into earning good time for some of the programs Mr. Ferruccio discussed. He further explained that unless inmates are serving life, they will eventually be released. The Corrections staff needs to use inmates' prison time productively by participating in programs to ready them for release. He said he believes the issue here is in granting good time for good behavior for inmates who have committed heinous crimes, and are therefore serving long sentences. Mrs. Foreman clarified that her family is not opposed to program participation, such as GED, they are opposed to inmates earning credits for participation in these programs.

Ms. Langhammer stated that she holds the victim advocate position on the committee. She said she is confident that the committee will look at all issues in depth in a responsible way and do the right thing.

**9. Closing and Adjournment:**

Chairman Jackvony thanked everyone for their comments, especially the Foreman family. He thanked those who spoke for their constructive and responsible comments. He stated that this committee is made up of representatives of the various criminal justice disciplines, and the committee will keep public safety in mind and do its best to ensure that those who matriculate through the system come out as responsible members of the community. Much thought will be given to everyone's comments.

Chairman Jackvony reported that this committee has a deadline of January 3, 2012 to make its recommendations. He suggested the committee meet one more time after reviewing the public comments as well as Mr. Ferruccio's information.

Director Wall added that the Department of Corrections will put together data that speaks to what the implications would be in the five categories of offenses previously discussed, and the committee can then look at this data.

Chairman Jackvony said that the next meeting will be held at a date to be determined at 8:00 a.m. in the Rhode Island Department of Labor and Training Conference Room.

There being no further business, Dr. Walker moved:

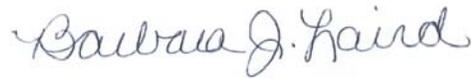
**TO ADJOURN THE MEETING.**

Presiding Justice Gibney seconded the motion.

**THE MOTION PASSED UNANIMOUSLY IN THE AFFIRMATIVE.**

The meeting was adjourned at 9:25 a.m.

Respectfully submitted,



Barbara J. Laird  
Recorder

Thomas H. Mongeau  
Administrative Manager  
Public Safety Grants Administration Office