

Annual Report of the
Corrections Oversight Committee
 January 2010

The Joint Legislative Corrections Oversight Committee met six times during the summer and fall of 2009. This year, we discussed and will report on the following concerns which came to our attention during the 2009 session or during the summer and fall.

1. The immediate need to address the capacity of the department of corrections to continue to protect public safety and rehabilitate offenders.
2. The need for an increase in secure facilities to house federal, state, and local detainees in northern Vermont.
3. A perception that there is a disproportionate burden on communities where offenders reside while on probation or reentry into the community.

In addition, we tracked and will report on the following legislative initiatives:

4. Continued implementation of the Justice Reinvestment Initiative begun in 2008.
5. Implementation of the sex offender registry as directed in Act 58 of 2009.
6. Implementation of expanded services for offenders with a serious functional impairment as directed in Act 26 of 2009.
7. Use of \$200,000 appropriated in the budget bill for rental subsidy grants.
8. Provision of secure lodging for public inebriates outside the corrections system.

Finally, we report on other activities of interest to those working in the corrections field.

9. Completion of a grant to establish a victim services database.
10. Rebidding of the contract for Vermont license plate production.
11. Start-up of Jail Diversion and Trauma Recovery program for veterans.

1. The immediate need to address the capacity of the department of corrections to continue to protect public safety and rehabilitate offenders.

We call on the general assembly to begin now to plan for an increase in state capacity to house our male prisoners, particularly in the northwestern part of the state where there are 157 male beds even though 765 males incarcerated in FY09 were adjudicated in the county courthouses of Chittenden, Franklin or Grand Isle. Currently, there are just over 2,100 males in Vermont's prison system. Due to lack of capacity, 32% of these males must be lodged in out-of-state facilities. As the prison population continues to rise, we will have to either invest in new in-state space or send more offenders to out-of-state facilities.

In FY10, an increase in the number of people requiring incarceration beyond what was anticipated when the budget passed will require a \$2.6-million increase in the cost of sending prisoners out of state, the only option we have for an increased population since our in-state facilities are at capacity. The average cost of housing an inmate in our small, outdated Vermont facilities is \$50,000 per year. When we send our prisoners to more modern, larger facilities where economies of scale can be realized, the cost per year per inmate is \$22,500. However, at this time of challenging state fiscal issues, the contract price of sending prisoners to these facilities will probably increase and the General Assembly will have to make any cuts in the corrections budget in the provision and operation of state facilities. In the long run, building new in-state capacity in which we can house our prisoners at less cost is the fiscally responsible thing to do.

The shortage of prison space is exacerbated by the fact that the prison facility in South Burlington is in serious need of upgrade and expansion. We describe the pressures in Franklin, Grand Isle, and Chittenden Counties more fully in the next section of this report.

We have noted the following trends which appear to be contributing to the increase in our incarcerated population:

- An increase in detention of violent offenders and of holding violent offenders without bail since the Brooke Bennett tragedy in the summer of 2008.
- A decrease in use of term probation for misdemeanants.

It is our hope that judges, prosecutors, and the department of corrections will be as aggressive as possible in recommending and using alternative forms of sentencing for nonviolent offenders and those violating conditions of parole, such as reintegration furlough, electronic monitoring, police diversion, and term probation. This will be particularly important in the near future as the cumulative effects of budget cuts will create difficulties.

The committee took testimony about the effects of recent budget cuts and the loss of several senior administrators who took advantage of the early retirement option offered in 2009. This includes a few who have served the department for many years and who hold considerable irreplaceable institutional memory. The department reports that services continue to be provided at an appropriate level. However, we remain concerned that further cuts will mean that essential positions will be lost.

2. The need for an increase in secure facilities to house federal, state, and local detainees in northern Vermont.

In both the capital and appropriations bills of 2009, the General Assembly directed the corrections oversight committee to investigate the need for secure facilities in the

northern part of the state to meet local, state, and federal needs for housing inmates and detainees. The concern is driven in part by the fact that the prison in St. Albans was converted early in the year from a men's to a women's facility. Therefore, when a man is detained pending trial, the arresting federal, state, or local officer must transport the man, who would formerly have been temporarily housed at the St. Albans facility, to the nearest men's facility, usually Chittenden. This has exacerbated an already overcrowded situation in the Chittenden facility. The concern is also driven by the needs of federal Marshalls to have a place to house detainees which are higher in the northern part of the state due to issues at the international border with Canada. The Marshalls currently lease 40 beds and have indicated that they could use more, although they have also indicated that they do not have capital funds to help to pay for new construction. Our contract with them expires in 2010, and they are concerned that we will not renew the contract, or that we may commit ourselves to fewer beds due to overcrowding issues.

The commissioners of corrections and of buildings and general services met with Chittenden and Franklin County sheriffs and police chiefs to discuss these issues. The group of law enforcement officials recommended that the state build a new department of corrections facility in either Milton or Georgia that would contain 35 to 50 beds for detainees, a detoxification unit, and a drug rehabilitation unit for a total of 100 to 120 beds. The facility could also contain an additional 30 to 40 beds to meet the needs of the federal Marshalls, and be constructed to enable video hearings which would save the state funds currently used to transport detainees to the courts.

3. A perception that there is a disproportionate burden on communities where offenders reside while on probation or reentry into the community.

When an offender is placed on probation, parole, furlough, or conditional reentry status, the person will usually locate in a city where he or she can receive necessary services such as drug counseling, public transportation, and employment opportunities. Therefore, offenders tend to live in communities where these services are readily available. Some communities have raised concerns that this puts a disproportionate burden on the police in those communities and argued that the state should either ensure more even distribution of these offenders or find a way to compensate the cities.

The committee has discussed these issues with the corrections department and believes that the department is providing appropriate oversight of offenders in communities since the field staff-to-offender ratios required by law continue to be maintained at or below statutorily required maximum caseload levels. We call on the standing committees to continue to monitor this and to ensure that the department of corrections communicates how it is staffing the local offices to the communities so that there is no misunderstanding about the level of supervision provided.

4. Continued implementation of the Justice Reinvestment Initiative begun in 2008.

The goal of Act 179 of 2008 is to reduce recidivism and corrections costs by providing services that will help property and drug offenders with substance abuse and mental health disorders become productive citizens and to provide these services in safe, alternative settings that will be less costly to the Vermont taxpayer. The act directed the department of corrections to reorganize its facilities in a way that would reduce costs, and to invest the resultant savings in specific services. In our January 2009 report, we described the first few months of this work. Since then, the department has completed its reorganization. The new work camp at Windsor is almost at capacity, and the St. Albans facility for women is now fully operating.

Further, in order to meet the goal of providing alternatives to incarceration while maintaining public safety, and ensuring success upon reentry to the community, the department has:

- Purchased electronic monitoring equipment. In June 2008, the department was using the equipment to monitor fewer than 50 offenders outside the prisons. Now, in January 2010, the department is using the equipment to monitor over 120 offenders outside the prisons.
- Placed over 1,400 low-risk offenders on telephone monitoring so that they report to the department periodically via telephone.
- Begun to conduct reentry assessments to ensure that offenders are prepared to successfully reenter the community upon release from prison, and that they are connected to necessary and appropriate community services. However, we remain concerned that more work needs to be done to make this program effective. On September 9, the committee visited the Southeast State Correctional Facility in Windsor and talked with inmates about their reentry planning. Of six inmates, only two had a very vague understanding of it, and the other four had no understanding at all. These assessments need to begin upon admission to the facility and continue throughout the period of incarceration in order to ensure that the offender is well prepared to take his or her place in the community upon discharge. We also believe that the department should be more proactive in helping inmates to find reentry housing. Rather than simply reacting to proposals made by inmates, the department should be actively helping them to find suitable lodging.
- In March, awarded \$380,532 to a collaborative made up of Health Care and Rehabilitation Services, the Windsor District Court, the Windsor County State's Attorneys Office, a group of Windsor County public defenders, the Springfield and Hartford probation and parole offices, and the field service division of the Agency of Human Services for the Springfield and Hartford districts. The collaborative has hired a team to implement the Sparrow Project, which works with defendants charged with nonviolent property and drug felonies who are willing to engage in treatment and services. The project works to assess

participants for clinical and social needs, plans their coordinated treatment and services, and works with them to ensure that their needs are being met. As of September, the project had received 39 referrals and was working actively with 19 of these.

- Expanded the capacity of the Intensive Substance Abuse Program (ISAP) to serve offenders in an outpatient capacity at a higher level of service as follows:
 1. Added a track that meets three times each week in Burlington.
 2. Transferred \$200,000 to the Office of Alcohol and Drug Abuse Prevention (ADAP) to provide grants to Northeast Kingdom Mental Health, Clara Martin Center, Evergreen Family Health, and the Howard Center. These providers will use the funds to expand their capacity for greater involvement in discharge planning and to provide quick access to services upon release.
 3. Entered into contracts for a total of \$88,000 with Northeast Kingdom Mental Health, Clara Martin Center, Evergreen Family Health, and Phoenix Houses to provide substance abuse assessments.
 4. The department is now developing an RFP to do the same for residential ISAP programs.

5. Implementation of the sex offender registry as directed in Act 58 of 2009.

Act 58 of 2009 directs the Corrections Oversight Committee to consider issues related to operation of the sex offender Internet registry which is enhanced by the act. The Vermont Crime Information Center has purchased the necessary software, developed forms for the registry, and sent notice to all registrants. Currently, one staff person is assigned to maintain the registry. While this person is doing an outstanding job, we are concerned about the lack of backup personnel ready to step in if necessary.

The act requires that by July 1, 2010, certain sex offenders' addresses are to be included in the registry – currently only the town of residence appears. However, the provision will not take effect until the state auditor has provided a favorable performance audit of the registry. We await the conclusions of the auditor regarding this issue.

Unfortunately, the language of the law inadvertently omits out-of-state offenders from the list of those having to comply with the expanded Internet sex offender registry. A bill to correct this problem has already been drafted and will be introduced on the first day of the 2010 legislative session.

6. Implementation of expanded services for offenders with a serious functional impairment as directed in Act 26 of 2009.

We are very excited about the promising work of the agency of human services to address the needs of offenders who are identified as seriously functionally impaired (SFI). Act 26 directed the secretary of human services to convene a working group to analyze and implement systemwide changes for enhanced integration of services for persons with SFI provided by the judiciary, agency of human services, and community agencies, and to report quarterly to the corrections oversight committee on analysis and implementation of the statewide changes. The agency has begun to develop local interagency teams in each AHS district to review, discuss, and solve challenges related to prevention of incarceration or timely and effective discharge from correctional facilities for persons with SFI. All referrals will go through a local team.

In addition, the agency has appointed a state interagency team (SIT) which includes key staff from the office of the secretary and relevant departments within the agency of human services. Others such as case workers, advocates, law enforcement officers, and clinicians are invited on a case-by-case basis. The SIT will review difficult situations that cannot be resolved at the local level. Thus far, the team has met three times and discussed six persons.

The team has learned that housing is the greatest and most expensive obstacle to placing people successfully into communities. It has also learned that there is much work to be done in order to overcome obstacles to efficient and effective flow of funds and information among agencies serving this population.

Disability Rights Vermont, a federally funded organization which works to address problems, questions, and complaints brought to it by Vermonters with disabilities, expressed concerns that the number of people in the Vermont corrections system identified as having SFI is low compared to those in other states, and that not enough of these people may be receiving the individualized treatment plans envisioned in Act 26. The department of corrections responded that the number of identified persons in the system has tripled in the last two years from 27 in November 2007, to 38 in November 2008, and 96 in November 2009. In addition, according to a CQI audit conducted in the second quarter of 2009, 95 percent of inmates then identified as SFI had an individualized treatment plan in their charts, had been seen within the last 30 days, and had an up-to-date "problem sheet" which alerts workers to significant conditions. The department further points out that it is difficult to compare our system with those of other states because our system has a different structure in which jails and prisons are combined, and because we send several inmates out of state. We ask that the standing committees of jurisdiction look at this issue further.

7. Use of \$200,000 appropriated in the budget bill for rental subsidy grants.

In the FY10 appropriations act, the general assembly allocated \$200,000 to the agency of human services and directed the agency to work with community providers and housing

authorities to create a rental subsidy pilot program that results in successful reentry of eligible offenders. The agency has awarded \$166,000 in rental subsidy grants and used \$34,000 for the first month's rental, security deposit, and utilities hookups for recently released inmates as shown on the next page.

AHS Rental Subsidy Grants				
Community Provider	Award	Offenders served as of Nov, 2009	Amount spent as of Nov, 2009	Remaining capacity to serve offenders
Burlington Housing Authority	\$25,000	2	\$2,300	15–20
Dismas House, Burlington	\$35,360	6		12
Dismas House, Rutland	\$10,000	3		3
Morningside Shelter	\$8,959	1		7
NEKCA	\$10,000	7	\$6,730	4
CVCAC	\$46,681	6		10
BROC	\$30,000	1		11
DOC release funds	\$34,000	8	\$11,560	16–25

8. Provision of secure lodging for public inebriates outside the corrections system.

In Act 179 of 2008, the General Assembly established that beginning on July 1, 2011, no facility operated by the department of corrections will incarcerate a person because of the person's inebriation. Instead, the person is to be lodged in a secure facility, such as a community-operated substance abuse treatment center, which is not operated by the department. The act also created a Public Inebriates Task Force to ensure regional availability of supportive voluntary and secure accommodations for public inebriates. The committee is to report to the standing committees of jurisdiction in January 2010.

We are concerned that the system does not appear to be preparing to operate in this new environment. We look forward to hearing the recommendations of the task force and hope that, in the next year, adjustments will be made that will enable law enforcement officers to lodge public inebriates in a safe, secure place outside the corrections system.

9. Completion of a grant to establish a victim services database.

In 2007, the department of corrections received a 2-year \$400,000 grant from the Bureau of Justice Assistance to create a statewide automated victim information notification system to improve the department of corrections' capacity to provide accurate and timely notification to victims of crime. The department developed an RFP, selected a vendor to create an automated system, and launched the system in summer 2009.

10. Rebidding of the contract for Vermont license plate production.

The department of transportation has decided that when the current contract with the department of corrections for manufacture of license plates expires in October 2010, it will solicit bids for a new contract. It is concerned about rising costs of producing the plates and wishes to determine if a private firm could provide the service at a lower cost than the department of corrections.

The committee has cautioned the commissioner of motor vehicles to consider the overall cost to the state, not just the cost to the department, in making a decision about the award of the contract.

11. Start-up of Jail Diversion and Trauma Recovery program for veterans.

The Substance Abuse and Mental Health Services Administration has awarded \$2.1 million to the Vermont department of mental health and UVM Division of Public Psychiatry for the purpose of addressing the needs of Vermont veterans and other adults with trauma spectrum illness, traumatic brain injury, or serious mental illness or substance abuse who are or who are likely to become involved with the criminal justice system. The intent is to eventually create a statewide system of data-sharing, screening and assessment, and trauma treatment facilities. The project is expected to take several years. Next month, the two agencies will begin to screen and assess people entering the custody of the department of corrections in Chittenden County to identify veterans and other adults with trauma illnesses who are pre- and post-arraignment candidates for mental health or drug abuse treatment court adjudication.

2010 REPORT OF THE
CORRECTIONS OVERSIGHT COMMITTEE

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