



House Commission on Corrections and Government Institutions

Testimony on Corrections Monitoring Commission Status

April 17, 2024

Thank you for this review of the Corrections Monitoring Commission which was established through H. 435 in the 2021 Legislative Session. The Vermont Network serves as the leading statewide voice on issues related to domestic and sexual violence. We represent 15 independent, non-profit Member Organizations who provide direct services to victims and survivors of violence in communities across Vermont. The Vermont Network also works directly with justice-involved women housed at CRCF through its DIVAS program. The Vermont Network was specifically named to the Corrections Monitoring Commission.

The Corrections Monitoring Commission was established in response to reporting on conditions at CRCF by Seven Days in December of 2019. That report described allegations of sexual misconduct, drug use and retaliation involving staff at CRCF. In early 2020, the Secretary of Human Services authorized an investigation by Downs Rachlin Martin. The Vermont Network was a primary informant for that investigation.

Even before H.435 was passed, the Department of Corrections implemented many of the recommendations from the DRM report. Included in H.435 was the provision establishing a Corrections Monitoring Commission, an independent body charged with providing advice and counsel to the Commissioner of Corrections and overseeing implementation of anti-retaliation policy, misconduct and disciplinary policies and actions, and complying with the Prison Rape Elimination Act. The Commission was to be comprised of seven members:

- a former judge with knowledge of the criminal justice system, appointed by the Chief Justice of the Vermont Supreme Court
- a retired attorney, appointed by the Department of State's Attorneys and Sheriffs
- a former corrections officer, appointed by the Vermont State Employees' Association
- a formerly incarcerated individual, appointed by the Defender General
- the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee
- a former management-level employee of the Department of Corrections with experience in corrections management, appointed by the Governor.
- an individual at large with knowledge of and experience in the correctional system, crime prevention, human resources, or compliance appointed by the Governor.

The Commission was convened by the DOC in March 2022. During the initial six months of work, the Commission elected a Chair, developed a governance document, and developed a work plan (attached).

From the outset there were structural challenges that created barriers for the work to move forward:

- Lack of dedicated resources for staffing the Commission by the DOC.
- The scope of the work established in H.435 was much larger than was possible, especially in the absence of dedicated DOC staffing.
- The Commission was not assigned legal counsel although the responsibilities articulated in H.435 were legal in nature.
- Members of the Commission had little to no experience serving in a monitoring capacity. Very quickly, some members of the Commission stopped attending the meetings.

In 2023 Commissioner Deml assigned a DOC staff member to staff the Commission, however meetings were poorly attended and unfocused. By March of 2023 DOC staff scheduled and opened meetings, however only one or two members attended. The Commission ceased meeting altogether by June of 2023.

Recommendations for Reconstituting the Commission

The lack of success of the original Commission is directly related to three factors: 1) Structural challenges; 2) lack of experience on the part of Commission members; 3) a lack of resources commensurate with the scope of the charge articulated in H. 435.

Based on conversations between the Vermont Network and Department of Corrections, we recommend the following:

- Rewrite the language establishing the Corrections Monitoring Committee to clearly state the purpose and authority of the Commission.
- Establish a budget to support the Commission focused on staffing the Commission within the DOC or fund an independent entity to staff the Commission.
- Add members of the Commission to include members who have experience on statewide initiatives related to the Department of Corrections.
- Assign legal counsel as a resource to the Commission.
- Establish a calendar of reports to the legislature to be delivered by the Commissioner of the Department of Corrections together with the Commission Chair.

DOC Monitoring Commission (2022)

Governance Structures

1. Leadership Structure

- a. Chair – the Chair of the Commission is responsible for:
 - i. Setting meeting schedules and agendas
 - ii. Convening meetings
 - iii. Facilitating meetings
 - iv. Ensuring that meeting notes are taken and filed.
 - v. Communicating with the DOC regarding information required for the Commission to do its work.
 - vi. Creating and submitting statutorily required reports to the legislature.
 - vii. Providing testimony to the legislature
 - viii. Engaging the Commissioner of Corrections toward the purpose of the Commission
 - ix. Delegating duties as needed
- b. Vice-Chair
- c. Note-Taker – a member of the Commission who can take basic notes on meetings with a focus on decisions made, information requested, and actions taken. The notetaker will also hold the notes on behalf of the Commission.

2. **Meetings** – meetings of the Commission will occur as needed and according to a set schedule that ensures the participation of all members. Generally, the Commission will meet monthly for two hours, however sub-Commissions or ad hoc Commissions may meet at other times. Additionally, the Chair may call special meetings to address emergent issues or in order to complete reports.

3. **Role of the DOC Staff** – A staff member assigned to the Commission by the Commissioner will be responsible for:
 - a. Arranging for Teams and/or in-person meeting space.
 - b. Sending notices of meetings to Commission members at least one week prior to regularly scheduled meetings.
 - c. Fulfilling requests in a timely manner for information, reports, and other data needed by the Commission to complete its work.
 - d. Inviting and scheduling guests designated by the Commission in order to acquire knowledge or information needed to do its work.

4. **Information Gathering and Sharing** – the Commission will determine sets of indicators for each of the statutorily established areas of review. These will be high-level and impersonal in nature. The Commission will seek reports and data sets related to these outcome indicators and the DOC staff person assigned to the Commission will arrange for this information to be distributed to the Commission members. The Commission will examine data, seek additional information or explanations from DOC staff as needed, draw conclusions and make recommendations to the DOC Commissioner. At the end

of the calendar year, a written report on the activities of the Commission will be submitted to the legislature.

5. **Decision Making** – Process – Roberts Rules

- a. The Commission will make many decisions. Formal decisions will be made regarding:
 - i. The list of outcome indicators
 - ii. Meeting Schedules
 - iii. Changes to Structure, i.e. addition of ad hoc Commissions
 - iv. Submission of reports and testimony
 - v. Election of leadership
- b. Formal decisions will be binding for all members and documented in meeting notes.

6. Operating principles

- a. The operations and governance of the Commission are shared among all Commission members.
- b. The welfare and humanity of all concerned, including the people who are in DOC custody as well as the employees of the DOC are centered in the work of the Commission.
- c. Tasks will be shared among Commission members. Each member's special skills and knowledge will be valued.
- d. The Democratic process ensures that all voices are heard and considered.
- e. The Commission operates toward a shared goal for improving how Vermont supports the people under DOC supervision. To the extent that this goal is with the DOC, the Commission seeks to collaborate with them and to advise the Commissioner toward achieving this goal.

Department of Corrections Monitoring Commission (2022)

Purpose – To provide advice and counsel to the Commissioner of Corrections to manage the reporting of sexual misconduct; promote adherence to anti-retaliation policies; ensure overall policy implementation and effectiveness; improve the transparency of accountability and cultural impact of agency decisions; ensure that the determination of investigatory findings and resulting disciplinary actions are just and appropriate.

Values (from statutory language) – The Commission will maintain respect for and the dignity of those held in custody by the Commissioner of Corrections.

Governance – The Commission shall be led by a Chair who is responsible for coordinating Commission activities in coordination with the Commission staff provided by the Department of Corrections. The Commission Chair will finalize Commission meetings schedules and agenda. The Commission Chair will ensure that the Commission is conducting the work which is statutorily required and that all reports are submitted to relevant bodies according to statutorily established deadlines.

The Chair may designate subcommittees which will be charged with specific responsibilities relative to the specific duties articulated in the statute. Subcommittees will deeply explore issues, gather information and make recommendations to the full Commission. Subcommittees do not make decisions for the full Commission.

The Chair will engage in a decision-making process for all formal decisions made by the Commission.

Work Plan – The work of the Commission is divided into two primary areas. The plan documents these two areas, the baseline information needed by the Commission to conduct its business, on-going reports or information needed over time, and reporting responsibilities and schedules.

Monitoring Area	Base Information Needed	On-Going Information/Actions	Reporting Schedule
Advise and provide council to the Commissioner regarding sexual misconduct. oversee the implementation of the Department’s Anti-retaliation policy create transparency and implement policies relating to misconduct and review disciplinary actions.			(4) Beginning on January 1, 2023 , submit an annual report to the Commissioner of Corrections, the Secretary of Human Services, the House Commissions on Corrections and Institutions and Government Operations, and the Senate Commissions on

			<p>Judiciary and Government Operations on metrics that assess the Department's performance in the areas identified in subdivision (c)(3) of this section, including listing the number of complaints of retaliation and complaints of sexual misconduct and the outcomes of those complaints; identifying areas of repeated noncompliance with policies, procedures, and directives; and providing recommendations for improving compliance and eliminating instances of sexual misconduct in the Department of Corrections.</p>
<p>Examine facility staffing needs, employee retention, employee working conditions, and employee morale. The Commission may engage with current and former Department employees and individuals in the custody of the</p>	<p>The Commission may engage with current and former Department employees and individuals in the custody of the Department, review the Analysis of State of Vermont Employee</p>		<p>The Commission shall report annually on or before January 15 to the Commissioner of Corrections, the Secretary of Human Services, the House Commissions on Corrections and Institutions and</p>

<p>Department, review the Analysis of State of Vermont Employee Engagement Survey Results from the Department of Human Resources and meet with the Vermont State Employees' Association to further the Commission's understanding of these issues.</p>	<p>Engagement Survey Results from the Department of Human Resources and meet with the Vermont State Employees' Association to further the Commission's understanding of these issues.</p>		<p>Government Operations, and the Senate Commissions on Judiciary and Government Operations on: (A) the Department's progress in improving staffing retention, working conditions, and employee morale over the year;</p>
--	---	--	---

Specific Responsibilities - Monitor the Department in the following areas:

- (A) the timely reporting of allegations of sexual misconduct.
- (B) compliance with the Prison Rape Elimination Act.
- (C) the Department's implementation of and adherence to policies relating to employee misconduct and discipline.
- (D) employees' adherence to Department policies, procedures, and directives, particularly to code of ethics and anti-retaliation policies.
- (E) maintenance of an independent reporting hotline to the State Police at the women's facility.
- (F) investigations of employee misconduct, the movement of contraband in facilities, threats to personal safety, and the Department's response to major events that occur in the Department of Corrections, including the death of an individual in the custody of the Commissioner of Corrections and the escape of an individual from a Department facility or Department custody; and
- (G) facility staffing needs, employee retention, and employees' working conditions and morale.