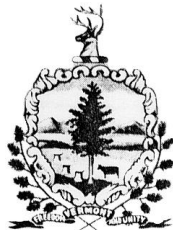


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Joint Legislative Corrections Oversight Committee
DRAFT REPORT

December 2014

John Bloomer, Jr., Secretary of the Senate
Donald G. Milne, Clerk of the House
Vermont General Assembly
115 State Street
Montpelier, VT 05633

Re: Joint Legislative Corrections Oversight Committee

Gentlemen:

The Vermont General Assembly created the Joint Legislative Corrections Oversight Committee (the Committee) in 2002 to respond to: (1) concerns about the dramatic and continued growth in the size of the budget of the Department of Corrections (the Department) and in the population under its jurisdiction; (2) a perceived lack of comprehensive information about the Department's policies and programs; and (3) a desire to make policy and funding decisions in a more coherent, cost-effective manner. The Committee's membership is drawn from each of the Senate and House committees that most often address corrections issues. The Legislature ultimately codified the Committee's existence in 2005.¹

The Committee met six times during the interim between the 2014 and 2015 legislative sessions. It devoted a majority of its time to receiving updates from various individuals, administrative departments, and the Judiciary regarding ongoing issues, such as the number of persons in the custody of the

¹ 2 V.S.A. chapter 23.

Department, security issues and management of contraband, and services provided to inmates to assist in successful rehabilitation and reintegration. Additional issues covered included receipt of the Community High School of Vermont report on services and costs; receipt of the 2014 Sexual Offender Registry Audit report; updates on the rollout of 2014 Acts and Resolves No. 195, the pretrial services bill; updates on the implementation of the recommendations from the Medication-Assisted Treatment for Inmates work group; and an examination of the issue of assaults on Vermont inmates in out-of-state facilities.²

The Committee is appreciative of the many agencies, departments, and people involved who are working cooperatively to achieve our common goals. The following is a summary of issues and recommendations that the Committee addressed in 2014 and will continue to follow in the coming year.

Safety and Security

2013 Acts and Resolves No. 163 required the Commissioner to submit a report to the Committee on security and safety concerns at State correctional facilities arising from public or private entities employing offenders through work programs. At present, there is one program of this type operating in a State correctional facility: Salvation Farms at the Southeast State Correctional Facility in Windsor (SESCF).

In September 2012, SESCOF developed a plan that outlined what would be needed to establish a “pilot” operation that would facilitate Salvation Farm’s plan to grade, pack, and process commodity produce. Part of the task was to stay under \$10,000 and, if approved, have the program underway by November of the same year. At the time, security staffing was not part of the pilot proposal.

Currently, several challenges face this program. The Department does not have a position or post allocated to provide security coverage for the Salvation Farms operation. If the SESCOF were to provide constant security coverage, it would be at time and one-half dollars and would generate a budget deficit.

The Department is currently undergoing a staffing analysis by ASCA (Association of State Corrections Administrators). The staffing analysis will provide more details as to the viability of a program like Salvation Farms to operate at the facility. This program can be considered as part of the staffing analysis. An additional camera or cameras in the Salvation Farm work space would give the ability to review the activity taking place for concerns.

The Committee recommends that the DOC await the results of the ASCA’s analysis before considering any additional staffing to cover work programs

² See committee agendas and a complete list of issues and witnesses in the Appendix.

employing offenders. The Committee recommends that the DOC place an additional camera or cameras to the Salvation Farm workspace to facilitate security for that program.

Contraband

The Department defines “contraband” as the following: an item used by an inmate in an unauthorized or prohibited manner or altered in any way; property in excess of allowable property limits; any item that an inmate, staff person, volunteer, or contractor is not specifically authorized to have in their possession in a correctional facility; and/or anything that can pose a danger or risk to the safety and security of staff, the facility, or public. Directive on Inmate Mail, Publications, and Audio/Video Regulations, 409.05, December 6, 2010.

2013 Acts and Resolves No. 163, an act relating to temporary employees, Sec. 2, set forth certain requirements of the Commissioner of Corrections with respect to controlling contraband. Sec. 2(a) directs the Commissioner to consult with the Corrections Oversight Committee in developing rules for conducting searches of people entering State correctional facilities and periodically report to the Committee on the implementation of those procedures. Sec. 2(b) directs the Commissioner to report to the Committee on the types and amounts of contraband discovered in State facilities and how such contraband is entering the facilities.

The Department began providing the Committee with a monthly contraband report in October, 2014. The report includes information about the types and descriptions of the contraband seized or discovered, the location in which the item was seized or discovered, the method of introduction, the offender movement at the time of discovery, and the method of storage at the time of discovery.

The Committee recommends that the DOC continue its monthly contraband reports to the Committee during the next legislative interim, and to report to Committee as well as the committees of jurisdiction on the rule making process.

Electronic Monitoring

The Committee looked at the Vermont Results First model analysis to evaluate the potential benefits and costs of increasing the use of electronic monitoring in Vermont. Results First is a pilot project of the Joint Fiscal Office (JFO) which is intended to provide legislators with a tool to compare the benefits and costs of State programs. JFO prepared an issue brief utilizing the Results First model to take a preliminary look at the proposed Windham County Electronic Monitoring Pilot Project, the goals of which were to reduce

Department costs and improve public safety. This analysis examined the use of electronic monitoring as an alternative to incarceration and as a form of enhanced supervision. Based on the preliminary financial analysis, there is reason to believe the Pilot Project can achieve its goals. The analysis concluded that:

- 1) Increased use of electronic monitoring is likely to save money and reduce recidivism.
- 2) When used as an alternative to incarceration, electronic monitoring produces both immediate savings and long-term savings because electronic monitoring costs less than incarceration.
- 3) Electronic monitoring costs more than standard probation but saves money in the long run because participants are less likely to commit new crimes.
- 4) Electronic monitoring is expected to reduce recidivism regardless of risk level.

The Crime Research Group (CRG) will continue to work with JFO on a results-based accountability program cost-benefit analysis. The Committee will continue to hear reports from CRG and JFO and monitor the results of these analyses in this upcoming legislative biennium to determine if electronic monitoring should be expanded.

Review of demonstration project to pilot the continued use of medication-assisted treatment within the Department for detainees and sentenced inmates.

The Department of Corrections, in consultation with the Medication-Assisted Treatment for Inmates Work Group created by 2013 Acts and Resolves No. 67, Sec. 11, was tasked with developing and implementing a one year demonstration project to pilot the continued use of medication-assisted treatment (MAT) within Department facilities for detainees and sentenced inmates. The Department was to evaluate the demonstration project and provision of MAT to persons incarcerated in Vermont and report its findings to the Committee.

MAT is established as evidence based treatment approach to opioid addiction, including prescribing medication in combination with ancillary support services to opioid dependent individuals. In Vermont, MAT is delivered through an integrated treatment model, called Care Alliance for Opioid Treatment. The Care Alliance for Opioid Addiction uses a Hub & Spoke model to monitor progress and provide coordinated care for patients within the community who are receiving MAT. A hub is a regional opioid treatment program responsible for coordinating the care and support services for patients who have complex addictions and co-occurring substance abuse

and mental health conditions. A spoke is a “medical home” responsible for coordinating the care and support services for patients with opioid addictions who have less complex medical needs, such as in a primary care practice or health center. Currently, there is limited research in the U.S. to demonstrate the benefits of MAT within correctional facilities, and DOC has an internal policy which allows individuals entering custody to remain on MAT for up to 30 days.

The Committee heard from the Medication-Assisted Treatment (MAT) Work Group, which has worked to implement a one year demonstration project to pilot the use of MAT for longer than 30 days if necessary to treat inmate opioid dependence. The pilot project is newly underway. Phase one of the project began at the Chittenden County and Northwest Correctional Facilities on October 20th, and will have a one year duration. During the summer of 2015 the work group will develop a written report and recommendations to the Committee that will recommend a phase II plan, a system-wide roll-out, or some other action. A report to the standing committees with available data points will be provided on January 15, 2015. A MOU between DOC and the hub providers is in place and has improved the continuity and consistency of treatment for individuals entering correctional custody. The MOU provides for a maximum of 90 days of treatment for both the detainee and incarcerated population.

The Committee recommends that once MAT is expanded beyond the pilot phase, the standards of care should adhere to clinical standards at the hub and spoke centers to ensure there is seamless consistency in treatment for people regardless of their incarcerative status.

Contact Visits

2013 Acts and Resolves No. 163 required the Commissioner to provide the Joint Legislative Corrections Oversight Committee a process for permitting offenders to earn contact visit if the contact privilege is taken away. In October, the Department provided draft processes and decision points to the Committee that direct staff when an inmate’s visiting may be reduced, restricted, or suspended. It also details when an inmate’s contact visits will be restored, and how decisions may be appealed.

The Committee directs the DOC to keep both the Committee and the committees of jurisdiction apprised when the rules on contact visits are promulgated.

Animal Training/Adoption Program for Vermont Offenders

2013 Acts and Resolves No. 201 instructed the Commissioner of Corrections to examine the feasibility of beginning an animal training or

adoption program in Vermont and, specifically, a program that would permit qualified offenders to care for animals that have been relinquished or seized pursuant to a cruelty or neglect investigation. Act 201 directed the Commissioner to consider similar programs in other states and consult with local humane organizations in determining what type of program would be appropriate for Vermont and which facilities would be most appropriate to sponsor such a program. The Commissioner reported on these recommendations to the Committee in December of this year.

The Department is currently working with the Blue Star Mothers of Vermont to address the needs of returning veterans. This program matches a dog with an offender for a 12-month program that trains the animal to assist a veteran with special needs. Two dogs will be placed in the Springfield facility over the winter. Prior to placement in the facility, an animal spends 6–8 months with a community volunteer to receive basic behavior training. Once that period ends, the animal is placed with an offender who has been screened and trained to provide the specialized training. Dog trainers provide the offender with initial training and provide on-going training once the dog is placed inside the facility. Blue Star Mothers of Vermont has already identified an additional three dogs for placement. Additionally, the Corrections Corporation of America facility in Beattyville, KY, has a canine program that takes animals designated as hard to adopt from a local shelter. These animals live with an offender in their cell in the designated “Dog Unit” at the facility. The animal spends 12 weeks with the offender handler and then returns to shelter to be adopted out. This program also requires significant training of offenders and a special screening process to hire the offender for this job.

The Department of Corrections is examining the operation of this program to assess if it can be replicated in a Vermont facility. At this point, the Department plans to move forward with the program that trains dogs for Veterans. The program will be monitored to understand all the issues related to the introduction of dogs at a facility. At this time, the Department does not recommend establishing a program in the Department to care for animals that have been seized or relinquished pursuant to a cruelty or neglect investigation.

The Committee recommends that the DOC move forward with the Blue Star Mothers program that is underway, and report to the committees of jurisdiction on the progress of that program. The Committee also recognizes that animal training or adoption programs within the correctional system can benefit local communities, teach the offenders responsibility, incentivize offenders to maintain positive behavior while incarcerated, and provide offenders with valuable skills for reintegration into the community. For these reasons, a program permitting qualified offenders to care for animals that have been relinquished or seized pursuant to a cruelty or neglect investigation would be an appropriate use of DOC funds.

Sex Offender Registry Audit

2009 Acts and Resolves No. 58 made the posting of addresses of sex offenders on the Internet Sex Offender Registry (SOR) contingent on a favorable audit. The Vermont State Auditor's 2010 SOR audit found a sizeable number of errors as well as control weaknesses. The auditor completed a follow-up audit in 2014, the objectives of which were to 1) assess the extent to which the data in the State's SOR is reliable and current, and 2) determine the extent to which the recommendations from the 2010 SOR audit were implemented. The auditor could not assess the extent to which data in the SOR was kept current because of errors in certain date fields. The auditor did not opine in the 2010 report or the 2014 report as to whether the audit was favorable. Nevertheless, thus far addresses have not been posted online.

The 2014 audit found a considerable number of errors in offender records, which calls into question the reliability of the State's SOR. Although, as of mid-May 2014, the Vermont Criminal Information Center (VCIC) had fixed almost all errors found during the audit, some of the underlying causes of the errors found in 2014 audit were similar to those found in the prior audit. As for the 2010 recommendations, both VCIC and the Department have taken actions to improve their SOR processes since the 2010 audit. One improvement by VCIC was the implementation of the new information technology system called OffenderWatch[®]. One recommendation that was not fully implemented is tracking the treatment status of sex offenders. Specifically, 13 V.S.A. §5411a(a)(5)(B) requires unsupervised sex offenders who have not completed treatment to submit proof to VCIC of continuing treatment every three months. VCIC has not established a process to track the treatment progress of offenders who are no longer under Department supervision, and therefore does not know whether offenders are following the statutory requirements.

Judge Davenport provided the Committee with a draft "bench card" for judges to reference that summarizes Vermont's sex offender registry requirements. Judge Davenport also provided a draft order for failure to comply with sex offender registry-related reporting requirements. The Committee acknowledges that the authority to determine who is on the registry and what the reporting requirements are for individuals on the registry should rest with the courts, and the executive branch function should be to implement the order of the courts to ensure people are complying with those requirements. The Committee encourages the development and implementation of this order and also increased collaboration between the courts and DPS for any subsequent change to the order.

Community High School of Vermont (CHSV)

2013 Acts and Resolves No. 179, an act relating to making appropriations for the support of government, directed the Commissioner of Corrections in Sec. E.337 to provide a report to the Corrections Oversight Committee on current trends relating to the student population at CHSV, including a detailed description of CHSV's programs, curriculum, outcomes, data on student population, a comparison of current costs per student with statewide averages on education spending per student, and an analysis of the use of more efficient delivery systems, including technology. The Committee received this report and also took testimony from officials from CHSV, Central Vermont Adult Basic Education, and the Agency of Education.

Community High School of Vermont offers services to all persons under the custody of the Commissioner of Corrections, including those incarcerated and those being supervised in a community setting. There are three distinct populations within the Department who are required by statute to receive Corrections Education services:

- 1) Persons who have not completed secondary education, which is supported by every Vermonter's right to an education regardless of their age, under 28 V.S.A. § 120(a).
- 2) All persons under the age of 23 that have not received their diploma under 28 V.S.A. § 120(f).
- 3) Those individuals, regardless of educational level, who do not have the academic, social, or technical skills that will allow them to successfully participate in the community upon release, supported by the Department's Risk Assessment and Case Planning process.

The reduction of recidivism is an intentional outcome of the Corrections Education Program of which CHSV is a component. The work of Corrections Education is mission and vision driven and provides rigorous and relevant academic, career/technical, and social experiences that support the living, learning, and working of offenders, in accordance with the VT Agency of Education's Educational Quality Standards.

The goal of Corrections Education is to provide seamless educational transition services from incarceration to community, increase enrollment in skill development courses, and place a greater emphasis on workforce readiness. The integration of CHSV, Vermont Correctional Industries (VCI) and Workforce Development as Corrections Education support the findings of studies conducted on a national level that demonstrate inmates who are educated, employed, and trained during incarceration achieve a higher rate of employment upon release, and that employment is at a higher rate of pay.

Traditional academic courses are taught on a regular basis, and integrated learning environments are throughout the facilities. All campuses offer educational learning opportunities that culminate in a high school diploma or industry-based credential. Educational programming tends to have the greatest impact on employment outcomes if it results in credentialing or a trade license.

The curriculum of the Community High School of Vermont is integrated and specialized to the specific learning needs of each individual. Programs are tailored to provide a criminogenic needs assessment with the Ohio Risk Assessment System and an educational assessment with the Comprehensive Adult Student Assessment System. The data and information from these assessments is then used to develop a Living, Learning, and Work Plan, which is designed to mirror the Personal Learning Plan. The existence and development of flexible pathways of learning recognize that traditional schooling does not fit everyone's needs or abilities.

Over the last eight years, CHSV's student population has remained relatively stable. On an average daily basis, CHSV has had approximately 500 – 600 students. Between 2,700 and 3,500 unique individuals have been served by CHSV. The total number of students enrolled in CHSV between July 1, 2013, and June 6, 2014, was 600. Of those students, 494 were incarcerated and 106 received education in the street campuses. Recently, CHSVT has reduced its staff on street campuses by 18 FTEs.

The Adult Education and Literacy system (AEL), operated under the supervision of the Agency of Education, serves over 3,800 students per year. The AEL provides a variety of ways for students to engage that helps them serve their students, including almost 600 who earned a high school diploma or GED in FY14; the majority of those through the high school completion program. Unlike CHSVT, the adult education system does not award diplomas, but helps create and manage personalized learning plans, consistent with state standards, that result in a diploma from a student's local, partnering high school.

The Committee heard testimony from Rebecca Holcombe, Secretary of Education, John Fischer, Deputy Secretary, and Tom Alderman, Director of Secondary and Adult Division on this matter. According to Agency of Education protocol, students seeking admission to any CHSVT community site with no previous connection to the Department of Corrections will be referred to the local provider of adult education and literacy (AEL) services. The local programs are expected to coordinate the processes and mechanisms for ensuring this will happen in a timely, effective and supportive manner in order to facilitate the student's entry into services. The member providers of Learning Works will be responsible for the full range of adult education services including: orientation and assessment, personalized learning plans, basic skills instruction, access, where appropriate, to the full range of high

school credentialing programs, and career and college readiness. Students requiring basic skills instruction or who otherwise do not qualify for access to secondary credential funding will be served under the existing adult basic education infrastructure – the impact of these additional students will be monitored to determine if there will need to be an increase in AEL resources.

The Committee encourages the reduction of duplication and effective partnering of state agencies to ensure efficiency and continuity of services with a minimum of administrative burden. The Committee has been careful not to make inappropriate comparisons between the cost per pupil for CVHS students and the cost per pupil for other students under the Agency of Education, because of issues with equalized pupil cost. The Committee is pleased with the efforts CHSVT has made to right-size the staffing for the street sites.

The Committee takes the position that it is not appropriate for the non-incarcerated population to attend CHSVT, but recommends that there should be a clear path towards education if the CHSVT street sites function as a point of entry. The Committee supports the development and implementation of a more intentional referral of students from CHSVT to the adult education provider. Additionally, where authorization is given, adult education providers need to follow up with students when students are positively transitioned from CHSVT. The Committee agrees with Secretary Holcombe that merely informing a student to contact the local adult education center increases the risk of “losing” that student.

Other issues

Several additional issues came up during the legislative interim about which the Committee heard testimony. A synopsis of these issues is below.

Sex Offender Reintegration

The Committee recommends that the standing committees look into the issue of reintegration for sex offenders.

Out-of-state correctional facilities

Vermont does not have facilities sufficient to house its entire inmate population within the State; thus, the State contracts with a provider, Corrections Corporation of America (CCA) to accept Vermont inmates. The two out of state facilities that currently house Vermont inmates are the Lee Adjustment Center in Beattyville, KY, and the Florence Correctional Center in Florence, AZ.

The Committee discussed several issues related to these out-of-state facilities, including assaults taking place at these facilities and conditions at

these facilities. The Committee would prefer that no Vermont offenders be incarcerated out of state, but recognizes that because some must be housed out of state, housing only Vermont-convicted offenders together and in a facility as close to Vermont as possible is the next best alternative. The Committee recommends that the Prisoner's Rights Office provides recommendations on improving communication between the DOC and CCA. The Committee plans to continue its work to reduce the overall prison population, establish sufficient transitional housing, and facilitate the rollout of effective pre-trial services.

Paperwork reduction study

In 2011 Acts and Resolves No 41, Sec. 11, the Legislature declared that the existing burden of administrative paperwork on probation and parole officers was a substantial interference with their ability to supervise offenders in the community. The Legislature directed the Department of Corrections to undertake a review of the administrative burden placed on field officers and aim to reduce paperwork handled by these officers by 50 percent by July 2012.

The Department issued its report to the Committee in September 2012. The report focused on reducing paperwork in several areas, including offender responsibility plan/offender case planning, due process case staffings, sex offender case staffings, designation case staffings, and offender residence approval. The report noted that the age and defects in the Department's IT system were a continuing obstacle to some of the desired changes for streamlining recordkeeping. The paperwork reduction group halted its meetings after issuing the report in 2012.

The Committee encourages the Department to continue to pursue innovative ways to ensure the management of offenders is conducted with as much efficiency as possible.

ID Cards

The Committee understands that some people are released from incarceration with only a DOC identification card, making it difficult for the offender to secure housing and employment and otherwise successfully reintegrate into the community. The Committee recommends that the standing committees address this issue in the upcoming legislative session.

In sum, the Committee has been very active during the interim on a number of issues and hopes that this dialogue will continue into the legislative session. The Committee recognizes that a number of legislative committees are examining various issues concerning criminal justice, corrections, mental health, and substance abuse, and the Committee recommends that these committees engage in a coordinated analysis and response to addressing the needs of our correctional system.

On Behalf of the Committee

Rep. Alice M. Emmons

Sen. Richard Sears

DRAFT