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| Seal2  **CHARLES D. BAKER**  Governor  **KARYN E. POLITO**  Lt. Governor | The Commonwealth of Massachusetts  Executive Office of Public Safety & Security  One Ashburton Place, Room 2133  Boston, Massachusetts 02108  Tel: (617) 727-7775  TTY Tel: (617) 727-6618  Fax: (617) 727-4764  [www.mass.gov/eops](http://www.mass.gov/eops) | **THOMAS A. TURCO, III**  Secretary |

**MINUTES OF OPEN MEETING FOR THE RESTRICTIVE HOUSING OVERSIGHT COMMITTEE ON JUNE 4, 2019**

The committee convened at 2:06 p.m. in Classroom 2, Department of Corrections Headquarters, Fifty Maple Street, Milford, MA 01757.

Members present:

* Undersecretary Andrew Peck (chair) (AP)
* Deputy Commissioner Chris Fallon (CF)
* Mr. Anthony Riccitelli (AR)
* Ms. Hollie Matthews (HM)
* Mr. Philip Matthews (PM)
* Mr. Sean Medeiros (SM)
* Sheriff Thomas Bowler (TB)
* Justice Geraldine S. Hines (GH)
* Ms. Bonita Tenneriello (BT)
* Mr. Robert Fleischner (RF)

Non-members present:

* Ms. Anjeza Xhemollari, EOPSS
* Mr. John Melender, EOPSS
* Ms. Rita Donohoe, DMH
* Ms. Heidi Dileone, DMH
* Ms. Alex Vallett, BARCC
* Ms. Mary Valerio, Actual Justice
* Ms. Sandra Staub, Center for Public Representation
* Mr. Dan Sheridan, Berkshire County Sheriff’s Department
* Mr. Tim Gotovich, DOC
* Ms. Cassandra Bensahih, Massachusetts Solitary Confinement
* Ms. Jesse White, PLS
* Ms. Adina Hemley-Bronstein, PLS

1. **Minutes**

AS opened the meeting. Introductions by Committee members.

1. **Presentation by Chris Fallon, Deputy Commissioner, Prison Division - Department of Correction and Sean Medeiros, Assistant Deputy Commissioner**

CF: Provided an overview of Restrictive Housing (RH). RH is a placement that requires and inmate to be confined to a cell for at least 22 hours per day for the safe and secure operation of the facility. A Restrictive Housing Unit is a separate housing area from general population within institutions in which inmates may be confined to a cell for more than 22 hours a day where: a) it has been determined that the inmate poses an unacceptable risk to the safety of others, of damage or destruction of property, or to the operation of a correctional facility; b) the inmate requires protection from harm by others; and/or; c) the inmate is serving a disciplinary detention sanction.

CF: Why are inmates placed in RH? The Superintendent of a facility or a designee, often a shift commander, can authorize RH if the inmate remaining in general population poses an unacceptable risk: a) to the safety of others; b) of damage or destruction of property; or c) to the operation of a correctional facility. There is often a need to place an inmate in RH pending further investigation. Most critically, staff attempts to determine if an ongoing threat is present. This can be for something as simple as dispute over a basketball game. There is an ongoing cultural shift regarding the use of RH, towards placing inmates in RH only if a present danger exists.

SM: MCI Norfolk has large RH unit. Over recent years, its RH population has been reduced dramatically. SM has observed a cultural shift to lower the population in RH. SM echoed CF’s statement that placing inmates in RH is important, but getting inmates out of RH is equally important.

CF: RH is undesirable because of the need for extra resources. It is staff intensive and there are safety concerns. Staff have to go “hands-on” more often, which reduces safety. Staff (and inmates) would prefer the facility run smoothly. Housing inmates in RH is expensive and imposes additional stress on both staff and inmates, which can lead to lower morale in both groups. Less use of RH equals more safety. However, RH is often necessary for everyone’s safety. Cited recent case of sexual assault where the suspect was sanctioned to RH for 7 months.

CF: Why do inmates remain in RH? In addition to safety of others and risk of damage to property, the operations of the facility requires placement in RH. Especially during investigation. Ex: attempting to determine how drugs entered the facility. Drug dealers often prey upon prison population, and stopping introduction of drugs is a priority (recent cases of fentanyl in facilities).

SM: Seeing issues recently where inmates are refusing to leave RH. Can often be the result of an unpaid drug debt or other issues with inmates in general population. Pointed to a recent case where despite low RH population, 7 RH inmates refused to leave RH.

CF: Regarding enemy issues: Transfers can be difficult to secure. Investigations take time and DOC cannot always simply transfer inmates due to enemy issues. CF discussed a reciprocal interstate compact with 29 other states who have agreed to take transfers. Cited a recent example where it was difficult to find a suitable transfer: Bloods gang are main prison gang in Massachusetts, and as a result, DOC cannot take either enemies of Bloods OR Blood members. New Jersey will not take any more Blood gang member transfers.

CF: Discussed cultural shift in use of RH: If staff are not afraid of an inmate’s impact on a facility, then the inmate probably should not be in RH. Explained the use of the weekend bail list, which is no longer in use.

CF: Discussed 45 day RH reviews, where stakeholders meet to discuss why inmates in RH should or should not be in RH. These reviews have led to reduction in RH population, but there is still work to do. If DOC does not ask the question of why someone is in RH, ways to improve will go undiscovered. As an example of a creative alternative to RH, a superintendent may choose to send an inmate to an Orientation unit, rather than the housing unit where they are comfortable, instead of RH.

CF: Disciplinary unit: gave example of sanctioning an inmate with a loss of their canteen. Found that this is not an effective sanction, it has a low impact on the sanctioned inmate because they have community to rely upon. Another undesirable sanction is the loss of telephone usage or visits for an inmate who does not utilize phone or visits. More importantly, these sanctions can have unintended significant impact on loved ones. This requires creative solutions to provide effective sanctions that attempt to ensure a safe facility.

SM: Where are inmates in RH? RH population are reduced compared to bed capacity. Shirley has the highest percentage on 5/6/19 Monthly Housing Report. In SM’s experience, Shirley tends to have more issues than other medium security facilities.

CF: Souza-Baranowski Correctional Center (SBCC), maximum security facility where many inmates are serving life sentences. Not every inmate serving a life sentence spends their entire sentence in SBCC or Cedar Junction. There are many inmates serving life sentences at Norfolk, as inmates find it comparatively desirable due to the availability of services and programs such as inmate council, where the inmates have elected representation.

CF: Who does go to maximum security? An inmate’s conduct can determine his housing at SBCC. Discussed “Relief”, where SBCC RH inmates, known as “SB Boarders” are sent to RH units at other facilities. The guest facility superintendent does not have the authority to move that inmate out of RH at that facility, which can lead to inflated RH statistics at facilities.

CF: There was a recent fight in a corridor involving 25 inmates, some of whom used weapons- those inmates end up in RH that same day pending investigation. Such a fight required coordination, and determining fault takes some investigation.

Member of public asked a question about those doing the fighting being sent to RH, rather than the leaders who call the shots on the fight.

CF and SM: Explained sanctions: DOC tries not to punish beyond length of sanctions. The clock is running.

CF: DOC is actively trying to lower length of time that investigations take.

Member of public: A recent snapshot of RH showed over 3000 in RH units over a 6 month period. In her experience, many of those sanctioned to RH are for non-violent offenses. She had a family member sanctioned to RH at MCI Concord, and upon investigation, this inmate ended up with a finding of not responsible. The time spent in RH was very difficult for not only the inmate, but the family member as well.

SM: MCI Norfolk typically places more inmates in RH than other facilities, but houses them in RH for shortest period of time.

CF: Yes, inmates are placed in RH for non-violent offenses, but even non-violent offenses still require investigation. For example, with technological advances, investigations into drug dealing have become increasingly difficult to investigate. Acknowledged that even though this was difficult for the family member, the system worked in this case.

Member of public: With an eye towards reducing RH population, is RH the only option pending investigation?

CF: There are ways to hold someone on room restriction short-term. His belief is that RH should be used sparingly, and should only be considered one tool in the toolbox. Back to cultural shift discussed earlier. In analyzing statistics, an inmate’s length of stay in RH should be viewed as the more important number rather than just the bed count.

SM: Administrative team at all facilities reviews everyone in RH M/W/F at a minimum, and administrators at the majority of the facilities conduct review every day.

RF: Would like to see numbers on both length of stay and how long investigations last.

CF: Attempting to compile numbers. Can run into issue that these numbers do not include long-term DDU-sanctioned inmates. DDU had a count of approximately 86 inmates out of 124 beds on 5/6/19 (same date as Monthly Housing Report).

CF: What changes are currently being made in RH? Regarding inmates with Serious Mental Illness (SMI), legislation has broadened the definition of SMI, which has more than tripled the SMI population. DOC is trying to offer both SMI and SMI in RH more time outside their cells. Superintendents have been instructed to give as many inmates as possible extra out-of-cell time. This should not be viewed as an all-or-nothing endeavor. For example: if it is only possible to allow four inmates extra time outside their cell, rather than the fifteen in a unit, then staff should allow the four to have extra time outside their cell. They should not wait for it to be possible for all fifteen.

SM: Radio loaner Program: Upon admission to RH, inmates will be afforded a loaner radio. They will have the choice to retain the loaner radio or request their personal radio or tablet instead.

CF: The benefit is that staff can determine when radios are available and operable, instead of inmate being unable to utilize personal radio or tablet in the event that it becomes inoperable. Problems with infrastructure: no wifi service currently available in RH units, unlike in general population. Also, tablets must be plugged into a kiosk every thirty days which presents a problem in RH.

RF: Are inmates in RH allowed books or television?

CF: There is a book cart available to RH inmates, but no television in RH cells. Different facilities allow inmates access to different property. Trend is that more types of property will be allowed in RH, including canteen-procured food. This must still come with restrictions.

BT: Do inmates in RH have access to educational opportunities/programming?

CF: It depends on the facility and the space that is available. DOC is trying to procure the capability to provide programming on tablets, as well as getting inmates out of RH units as much as possible. For example, no infrastructure available for such programming at “Ten Block” at Cedar Junction (DOC will soon be closing Ten Block). In DDU, there are meeting rooms and the like which do allow for classes. Has observed problems with therapeutic units.

RF: Posed question regarding SMI population in DDU.

CF: DDU capacity and use will be drastically reduced in the near future. Current DDU space will be utilized for SAU. DOC will attempt to only have 60 bedspaces in DDU.

BT: Will all 124 beds be SAU?

CF: There is a 60-bed SAU at currently at Concord. These inmates are not placed in restraints. Inmates in SAU are typically “frequent flyers” who are housed in two tiers with concerns about enemy issues in mind. These tiers have open doors. DOC would like to use this approach more, as it makes the operation of the facility better for both staff and inmates.

AR: Do all SMI inmates go to SAU, and does everyone in SAU have SMI? Is there a limit of 21 hours in the cell per day?

CF: No, there are other specialty units such as the Behavior Modification Unit which provide treatment. Behavioral health professionals make these determinations. Plan is to repurpose DDU space for SAU as described above. No, not everyone in SAU has SMI.

RF: What issues did you observe with therapeutic modules?

CF: In experience as commander of unit, did not like therapeutic modules. Preferred student-style desks where inmates can watch movie or attend a class in a less-restrictive setting.

BT: In an attempt to reduce the RH population, concerns of SAU become a long term repository. What is transition like out of SAU? Are there concrete objectives to determine transition out of SAU?

CF: Treatment staff work with SAU population to help them out of program. Some inmates do not do well in program. Remains a good alternative to RH, because it at least offers inmates a pathway.

Member of public: If there are 86 inmates in DDU, what is the goal of numbers at SBCC?

CF: Hope is to keep non-SMI numbers below 60.

Member of public: How many beds will be in SAU that was formerly DDU?

CF: 120 beds. 20 beds will be “privilege” unit.

GH: Was the discussed cultural shift due to CJ Reform Act?

CF: This shift took place prior to passage of CJRA. Mass DOC has looked at nationwide standards of RH. Provided example of installing tables designed so that inmates can interact more.

AR: Question regarding time limits of hours a day for inmates to be confined to cell- is it 22? 19?

CF: 22 is law, 19 was only an estimate used for purposes of demonstration. Downside of adding benefits to RH is that it will make it harder to remove inmates from RH units who do not want to leave RH.

TB: Recent incident where inmate was one of four codefendants charged in violent murder. This inmate wanted to remain in RH for entire two years in that facility for the sake of his own case. Didn’t want to associate with anyone else, especially to avoid jailhouse snitches.

SM: Cases involving inmates who do not want to leave RH units are difficult, as these inmates do not engage.

Member of public: Many inmates in RH are not worst of the worst, the goal is to “step down.”

AR: Recommended collecting data and trends for length of stay as well as refusals. Posed question regarding 45 day evaluation.

CF: RH is only one tool, but must be used to achieve the goals of safety and conducting investigations.

**Presentation by Berkshire County Sheriff Thomas Bowler**

Due to time constraints, Sheriff Bowler will instead present at next committee meeting.

**Legislative Report**

**(Subcommittees)**

AP: 6 reporting requirements in statute: (1) the criteria for placing an inmate in restrictive housing; (2) the extent to which staff who work with prisoners in restrictive housing receive specialized training; (3) the results of evaluations of the process of restrictive housing in the commonwealth and other states; (4) the impact of use of restrictive housing on prison order and control in correctional facilities; (5) the cost of housing an inmate in restrictive housing compared with the cost of housing an inmate in general population; and (6) the conditions of restrictive housing in the commonwealth. At the last meeting, members agreed on use of subcommittees. Open for discussion.

RF: Requirements 1, 2, and 5 are straightforward. Committee should attempt to limit number of subcommittees. Three or four is more appropriate than six.

TB: Regarding requirements 1 and 2, Sheriffs and DOC can provide criteria and training.

AP: This can be covered in meetings rather than in subcommittees.

BT: Would like to set up a process where members can self-select for subcommittees, possibly online.

AP: Agreed that this is a good idea, as it will provide for a balance of members’ skills. Will distribute an online poll, then discuss at next meeting. Requirements 1, 2, and 5 can be held to meetings.

RF: Proposed to delegate responsibility to chair- whoever is responsible for area, then this member should bring information to meetings, where it can be discussed.

AP: Will create poll and create subcommittees before next meeting.

**Discussion of speakers for future meetings**

BT: Suggestions: North Dakota is nationally recognized as state that has successfully reduced RH population. Leann Bertsch is medical director, she and warden of ND prison will both be in Massachusetts for correctional industry conferences in early August - could possibly try to schedule them. Possible dates of: 7/31, 8/2, 8/5 or 8/6. Would also like to consider scheduling a speaker who has been in RH to speak at every meeting. Suggested Albert Woodfox, who spent over forty years in Angola RH. He will be in Massachusetts in November. Safe alternatives to RH program director Sara Sullivan from the Vera Institute of Justice is based in New York and is another option.

AP: DOC will be working with Vera Institute on issues.

RF: Would like to hear from former prison administrator. Suggested Rick Raemisch from Colorado, former administrator and author has. Despite positives in Colorado, state still uses RH. Colorado officials had to overcome political pressure. Martin Horn is a professor at John Jay College in New York and a former administrator in Pennsylvania. Would also like to hear from mental health expert on the psychological impacts of RH- Professor Craig Haney, from California is an expert on this issue. Terry Kupers and Jeffrey Metzner have both written about the mental health impact of RH.

AP: Could try to limit presenters to silos of expertise. One expert on an issue.

BT: Would prefer to hear different points of view with panels.

TB: Discussion of potential for fees involved with bringing in speakers.

AP: Will members be willing to reach out to experts?

SM: Can reach out to Leann Bertsch. Members of the Association of State Correctional Administrators will be attend annual American Correctional Association conference in Boston in August. ASCA performed a large study on RH and may offer potential speakers.

BT: Would make sense to devote one entire meeting to correctional perspectives around time of ACA conference.

**Reimbursement of Expenses for Board Members**

AP: W9 form and comptroller form are found in packet and should be submitted to Michaela Martini. Reimbursement requests for reasonable expenses (such as travel, gas, or parking) are approved by EOPSS CFO.

**Vote on Remote Participation**

AP: Possible to do video conferencing or conference call?

John Melander: As long as there is a quorum and the chair is present, some members can participate remotely.

CF: Logistical concerns with technological capabilities at some facilities.

BT: One Ashburton Place has the capability.

RF: Moved that members should be allowed to participate remotely, provided there is a quorum and they have the technological ability. Seconded by CF. All voted in favor. Motion passed.

**Discussion of Dates and Locations for future meetings**

AP: How often would members like to meet? Last meeting was approximately 7 weeks ago.

GH: Who will write the report? This informs how often committee needs to meet.

AP: Determining who should write the report will take consideration. EOPSS can take the lead and draft memo but must be mindful of open meeting laws. Could also have subcommittees draft their own individual portions, then have EOPSS tie together. This should be decided soon.

GH: This can be decided once subcommittees are determined. Can discuss next meeting.

BT: Is there a website with information on this committee?

Anjeza Xhemollari: Information is available, but more information can be added to website along with agenda and minutes.

BT: Committee should meet once a month. Early July and early August would work with correctional conferences.

AP: Opened discussion as to location of meetings. Can hold meetings in different regions for convenience of members.

TB: Would prefer to hold meetings in mornings.

BT: Upcoming correctional conferences will be in Boston. Boston also makes it convenient for legislators and community members.

**Member Comments**

RF: Thanked CF for his presentation.

**Public Comments**

AP: Opened comments to public at 4:04 p.m.

Member of public: It would be helpful for the committee to have a public Facebook page for any member to upload information onto, not just the chair. This page could be accessible for public interaction. Would like to see membership list, presentations, documents, contact info. Wanted to emphasize BT’s suggestion for someone with RH experience to speak at every meeting. Would make up for lack of that voice due to not being mandated legislatively. Regarding alternatives to RH: Does not want to see an administrative scheme created that becomes more restrictive than general population, despite good intentions. Echoed statement that more data is needed.

Member of public: Raised concerns about delayed release of quarterly data report. Asked commission to tour facilities and view conditions.

AP: Can schedule tours.

Member of public: Will there be measures put in place to protect inmates from retaliation if they speak to committee?

AP: DOC can address.

BT: A discussion of how visits will be conducted can be put on future agenda.

Member of public: Are there meaningful reviews for DDU to provide pathways?

CF: Yes, reviews are ongoing.

Member of public: Inmates are saying that these reviews are not being done. While she appreciates the establishment of RHOC, she sees a conflict of interest. Objectivity issue as EOPSS oversees DOC and houses of correction.

AP: Does not see conflict, he oversees DOC. Backgrounds of committee members are diverse.

Member of public: Should look at different populations in reviewing data. Higher percentage of LGB inmates experienced solitary confinement. Cited Black and Pink survey. Prison culture and guard culture impacts LGB population, who can go to solitary for just a hug due to homophobia. He spent 45 days in RH for reporting sexual violence.

Member of public: Will late quarterly report impact funding for DOC? Funding will again be in 7/1 budget with expansive data requested. Daily snapshot is good but insufficient. This data is required under commonwealth’s budget.

Meeting adjourned at 4:18 p.m.