**Restrictive Housing Oversight Committee (RHOC) Meeting**

**Thursday, May 15, 2025**

***Via Microsoft Teams***

**DRAFT**

1. **Call to Order**

Undersecretary Peck called the meeting to order at 11:05 AM.

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| **Restrictive Housing Oversight Committee - Attendance** | | |
| **Name** | **Present** | **Absent** |
| Undersecretary Andrew Peck, Chair | **X** |  |
| Kevin Flanagan |  | **X** |
| Robert Fleischner, J.D. | **X** |  |
| Hon. Geraldine Hines (resigned) |  | **X** |
| Tatum A. Pritchard, Esq. | **X** |  |
| Kyle Pelletier | **X** |  |
| Dr. Joanne Tsakas Barros, PhD, LMHC, CCHP | **X** |  |
| Bonita Tenneriello, Esq. | **X** |  |
| Dr. Brandy Henry, PhD, LICSW |  | **X** |
| Sheriff Bowler |  | **X** |
| John Melander, Esq. | **X** |  |

1. **Review and Approval of Minutes from Prior Meeting**

After the Chair called the meeting to order and welcomed members of the Committee, he then apologized for the fact that he and the EOPSS staff in attendance would have to leave at 12:15 for an unavoidable commitment.

Dr. Barros moved to approve the minutes from the previous meeting. Mr. Fleischner seconded the motion, and the Committee approved unanimously.

1. **Review edits and suggestions to the** [**draft survey**](https://www.mass.gov/event/public-meeting-restrictive-housing-oversight-committee-41725-04-17-2025/agenda) **to HOC facilities discussed in the last meeting, including but not limited to definitions of terms, new questions the members wish to put forward in the meeting, and a discussion of whether the Committee wishes to require answers to certain questions**

The substantive part of the meeting opened with a discussion about the tone of the draft survey introduction. Undersecretary Peck expressed concern that one paragraph came across as aggressive and suggested making it more polished by adding softening language such as "might" or "kindly requests" to make the tone more respectful. Mr. Fleischner asked for clarification but ultimately deferred to the Committee's judgment, emphasizing that any approach that would make recipients more receptive to responding would be acceptable to him.

The Committee agreed to modify the phrasing, and the word "kindly" was added to soften the tone, though there was brief discussion about whether "respectfully" might sound passive-aggressive. Members reviewed the proposed 14-day response timeframe, with Mr. Fleischner confirming he didn't think it was too aggressive. He set realistic expectations for the response rate at approximately 20 percent, which he noted is typical for surveys in the corrections field, particularly given the historical low response rates from sheriff's offices. Mr. Fleischner acknowledged that as someone who both receives and sends such letters, he wanted to ensure the approach would maximize receptivity.

**Review of Survey Questions 1–3**

Discussion turned to the first three survey questions regarding facility name and job position. The Committee quickly reviewed them and agreed the questions were finalized and ready to go, with all members confirming their approval.

**Questions 4–6 and Definitional Issues**

Undersecretary Peck raised a concern about the overlap between questions 4 and 5, questioning whether both were asking essentially the same thing about whether facilities have Restrictive Housing. Attorney Tenneriello strongly emphasized that question 4 needed revision, arguing that asking facilities whether they have Restrictive Housing as defined by statute would invite ambiguity because there's disagreement about the definition. She explained that while the committee interprets the statute as defining Restrictive Housing as confinement for two hours or less out of cell, sheriffs believe that two hours or more out of cell does not constitute Restrictive Housing.

Attorney Tenneriello noted that the MSA executive director had previously instructed sheriffs that 22 hours of confinement is not Restrictive Housing because the statute only defines it as Restrictive Housing if it's more than 22 hours. She recommended more direct language asking whether facilities consider 22-hour confinement to be Restrictive Housing under the statute.

The Committee discussed how to collect accurate data, particularly from counties that have

recently changed their practices to provide just over two hours out of cell (such as 2 hours and 15 minutes) and would therefore claim they don't have Restrictive Housing at all. Several members expressed concern that this approach would allow facilities to avoid answering questions by claiming they don't meet the technical definition.

Attorney Pritchard proposed flipping questions 4 and 5 to gather more genuine responses before presenting the legal definition, suggesting they could display one question at a time to prevent respondents from seeing follow-up questions while answering current ones, which would yield more honest responses.

After discussion, the Committee decided to remove the specific 22-hour reference and keep the question simpler, asking how facilities define Restrictive Housing. Mr. Fleischner presented edits to question 6, and the Committee agreed to reorder the survey questions to improve overall flow.

**Survey Methodology and Technical Platform**

The Committee deliberated over the best survey platform for eliciting honest responses. Adrian noted the draft survey was built in Microsoft Forms but could easily be ported to SurveyMonkey. The benefit of displaying one question at a time in platforms like SurveyMonkey was highlighted, as this approach would be less leading and would likely solicit more raw information by preventing bias from follow-up questions.

Members discussed whether respondents could answer everything at once or might need input from staff. Kyle Pelletier cited past experience with similar online surveys, noting that such surveys are typically conducted virtually and that facilities usually select a trusted person to answer general questions based on the subject matter. The group also questioned whether survey platforms could track whether surveys were actually opened, though there was uncertainty about this capability.

**Question 7 and Operational Realities**

Kyle Pelletier proposed asking for ranges in question 7 to reflect operational variability in correctional settings. She explained that out-of-cell time can fluctuate daily in corrections operations, with some days providing two hours, others three or more, making it difficult to provide precise averages. She suggested that the survey ask for minimum hours during normal operations rather than precise averages, emphasizing that the minimum out-of-cell time should be the standard measure during normal operations, excluding emergencies and unanticipated situations like lockdowns.

**Non-Disciplinary Housing and Oversight Scope**

Undersecretary Peck questioned the inclusion of questions about non-disciplinary housing, asking why sheriffs would answer questions about non-disciplinary confinements. Attorney Tenneriello clarified that the statutory definition includes confinement based on "unreasonable risk," explaining that substantial risk confinement is non-disciplinary and part of the statute. She emphasized that Restrictive Housing under the statute encompasses both disciplinary confinement and confinement for presenting an unreasonable risk.

Attorney Tenneriello stressed that the questions should reference the unreasonable risk as defined by the statute and suggested using "disciplinary detention" as terminology since counties have used this term consistently. She argued that if facilities claim they don't have Restrictive Housing, it would be logical to ask why they would answer any oversight questions at all.

The Committee discussed whether its mandate was broad enough to address non-RH practices and expressed concern about deferring too readily to counties' interpretations of oversight authority. Attorney Tenneriello emphasized that if the committee wants to exercise oversight over counties, they need to be clear about how they interpret their mandate and let counties argue with them rather than giving in from the start.

**Survey Design Philosophy and Approach**

Attorney Pritchard advocated for dropdowns and multiple-choice options to ensure standardized, analyzable responses, noting that having too many narrative answers would make data analysis impossible. She urged the Committee to approach the survey with curiosity rather than confrontation, pointing out that the committee was approaching the survey with strong biases about what counties are doing and suggesting they should instead approach it with curiosity about actual practices.

She suggested reframing questions to be less confrontational, recommending they acknowledge that facilities don't have Restrictive Housing and ask how they're managing their correctional facilities, rather than approaching them as if the committee believes they have Restrictive Housing and demanding proof otherwise. Attorney Pritchard warned that taking a defensive tone would likely result in exactly what they're trying to avoid - minimal responses.

She aligned with Kyle Pelletier's suggestion that comparative, structured answers would be more useful than open-ended ones. Mr. Fleischner supported a streamlined format and suggested asking about alternatives to Restrictive Housing to uncover best practices, noting this would give facilities a chance to highlight successful approaches and that they're more likely to get responses when facilities can showcase their successes rather than being defensive.

**Survey and Public Records Request Relationship**

Mr. Fleischner noted the potential influence between the survey and the public records request (PRR), explaining that one would likely go out before the other and that the reason for sending the PRR might be that they're not getting sufficient information from the survey. He suggested that if some sheriffs provide good responses to the survey, they might modify the PRR sent to them later, while potentially strengthening it for sheriffs who don't answer the survey or provide inadequate responses. Attorney Tenneriello added that if the PRR ended up covering similar information, the survey could be simplified accordingly.

**Technical Language Considerations**

Kyle Pelletier stressed the importance of using accurate terminology in corrections. She noted that "specialized housing units" typically refers to protective custody in corrections and would not be interpreted as intended by the survey. She also suggested either adding definitions or clarifying that the survey refers to non-general population units designed to limit risk, emphasizing that using incorrect terminology would lead to responses that don't match the committee's intentions.

**Working Group Formation**

Recognizing that the survey draft required additional work beyond what could be accomplished during the meeting, Mr. Fleischner suggested a subset of the group complete the task. Attorney Melander recommended forming a small, sub-quorum working group to refine the survey and bring it back to the full Committee for consideration. The Committee confirmed that the proposed working group structure would allow for efficient collaboration while remaining compliant with applicable meeting requirements.

Mr. Fleishner, Ms. Matthews, and Attorney Tennieriello all volunteered. The group was to exchange drafts and incorporate the feedback from the meeting, with the understanding that they would simplify the survey and save more complex questions for the public records request.

Because there was little time remaining, the Chair suggested the Committee allow public comment before adjourning.

1. **Public Comment**

Mary Valerio raised concerns regarding the Plymouth facility, noting that despite having only 125 individuals in the House of Correction, the facility was now approaching nearly 1,000 people due to the large number of ICE detainees. She questioned whether the Committee had oversight authority over the treatment of ICE detainees, particularly given growing public concern about ICE detention and potential liability if serious incidents occurred.

Mr. Fleischner requested that Attorney Melander investigate the Committee's jurisdiction over ICE detainees. Attorney Tenneriello noted that ICE detainees are reported as being in the custody of the sheriff on facility dashboards, with ICE paying the sheriff to hold them there. She explained that while special ICE regulations apply, they are often honored more in the breach than in practice, and that the sheriff's facility policies generally apply to all detainees in their custody.

**Adjournment and Next Steps**

The meeting concluded with a motion to adjourn from Attorney Tenneriello, seconded by Dr. Barros. The Committee agreed on final assignments: the working group consisting of Mr. Fleischner, Attorney Tenneriello, and Hollie Matthews will redraft the survey incorporating the feedback from the meeting and present it at the next full Committee meeting. The working group was specifically directed to simplify the survey and focus on streamlined questions, with more complex inquiries reserved for the public records request. Additionally, Attorney Melander will report back with findings on the Committee's jurisdiction over ICE detainees in county facilities.