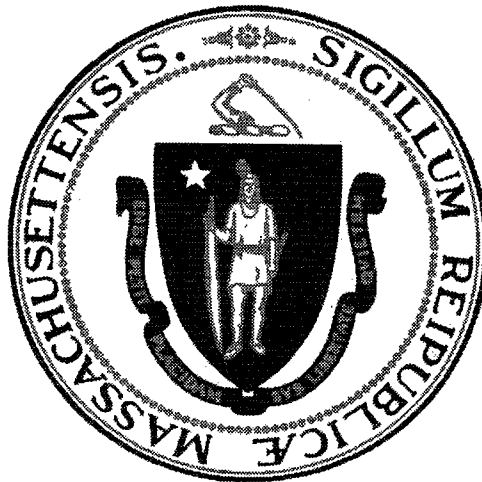


The Commonwealth of Massachusetts

Department of Correction Advisory Council



Preliminary Report

Mitt Romney
Governor

Kerry Healey
Lieutenant Governor

Edward A. Flynn
Secretary of Public Safety

Scott Harshbarger
Chairman

June 17, 2005



Department of Correction Advisory Council
One Ashburton Place, Room 2133, Boston, Massachusetts
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MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

SCOTT HARSHBARGER
CHAIRMAN

June 17, 2005

Edward A. Flynn
Secretary, Executive Office of Public Safety
One Ashburton Place, Room 2133
Boston, MA 02108

Dear Secretary Flynn:

I am pleased to present to you the preliminary report of the Department of Correction Advisory Council ("Advisory Council"), pursuant to Executive Order #461. This report provides an update on the implementation of the recommendations set forth in the report of the Governor's Commission on Corrections Reform (GCCR) issued on June 30, 2004, and highlights areas for further review.

As you recall, the GCCR report contained eighteen recommendations to promote public safety, accountability and fiscal responsibility. The recommendations were developed with the knowledge that the vast majority of state inmates will eventually be released, and yet nearly half of those released will be convicted of a new crime within just three-years. The GCCR called for tough but smart action to break this on-going cycle of crime, victimization and re-incarceration.

You will note that the Advisory Council's overall conclusion is that the DOC's progress thus far is impressive. We applaud Commissioner Kathleen Dennehy and her staff for using the GCCR report as a roadmap for change, and for making great strides over the past year. While much has been achieved, more work remains. The GCCR report set forth an ambitious, multi-year agenda that called upon a host of external stakeholders to take action as well. To this end, I must emphasize one of our major conclusions: the DOC cannot do it alone. Meaningful change will require action by a multitude of state and local stakeholders. We urge them to join with and support Commissioner Dennehy's efforts to achieve long-term gains in public safety and fiscal efficiency. John Gardner, the Head of Common Cause, wrote that "life is full of golden opportunities masked as insurmountable obstacles." This is one of those "golden opportunities" and our challenge is to seize this moment to dramatically improve public safety. It can be done, if we have the will and the requisite sense of urgency.

Sincerely,



Scott Harshbarger
Chair, Department of Correction Advisory Council

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**DEPARTMENT OF CORRECTION ADVISORY COUNCIL
PRELIMINARY REPORT**

I. INTRODUCTION

This is the preliminary report of the Department of Correction Advisory Council (the “Advisory Council”) established by Executive Order of Governor Mitt Romney on September 15, 2004. The Advisory Council is presently comprised of 14 members with broad expertise in corrections matters, and is chaired by former Attorney General Scott Harshbarger.¹ The Executive Order sets forth the purpose and responsibilities of the Advisory Council, and states, in relevant part, that the Advisory Council shall:

“monitor the implementation of reforms recommended by the Governor’s Commission on Corrections Reform; advocate on behalf of continued reforms; and where appropriate and necessary, propose modifications to the Commission’s recommendations in light of changed circumstances. The Council shall also submit recommendations relative to inmate health and mental health services, and issues pertaining to female offenders in the Department’s custody.”

The Advisory Council is staffed with two Co-Directors, and held its first meeting in December, 2004. There have been five subsequent meetings of the Council. In addition, the Advisory Council has been organized into three working groups to focus more specifically on: governance, programs and re-entry, and operational systems.

The Executive Order requires the Advisory Council to submit a preliminary report to the Secretary of Public Safety within 6 months, and a final report on September 15, 2005.² Our preliminary report follows this introduction.

The Report of the Governor’s Commission on Corrections Reform

As the Executive Order indicates, one of the primary purposes of the Advisory Council is to monitor and support the implementation of the recommendations contained in the report of the Governor’s Commission on Corrections Reform (the “GCCR”). This report, entitled “***Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction,***” was issued on June 30, 2004. Based on findings and comments developed in the course of an 8-month review, the Report sets forth 18 specific recommendations for reforming the Department of Correction (the “DOC”), and was intended to serve as a blueprint for change.

On September 4, 2003, Governor Romney and Secretary Edward Flynn formed a special panel to investigate the circumstances and conditions surrounding the death of a high

¹ The Executive Order calls for the appointment of an attorney with expertise in prisoner litigation or criminal defense and 2 members of the House of Representatives selected by the Speaker of the House. These appointments remain unfilled at this time although names were submitted for consideration.

² The members of the Council were not appointed, except for the Chair, until mid-November, 2004.

profile inmate, former priest John Geoghan. Another inmate was later indicted for his murder. During the early part of this investigation, it became clear that there was a need for a more expansive review of the system, including the DOC's policies and procedures.³

As a result, on October 17, 2003, Governor Romney established the Governor's Commission on Corrections Reform chaired by former Attorney General Scott Harshbarger. The mandate of this "Blue Ribbon" Commission was to conduct a comprehensive review of the Department of Correction, including issues related to governance, operational systems, programs, re-entry, and budget. The GCCR consisted of 15 current and former corrections officials, legislators, community leaders, and criminal justice experts.⁴

In developing its recommendations, the GCCR conducted wide-ranging research on the DOC and on best practices throughout the country, keeping in mind at all times budget and fiscal constraints. Moreover, over the course of the GCCR's review, the former Commissioner of the DOC was replaced. The current Commissioner, Kathleen Dennehy, has served in the leadership role for just over one year, but had only held that position for a few months when the GCCR's report was issued.

The GCCR's report encompasses four major themes: enhancing public safety, system-wide accountability, fiscal discipline, and effective collaboration. These themes are set forth in greater detail below:

Enhancing Public Safety

The GCCR found that even though violent crime declined from the peak level that characterized the early 1990's, the volume of crime committed by those who are released from prison remains high. Those on the frontline of crime in our communities -- police, prosecutors, mayors, community activists and local service providers -- continue to call attention to the large numbers of released offenders returning to our communities with little or no preparation, support, or supervision.

The GCCR's recommendations were intended to reduce the likelihood that inmates who return to our communities will re-offend. The report acknowledged that this involves a comprehensive re-entry strategy, and that the DOC cannot meet this challenge on its own. However, it noted that research and experience indicate that the DOC -- with help from other agencies -- can take specific steps to reduce the likelihood of re-offense. To this end, the report set forth a comprehensive set of recommendations spanning the DOC's leadership, programs, operations, and budget. The recommendations began with the premise that the Department must embrace a mission that includes reducing the rate of recidivism by released inmates, and that its budget allocation should more closely reflect

³ Major Mark F. Delaney, Chief Mark Reilly, and George Camp, Ph.D., *Administrative Investigation; The Facts and Circumstances Surrounding the Events Which Led to Inmate Geoghan's Death on August 23, 2003*, (Released on February 3, 2004).

⁴ Eight members of the Governor's Commission on Corrections Reform now serve on the Advisory Council.

its full set of priorities. In addition, it recommended that the DOC adopt an extensive re-entry planning process, beginning as soon as an inmate enters the system and extending through community release. Improved risk/need assessment, targeted and proven programming, enhanced classification, graduated step-down to release, and supervised release were all important components of a meaningful re-entry focus. Without all of these measures, we cannot predict maximum protection of the public safety through reduction of recidivism.

Demanding System-wide Accountability

The GCCR report emphasized that the DOC's management, staff, and inmates must all become more accountable to each other and to the public. While it noted that the Department had several management systems in place to gauge various aspects of agency performance, none infused a strong sense of managerial and staff accountability. In addition, the existing systems did not evaluate how well the agency was achieving its mission and priorities.

Moreover, the GCCR concluded that a lack of accountability contributes to conflicts between written DOC policies and actual practices. The report noted that improved implementation of operational systems, such as classification, inmate discipline, inmate grievances, and internal investigations, would not only increase the levels of fairness and consistency, but would also make our prisons safer places to work and to live.

Finally, the GCCR's report found that the DOC does not adequately hold inmates accountable for participation in productive activities designed to reduce the likelihood that they will re-offend. While inmates themselves are responsible for their own actions, the Department should set high expectations, supported by incentives and sanctions, to encourage this process.

In order to improve accountability for managers, staff, and inmates, the report recommended that the DOC adopt a performance-based management and accountability system, strengthen management rights, and revise its existing rank structure. In addition, it recommended fair and consistent operational policies and procedures, including classification, discipline, grievances, and investigations. It stated that these policies and procedures must also be transparent, well-communicated, have specified appeals processes, and be implemented by staff who are appropriately selected, trained and supervised. The report also recommended the establishment of an independent investigative authority and an ongoing external advisory committee on corrections to improve the accountability and transparency of the entire DOC.⁵ These systemic changes were intended to improve the culture of the institutions, living conditions for inmates, and working conditions for staff.

Instituting Fiscal Discipline

⁵ A first step to implementing this recommendation was the establishment of the Advisory Council.

Another major focus of the GCCR's report pertained to the DOC's budget. The report found that over the past ten years, the DOC's operating expenditures rose from roughly \$287 million to \$438 million,⁶ although the number of inmates in custody declined from 10,644 in 1994 to 9,886 in 2003. The GCCR found that the cost increases resulted in large part from rising labor costs, which comprised 73% of the DOC's total budget.⁷ Between 1995 and 2003, staffing expenditures increased from \$200 million to \$312 million, a 56% increase.⁸ An analysis of the staff-to-inmate ratio, labor contracts negotiated over the past decade, worker absenteeism, industrial accidents and overtime usage, revealed a startling pattern of weak management performance and leadership that was extremely costly to the Commonwealth and taxpayers.

Most notably, the report found that the high cost of staffing reflected the fact that correction officers use an average of 52 paid days off per year (including nearly 18 sick days), or the equivalent of one paid day off every week.⁹ The total cost to the DOC for correction officer sick leave usage was approximately \$21 million per year.¹⁰ In addition, the DOC had a high number of workers (313) out on industrial accident leave.

The report concluded that Department's leadership must ensure that the nearly half a billion tax dollars devoted to the DOC are better utilized to support long-term public safety. It recommended a reallocation of resources within the current budget of the Department of Correction to produce substantial improvements in public safety and efficiency, without compromising institutional security. The report specifically found that changes in management systems, organizational structure, the correction officer's labor contract, and labor management will improve the allocation of the DOC's public dollars. For example, reducing the number of days off used by correction officers by 12 days -- still leaving 8 weeks of paid time off per year -- would enable the DOC to recoup approximately \$14 million.

Effective Collaboration

Finally, the GCCR's review emphasized that the Department of Correction does not operate in isolation. Rather, critical roles are played by the Legislature in defining criminal behavior and appropriating funds, the Courts in sentencing, the Parole Board in supervising inmates, and the human service sector in providing programming, community police, and county correctional services. The report identified some areas in which these external entities constrain the policies and practices of the DOC, and areas where improved cross-agency collaboration was critical.

⁶ Adjusting for inflation, the growth in expenditures was 23% between 1994 and 2003.

⁷ Presentation to the GCCR by Kyra Silva, Acting Budget Director, Massachusetts Department of Correction, March 24, 2004.

⁸ Adjusting for inflation, the growth in staff expenditures was 29% between 1995 and 2003.

⁹ Interview with Ronald Duval, Associate Commissioner of Administration, Massachusetts Department of Correction, June 28, 2004. These figures are for the time period of December 29, 2002 through December 27, 2003. According to the Department, these figures do not include active military duty.

¹⁰ In making this calculation, the GCCR used the weighted average (\$88,000) cost for correction officers to determine a weekly cost per officer (\$1,692), and multiplied that by the number weeks of sick time utilized (3.5) and multiplied that by 3,600 correction officers.

The report urged the Commonwealth – not merely the DOC -- to make successful re-entry of inmates a public safety priority. A number of the recommendations concerning re-entry, including improving classification, availability of proven programs, “step-down” prior to release, and supervised release, are impractical unless broader reforms occur. For example, a 2004 examination of inmates in the DOC’s custody revealed that 84% were restricted by statute from participating in pre-release programming, a recipe for failure.¹¹

Summary of the GCCR’s Recommendations

The GCCR stated that its recommendations were intended to be instituted together, and mutually reinforce one another in the interests of public safety and fiscal accountability. The 18 recommendations are as follows:

1. The Department should revise its mission to include reducing the rate of re-offense by inmates released into the community.
2. The Department should adopt a performance management and accountability system to enhance agency performance, improve the culture, and utilize budget resources more effectively.
3. The Department’s management capacity should be strengthened through the collective bargaining process and revisions to the internal rank structure.
4. There should be an external advisory board on corrections to monitor and oversee the Department. The board should work cooperatively with the Commissioner to develop concrete goals for the future of the Department.
5. The Department should take responsibility for bringing down staffing costs and reducing worker absenteeism.
6. The Department’s budget should be more closely aligned with its mission and priorities to enhance public safety in a fiscally responsible manner.
7. The Commonwealth must view reducing the rate of re-offense by returning inmates as one of its highest public safety priorities.
8. The Department should adopt a comprehensive re-entry strategy including risk assessment, proven programs, “step-down,” and supervised release.
9. The Department should hold inmates more accountable for participation in productive activities designed to reduce the likelihood that they will re-offend.
10. The Commonwealth and the Department should revise sentencing laws and DOC policies that create barriers to appropriate classification, programming, and “step-down.”

¹¹ Massachusetts Department of Correction, *Policy and Statutory Restrictions Impact on Inmate Placement*, (Concord, MA: January 2004), p. 2

