

# STATE OF RHODE ISLAND



## Department of Corrections

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The Honorable Robert E. Craven  
House Committee on Judiciary  
82 Smith Street  
Providence, RI 02903

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### **Re: H5927 – Relating to State Affairs and Government – Restrictive Confinement Oversight Act**

Dear Chairperson Craven:

This evening the House Committee on Judiciary will consider House Bill #5927, which will mandate the Rhode Island Department of Corrections (RIDOC) to change, expand and develop new corrections policies and practices that conflict with those implemented as a result of mediation in the Federal Court. While there may be portions of this legislation aligned with some policies and practices of the Department, this bill has the potential to jeopardize the tremendous progress that has been achieved. Additionally, there are provisions that are contrary to, and which extend far beyond the policies implemented by the Department in 2023. For these reasons, the RIDOC continues to oppose this legislation and prefers to achieve a finality in the Federal Court before exploring any potential statutory mandates.

RIDOC has demonstrated its commitment to safe and meaningful reform of restrictive housing practices through the implementation of its policies introduced in 2023. These changes were significant and included some key components of correctional practices of other states. While these significant changes have been a shift in RIDOC practices, we continue to review their impact and work with Plaintiff's Counsel and the Federal Court to ensure such changes are effective and do not adversely impact the safety and security of the Adult Correctional Institutions (ACI) for RIDOC staff and the incarcerated population. Premature codification of any policies related to restrictive housing has the potential for lasting unintended consequences. A current example of this is in New York State where the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act, which is often cited by those advocating for restrictive housing reform, has had several key elements suspended and was a sticking point during the strike of correctional officers that required the assistance of the National Guard.

A particularly concerning provision in this legislation outlines the composition and responsibility of a restrictive housing oversight committee. RIDOC continues to take issue with the composition of such a committee because of the five members, only one is required to have any correctional experience – the Director. This committee would also be responsible for hiring an ombudsperson “based on whatever procedure is determined by the committee.” There are no clear statutory requirements for who would qualify for such a position, and the criteria for hiring such a person

The Rhode Island Department of Corrections (RIDOC) contributes to public safety by maintaining a balanced correctional system of institutional and community programs that provide a range of custodial options, supervision and rehabilitative services in order to facilitate successful offender reentry into the community upon release.

would be left to a committee lacking correctional experience. In recognition of the oversight and transparency desired by members of the General Assembly and the advocacy community, the Department remains willing to enhance the public reporting on restrictive housing and is actively exploring how to best create a dashboard available to the public. The reporting mandate in this bill remains reasonable, and with minor modifications, is consistent with information that is already submitted by the neutral court appointed experts to the Federal Court as part of the Department's ongoing responsibility to audit its compliance with the policies implemented in 2023. Furthermore, an electronic monitoring system has been installed at the High Security Center to more precisely track out of cell time for our Restorative Housing Program (RHP). We are now working to install this technology at our other facilities, beginning at our Intake Service Center (ISC) which now houses our Behavioral Management Unit (BMU).

The Department remains troubled by the section of this bill regarding declaratory judgments. It is unnecessary to carve into statute a method by which individuals may seek legal action against the State. Anyone who believes their rights may have been violated or that the State is not appropriately following the law has many avenues of legal recourse available to them. This provision also inadvertently implies that the legal recourse outlined in this legislation is the best or only recourse available to individuals who believe these statutory mandates have not been followed. As it relates to appeal of the bookings issued by Correctional Officers, the Department's discipline process that ensures the final decision on potential sanctions is made by a hearing officer who is not a uniformed staff member.

There is an array of other concerns with this legislation that have been covered extensively in previous years of testimony including but not limited to the amount of time an individual may be placed in a restrictive housing setting, a dangerous limitation of no more than a 15-day sanction in a 30-day period, a loose definition of auditory and visual impairments and serious medical condition. These provisions are burdensome, potentially dangerous and in some cases in direct contrast to the progress achieved through mediation in the Federal Court. While the Department has demonstrated its willingness to modernize the use of restrictive housing, it is critical that correctional systems have tools at their disposal that serve as a deterrent to ensure discipline can continue to be effective.

Last year, we reflected on several successes achieved through the implementation of new policies including a discipline process that does not allow for a sanction of more than 30 days in restrictive housing, a higher minimum number of hours out of cell while in restrictive housing, the expansion of available privileges while in restrictive housing, a discipline hearing process that concludes with a decision by an impartial staff member assigned to the Director's Office who is not a uniformed correctional officer, and a complete evolution of the High Security Center to serve as our three-step Restorative Housing Program (RHP) that aims to rehabilitate incarcerated persons to the point they are able to rejoin the general population. While we remain proud of these accomplishments, I would be remiss if I did not share some of the security and operational challenges we continue to work through daily. For some incarcerated persons, disciplinary confinement is no longer the deterrent it once was. The most problematic members of the incarcerated population know that they must be released from disciplinary confinement no later than 30 days and behave in a manner knowing the options available to security staff and discipline hearing officers are limited. Another significant challenge we face is a direct result of our aging infrastructure and lack of a modernized

correctional system. A small number of individuals who may complete the RHP are limited in where they can reside thereafter due to enemy and gang issues across our small unified system. This has at times delayed their reintegration into the general population and is unfair to those who have been compliant with their case plan and successfully moved through the program. We are actively working to rectify this challenge by collaborating with our Special Investigations Unit (SIU) to determine the validity of enemy concerns and working to construct a less restrictive block that will enable in-person visits and other privileges those who complete the program are entitled to. We also continue to see, just as other states do, an increase in disciplinary bookings, most notably acts of violence.

In closing, it is important that I remind this committee that as Director, I cannot walk away from or change the policies that have implemented through mediation without notice to and approval of the Federal Court. While this restriction may inhibit our ability to quickly address issues identified, it also should provide those advocating for additional reform confidence that we are operating in a safe and constitutional manner designed to rehabilitate those in our custody while ensuring the safety of staff and the incarcerated population. We will continue to work in good faith with all interested parties to uphold the significant changes we have made without jeopardizing safety or rehabilitation.

Sincerely,



Wayne T. Salisbury Jr.  
Director

cc: Honorable members of the House Judiciary Committee  
The Honorable Representatives Potter, Sanchez, Kazarian, Kislak, Stewart, Alzate, and Handy  
Nicole McCarty, Esq., Chief Legal Counsel to the Speaker of the House