

# The Maine State Prison Board of Visitors

To: the Joint Standing Committee for Criminal Justice and Public Safety

From: The Maine State Prison Board of Visitors

July 29, 2009

## Summary Report on Issues and Concerns – for Interim Meeting #1

Dear Members of the Joint Standing Committee:

For a number of years, reporting to you from this Board of Visitors has been irregular. Following the enacting of the revised Board of Visitors Legislation in 2005, the new Chairman frankly misunderstood aspects of the reporting requirements – which explains the recent arrival of Reports for past years to you. By way of further explanation, we acknowledge that the utter size, complexity, and intricacy of the myriad issues, particularly at Maine State Prison (MSP), left us somewhat unsure as to what, exactly, *to* report – and when – beyond what we regularly report to, and discuss with, Warden Jeffery Merrill.

In mid-February of this year, during a Joint Standing Committee facilities tour at the Bolduc Correctional Facility (BCF) in Warren, the Chairman of the Board of Visitors had a brief and helpful conversation with Committee Co-Chair Haskell regarding the Board's growing concerns about how to most effectively fulfill our role and responsibility. In a later follow-up, Co-Chair Haskell expressed the hope that the Board could address this Committee prior to the end of the Legislative session. Obviously, however, more critical budgeting issues arose, and understandably pre-empted our opportunity. So we very much appreciate the chance to address the Committee today.

During the last several years, members of the Board of Visitors have spent a great deal of time talking directly with numbers of inmates and staff from almost all areas of MSP and BCF. We have talked at considerable length about a wide variety of issues and concerns including reduced programming and other matters directly affecting inmates, and budget and staffing limitations and their consequent effects upon officers and program staff, as well as concerns among officers and staff regarding safety. Because MSP has been hit the hardest, morale there has been low during recent years, and staff turnover has been high. While many staff conduct themselves with the very highest professionalism, there have also been reports of behavior which is less than professional, or less than respectful. In the opinion of the Board of Visitors, much of the problem is attributable to the budget constraints, and the Department's acknowledged inability to staff these facilities properly, especially in light of the larger and more

volatile population mix resulting from increased sentences to State facilities in recent years.

It may be obvious that the circumstances at MSP are very different from those at BCF, where (a) the population is about one-fourth of that at MSP, (b) the staff/inmate ratio is lower, and (c) the custody/security level of the inmates is lower. The result is that, in general, the population at BCF seems to present fewer serious risks to others. Because MSP is a much more complex facility to manage, and BCF focuses much more on work, programs, and preparation for release back into society, it should not be surprising that the issues and concerns reported here are related to MSP. But it would be a mistake to think that what works at BCF cannot work at MSP – provided a greater commitment to appropriate staffing and to more robust programming.

The Board – which usually meets about eight times a year – has always been received with absolute openness, cooperation, respect, and appreciation from the administration and all the individuals and groups we've talked with, whether inmate or staff. And although we regularly remind everyone we talk with that we have no authority to "change" anything, we are there to listen and to learn, and to convey legitimate issues to the administration. We are also there to convey such issues to the Commissioner and to the Legislature when appropriate, but we've sometimes found ourselves a little less certain of when and how to convey these, and it is here that we could use more guidance. We recognize that the Board has a degree of responsibility and only limited authority, and we know that each facility's Board pursues its mission in its own way, according to the needs each Board perceives. But we hope that, in time, some of the confusions that can arise from this structure may be addressed and clarified.

There is no question in our minds that having citizens' oversight and advisory boards for correctional facilities provides an important opportunity to illuminate aspects of Corrections in Maine for its citizens. We also believe that listening to the issues and concerns of security and program staff as well as to the issues and concerns of inmates helps in very important ways to encourage an overall culture of professionalism, respect, and responsibility at MSP and BCF. But this works best when the Board is seen as effective. It is in this area that we feel a need for further clarification of our role. If we can find further clarification, we can do more to encourage important and valuable refinements in the mission and culture of the facilities – which will help to improve staff and inmate morale, individual and facility safety, and ultimately, we hope, a reduction in the victimization of innocent citizens. We cannot forget that virtually all inmates have been committed to these facilities because of choices they made. But if those of us connected to Corrections can help these inmates to make better choices in the future, we'll make a powerfully important contribution to public safety in Maine.

The following issues reflect the Board's major areas of persistent concern over the years. While almost every issue we raise here has a direct link to the overarching problems of budget and finance, we also recognize that this challenge presents opportunities for creative thinking, and we raise these in order to invite and encourage such thinking.

### **1. Staff morale**

This area of concern has been a persistently corrosive one for several years, owing primarily to the severely limited budgets and staffing, illustrated by very high staff/inmate ratios, by veteran officer departures, by high new-officer turnover, by mandated overtime, and by the unrelenting cascade of increasingly stressful pressures and expectations.

As a result of this cascade – which does not, as we know, originate in the office of Warden Merrill or of Commissioner Magnusson, but in the Office of the Budget – many staffers would say that the lines of communication throughout the Prison have been impaired, and that they often feel “unheard” by the administration, by the Commissioner, and by the Legislature. Because some staffers also feel invisible and unappreciated by the public, morale can be a chronic issue.

Finding truly sensitive, effective, and durable ways of dealing with this major challenge ought to be among the highest priorities of the Department of Corrections. In addition, we believe that those who dedicate themselves to this kind of “invisible” work every day deserve special acknowledgment by the State of Maine, whose citizens they serve. This is an issue with implications beyond the Department of Corrections, and we call attention to the importance of expressions of appreciation to all those who toil unseen on our behalf.

### **2. Staffing levels – both Security and Program staffing**

As above, adequate staffing has been a persistent challenge at all levels and in all areas. Cutbacks and hiring freezes have left many staff feeling frustrated and dispirited, knowing that incarcerated inmates have no concern for revenue shortfall matters. Offenders with behavior issues do not reduce their sometimes extremely violent acting-out behaviors just because “times are tight.” On the contrary, such inmates may be more likely to act in more dangerous and unpredictable ways when they see or sense vulnerabilities in staffing. In such times, the best hope for safety and peace is a facility where staff effectiveness is in no way compromised.

There are so many negative effects – from the absence of effective educational programs due to lack of program staff (including volunteer educators) to the elimination of night recreation due to lack of security staff – that MSP really has been forced to become a “warehouse,” to a degree. This is not the “fault” of the MSP administration or of the

Department of Corrections. It is the consequence of severe budget constraints combined with a largely invisible “constituency.” But if the citizens of Maine were able to more clearly understand what the Board believes to be the negative downstream effects of this situation upon public safety, we wonder if they would suggest that the Legislature reconsider some priorities.

We believe there should be much more robust exploration and discussion of alternative approaches in such challenging times. When it comes to public safety, we cannot just throw up our hands and say, “there is no money.”

**3. Tension between Program and Security staff**

There is no question that Security – for inmates and staff – must always be the overarching concern at the Prison. For this reason, there is no question as to the hierarchy of priorities. On the other hand, there has, over the years, been a “tension” between certain Security and Program staff that has left some Program staffers feeling as if they “don’t even play on the same team” as Security, and it can be risky and demoralizing not to demand a fundamental unity among these two critically – and equally – important components at the Prison.

There are obvious differences in the challenges that face each of these groups of staff members on a day-to-day basis. But the message must be clear that all staff are on the same team, and we believe this should be a high and clear priority. It does not have to be hard to accomplish, but it would require a clear, rigorous, and unrelenting commitment.

**4. Inmate concerns and complaints**

We have spent a great deal of time listening to a variety of inmate groups discuss issues that affect the entire inmate population. While we are not a grievance board, we welcome the opportunity to listen respectfully to the concerns of inmates as we seek to understand issues that are systemic.

There are numerous issues that come up with predictable regularity, some of which are detailed below. In most cases, the issues we hear about are completely legitimate, and are certainly worthy of respectful discussion between thoughtful and articulate inmates and administrative staff. In some cases, inmates have ideas that could help to save the Department money while helping teach inmates about the world of (pro-social) business. It’s important to note that we have always found the inmate groups to be respectful of the Board and of (most) staff. They always acknowledge that they understand they’re in prison – not on vacation – and they always have important and well-considered issues to discuss with us. We believe that listening to them helps, no

matter how far we're able to take their issues and concerns. But the persistence of the issues they legitimately raise with the Board sometimes leaves us wondering about the effectiveness of our efforts.

#### **5. Inmate Mail concerns and complaints**

Inmates continue to feel that the inmate mail policy is extremely harsh, and even confiscatory, and that the ordinary privileges of mail are severely constrained due more to a lack of sufficient manpower at MSP than to any particular corrections objective. In this respect, we believe there are issues remaining that demand closer examination. The mail can create obvious vulnerabilities to the facility, but it can also be an inmate's lifeline to family and friends, and in this respect is a critical issue.

#### **6. Inmate phone costs, issues and concerns**

Inmates continue to complain that the inmate phone system is excessively costly. The basic charge is \$.33 a minute, which is deducted from their individual inmate accounts. This is a rate far higher than what the public is ordinarily charged. We are aware that a lot of very hard work has gone into this system, and that the justification for high rates lies with the high development costs, the high equipment costs, and the payment of a significant portion of phone revenues to the Inmate Benefit Fund. Nevertheless, these cost barriers between an inmate and his family can weaken one of the most important factors – connection with family and friends – in the successful reintegration of inmates into society. We believe that this challenge deserves further exploration and attention.

#### **7. Inmate concerns regarding the disbursements of monies earned for the Inmate Benefit Fund (IBF) for facility repairs and/or supplies**

Individual inmates and the Long-Timers Group, an inmate civic organization that has organized fund raising programs for the benefit of inmates in need, have complained that the Inmate Benefit Fund (IBF), which they support in a variety of ways, has been used, in some cases, by the Prison administration for facility work and not for the inmate benefit purposes intended. The administration has acknowledged that the IBF has been used, for example, to repair or replace lights at the basketball court, which may, logically, be considered an "inmate benefit." The Board believes that the standards for the use of the IBF should be clarified so that funds will be used only for programs and improvements that are beyond the ordinary maintenance of the facilities and the prison's programs. We are concerned that in difficult budget times, the IBF could be used to replace funding for the prison's ordinary ongoing costs. This will directly affect inmate morale and – understandably – be viewed by the inmates as a breach of trust.

#### **8. Inmate Organization concerns and complaints**

Recent issues among inmates belonging to civic and other membership groups have caused the administration to review the policies for these groups, and to limit the amount of control they have had over the scheduling of meetings, the selection/election of officers, and other issues. The conflict between the need to manage the inmate population and the wish to enable inmates to work in collaborative ways with other members of their groups has created enormous challenges for the administration, and this issue is not yet fully resolved, as we understand it.

We believe that pro-social inmate groups can be an important means of developing the real-world skills of working cooperatively toward a goal. We understand that no groups can be afforded “special” privileges, nor excessive power or influence in any way. But work should be done to enable the establishment of opportunities to develop skills and abilities in this area of socialization and individual and group effectiveness.

### **9. Native American issues and concerns**

We have listened to some of the concerns of a number of Native American inmates at the Prison, and we know that a great deal has now been accomplished as a result of the hard work that was done between tribal representatives in the State and the Department of Corrections. We will continue to listen for issues and concerns among Native Americans (as we try to do for all inmates), and we are fortunate to have a very rigorous and effective Native American tribal member on the Board of Visitors.

### **10. Willingness of inmates to produce goods and services through Prison Industries for the State**

Some inmates have raised the question of why the Prison Industries side of the prison could not be utilized to produce more goods and services for the State and allied agencies. They have an inexpensive work force, very willing to work, and very much in need of job training. This looks to them like a win-win situation for the Prison, the inmates, the State, and the taxpayers. We believe this is an issue that needs and deserves much closer examination – or *re*examination.

### **11. Success of the Unit Management system**

We have spent a significant amount of time listening to seasoned staffers talk about the pros and cons of Unit Management, the system put in place with the construction of the new Prison in Warren. Generally, it is considered an extremely effective and successful approach. The problem arises when the staffing in each Unit is insufficient, as the Board believes it is. In this circumstance the Unit Management model can leave staffers and inmates vulnerable not only to exploitation but to violence, and this is a situation that should not be allowed to continue. Obviously, this is a budgeting matter, but it is an example of how the effects of severe budget cuts can undermine the effectiveness of a

system carefully designed to operate in a certain way, with a certain absolute minimum number of staff in each of the Units.

The Board is concerned that the budget constraints may have prevented a thorough confronting of the risks inherent in the current Unit Management staffing structure.

### **12. Recruitment Standards, Retention, Advancement, and Leadership Training issues**

Dedicated Security staff members from throughout the ranks have consistently advocated for more rigorous hiring standards, for increased support and encouragement of officers, and for greater upward mobility. Budget constraints obviously limit possibilities. But in addition, the current practice in the State of allowing qualified employees to retire – and then to be immediately rehired – seems to be having a dampening effect on ambition and aspiration in our facilities, even as it allows the State to retain some of the very best and most experienced people we could have. The Board feels that not enough is being done to retain all of the best and the brightest who work in these facilities.

Correctional officers and their supervisors fulfill a challenging law-enforcement role that is unseen and unknown by the public. They work in an environment more akin to a war zone than an ordinary neighborhood. Correctional program and facilities staff – from such departments as the education, medical, recreational, and substance abuse prevention areas – also work largely invisibly, there. It is easy to feel unseen and misunderstood by those who are unaware of the work these dedicated professionals do, every single day, behind those walls. They deserve the acknowledgment and support of the people of Maine, and the encouragement to advance their careers in Corrections.

### **13. Inclusion and coordination of more volunteers in the facility**

With such severe budget constraints, the need for an increased number of well qualified, screened, and trained volunteers seems apparent. Of course, the challenge of effectively managing volunteers and their accountability is enormous. It seems to the Board that there is an opportunity for the careful increase in a rigorously managed volunteer corps for the Programs side of the Prison, so that the load on the existing and severely limited staff may be reduced, and that opportunities for inmates and for the community are enhanced.

### **14. The Role of the Board of Visitors**

We reiterate that of great “operational” concern to the members of the Board is the challenging complexity of the many matters at MSP and BCF that are full of implications for confidentiality, for the safety and security of individual inmates and staff members, and for the safety and security of the entire facilities with which we are involved. Specifically, it can sometimes be very challenging to address issues of such

great sensitivity while trying to maintain a commitment to open meetings, as understandably required by Maine law. The Board feels that further help and clarification are needed in this regard.

The role of the MSP Board has been evolving, over the years, and we believe we have made a positive difference in the way things work at the Prison by virtue of our presence and our ability to listen openly to concerns. On the other hand, the limits of our responsibility and authority sometimes leave us a bit confused as to appropriate action or direction, and the Board would be grateful for additional clarification in this area. Finally, with the establishment of the Board of Corrections, we wonder whether there may be a wish to examine areas where a potential unnecessary duplication of effort may occur. In any case, we on the Board look forward to the opportunity to work with members of the Joint Standing Committee, the Commissioner, and Warden Merrill in any way you see fit.

We should also note that we feel our effectiveness as a Board has sometimes been hampered by lengthy delays in the appointing of members by the Office of the Governor. This has been especially complicating for the Board when the particular member needing to be appointed has been the one with the very experience specifically required by the new Legislation – the one with professional mental health services background. This has now happened on two occasions – the nomination submitted in March of this year (2009) having still not been acted upon, as far as the Board knows.

Respectfully submitted,

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John Atwood  
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