

Board of Corrections WORK SHOP SESSION Minutes

July 10, 2012

10:00 AM – 3:00 PM

Held at: Two Bridges Regional Jail

Conference room

522 Bath Road, Wiscasset, Maine

Members Present:

Chair Mark Westrum, Two Bridges Regional Jail (Maine County Jail Administrators); **Douglas Beaulieu**, Aroostook County (County Manager); **Commissioner David Bowles**, (York County); **Commissioner Joseph Ponte**, (Maine Department of Corrections); **Stuart Smith**, Maine Municipal Association; **Ric Hanley**, Spring Harbor Hospital (Mental Health); **Commissioner Anne Head**, (Maine Department of Professional and Financial Regulation).

Members Absent:

Sheriff Randall Liberty, (Kennebec County), (Maine Sheriff's Association); **Vinton Cassidy**, Washington County (Public Representative and Washington County Community College)

Executive Director: Michael Tausek, Board of Corrections

Secretary Specialist: Jane Tower, Maine Department of Corrections

Handouts:

- Agenda for 7/10/2012
 - "Heading For the Future" – power point presentation
 - Maine Board of Corrections – County Jail Budgeted Capacity For FY 13
-

Welcome and Introductions:

SBOC Chair Mark Westrum welcomed everyone to the work shop and introductions of all Board members proceeded. It was noted that the Board of Corrections meeting would not be broadcasted live over the internet at: <http://www.maine.gov/corrections/>. Members from the audience introduced themselves. Charemon Davis, Dianne Tilton and Ron Smith represented RHR Smith.

Report of the Chair:

SBOC Chair Mark A. Westrum reported that:

- Somerset County Jail's refusal to accept state or non-Somerset offenders continues to be an issue and that part of the workshop will be a look at the problem and options available to the board to properly respond to this dilemma. The Chair also reflected on a June 19th meeting with Sheriff Delong, Executive Director Tausek, Jail Administrator David Allen and Chief Deputy John Carroll. At that meeting, Sheriff Delong made it clear that he would need confirmation that the State will fulfill its Inverse Debt obligation and the MDOC would increase the marginal rate for state offenders before accepting new inmates from outside Somerset County;

- RHR Smith is working on end of year actuals and an accurate “carry over” balance is not available. It was during this summary that Ron Smith added Charemon Davis has been tasked with completing the financials and could quite possibly have an investment fund “carry over” figure by the next board meeting;
- NIC report has multiple recommendations to improve the system and that the board and system needs to take advantage of the information/recommendations put forth in the NIC report, the RHR Smith report reports done several years ago (e.g. CAAC report). Furthermore, the report exposed the state’s failure to meet the Inverse Debt obligation set forth in statute.
- The Board needs to determine legislative scope and authority regarding decision making. Once clarity is made members need to move forward and make difficult decisions.
- Somerset’s actions and Knox County’s verbal threat to close a housing pod due to pending increased wage increases in conjunction with other fiscal constraints has left the Board with no other choice than to ask state government for adequate funding.

Ralph Nichols report on potential adjustments to jail capacity in various facilities:

Synopsis: Due to Somerset County Jail administration’s refusal to accept inmates from outside their county several counties (Aroostook, Cumberland and Franklin) have been negatively impacted by Somerset’s actions. For instance, Franklin County has extended their transportation range to encompass York County, Knox County and Windham, ME (Maine Correctional Center). In another example, Penobscot County bypasses Somerset County to transport inmates to Cumberland County. Consequently, the board requested Ralph Nichols prepare a table showing the modification of budgeted inmate populations for TBRJ, Cumberland County Jail and York County Jail. A summary of the discussion is below:

- Cumberland County would increase its budgeted capacity from 427 to 470 (+43);
- TBRJ would increase its budgeted capacity from 164 to 185 ((+21);
- York County would increase its budgeted capacity from 192 to 244 (+52);

	FY11	FY12	In-house	FY13	Beds FY13	Full Rated		DRAFT
County	BudgeCap	BudgCap	ADP 12	Peak 10%	Net+-	PotentCap		
Andro	160	160	149	160	11	174		
Aroost	72	72	70	72	0	72		
Cumb	443	468	427	470	43	718		
Frank	6	6	5	10	0	32		
Hanc	58	58	47	58	11	58		
Kenn	180	147	143	147	3	147		
Knox	81	81	63	70	7	70		
MCRC	32	32	22	24	2	32		
Oxford	12	12	10	12	0	47		
Penb	182	143	150	143	-7	143		
Pisq	26	32	30	36	6	36		
Somers*	192	192	94	104	10	225		
TwoBridge	154	181	164	185	21	210		
Waldo72	4	4	2	4	0	4		
Wash	42	42	40	42	2	42		
**York	200	200	192	244	52	312		
	1844	1860	1608	1781	161	2322		
*Somerset	FY 12 ADP	ADP Brd	Net w/o Brds	**York Includes opening a 44 bed pod				
	184	90	94					

Power Point Slide # 19

- Commissioner Ponte reported MDOC no longer has prisoners housed in Somerset or York facilities

(Overall, approximately 50 state prisoners remain in the system and one pod remains closed in the state system);

- Somerset's budgeted capacity (with 10% peaking factor) is 104 inmates;
 - Ralph Nichols reported the following options are currently available regarding Franklin County (the facility most impacted by Somerset): (a) move Franklin inmates to Androscoggin County Jail; (b) move Oxford County inmates to Cumberland County Jail;
 - Captain Ed Quinn (Oxford County) verbally questioned the above-mentioned scenario for his transportation costs would increase due to his staff having to transport inmates a farther distance;
 - Chair Westrum informed the board that Somerset County Jail's Investment Fund Distribution is \$1.1 million and that the board will need to contemplate whether the redistribution of inmates and investment fund is a feasible option. Somerset's I/F distribution could be shared amongst the facilities that increase their population.
-

Reviewed workshop objectives:

- **First objective:** Clarify the gravity of Somerset's current housing policy and coordinate a planned response to limited bed options for inmates;
 - **Second objective:** Determine the feasibility of reallocating FY 2013 Investment Fund payments to those facilities with increased populations;
 - **Third objective:** Discuss the creation of a Finance Committee to replace Budget Focus Group;
 - **Fourth objective:** Discuss an Inverse Debt strategy;
 - **Fifth objective:** Discuss a budget strategy for the biennial budget.
-

Executive Director's Report on NIC Technical Support Study:

- The study was a comprehensive look at SBOC with particular examination of county corrections activity. The study reconfirms much of the information reported out in the CAAC report and RHR Smith.
- One particular area of interest to NIC was inmate management in the system. The study revealed that female offenders are classified as High Risk more often than male offenders and that the system is overrepresented by minimum/medium custody inmates. Therefore, the seminal question is whether the system's classification process is effective.
- The study also highlighted the lack of adequate funding by the state. In particular, Rod Miller noted the State has not funded the inverse debt obligation set forth in statute. The SBOC strategic plan will address this funding component.
- Chair Westrum reiterated his earlier statements that the Board needs to utilize the NIC recommendations by employing any/all limited authority established in statute. Some recommendations of interest to Mark are specialty jails (e.g. mental health and/or substance abuse programs) and/or a facility dedicated to housing female offenders.
- Board member Ric Hanley expressed at the time the BOC was created all operational action was put on hold. In the private sector, successful mergers take 7-10 years. Hospitals, an industry known for mergers, have a success rate post-merger of 10%. Board member Hanley further stated that the BOC and counties have expressed interest in best practices but it has been approximately 7 years since a

presentation on best practices was facilitated. Member Hanley noted the SBOC Mission Statement (also known as Purpose and Goals) highlights our purpose and that the Board has to decide whether to request funding for what we need or what we want to accomplish.

Corrections Working Group Report:

Sheriff Glenn Ross reported that:

- His group had yet to meet in July and members are waiting for direction from the Board.
-

SBOC Vision Statement:

Synopsis: One component of a successful strategic plan is a vision statement. The vision outlines what an organization wants to be. It is a long-term vision and concentrates on the future. Exec. Dir. Presented his idea of a statement for the organization (see below) and asked the Board for input on reshaping what he created:

“To create a multi-partner system denoted by structural and process-oriented change resulting in cohesiveness amongst stakeholders, improved client services and long-term financial sustainability.” Power Point Slide #28

Board Members Vision:

Synopsis: Wanting to know each members vision for the organization, Exec. Tausek polled each member for input.

Board Member Head: Funding is tied to an organization’s purpose. Therefore, the Board should be the funding source for each county facility. Commissioner Head also raised the issue of Somerset County’s refusal to take out of county inmates;

Co-Chair Ponte: Need to use statutory authority to move the system forward and the Board has the necessary information to accomplish this goal. The Board has the CAAC report, the NIC report, RHR Smith report, etc. The resources can be used to set measurable objectives and implement best practices (e.g. Pre-Trial Diversion);

Board Member Bowles: Remarked that reading the applicable statutes shows clarity. Under Title 34-A, §1803 the Board’s role is clear. Consequently, the Board has to think about utilizing its authority. Member Bowles also referred to the remarks made by Members Ponte and Hanley and agreed that effort has to be made to present options to the legislature that focuses on need and options. “What is the price to support all we need and want to do?”

Board Member Hanley: Reiterated his above-mentioned remarks about best practices and the need to reinforce the mission statement. The Board has a statutory requirement to provide programming. Consequently, a framework has to be developed that is strength-based in nature. The BOC needs to set the industry standard. Need to explore incentive-based programming. Finally, member Hanley thanked the system’s staff for providing quality service.

Co-Chair Westrum: Made the observation that the system is better than it was 25 years ago but questioned how to move the system forward from the BOC's inception in 2008. His second observation reflected on the positive activity within the system (diversion programs, CARA, MCRRC, Title 30 programs). CCA funding is an important issue that must be revisited by the Board. Currently CCA funding is an 80/20 scheme; meaning that 80% of funding may be applied to operations and 20% must be applied to community corrections. Chair Westrum stated that he would like to see the ration changed to favor community corrections versus operations. With all that said, Chair Westrum stressed that the missing component in the county corrections system is judicial involvement. Collaboration is sorely needed (e.g. continuity across the state with video arraignment). How can we improve in this area? Finally, Chair Westrum challenged the Board to think about facility Specialization and how to make progress towards such a goal. Note: York County and Sheriff Ouellette showed interest in utilizing a pod for female offenders.

Board Member Stuart: Stated that as a Board Member he has experienced an organization that has focused all its efforts on budgets with minimal attention dedicated to programming. The Board needs to take legislative responsibility or dissolve as an organization. Finally, Member Stuart stated he wants to get to the role of the system.

Board Member Beaulieu: Observed that the BOC needs cooperation of the (4) flagship facilities because inherent in their establishment was a cost savings for the system. For example, capital expenditures. The Board needs to move the mission forward and lead by example. In order to have success before the legislature, the system needs unity – not counties (e.g. Somerset) breaking away and operating individually. This was not the expectation. Co-Chair Westrum stated the system needs the State to fulfill its inverse debt obligation.

Discussion Points:

- Somerset County Administrator Larry Post inquired into the amount of state prisoners remaining in the system and the amount of pod areas closed in the state system, Administrator Post questioned the feasibility of the BOC marginal rate (approx \$22 a day) as it applies to his facility. He stated Somerset County Jail's debt service is approximately \$2.6 million and that his county cannot pay the service under the current economic conditions. He requested the Board revisit marginal cost and the means for facilities to pay debt service.
- Board Member Head questioned whether the Board was prepared to enforce statutory law because it has never done so in the past. §1803 was cited as a reference point.



Title 34-A; §1803 – Board Responsibilities and Duties

- **1. Manage the cost of corrections. The board shall develop a plan to achieve systemic cost savings and cost avoidance throughout the coordinated correctional system with the goal of operating efficient correctional services.** Additionally, the board shall:
 - A. Review, amend if necessary and adopt the correctional services expenditures in each county budget under Title 30-A, section 710;
 - C. Establish boarding rates for the coordinated correctional system, except boarding rates for federal inmates; [2011, c. 374, §12 (AMD).]
 - **E. Develop parameters for facility population,** including but not limited to gender; classification; legal status, including pretrial or sentenced; **(1) Lower the cost of providing correctional services;**
 - **(2) Improve delivery of correctional services;** or
 - (3) Otherwise help to achieve the goals of the board pursuant to sec. 1801.
- **2. Determine correctional facility use and purpose. The board shall:**
 - **A. Determine individual correctional facility and county jail use,** including the location of specialty units, which may include medical, mental health, women's and substance abuse units, other specialty units and housing of pretrial and sentenced populations;
 - **C. Review the use of all correctional facilities and county jails. The board may downsize or close facilities or reassign services. The board shall adopt rules governing the process and standards for closing or downsizing a correctional facility or a county jail, including criteria to be evaluated and stakeholders to be consulted. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.**

Power Point Slide # 16

- Board Member Head spoke to the need to establish rules to enforce the statute and recommended a discussion takes place with MDOC legal consultant Diane Sleek and/or the Attorney General's office and start defining the Board's scope of authority. The Commissioner further stated that time and legal authority are important issues. The Board needs to prioritize what can be done. Title 8 "Adoption of Rules" establishes guidelines for rule making. The Board needs to proceed with rule making via the AG's office.
- Ron Smith (RHR Smith) agreed with Commissioner Head but suggested the Board utilize balanced legal representation of the AG's office with legal counsel that represents the counties. He further stated that unity needs to be a primary objective for the BOC as it prepares for the biennial budget and 3 months is all the BOC has before presenting budget needs and the inverse debt issue to the legislature. Finally, Ron asked each board member to propose (3) major initiatives he/she would like to see the Board undertake.
- Lincoln County Administrator John O'Connell stated that MCCA may be interested in seeking legal counsel for the counties due to the State not meeting its legal obligation to pay inverse debt. Member Beaulieu stated that the BOC funds on average daily population and doesn't need legal assistance to exercise its initial plans. Sheriff Glenn Ross questioned what issues were immediate because initially the system seemed in crisis but work shop discussion centered on long-term planning.
- Board Member Beaulieu spoke to the NIC and RHR Smith reports. Specifically, he stated that an item should be discussed and voted on at each board meeting for discussing multiple issues equates to lack of

results. At this point, general discussion centered on the need for specialty jails and dash board reports that highlight necessary and useful information.

RHR Smith Report:

- Dianne Tilton stated that RHR Smith has been tasked with various assignments as detailed in their project management program (Schedule A):the following:
 - Assist Exec. Dir. Tausek in developing the parameters for a new Finance Committee;
 - Developing a job description for the Financial Analyst position;
 - Developing a job description for the Executive Director;
 - Developing By-Laws for the organization;
 - Creating a monthly financial report.
 - Board Member Head stated that she is not sure of the Attorney General’s role with the BOC and how the office could assist. She suggested the Board may need to seek independent counsel. Diane Sleek works for the MDOC and is charged with providing that department with legal counsel. The MDOC’s goals and objectives are different than the BOC. A RFP for legal counsel may be the best option but the issue should be examined more closely.
 - Board Member Bowles suggested a meeting with the Attorney General’s Office with a stated mission of clarifying the BOC’s role and determining whether the Board should hire independent legal counsel. Conflict of interest may exist if the BOC utilizes MCCA legal representation.
-

Consensus Taken: Chair Westrum looked for consensus from other Board Members to proceed with a meeting with the Attorney General’s Office to address the issues stated above. **Board Members voted unanimously in support** of the meeting and Board Member Head and Exec. Dir. Tausek to draft a RFP.

Discussion Points (Cont.):

- Conversation switched to Somerset County Jail and that facility’s decision to close a living area (pod). Lincoln County Administrator John O’Connell referred to the NIC report and the use of nominal cost to determine accurate bed costs. At some point, as an audience member stated, marginal cost becomes an economic issue.
- Mark gave overview of the Somerset County Jail issue (slide # 14):

Somerset County Jail - Background

- Somerset is primary flagship jail for Franklin County inmates;
- April 2012 – Somerset refuses non-Somerset County inmates and state prisoners;
- Franklin County obligated to transport sentenced and pre-trial offenders to Cumberland, Knox, MCC, TBRJ;
- Aroostook County obligated to transport offenders to distant facilities;
- Penobscot County obligated to transport offenders to distant facilities;
- June 2012 – MDOC removes remaining state prisoners;
- June 2012 – TBRJ locks down facility due to prisoner-on-staff assault;
- June 2012 – Exec. Dir. And Co-Chair meet with Somerset staff.

- York County Sheriff Ouellette stated that originally he closed down a living area for staff safety reasons and MDOC transferred state prisoners currently housed at YCJ to other facilities.
- At this time, York County is poised to reopen the closed 44-bed pod in the fall and is actively recruiting new staff (Note: YCJ is currently short staffed by 5 correctional officers).
- York County Jail is currently housing non-York County female offenders.
- Sheriff Ouellette projects it will cost approximately \$382,542 to open up the pod for a full-year (Slide # 20):

York County Jail – 44 Bed Pod

ESTIMATED COSTS FOR (5) NEW CORRECTIONS OFFICER POSITIONS AT YCJ

(1) ENTRY LEVEL POSITION

Weekly Wages			
Hrly Rate	Reg Hrs	OT Hrs	Total Pay
\$ 16.80	40	10	\$ 924

Annual Wages	Annual Benefits							
	FICA/Medi	WC	STD	LTD	Life	Dental	Medical	Retirement
\$ 48,048	\$ 3,676	\$ 1,820	\$ 750	\$ 100	\$ 70	\$ 920	\$ 16,320	\$ 4,805
GRAND TOTAL								\$ 76,508

(5) ENTRY LEVEL POSITIONS

Weekly Wages			
Hrly Rate	Reg Hrs	OT Hrs	Total Pay
\$ 16.80	40	10	\$ 4,620

Annual Wages	Annual Benefits							
	FICA/Medi	WC	STD	LTD	Life	Dental	Medical	Retirement
\$ 240,240	\$ 18,378	\$ 9,100	\$ 3,750	\$ 500	\$ 350	\$ 4,600	\$ 81,600	\$ 24,024
GRAND TOTAL								\$ 382,542

- Sheriff Ouellette offered leasing the pod as another option. Either option would require an M.O.U.
- Chair Westrum stated he was pleased with Sheriff Ouellette’s offer but realizes the Board must balance this option with the Somerset issue.
- Sheriff Kevin Joyce (Cumberland County Jail) stated that his administration has a “huge hurdle” to jump in order to open up a 24 bed-pod. His facility is currently short-staffed by 15 correctional officers and needs to recruit for more staff.
- Sheriff Joyce advised the Board he would need 6 correctional officers to open up ½ a pod.
- At this juncture, Chair Westrum summarized the June 2012 meeting with Sheriff Delong:
 - Sheriff Delong’s issues can not be resolved with legislative attention;
 - Somerset County Administrator Larry Post concerned about Board “promises being broken”;
 - Somerset’s actions have resulted in some facilities experiencing over-population and that safety inside the jail is an issue;
 - TBRJ’s physical plant is not structured for an increase in population at the level suggested by Ralph Nichols and that it would cost approximately \$478K (salary and wages) to house 185 inmates.
 - Somerset has beds available due to the closed pod and is staffed adequately due to reduced population;
 - Sheriff Delong will be meeting with other Maine Sheriffs to discuss Somerset’s impact on the system;
 - Smaller facilities have incurred increased transportation costs due to the closing of Somerset’s pod.
- Sheriff Ross stated that the system needs cooperation to make it work and that limited options create hardship for some facilities. He felt that the only way to resolve the Somerset issue is through 1) legislative guidance; or 2) proper funding.
- Board Member Smith stated that the Board should give Sheriff Delong two options – 1) one that benefits Somerset County; or 2) less Investment Funding due to the reduced population.
- At this juncture, Knox County Administrator Andrew Hart stated his commissioners are interested in a mission change for the Knox County Jail and trying to avoid laying off staff due to rising operational costs.
- Sheriff Ross stated that Penobscot County Jail’s insurance costs have increased \$161K.
- Board Member Ponte stated that MDOC has recently opened up a 70 bed female program in Alfred, Maine. This will be a pre-release facility once directed by Volunteers of America.

Consensus Taken: Somerset Jail Administrator David Allen looked for consensus from the Board to open up the closed pod and begin hiring staff. **The Board voted unanimously in favor of the request** and stated the matter would be voted upon on July 24, 2012 (the next Board meeting).

RHR Smith Recommendation for a Finance Committee:

- Ron Smith asked the Board if a Finance Committee is an option (Slide # 36);



FINANCE COMMITTEE

- Will be fully engaged in the budgeting process in cooperation with board and staff;
- Will be fully engaged in capital improvement plans with the board, staff and counties;
- Will work with staff on financial implications of strategic plan;
- Will work with staff on developing readable financial reporting formats.

- Sheriff Ross and Board Member Ponte supported the concept.
- RHR Smith has presented a committee design but recognizes there may be better options available.
- Dianne Tilton stated the committee would be a filter for the Board and would have financial questions answered before issues would be addressed by the Board. The committee would represent all aspects of the organizations “financial stream.” Lastly, the committee could assist RHR Smith in developing a more informative financial dashboard.
- Board Member Head requested Exec. Dir. Tausek draft (2) models for a Finance Committee. Two key aspects of the committee should incorporate permanency and consistency.

SBOC and Strategic Planning:

- Exec. Dir. Tausek presented basic concepts on strategic planning (see power point slides 25-35). Those concepts consisted of the following: Defining a vision; developing a mission statement; defining core values; and establishing critical success factors.
- Chair Westrum spoke to the new organizational chart as recommended by the NIC report.
- Board Member Bowles asked about the status of the sub-committee groups, the work performed by those members and the fact the Board did not take up many of the options they endorsed. These groups needed purpose and direction and it did not happen.
- Exec. Dir. Tausek spoke to collective bargaining agreements and how can the Board strategically respond to varying salary structures throughout the system. Board Member Head stated that the Board can not equalize the playing field within the system.
- Regarding the BOC’s financial landscape, Board Member Beaulieu stated that Aroostook County Jail will experience a structural gap in FY 2013. Specifically, 5 or 6 line items are under-budgeted (e.g. personnel expenses). He further stated that his facility has ended the last 4 years in the red and the BOC has made Deficit Correction Payments. This is a process his county wants to avoid. Various reasons were offered for these repeat occurrences: 1) Aroostook never received the funding it needed from the Board; 2) the Tax Cap was too low at the outset; 3) the jail’s variance changed and the budget was never adjusted to reflect an increase in population. Note: The anticipated deficit for Aroostook County for FY 2012 is \$50,000.00
- Board Member Bowles stated that the BOC is doing itself a disservice by not developing actual budgets.

- Sheriff Ross expressed a need to have all funding requests on the table for review before any Board decisions are made.
- Board discussed topics for July 24th Board Meeting and determined the agenda should reflect the following:
 - Somerset County issue;
 - Clarification of all FY 2011 funding requests;
 - Finance Committee organizational chart (2 types);
 - A review of the Fund Balance policy;
 - An Attorney General meeting update.

Meeting Adjourned:

Motion:

- Co-Chair Westrum made a motion to adjourn the meeting.

Vote:

- All were in favor; passed as unanimous

The Next Scheduled Board of Corrections Meeting is:

- Tuesday July 24, 2012 1:00 p.m.

Respectfully Submitted by:

Michael Tausek, Executive Director