

Board of Corrections

Minutes of January 6, 2010, Meeting

1:00 p.m. to 3:00 p.m.

Board of Corrections

32 Blossom Lane, 3rd Floor, Augusta

Members Present:

Tom Brown, Eaton Peabody (Representing the Public); **Chair Neale Duffett**, Cloutier, Conley & Duffett, P.A., (Representing the Public); **Irving Faunce**, Town of Wilton, (Representing Maine Municipal Association); **Martha Freeman**, State Planning Office; **George Jabar**, Jabar, Batten & Ringer, (Representing County Commissioners), **Tim King**, Washington & Hancock County Community Action Program (Representing the Public); **Martin Magnusson**, Maine Department of Corrections, **Sheriff Scott Story**, Waldo County Sheriff's Office, (Representing Maine Sheriffs)

Development Program Manager: **Kate Snyder**, Board of Corrections

Executive Associate: **Kelene Barrows**, Maine Department of Corrections

Handouts:

- Agenda for 1/6/2010 meeting
- Minutes of 12/16/09 meeting
- Rule packet to Executive Director, David Boulter
- Legislative Process schedule
- State Sentencing and Corrections Practices Coordinating Council packet
- "Data Stand Down" Report from Mr. Sherrets
- Data collection tool directions
- Data collection tool

Welcome and Introductions:

Chairman Duffett welcomed everyone and introductions of all Board members proceeded. It was noted the Board of Corrections meeting is being broadcasted live over the internet <http://www.maine.gov/corrections/>.

Approval of Minutes:

Motion:

- There was a motion made by Tim King to accept the minutes of the December 16, 2009, meeting as submitted; seconded by Irving Faunce.

Vote:

- All were in favor; passed as unanimous.

Report of the Chair: Chairman Duffett

- **Capital Needs Update:**

Overview:

Penobscot County has a roof that needs repair.

Outcome:

Penobscot County has been able to look more closely at the situation and has done some more work on the subject and is able to fund that project themselves internally. Chairman Duffett thanked Penobscot County for its efforts. Chairman Duffett noted the more counties can do for themselves, the more they can help everyone else in the system. It preserves the remainder in the capital account for other needs that may arise.

Overview:

Hancock County has a wall that needs repair.

Outcome:

There is not an update on that situation yet.

- **“Data Stand Down Update”:** Steve Sherrets, PhD, Mental Health/Criminal Justice Manager; MDOC & DHHS

Overview:

The collection of data from the county correctional facilities was conducted on December 17, 2009. The names of every inmate in the county system were collected on that date and the names of state inmates were collected for an analysis at a later date. The focus was on county facilities. The information was collected from the jail administrative records, facility medical records, the DHHS data bank, and the DOC data bank. Records will be matched by the name and then “decoded” to remain anonymous for aggregated de-identified reports.

Outcome:

The jail data collection was collected from all the facilities in the state with the exception of York and Cumberland Counties. The Attorney Generals Office is working with York County facility to hopefully resolve concerns regarding confidentiality. Cumberland County still has about 150 inmates to complete. The data entry into the data base has begun and will hopefully be completed within the next two weeks.

It was asked that Mr. Sherrets put his report on Department of Health and Human Services (DHHS) letterhead and give to Ms. Snyder to update the Criminal Justice and Public Safety Committee of the milestones that have been reached.

- **MCCA meeting:**

Overview:

Chairman Duffett and Ms. Snyder attended the Maine County Commissioners Association meeting on Monday, December 21, 2009.

Outcome:

It was a good exchange of views and good open discussions. Mr. Leet and Mr. Howe made it very clear that we are all in this together. Ms. Snyder was invited to attend all future meetings.

- **Review Focus Groups:**

Overview:

Chairman Duffet would like a fresh review of focus groups in January of every year.

Outcome:

Chairman Duffett has asked Ms. Snyder to review the focus groups as to the membership, objectives, accomplishments, and goals. Do the focus groups need to be tweaked, refocused, reinvigorated, does the Board need new focus groups, or can a focus group be dropped because of developments? A report will be given at a later date.

- **Director of Pretrial, Diversion, and Reentry**

Overview:

At the last meeting, the Board hired Ms. Laura Rodas to the position of Director of Pretrial, Diversion, and Reentry and would begin her duties within 30 days.

Outcome:

Ms. Rodas will be starting her new position on Monday, January 11, 2010. Ms. Rodas is planning to meet with the co-chairs of the Pretrial Focus Group in order to develop her goals and objectives in concert with the grant application. Her first week will be busy with logistics and visiting human resources, getting settled and meeting people.

- **Appointment to the Board**

Overview:

A 9th member of the Board is needed.

Outcome:

Karla Black indicated a nominee would be coming in January.

Focus on State Sentencing and Corrections Practices Coordinating Council (SSCPCC):

Chair Malory Shaughnessy and Associate Commissioner Lord

Overview:

Ms. Shaughnessy provided the Board with the membership of the State Sentencing and Corrections Practices Coordinating Council: Malory Shaughnessy, Chair; Sheriff Dion of Cumberland County; Harold Doughty, Associate Commissioner, Department of Corrections; Neale Duffet of Cloutier, Conley & Duffett, P.A.; Evert Fowle, District Attorney, Kennebec and Somerset Counties; Brad Grant, Assistant District Attorney; Jason Jabar, Jabar, Batten & Ringer; Anne Jordan, Commissioner of Public Safety; Denise Lord, Associate Commissioner, Department of Corrections; Marty Magnusson, Commissioner of Department of Corrections; Michael Vitiello, Jail Superintendent of York County; Elizabeth Ward-Saxl, Executive Director, Maine Coalition Against Sexual Assault; Honorable Joseph Jabar of Kennebec County; and John Pelletier, who has been representing the Judicial Branch.

It was noted Mr. Pelletier will be leaving his position as Criminal Process Manager Administrator at the Offices of the Court. He is going to be the new Executive Director of Indigent Legal Defense Commission. Hartwell Dowling will replace him in the Judicial Branch.

Ms. Shaunessy noted the Council's duties originally came out of the Corrections Alternative Advisory Committee's (CAAC) report. The Council did not get up and running until well after the Board of Corrections. The Council's duties were shifted to compliment what the Board of Corrections was doing. The Council's duties are to monitor sentencing practices, review data collection on recidivism and programming, to work with research organizations like the Muskie School, to make decisions and recommendations regarding sentencing practices, corrections funding and programming, develop recommending correctional standards based on evidence based correctional practices research and help bring that to the table, provide information and assistance to county and state corrections officials, and provide some forms in sharing information, reviewing laws and policies, monitoring some proposed legislation, and make recommendations.

The Council has met a total of six times and did weigh in during the last legislative session on several bills. The Council worked with Pretrial on Title 30-A on the home monitoring program and offered recommendations.

Outcome:

The Council and the Board received a letter from the Criminal Justice and Public Safety Committee to look at a couple of things. One was on deferred disposition and the Council worked on a survey with Mr. Rubin with the Muskie School to survey across the state to get input. The Council will be meeting jointly with Criminal Justice Advisory Commission (CLAC) next month to discuss the results of the survey. It was noted the survey was qualitative (it was not numbers on deferred disposition). It was more on people who have decision making around the use of deferred disposition, how they valued it, or how effective they thought it was. The second piece that was sent jointly to the Council and the Board to do some joint action on LD 325 Alternative Sentencing of certain prisoners who have served consecutive sentences on 20+ years. It raised a number of constitutional issues surrounding sentencing and was unanimously voted not to be passed by the committee, but it lead to some important discussions about sentencing. The Criminal Justice and Public Safety Committee did want it to be looked into further and sent to the Council and to the Board.

The Council has asked the Criminal Justice and Public Safety to postpone their report due date until mid March.

Ms. Shaughnessy noted the Council will be holding a forum on February 23, 2010, at 1:00 p.m. located in the Florian Hall of the Public Safety Building on Civic Center Drive in Augusta. There will be representation of stakeholders of victims, judiciary, defense attorneys, prosecutors, law enforcement, nursing homes representatives, and medical representatives. Ms. Shaughnessy also invited all Board members to attend to help work some of these issues, get them out on the table that would impact any kind of policy recommendations, and get together in March and have a workshop afterwards to discuss the findings from the forum. Chairman Duffet encouraged all Board of Corrections members to attend the forum as well as the Council's meetings. Ms. Barrows was asked to add the Board members to the Council's distribution listing on upcoming meetings. The Council's next meeting will be on Monday, January 25, 2010, at 1:00 p.m. in room #105 of the Burton Cross Office Building to discuss the forum (several Board members will attend).

Workshop on Legislative Process and Reporting Requirements: Associate Commissioner Lord and Bob Devlin, Kennebec County

Please see full presentation at:

<http://www.maine.gov/corrections/BOC/refs/LegislativeProcessandReportingRequirements10jan06.doc>

Overview:

The co-chairs of the Corrections Working Group have put together a timeline on what is facing the Board in the next few weeks regarding: the supplemental budget, the reporting out to the Criminal Justice and Public Safety Committee that is due January 15, 2010, and putting through any proposed legislation.

The prepared timeline will unfold as the legislative process begins to unfold. The timeline is only through January, but beginning tomorrow the Corrections Working Group is meeting to begin developing Budget Guidelines for the Board. On Friday, January 8, 2010, the Appropriations Committee and the Criminal Justice and Public Safety Committee will be holding a public hearing on the Governor's proposed supplemental budget, which includes the \$3.5 million request for the investment fund and a public hearing on the Department of Corrections proposed supplemental budget. The work sessions will begin that next week on January 13, 2010, with the Criminal Justice and Public Safety Committee.

It was noted the Corrections Working Group's proposed FY11 Budget Guidelines cannot come to the Board for full review and discussion until January 20, 2010. It was noted the Board cannot make any recommendations to the Criminal Justice and Public Safety Committee until that process has concluded to be able to review, revise, modify, amend, and adopt those Guidelines.

Outcome:

It was noted every county has already submitted an initial FY11 submission. The co-chairs of the Corrections Working Group have discussed the budget submissions and have prepared a detailed review for the Corrections Working Group to conduct.

Suggestions from workshop:

- It was suggested to show the difference that the Board process has made, of what the cost would have been compared to what the costs are. It was noted there was a chart prepared by Mike LeVert from the State Planning Office and has not been updated.
- It was suggested to have chart showing this is what FY11 might have looked like, this is flat funding, and we know it is going to be somewhere towards the low end. It might be good show how high it might have been if not done this process and show it at the \$3.5 million level funding.
- It was suggested to invite the Maine County Commissioners Association, the Maine Sheriff's Association and the Maine Municipal Association on Friday with Appropriations.
- It was suggested to focus on a Unified System for Friday with Appropriations.
- It was suggested to note that the counties are taking on state inmates and doing that as a savings to Department of Corrections.

The annual report that is due on January 15, 2010 (but may be later) is in draft format to be ready for the Board's review on January 20, 2010. It was noted part of the annual report will be a description of the work that has been done to date and each Focus Group has been asked to provide an update of their progress.

- **Legislative Issues:**

The 90 day rule

Overview:

There was discussion of an offender to be taking in on probation into the Reentry Center in Waldo County, but there is that 90 day rule legislation.

Outcome:

It was asked if that might be something the Board could take up in this legislative session. It is a 90 day option for bringing someone back to a pre release center to expand it to reentry centers. It was suggested for the time to be increased to 180 days.

The Emergency Rule

Overview:

Last summer the Board adopted the mission change rule, which is a major substantive rule. It was sent over to the legislature in the last week of the session and there wasn't enough time for the legislature to review and approve as a major substantive rule, and the Board had to come back. The rule is in effect up to a year under the emergency rule provision.

Outcome:

The Board has taken the very same rule it adopted last summer, checked with the Attorney General's Office, and was advised to resubmit the rule submitted in June 2009, to the legislature for review and approval of a major substantive rule. The rule has gone to the legislature and will be scheduled for a public hearing.

The new Maine Community Confinement Monitoring Law

Overview:

The new Maine Community Confinement Monitoring law has a co-pay provision that a sheriff may require payment of a fee based upon the inmate's ability to pay. A sheriff has been collecting that fee to pay their Volunteers of America contract. If that is taken away from them, which looks like it right now, the result will affect the over all system.

Outcome:

This was referred to the Pretrial Focus Group. It was suggested to be on the agenda for January 20, 2010.

Second Read: None

First Read: None

Other Member Concerns: None

Public Comment: None

Adjourn:

Motion:

- There was a motion to adjourn the meeting from Tim King; seconded by Irving Faunce.

Vote:

- All were in favor; passed as unanimous.
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Other Issues or Topics:

- Suggestion for members to see Ms. Snyder about getting something placed on a future agenda.
 - Suggestions to have the Focus Groups not use abbreviations and spell words out in their minutes.
 - Suggestion to have a Focus Group on video court.
 - Have Mr. Nichols come to a future Board meeting to explain how the counties document the Uniform Accounting Report Form (UARF) describing the use of those funds.
 - Suggestion that the Budget Focus Group attend the counties annual conference to bring newer county commissioners up to date on what the Board is doing and how the whole process works.
 - How to manage federal inmates in the future.
 - It was noted to keep in mind for FY11 to develop a unified chart of accounts.
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Future Meetings:

- **January 20, 2010** - Board **Meeting** at 10:00 a.m. located in the BOC conference room.
Agenda: Receive proposed FY11 Budget Guidelines from CWG
 - **January 21, 2010** - Board **Workshop** at 1:00 p.m., located in the BOC conference room.
Agenda: Receive comments from counties about proposed FY11 Budget Guidelines from CWG.
 - **January 22, 2010** - Board **Workshop** and **Meeting** at 1:00 p.m., located in the BOC conference room.
Agenda: (1) Receive comments from counties about proposed FY11 Budget Guidelines from CWG.

(2) Vote on Adopting FY11 Budget Guidelines.
 - **February 3, 2010** - Board **Meeting** at 10:00 a.m. located in the BOC conference room.
 - **February 17, 2010** - Board **Meeting** at 10:00 a.m. located in the BOC conference room.
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Respectfully submitted by Kelene Barrows