

Commission to Study the Board of Corrections:
A Complete History

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History of Corrections in Maine 1653 – 1970

Legislation for the establishment of a royal prison for the Province of Maine was enacted in 1653, and after some delay a building for this purpose was erected at Meetinghouse Creek in the village of York in 1656. The present Gaol was built in 1719 with timbers salvaged from the original structure. With the influx of settlers into Maine in the mid-18th century, the building was enlarged to provide more space for the housing of prisoners, as well as improving accommodations for the gaoler's family. The humanitarian drive to better prison conditions for debtors following the Revolution resulted in the addition of a large debtor's cell in the 1790s, giving the building its present shape.

Until 1760 the Gaol was a prison for the entire province of Maine. It served as a county jail from 1760 until 1820. For the next forty years it continued to be used for the incarceration of local wrongdoers. The Gaol then served briefly as school, a boarding house, and a warehouse, and by 1895 it stood abandoned and in peril from neglect.¹

An additional county jail was built as each new county was incorporated. Each county maintained its own jail expanding and modernizing facilities as the years went by. Many of these upgrades occurred just over the last thirty years.

The Kennebec County jail erected in 1858 was used to house prisoners until a modern addition was erected in 1992. This was preceded by several previous structures one of which was burned by rioters in 1808 in what was called the Malta War over disputed land claims. These “modern” structures were pre-dated by the reference of a “whipping post” erected at “the Fort” in Augusta in 1786.

During that period little changed in public policy towards the operation of the county jail system. Elected sheriffs reigned over the correctional system in each county. Small counties with low populations built and maintained small jails. The reality of Maine’s geography prevented any idea of consolidation during the era of the horse and buggy.

History of Corrections in Maine 1970 – 2008

Only Sagadahoc County eventually avoided building a modern facility instead boarding their inmates at neighboring jails. During the building boom from 1990 to 2008 Lincoln and Sagadahoc formed a regional jail authority and built Two Bridges Regional Jail.

Over the last several decades large modern facilities were constructed in Cumberland, York, Somerset and Two Bridges. Medium size jails were built in Penobscot, Kennebec and Androscoggin. Smaller facilities were constructed in rural counties across the state.

The Department of Corrections having regulatory oversight required the newer facilities be built to a twenty year projected capacity creating a large surplus of empty beds. This surplus of bed space was created in anticipation of an increased crime rate.

These thirty million dollar facilities were entirely funded through the county property tax and often sold to the voters with the claim that the empty beds would be filled by counties with overcrowded jails needing bed space.

The “county adopted boarding rate” was at a premium price and inmates soon became a commodity where counties with empty beds bid against each other for a body to fill the bed. These prices ranged from \$80 to \$105 a day.

Attempts by several counties dealing with overcrowding to collaborate with their neighbors on new construction were rejected.

The jail budget represented 50% of the county assessment each year and millions of dollars of expansion projects were on the drawing board.

During this time period the county jails were proposing \$110 million in capital projects to increase jail capacity and alleviate a perceived (system-wide) overcrowding issue. A study conducted by the Baldacci administration found that capacity existed within the system and jail expenditures were growing at an average of 9% over the previous five years. Much of this growth was attributed to new debt due to jail construction.

History of Corrections in Maine 2008 - 2013

In 2008 the county jail system was costing property tax payers in Maine \$62,000,000 annually. The Maine Jail and Community Corrections System Report predicted in 2008 the county system could have a capacity of 2,382 inmates with the expected opening of the Somerset jail in 2009. In 2007 the county jails were housing approximately 1,689 inmates.

In addition, the State of Maine Department of Corrections was housing 2,060 adult prisoners at an annual cost of \$79.3 million. The state system was overcrowded and the

legislature turned down the proposal to house prisoners out of state. Still facing an overcrowding problem, the state's eyes turned to the empty beds in the county system.

After a proposal by the state to simply absorb the county system failed, the state, counties and MMA entered into negotiations to unify the system.

The result of protracted negotiations was that:

- The Maine Board of Corrections (BOC) was created MRSA 34-A § 1801;
- The state would gain access to county beds at a marginal rate. The marginal rate reflected the incremental cost of adding an inmate in a facility without requiring additional staff, ranging from \$24 - \$35 depending on the county;
- The property tax assessment on county corrections would be capped at the 2008 level;
- Counties would be responsible for any debt incurred before 2008;
- The legislature would appropriate the increasing cost of county jail operations through the general fund based on a growth rate set by the BOC;
- And, the legislature would appropriate and fund a capital improvement plan based inversely on the difference between the debt at 2008 to the amount of debt paid by the counties annually each year forward.

The result:

1. The state got the needed beds at the marginal rate;
2. The municipalities got the property tax capped;
3. Overcrowding was eliminated in the county system as surplus beds were made available at the marginal rate;
4. The counties received state general fund contributions to support the jails;
5. Three county jails were converted to 72 hour holding facilities;
6. The inverse debt was not funded.
7. County inmates were no longer treated as a commodity.

The Board of Corrections and working group members dedicated long days over hundreds of hours to tackle the daunting task of creating a unified system. Training seminars were offered on how the system should work. Financial reporting systems were created.

Central location to coordinate transportation (transportation hubs) were created and large efficiencies were realized regarding moving county inmates around the state.

At first the counties cooperated, many reluctantly, to provide budgets and plans to get the system moving. Passage of the budgets became a daunting task with repeated submittals and onerous scrubbing of individual county budgets.

It became apparent early on that deferred maintenance and capital improvements as well as wage increases became a priority now that the "state" was funding the cost. There were no consequences for deficit spending or lack of capital planning.

Still, most county officials felt the system could and should work to find efficiencies and cooperation where possible. The operational budgets were tight but adequately funded. Additional funds were allocated for deficit spending. Some counties managed their budgets carefully and created small surpluses to fund capital improvements and innovative programming.

However, the perception that the legislature had rescinded its promise to fund the operational budget and the reality that the legislature never funded the inverse debt kept the board and counties in a carousel of endless budget proposals and capital needs requests.

A form of battle fatigue set in with the counties.

The original statute was amended to add additional county members to the board. The board and working group were re-populated with new blood. The issues hadn't changed and the working group became gridlocked with minor issues and made little progress towards addressing the critical issues. The Subcommittees of the working group stopped functioning. The budget focus group consisting of several county finance directors, county administrators and state finance officials was disbanded and replaced by three BOC members.

The system was floundering. Money from the investment fund was diverted from the operations budgets to help counties with no capital planning to pave parking lots, fix roofs and address deferred maintenance. Innovative programs to address recidivism had their funding cut. Deficit spending continued and some wage increases far outpaced the norm. Revenues for federal boarding were being used to pay debt instead of supporting the operational budget and the BOC faced a legal challenge over this use of funding. Jails with empty beds stopped accepting inmates from overcrowded facilities compounding the problem and forcing 72 hour hold counties to drive long miles to find a bed.

FY 14 and FY15 were flat funded by the legislature. Counties predict a slow death spiral as programs and staffing are cut to meet the demands of a flat budget.

The plan to create a system designed to find efficiencies, enhance programs to reduce recidivism and prevent overcrowding has been lost amongst turf battles over budget dollars

and a sense of loss of local control and the lack of funding by the legislature. Appropriation didn't get timely information, and as a result, funding requests fell behind the necessary schedule.

The Board of Corrections is being sued by Somerset County challenging the statute over the payment of debt.

The state flat funded FY14 and FY15 appropriation to the county system resulting in cuts to staffing and programs as a result of the systems inability to make clear justifications in a timely manner within the state budget process.

Since FY10 county jail expenditures have grown on average 2.4%. Primarily in the area of wages and benefits (3.4% or \$6.6 million), commodities and contractual (.8% increase, or \$.7 million) and a reduction of 7.2% (-\$.4 million) in capital spending.

The Department of Corrections is funding staff support for the BOC including financial management and legal advice from the AG's Office in an effort to sort out some of the statutory ambiguities.

The Department of Corrections is helping alleviate some overcrowding by accepting county inmates with Kennebec and Waldo housing state inmates in their re-entry program.

In summary:

- The system lacks any standards or performance measures for programs intended to reduce overcrowding and recidivism;
- Counties are using operational funds to meet capital and maintenance needs;
- Jails with surplus beds have stopped taking inmates from overcrowded jails;
- The 72 hour holding facilities are transporting inmates all over the state to find an available bed primarily due to counties not accepting inmates and cherry picking transfers in spite of empty beds:
 - The inmates are disconnected from family and legal counsel.
 - Inmates lose work release opportunities.
 - Local communities lose community service work crews.
- Today, the new commodity is federal boarders. Jails with surplus beds are first offering them to federal boarders at premium prices. Some counties are sending their inmates to other county jails at a cost to the system to make space for federal boarders paying premium rates.

During all of this, two people need special recognition for the extraordinary work they did taking on the most thankless task in Maine, Chairing the Board of Corrections. All the board members deserve our thanks and appreciation but the leadership of two individuals have prevented the system from self-destructing while many detractors designed to do just that.

We owe Neale Duffett Esq. and Colonel Mark Westrum our thanks and unending respect for the courage and fortitude to continue moving the board forward.

Over the past several years, several studies have been released and following is an executive summary of each of those reports:

Elizabeth's email

2013 Creation of Task Force

Given the previous information, and the history of the county jail system in Maine, the legislature created a Joint Study Order Establishing a Commission to Study the State Board of Corrections and the Unified County Corrections System:

Session - 126th Maine Legislature

LR 2171

Joint Study Order Establishing the Commission to Study the State Board of Corrections and the Unified County Corrections System

ORDERED, the Senate concurring, that, notwithstanding Joint Rule 353, the Blue Ribbon Commission to Study the State Board of Corrections and the Unified County Corrections System, referred to in this order as "the commission," is established as follows.

1. Membership. The commission consists of the following members:

A. Three county commissioners, one of whom is appointed by the President of the Senate and 2 of whom are appointed by the Speaker of the House of Representatives from a list of 5 county commissioners submitted by the Maine County Commissioners Association;

B. Three county administrators, 2 of whom are appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives from a list of 5 county administrators submitted by the Maine Association of County Administrators and Managers;

C. Two jail administrators, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives from a list of 4 jail administrators submitted by the Maine Jail Administrators Association;

D. Two sheriffs, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives from a list of 4 sheriffs submitted by the Maine Sheriffs Association; and

E. A member of the public, appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

The President of the Senate and the Speaker of the House of Representatives shall invite the Commissioner of Corrections, or the commissioner's designee, and the chair of the State Board of Corrections to participate as members.

2. Chair. The public member appointed pursuant to subsection 1, paragraph F serves as chair of the commission.

3. Appointments; convening. All appointments must be made no later than 30 days following the passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. When the appointment of all members has been completed, the chair shall call and convene the first meeting of the commission. If 30 days or more after passage of this order a majority of but not all appointments have been made, the chair may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

4. Duties. The commission shall:

A. Review the current structure of the county jail corrections system, including but not limited to its source of revenues, the predictability of costs and revenues and strengths and weaknesses of the current system, in order to determine methods for long-term sustainability of funding, best practices and necessary processes;

B. Review and propose revisions, if necessary, to the mission and authority of the State Board of Corrections; and

C. Clarify the structure and authority of the unified system of corrections and the State Board of Corrections and develop recommendations to strengthen centralization of the system and control and coordination of operations.

5. Staff Assistance. The Legislative Council may seek the provision of staffing services from a non-legislative entity, including the Maine County Commissioners Association. The Legislative Council may not incur any costs for staffing services provided pursuant to this subsection.

6. Outside funding. The commission shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days

after the passage of this order, no meetings are authorized and no expenses of any kind may be incurred or reimbursed.

7. Report. No later than December 4, 2013, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Criminal Justice and Public Safety.

Letters for State Task Force

In addition to the above order, the Joint Standing Committee on Appropriations and Financial Affairs sent a letter to the Joint Standing Committee on Criminal Justice and Public Safety, which was then forwarded to the task force regarding the issues facing the Commission to Study the BOC.



MAINE STATE LEGISLATURE
Joint Standing Committee on Appropriations & Financial Affairs
Augusta, Maine 04333

June 3, 2013

TO: Sen. Stan Gerzofsky, Senate Chair
Rep. Mark Dion, House Chair
Joint Standing Committee on Criminal Justice and Public Safety

FROM: Dawn Hill, Senate Chair
Margaret R. Rotundo, House Chair
Joint Standing Committee on Appropriations & Financial Affairs

Dear Senator Gerzofsky and Rep. Dion,

The Appropriations Committee is pleased to hear and to be invited to make recommendations issues for consideration in your proposal for a task force to study the operations of the current corrections system in Maine, and the Board of Corrections in particular. Following the incorporation of independent county jails into a coordinated correctional system under the jurisdiction of the Board of Corrections, the Appropriations Committee has been concerned with the operation of this confederation of county correctional facilities.

There have been several General Fund budget adjustments to the budget of the Corrections Department that never seem to be adequate. In addition from the perspective of all Appropriations Committee members, there are several issues that must be resolved as follows:

- **Lack of control.** The current correctional system that includes prisons and jails under the jurisdiction of the Board of Corrections appears more like a decentralized system that lacks enforcement authority and the authority to effectively control and coordinate operations.
- **Penalties.** There needs to be enforcement authority vested in the Board of Corrections. For county jail administrators who refuse to cooperate with the Board and pursue their own direction, there needs to be penalties for disregarding Board policies and acting independently.
- **Opting out.** Board of Corrections members have pointed out that some county jails have taken actions and appear to believe that they can opt out of the system. There are examples of county jail administrators that have not forwarded revenues to the Board and/or refuse to take state prisoners.

As a result of these revelations, we would like to know the full amount of money that is owed by the county jails to the Board of Corrections. We would also like to know the statutory provisions that allow county jails to opt out of the consolidated corrections system.

- **Unreliable revenues.** Operating revenues are not predictable or reliable. Some county jails withhold funds from the Board of Corrections, and some county jails provide wage increases and incur liabilities greater than the Board of Corrections recommends. On a number of occasions, the Appropriations

Committee has been required to appropriate additional funds to the Board of Corrections in supplemental budgets.

- **Debt Service.** Some county jails entered the confederation with significant debt service costs, while others had significantly less debt service liabilities. This issue seems to be a significant source of contention among the counties.

Failure to resolve these issues make it improbable that we will be able to address shortfalls of the Board of Corrections in coming years.

Thank you for requesting our input for your consideration. We hope this information is useful. Please contact us if you have any questions or concerns regarding our understanding of the corrections and the corrections system in Maine.



MAINE STATE LEGISLATURE
OFFICE OF FISCAL AND PROGRAM REVIEW

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To: Members, Blue Ribbon Commission to Study the State Board of Corrections and
the Unified County Corrections System

From: Grant T. Pennoyer, Director, Office of Fiscal and Program Review

Date: September 11, 2013

Re: Forwarding Memo from the Joint Standing Committee on Appropriations and
Financial Affairs

At the direction of the Joint Standing Committee on Appropriations and Financial Affairs, I am forwarding to you a copy of the letter that was sent to the Joint Standing Committee on Criminal Justice and Public Safety in early June, which details the Appropriations Committee's concern and issues regarding the State's correctional system. The Appropriations Committee wanted to make sure that you received this letter early in your deliberations so that you could consider and address their concerns.

Thank you for your consideration. I wish you success in completing the tasks and duties laid out for the Blue Ribbon Commission.

Attachment

Cc: William Whitten, Deputy County Manager, Cumberland County
Sen. Dawn Hill, Senate Chair, Appropriations and Financial Affairs
Rep. Peggy Rotundo, House Chair, Appropriations and Financial Affairs

Task Force Composition

After much discussion, with the approval of the legislative leadership and the Governor, 15 members were appointed to the Commission, Chaired by David Flanagan and chief of staff Bill Whitten:

David Flanagan	Chair	
Captain Marsha Alexander	Jail Administrators	Kennebec County
Bob Devlin	County Manager	Kennebec County
John Lebel	Jail Administrators	Androscoggin County
Greg Zinser	County Manager	York County
James Cloutier	County Commissioner	Cumberland County
Joel Merry	Sheriff	Sagadahoc County, Sheriff's Assn.
Joseph Ponte	DOC Commissioner	Department of Corrections
Lawrence (Max) Dawson	County Commissioner	Sagadahoc County
Mark Westrum	BOC Designee	Two Bridges Regional Jail, Chair of BOC, President of Maine Jail Administrators' Association
Maurice (Mo) Ouellette	Sheriff	York County, VP of Sheriff's Assn.
Peter Baldacci	County Commissioner	Penobscot County
Peter Crichton	County Manager	Cumberland County
Rep. Aaron Frey	Representative	Legislature. Represents Bangor, Orono, Veazie, on Appropriations Committee, defense attorney.
Sen. Pat Flood	Senator	Legislature. From Winthrop, on Appropriations Committee.

Meeting 1: Ground Rules, Agenda and Notes

The following ground rules for the task force were established prior to the first meeting:

TASK FORCE GROUND RULES

- 1) All meetings will begin and end on time
- 2) Task force members will exhibit courtesy and respect to each other at all times
- 3) Chair will speak when recognized
- 4) Public will have an opportunity to speak at end of each meeting as time allotted
- 5) It is expected members will be in attendance at all meetings
- 6) If attendance is not possible, a teleconference line will be available
- 7) Only agenda items will be discussed, unless approved by members for change
- 8) Roberts Rules of Order will apply to all meetings
- 9) All meetings are public, unless an executive session is requested and voted
- 10) It's ok to disagree, respectfully and openly
- 11) Only one person speaks at a time
- 12) Honor the limitations of time, speak concisely
- 13) Turn off or mute cell phones during meeting
- 14) Members are expected to read materials and be prepared for meeting
- 15) Make decisions on clear information
- 16) Accept the fact there will be differences of opinion
- 17) Notes of meetings will be kept by staff
- 18) Check egos at the door
- 19) Share time so all can participate
- 20) Understand problems and reach solutions
- 21) Enjoy the process

Meeting 1 Summary

At the first meeting of the task force, several items were covered, as well as committee ground rules set and reviewed. During that time, the task force identified ten specific issues and were assigned two specific questions identified from the input from the task force.

Chair Flanagan called the task force members to its first meeting on September 20, 2013 at 9:00 a.m. at the Marquardt Building in Augusta, ME. A notice for the public hearing of all meetings was posted and distributed prior to all meetings.

**AGENDA
JAIL TASK FORCE
MEETING ONE
9/20/13**

1. WELCOME AND INTRODUCTIONS- Chair Flanagan (5 mins.)
2. REVIEW OF AUTHORIZING LEGISLATION- Chair Flanagan (5 mins.)
3. HOW WE GOT HERE- Bob Devlin (10 mins.)
4. REPORT ON FINANCIAL STATUS OF BOC—Scott Ferguson (10 mins.)
5. IDENTIFY ISSUES NEED TO BE ADDRESSED- Chair Flanagan (30 mins.)
6. FORMULATION OF STATEMENT OF PROBLEM & IDENTIFICATION OF OBJECTIVES - Chair Flanagan (based on survey distributed) (30 mins.)
7. WHAT DOCUMENTS WILL BE NEEDED (5 mins.)
8. OTHER STAKEHOLDERS TO INCLUDE (5 mins.)
9. GROUND RULES FOR COMMITTEE (10 mins.)
10. MEETING SCHEDULE AND TOPICS (5 mins.)
11. OTHER (5 mins.)
12. ADJOURN AND LUNCH

Jail Task Force Minutes
Meeting 1 – September 20, 2013

Present:

David Flanagan
Capt. Marsha Alexander
Bob Devlin
John Lebel
Greg Zinser
James Cloutier
Joel Merry
Joseph Ponte
Max Dawson
Mark Westrum
Peter Baldacci
Mo Ouellette
Peter Crichton
Aaron Frey
Pat Flood
Bill Whitten

Chair Flanagan asks members to introduce themselves and state what they hope to see come out of the process.

Rep Frey: Hopes to see community corrections be more effective and efficient.

Mark Westrum: Finally get board to a place to fulfill mission and goals of BOC and not be bogged down with budgetary issues.

Senator Flood: Create better understanding between jails and funders

John Lebel: BOC was created at 11th hour; concerned that task force is another 11th hour activity. The BOC needs the authority to manage the operation, and it's not clear right now who holds that authority. There's also misinformation regarding jails not wanting to cooperate.

Max Dawson: Wants to make a system that actually works and is based on facts.

Joel Merry: Represents Sheriff's Assn.

Maurice Ouellette: Wants to maintain high level of professionalism, "make the bad things go away" and make system operational so I don't have to worry where the next dollar is coming from.

Greg Zinser: Wants to work with everyone.

Peter Crichton: BOC needs more authority, more standardized practices and policies

Joe Ponte: Deliver an effective & efficient system

Peter Baldacci: Need to address trust and respect between levels of government.

Bob Devlin: administrator for Kennebec County.

Marsha Alexander: wants to identify funding, clarify authority, fulfill mission of BOC, and let jail administrators get back to reducing recidivism, providing appropriate programming

Jim Cloutier: Everyone has great ideas about how to spend someone else's money; lines of authority and responsibility are different than the budgeting process.

Flanagan: I don't have a dog in this fight; represent no-one except perhaps taxpayers. Want to create high quality report and recommendations that can pass the legislature, look at the situation comprehensively, and help improve the process. Will be fair and neutral.

Introduces Bill Whitten, Assistant County Manager, Chief of Staff.

Elizabeth Trice, Grants & Special Projects Coordinator, Deputy Chief of Staff.

Flanagan: To the question whether this is Cumberland County centric- the Cumberland County Commissioners and Manager feel this is important enough to assign staff to assure its success, and anyone else who wants to donate staff, we will happily accept the help.

Staff from legislature also assisting.

Others present: Alysia Melnick from the speaker's office will be helping us, and Bill Brown will be providing financial information.

Mary Ann Lynch: Legal Counsel to Judiciary, Spent 4-5 years on Cumberland County budget committee. It's interesting when Maine created unified court system, it left the county buildings in the county budget, and we've continued to wrestle with that.

Ted Potter – from Justin Alford's office – Bill Blood's counterpart

Darrell Crandall – Aroostook County

Rosemary Kulow: ED for Maine County Commissioners' Association.

Flanagan:

Meeting will be conducted as open meetings with open discussion, public access, and public input. We have access to conference phone in case a member can't make a meeting. It's a less effective way of communicating.

There is also internet streaming of proceedings.

Challenging Mandate

1) To come up with recommendations & legislation to address the problems & realize the potential of the county-level corrections system:

- i. The GDP of Maine is relatively flat, with the costs of health care taking the lion's share of available state revenues, squeezing out funds for other essential services, including corrections, at an increasing pace.
- ii. Demands on the criminal justice system are growing
- iii. The population dynamics of the state are shifting rapidly
- iv. If these pressures were not enough, our task is further complicated by the reality of dozens of complicated issues within corrections, changing demographics from rural to urban & an increasingly older population

2) The reality of several interested constituencies with interests ranging from, mental health treatment and recidivism to software and coordination within the court system with a legitimate stake in the future of the system, including:

- 1. County Commissioners
- 2. Sheriffs
- 3. Jail Administrators
- 4. The Judiciary
- 5. DAs and AG
- 6. Defense Council
- 7. Police Forces
- 8. MMA
- 9. Mental Health practitioners
- 10. Inmate advocates
- 11. Civil rights organizations
- 12. The appropriations and criminal justice committees
- 13. The DOC & the governor
- 14. The BOC
- 15. Maine Taxpayers

3) The situation is further complicated by the existence of an urgent budget problem as There does not appear to be sufficient funding in the FY 2014 budget to carry through the Remainder of year at the current rate of spending, an issue which will be addressed later by Col. Westrum.

4) And if that weren't enough, we are confronting a governance model with the BOC which satisfies no one.

5) Finally, you are all aware that there is a deep legislative dissatisfaction with the governance of funding the BOC and its budgeting capacity. All in all, it adds up to a true Rubik's cube of problems.

That's why the Speaker and the President wanted to assemble a group that is up to tackling This formidable set of problems. Congratulations!
So, how do we proceed?

a. Open discussion, fair deliberations. As Ellsworth American editorialized on July 25 "Members of the TF should approach their assignment with "open minds & no preconceived notions."

b. Fact-based, fair hearing

c. Evaluation of the root causes of problems

d. Looking to best practices elsewhere

e. Start by:

i. Defining the problem

ii. Identifying the issues

iii. Creating a vision

iv. with special concentration on

v. renewing the pros and cons of alternative governance models

vi. Identifying opportunities for savings & efficiencies

Use the 6 meetings to review facts, provide an opportunity for constituencies & the public to present views & discuss direction.

I hope every member will be able to look back on service on this committee or its staff as a highlight of their career & an experience you can point to with pride.

Even though it's a challenging agenda, Maine is a small, relatively homogeneous State with criminal activity at reasonably manageable levels, and we should be able to accomplish at least as much as the other 49 states in terms of governance and efficiency. This is doable.

And it must be done, a path forward must be found – we cannot spend to our hearts content, and we cannot indiscriminately open the prison gates.

I look forward to working with you to achieve a successful result consisting of a consensus among this committee of:

i. Realistic recommendations

ii. Clear legislative reforms

iii. A decent respect for the taxpayers of the state

The committee was brought up to date with reports as follows:

Review of history by Bob Devlin:

Bob Devlin provided information as previously written in this report on the history of how the system arrived here.

Mark Westrum:

- We have \$89M industry; \$55M is tied up in salaries, which BOC has no control over. Some counties have no raises; some have up to 9% increases (unions). Some counties dip into their reserve funds to satisfy labor obligations.
- Now there's no extra carry-over money to use.
- 1st and 2nd quarter payments went out with expectations that counties would spend wisely.
- Because there is no inverse debt money, we are dipping into our savings.
- Infrastructure is crumbling around us, and it will take money to keep them going.
- The jails with mission changes pay into the investment fund. All of their budgets have continued to increase. So there is less money from mission-change jails coming into the investment fund.
- The legislature has done a pretty decent job at trying to make up the difference but could do better.
- We could help jails find efficiencies.
- Somerset is not currently part of the system (not accepting inmates), is creating burden for other jails.
- Revenues are down, costs are up.
- CCA funding was based on inmate population from 20 years ago.
- There's only 25% available in each of the next two quarters to distribute to counties. That's a crisis.
- My biggest fear about operating my own facility. .. My population this morning is 176, 100 of those are coming from out of county . . . come January, if I'm only going to get 25% funding, I don't know how to pay for operations.

Flanagan:

We need to have at least one session on working out the legislation, and at least one session on a public hearing.

Everyone here is a veteran of working on state issues; we have put together a list of ground rules: (attached in online folder)

Thank you for submitting your thoughts on problems and objectives.

We've attempted to distill these issues down to a handful, and will set up interdisciplinary teams to start talking about how to address these issues.

Believes that current funding crisis will not be resolved unless we address the other issues.

Westrum: We need to give strong consideration to funding. It's going to be tough in January to be a flagship jail and accept inmates into the season.

We've seen 75% of our population trend towards pre-trial – this is new.

When the governor says if it comes to educating elderly and schools vs. jails, he's going to fund elderly & schools first. But many of our inmates came from the de-institutionalization of the mental health institutions.

Discussion of how much to focus on short-term vs. long-term issues.

Assignment of problems & objectives to small groups.

The Task Force was broken into five committees of three, with each to be assisted by staff. Each sub group was assigned two specific issues as determined by input of the group from prior survey. These groups will meet separately, outside the general meetings to understand each of their problems and take solutions back to the entire group.

Meeting Schedule for Full Task Force:

1. Intro, create plan
2. Public hearing
3. Subgroups report out on how to start to move forward
4. Work on solutions
5. Crafting legislation

Data requests:

Devlin wants to see annual debt payments per county.

Zinser would like to know some of the assumptions in some specific spreadsheets

Flood: Believes that many issues here may be lack of communication between funders and jails.

Zinser: has concerns about current legislation that is being developed that may be at cross purposes to task force. Bill Whitten responds that Senator Wilson put in a placeholder bill, but plans to pull it if the task force comes up with a good plan.

Flanagan: legislators are welcome to come and share their perspective at our meetings.

Baldacci: problem has been that many on the criminal justice committee can't remember how this came to be; they ask "you're coming back for more money? I thought we solved that." The promise was to slow the growth of corrections, which has occurred.

Previous BOC chair Duffet didn't want legislature to see dissent within counties, so presented simplified view to legislature. More communication is necessary.

Cloutier: municipalities had a huge relief when they learned that the county tax for jails wouldn't be going up every year. Municipalities believed that the state was taking financial responsibility for the jail which was understood to be large and growing, where the state thought the opportunity for savings was so large that money wouldn't be a problem.

Ouellette: there are so many variables that happen every day at a jail that jails and BOC can't foresee. Example: Two kids get arrested in the middle of the night. I have to book them. State police did warrant sweep, I had 100 arrests come through in 2-3 weeks. It takes staff and time to accommodate that.

When a police department gets a mental health call, police have to respond right away; law enforcement says "ok disorderly conduct, take them to the jail, done."

We don't have any control over these things.

I'd rather spend the majority of my time developing programs than worrying about budgets. I have a capacity of 200, but I have 220, with an empty pod which I had to close for budget reasons, and I have 109 people out on pre-trial. What would I do if I had to accommodate them?

Give the BOC the authority to get us back on track.

Merry: there have been very innovative ideas by sheriffs to reduce recidivism, but they carry costs- we need to acknowledge that. Some of us have new efficient facilities that can manage 200 inmates with 15-20 staff. Some facilities need 15-20 staff to manage 75 inmates. No one standard will fit all.

There were originally variances for jails to have more inmates than their capacity. Those variances have been taken away.

Flanagan: wasn't there an effort to have jails specialize?

Merry: they never carried through with that. I think the transportation hub is working well. But when you move inmates, you're moving them away from their families, their services, and their right to counsel.

Flanagan: we are rural, but not the most rural. How are other rural states handling it?

Cloutier: you can't cut back on the soft programs that keep people out of the jail

Merry: and you can't cut back on health and safety.

Alexander: when you displace inmates away from their families and physicians, they get separated from their support systems, and you get more assaults, mental breakdowns, and medical issues.

Flood: In case the memo from Hill & Rotundo (attached in meeting folder) bothered anyone, you should know they are trying to do the right thing.

Westrum: this isn't all about money, it's also about management, and at the end of the day, even though there may be some efficiencies, it's not enough to keep the current system afloat in this way.

It was agreed meetings will be held on Friday mornings from 9:00 a.m. to noon, with scheduled dates of Oct 4, 18, Nov 1, 15, 22, with report due 12/4. Locations to be determined.

Summary:

- 1) Ten problems recognized
- 2) Sub groups of three to study two problems each
- 3) First report back October 4 to general commission
- 4) Ground rules determined
- 5) Schedule determined
- 6) Next steps defined
- 7) Recognition of need for concise, accurate and thoughtful report to create legislation for approval when session starts in January.

Meeting adjourned.

David Flanagan Memo 1 to Task Force Members

The Chair sent out a follow-up letter after the first meeting, clarifying how the task force would proceed with a meeting schedule through November 22, 2013. A copy of that letter follows. In addition, he asked all members of the task force to provide a history and what they identified as problems before the first meeting. Some of that has previously been described in the section of this report discussing the timeframe of 2008-2013.

Task Force Members:

Thank you for your participation in our first meeting.

I wanted to clarify how we will proceed. Our meeting schedule will be on Fridays:

- Oct 4 Public Hearing (Augusta)
- Oct 18 Reports from small groups on early stage solutions (Portland)
- Nov 1 (Portland) Work Session
- Nov 15 (Portland) Work Session
- Nov 22 (Augusta) Final meeting

I am asking you to meet with your groups twice between now and October 18th, and for one of those meetings to be in person. Bill Whitten will be contacting you in the next day or two to schedule your meetings, and I ask each group to designate a chair/spokesperson for the group at your first meeting.

A review of the Joint Study Order and the Mission, Goals & Principles of the BOC (pasted below) reveal that our directive as a group is to propose big picture, long-term governance and funding solutions. Even though you have been assigned groups based on problems, we are here to create solutions, so I ask all groups to propose long-term solutions that will make the corrections system better for our communities, inmates, public servants, and taxpayers. I invite you to include other stakeholders (including those that may come to the public hearing on October 4) in your small group meetings to make your proposals more comprehensive. Each group should send to Bill Whitten by October 15 one or more paragraphs with your initial solutions, totaling not more than one page of text.

I look forward to success in working with all of you. Thank you for your service in this important work.

Sincerely,
David Flanagan

Our directive from the Joint Study Order is to:

- A. Review the current structure of the county jail corrections system, including but not limited to its source of revenues, the predictability of costs and revenues and strengths and weaknesses of the current system, in order to determine methods for long-term sustainability of funding, best practices and necessary processes;
- B. Review and propose revisions, if necessary, to the mission and authority of the State Board of Corrections; and
- C. Clarify the structure and authority of the unified system of corrections and the State Board of Corrections and develop recommendations to strengthen centralization of the system and control and coordination of operations.

State Board of Corrections

Purpose and Goals

1. Purpose of the board. The purpose of the board is to develop and implement a unified correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities.
2. State goals. The board shall develop goals to guide the development of and evaluate the effectiveness of a unified correctional system. The board shall present its goals for review and approval by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The goals must include benchmarks for performance in the following areas:
 - o Recidivism reduction;
 - o Pretrial diversion; and
 - o Rate of incarceration.

Responsibilities and Duties

1. Manage the cost of corrections.
2. Determine correctional facility use and purpose.
3. Adopt treatment standards and policies.
4. Certificate of need.
5. Administrative duties.
6. Receive and review recommendations.

Board of Corrections Guiding Principles

A Unified State and County Corrections System that:

- Reduces risk through the use of the Evidence Based Practices and encourages sentencing in accordance with risk;
- Creates an integrated, regional system build on the strengths of the existing state and county facilities and services and is based on differentiated missions;
- Is a stewardship approach that manages and maintains the existing assets and resources for the maximum benefit and invests strategically to accomplish system goals;
- Allows innovation, but is collaboratively based and recognizes that decisions about change and its management are shared;
- Creates incentives for us all to work together and promotes cohesion;
- Is consistent with the compromise enacted in Public Law 653;
- Incorporates the recommendations of the Corrections Alternatives Advisory Committee and the two plans developed by the state and the counties;
- Meets the system's needs for risk management and security housing;
- Works in concert with other policy makers including the Legislature, the Judiciary and the Sentencing Council, and;
- Involves and includes local stakeholders including prosecutors, local law enforcement, and others.

PROBLEMS (compiled from task force members' emails)

1. Unrealistic funding process
2. Lack of authority for BOC
3. Too much time spent by BOC on budget approval
4. Goals and objectives not defined and not met
5. No jail standardization
6. Innovative and high quality programs and incentives sacrificed
7. Too many jails not "obeying the rules"
8. Current funding crisis

9. Pretrial populations, judicial system
10. Mental Health

Under current financial and management system, the unified jail system is ineffective, inefficient, in financial trouble and not serving the needs of the “customer”.

OBJECTIVES (compiled from task force members’ emails)

1. Develop a governance system solution that mandates accountable, transparent decision making.
 - Jail administrators report directly to Commissioners/ County Managers
 - Keep county system separate from State
 - Resolve authority, duties and goals of BOC
2. Develop a least cost management system that creates efficiencies state –wide.
 - Stabilize funding mechanisms
 - Determine methods to co-ordinate with other stakeholders, particularly DA and Judiciary to reduce jail time
 - Resolve authority, duties and goals of BOC
3. Develop a mechanism for determining CIS’s capital need and decision making process and facility for funding.
4. Propose a solution for third and fourth quarter 2014 funding shortfalls.
5. Address Legislative concerns:
 - Lack of BOC authority to execute its decisions
 - Lack of BOC authority to sanction non-compliant participants
 - Lack of authority for BOC to incentivize participants for co-operating
 - Revenue due to the jails unilaterally
 - Determining a just and reasonable method for allocating county jail debt service to those jails still holding debt

Teams:

- V- Alexander, Flood, Baldacci 1&6
- W Flanagan, Oullette, Cloutier 10 &3
- X Frey, Dawson, Devlin 7&2
- Y Ponte, Merry, Zinser 2& 9
- Z Westrum, Crichton, Lebel 4& 8

Meeting 1 Financial Summary

As a follow-up to the meeting, Scott Ferguson provided the following information requested by the commission:

Here’s the story on the shortfall:

- The SBOC has the following in funding (revenue) for FY14:
 - Tax Cap \$61,808,927

- CCA \$5,646,562
- Federal Boarding \$3,630,601
- MDOC Boarding \$263,603
- Other County Rev. (\$66,669) (includes Major Mission Change Payments from Oxford, Franklin, & Waldo)
- Investment Fund \$7,322,554 (\$12,886,355 was asked for)
- Major Mission Change \$????? (\$1,707,777 was budgeted last year and Waldo may not pay and Franklin budgeted a full service jail.
- Prior Yr. Carry forward \$328,600
- TOTAL Available w/out MMC \$78,146,713
- TOTAL Available w/ MMC \$79,854,490

Revenues, in some instances, were budgeted down. For example Federal Boarding in FY13 came in at \$4,520,084; FY14 was budgeted at \$3,630,601. \$890K less.

- Total Expenditures Budgeted for FY14: \$84,032,372
- Difference w/out MMC (\$5,885,659)
- Difference w/ MMC (\$4,177,882)

PLEASE NOTE: THE ABOVE IS ALL BASED ON BUDGETED NUMBERS! Historically we have not really needed or spent our full budgets; we have had funds left over.

Realistically I cannot see the jails increase their spending by \$4.5M or 5.5% from FY13. Is it possible? Yes, however we (BPG) don't think so. If the trends on the graph I showed Friday hold constant we should only see another \$2.0 to \$2.5M in increases over FY13. I can explain in person if this is confusing.

Best,
Scott

Task Force Survey Input

Teams of three members each to study two problems were set up and tasked to report back at the following meeting, scheduled for October 4, 2013. Ground rules were determined, along with a schedule of meetings and next steps defined. The task force also recognized the need for concise, accurate and thoughtful report to create legislation for approval in January. Also within this section of the report, the responses from each of the task force members from their thoughts on the current systems problems and solutions were then codified into the 10 major issues as identified for the five Subcommittees to study. **In addition to this, several financial reports were provided to the committee. (Get financial reports.) MAKE AN APPENDIX OF SOME SORT**

Initials	Problem	General Category
PC	Lack of authority by the BOC to carry out their mission successfully.	Lack of BOC authority
GZ	Lack of clear and consistent benchmarks to determine if funding is an actual issue.	Inconsistent management practices & measurement.
PB	There is less accountability at the local level for the budgets, because any increases in funding are at the State expense.	Lack of appropriate incentives for jail budgets
PB	Jail budgets are reviewed by county commissioners and sent to the BOC then counties required to spend an inordinate amount of time and resources having budgets scrutinized by the BOC, and then lobbying the legislature for needed funding. [inefficient funding allocation process]	Complicated budget process
JC	Innovation and high quality programming opportunities have been progressively sacrificed to achieve short term budget economies.	Lack of focus on long-term solutions and innovations
JC	The funding processes put in place in creating the BOC were based on unrealistic expectations of increased revenues by county personnel and unrealistic estimates of cost cutting opportunities by state personnel.	Lack of state commitment to adequate funding
PF	Debt service costs	How to handle fairness of debt service issue?
GZ	Inconsistent management practices and techniques. Each jail operates differently both financially and philosophically.	Inconsistent management practices and measurement.
GZ	Inability to truly collaborate and find efficiencies.	Inefficient/ineffective coordination
GZ	Little to no accountability of jails to Commissioners.	Lack of accountability of jails to Commissioners.
GZ	Lack of incentives for jails to do well; Funding and appropriations tend to be punitive in nature.	Lack of appropriate incentives for jail budgets
JC	Responsibility for the operations of the jails and the aggregate operation of the jail system has been divorced from authority to prioritize budget issues and institute programming changes. The BOC has been given the fiscal authority to manage the system; the Commissioner of Corrections has been given the authority to manage the population; while for the most part, the Counties operate as independent silos, subject only to themselves.	Lack of appropriate incentives for jail budgets, lack of authority, ineffective coordination
JL		Lack of BOC authority
PF	Lack of adequate enforcement and coordination authority	Lack of BOC authority
PF	County jails believe they can opt-out of the system, thus limiting the effectiveness of a statewide system.	Lack of BOC authority
GZ	Ineffectiveness/ lack of Authority of the BOC.	Lack of BOC authority
PB	Much more time is spent dealing with funding problems than with innovative programs to reduce recidivism and cost in the long run.	Lack of focus on long-term solutions and innovations

PF	<p>Operating budgets that are stressed regularly necessitating more money from the State</p>	<p>Lack of state commitment to adequate funding, inconsistent practices</p>
JL	<p>If the unified system is to succeed, the legislature must begin to adequately fund the needs of the system. Problem being, given the State's fiscal challenges, there appears to be very little trust between the Legislature, the BOC, and the Counties when it comes to funding requests.</p>	<p>Lack of state commitment to adequate funding</p>
JM	<p>Because the SBOC is so entwined in the budget process, their ability to address system management, as well as change, is seriously impaired.</p>	<p>Too much time spent on budget process, lack of focus on system management</p>
JM	<p>SBOC is not adhering to the statute currently in place</p>	
JM	<p>The lack of authority of the SBOC has left the system somewhat paralyzed. When you look at the mission and guiding principles of the SBOC, it is unrealistic to expect that the individual jails will uniformly accept and embrace them.</p>	<p>Lack of BOC authority</p>
JM	<p>Funding – always, but not the only issue. Specifically, the Counties own and are responsible for the facilities. Five years into the move, there has been no money set aside for capital improvements. This is only going to become a greater problem, particularly for some of the older facilities. Right now, all investment fund monies are going operations, and that has become marginal.</p>	<p>Lack of state commitment to adequate funding</p>
BD	<p>Lack of programming to reduce sentences or reduce recidivism, alternative sentencing programs i.e. OUI weekends, alternative work programs.</p>	
BD	<p>Inmates are treated differently depending on facility</p>	
BD	<p>Sheriffs have authority to block coordination</p>	
BD	<p>Flat funding is problematic due to rises in cost of food, fuel, insurance, etc.</p>	
BD	<p>Lack of BOC authority to handle labor issues, manage federal boarding statewide, financial and management standards</p>	
BD	<p>Lack of fiscal accountability and incentives</p>	
BD	<p>Lack of a good way to handle jail debt</p>	
AF	<p>The BOC appears to lack the authority necessary to meet the objectives it is expected to meet.</p>	
AF	<p>Not all parties are committed to the BOC success.</p>	
AF	<p>There are multiple entities involved in the budgeting process making financial decisions, which makes it difficult to manage financial affairs of county corrections while meeting budgeting expectations at all levels.</p>	<p>Complicated budget process</p>

AF	<p>The independence that is permitted to remain with the county jails appears to operate against the purposes of the BOC. More specifically, decisions with financial consequences and power to make self-interested decisions at the expense of the collective interest appear to work against the goals of the BOC. (This fits together with the concern about county corrections being operating as silos.)</p>	<p>Lack of appropriate incentives for jails, ineffective coordination</p>
Objectives		
PC	<p>Identify where the BOC is not meeting the goals set forth in the original legislation and the BOC's Mission Statement.</p>	<p>Compare current BOC to stated goals.</p>
PC	<p>Improve the BOC's capacity and capability to respond to the needs of the system in a more coordinated, efficient and effective way.</p>	<p>Create measures of progress, Create mechanism for continuous improvement.</p>
PC	<p>Establish a clear improvement path with a way of measuring the progress that is being made.</p>	<p>Create measures of progress, Create mechanism for continuous improvement. Create stable state funding mechanism.</p>
PC	<p>Create a mechanism for ensuring that there is continuous improvement.</p>	<p>Create measures of progress, Create mechanism for continuous improvement. Create stable state funding mechanism.</p>
PB	<p>Stabilize funding mechanism for the State's share of costs that is predictable and stable.</p>	<p>Create proven recidivism reduction programs in all jails.</p>
PB	<p>Create programs that are proven to reduce recidivism established consistently throughout all of the county jails.</p>	<p>Create proven recidivism reduction programs in all jails.</p>
PB	<p>Keep the operation of county jails separate from the state prison system. They have different needs and issues and the goal should be to co-ordinate with each other, but not to be ONE system. The latest language of the jail law says this, but it hasn't sunk in yet.</p>	<p>Keep jails and state prisons separate Have jail administrators report to County Commissioners & BOC.</p>
PB	<p>Put daily responsibility for jail administration with jail administrators reporting to county commissioners and BOC, not sheriffs.</p>	<p>Keep jails and state prisons separate Have jail administrators report to County Commissioners & BOC.</p>
JL	<p>The objectives of the task force should be to temporarily secure the proper funding for the existing system. While the State puts together a commission to review those systems from across the country that have been successful at redefining how Jails are managed and funded. The Two Bridges Regional Jail operated under a Jail authority may be a model for us to consider.</p>	<p>Ensure adequate funding for jails.</p>
JL	<p>Jails need to remain independent from the prison system.</p>	<p>Keep jails and state prisons separate</p>
PF	<p>Clarify what county participation and budgeting is optional and what isn't.</p>	<p>Clarify level of required county participation</p>
JC	<p>Suggest steps and means to rationalize and modernize pretrial detention and short term incarceration throughout the state, including centralizing budgeting and programming authority.</p>	<p>Centralize budgeting for all jails.</p>
JC	<p>Achieve equitable funding support for jail operations.</p>	<p>Ensure adequate funding for jails.</p>

JC	Find means to coordinate with other stakeholders (especially Judiciary) to increase efficiency and improve outcomes.	Coordinate with Judiciary
JC	Recommend mechanisms to achieve ongoing efficiency in system wide costs and operations.	Increase efficiency system-wide
GZ	Determine the desired outcome to focus discussion.	
GZ	Review the management structure of the jail system for overall effectiveness and make recommendations.	
GZ	Review and resolve the authority of the BOC.	Clarify authority of BOC
GZ	Make sure the county jails and State prison system are separate.	Keep jails and state prisons separate
JM	To identify and recommend changes to the statute that will give the SBOC the authority to manage a coordinated system. It is unrealistic to assume that the system could go back to being fully funded by the Counties.	Give BOC authority to manage jail system. Identify level of stakeholder commitment to the BOC.
AF	Identify level of stakeholder commitment to the BOC.	
AF	Identify that which is needed (i.e. statutes, attitudes, policies) in order to achieve maximum efficiencies within the county corrections system.	
AF	Organize the financial decision-making for county corrections.	
JM	To establish a realistic funding mechanism in which the jails can operate safely and efficiently, that will free up the SBOC to look at programs and initiatives that will align with the original mission and goals of the system.	Ensure adequate funding, free BOC to programs and initiatives that will align with the original mission and goals of the system
BD	State fund jail system	
Stakeholders		
PC	Judges, and the District Attorneys.	Judiciary
PB	Judiciary, District Attorneys and Defense Attorneys	District Attorneys
PF	Criminal Justice and Safety Members	Safety Members
GZ	District Attorneys and Judiciary	Defense Attorneys
JM	judges, district attorneys and defense attorneys	Service Providers
JM	Legislators	Advocates
JM	Service providers and advocates should be invited to any public hearing on recommendations for change.	
BD	The BOC can work if given the appropriate authority.	
BD	• The transportation hub system still holds promise.	
BD	• More coordination of contracted services.	
BD	• Move Board emphasis to programs and alternative sentencing.	

- BD Hire a financial analyst who reports to the board and has the authority to review county Financial practices. THIS HAS BEEN DONE BUT "AUTHORITY" WILL BE THE CHALLENGE.
- BD • Reorganize management of the county jails similar to New Hampshire's model.
- BD • Stop treating inmates like a commodity.
- BD o No municipality liked funding the county jail with property tax until the free labor Evaporated, i.e. Reopen our jail, we love the work our inmates provide, for free.
- BD Federal boarding creates a lopsided revenue picture. (This was eloquently described by Representative Dion when he was sheriff)
- BD Base funding on number of inmates housed and an essential programs & services component as an incentive to lower the recidivism rate. For example, counties that are offering programming like work release, CARA, pre-trial, etc. would be allocated more funding through the funding formula.
- BD • We suffer from a serious lack of creativity towards problem solving. We don't solve problems, We whine about the status quo.
- BD • Some support new regional jail authorities. Sounds like mini-BOCs. Do we just create the same problems at a regional level?
- BD • Restructure the community corrections act money and put it in the investment fund.
- BD • Strengthen financial oversight and fund the need.

Meeting 2 Summary

The second meeting took place on October 4, 2013 at 9:00 a.m. in the Marquardt building in Augusta. Chair Flanagan sent a letter prior to the meeting, discussing his thoughts on what he felt the committee needed to review at this meeting as well as the agenda. In the letter, Chair Flanagan noted the three fundamental choices for the commission to review: first, an independent authority with mixed funding; second, county control and funding; and third, State control and funding. In addition, questions were submitted to each Subcommittee for them to study and report back on.

PUBLIC NOTICE

The Commission to Study the Board of Corrections
(Jail Task Force)

The Commission will hold a public hearing beginning at nine AM, until not later than 11 AM Friday, October 4 in room 301A, also known as the Board of Corrections Board Room of the Marquardt Building in Augusta.

The public is invited to testify with respect to revisions to the statutes relating to the County Jail System, the Board of Corrections and the state unified system.

16 copies of testimony are requested the morning of the hearing.
Time will be allocated equitably to assure all parties have an opportunity to be heard.

Following the hearing, the Commission will continue the meeting to discuss sub- committee progress to date and review hearing presentations.

All are welcome.

Jail Task Force Minutes
Meeting Two - October 4, 2013

Present:

Capt. Marsha Alexander
Bob Devlin
John Lebel
David Flanagan
Greg Zinser
James Cloutier
Joel Merry
Joseph Ponte
Max Dawson
Mark Westrum
Mo Ouellette
Peter Baldacci
Peter Crichton
Aaron Frey
Pat Flood
Bill Whitten
Elizabeth Trice

Welcome by Chair Flanagan

Approval of minutes from last meeting.

Public Hearing

Commissioner Hardy from Franklin County: (see attached letter)

Summary: Requests abolition of the “one Maine, one system” idea: it doesn’t work, is frustrating, costly, too many hoops, and transportation costly, hurts families, loss of inmate work in community.

Devlin: board has turned down Franklin’s request to reopen their jail. Would it help if Franklin was allowed to house 5-6 trustees to allow for community service crews?

Hardy: Giving Franklin a full-service jail would be the right thing to do, but it’s a funding issue. A few trustees would not do it. It doesn’t make sense to have inmates stay in Cumberland and have to be transported back and forth to court.

Flanagan: Are you suggesting that your county go back to funding your jail? Have you looked at the impact on your taxpayers? You think you can run an autonomous jail system for your current cap amount?

Hardy: Yes.

Flanagan: Why aren’t you sending your inmates to jails closer than Cumberland?

Hardy: They won’t take them. We’ve kept people for more than a week because no one will take them.

Mrs. Quinn: The Task Force has a gigantic job. At the last meeting you came up with 10 big issues, each of which would take the 4 weeks remaining. The big issue here is the money. Somerset has received no money since the 3rd quarter of last year.

Crichton: What is Somerset’s annual debt service?

Quinn: \$2M. If the state takes over the jail, we request that you take the debt service as well. Somerset is the poorest county. Working as a collective to save money has never come to fruition. Our inmates live better than many of our residents. If we keep our jail, we’ll struggle, but we’ll make it work. If you take the jail, that’s unfair. I don’t think it’ll cost our county any more to run our jail. If the state takes over the jails, they might as well take over the counties, and that puts you people [the task force] out of work. We believe we spend about \$60/day per inmate.

Ouellette: If you went back to running Somerset under your current cap, could you do that without raising taxes?

Quinn: Yes.

Crichton: How could that be done long-term? In Cumberland County we have fixed costs that rise; we have no control over that.

Quinn: I don't see our costs changing much in the next three years; our labor costs are set with the union. No one is going to look 5 years ahead. I couldn't possibly say what will happen in 5 years. I could be dead.

Baldacci: We have limited options; The State of Maine has contributed a low amount to Community Corrections compared to other states. Do you agree that the state could still help contributing to Jails?

Quinn: Yes.

Westrum: If we go back to what we had in 2008, there was a bidding war to take the overflow into our jails; we were paying between 64 and 105 per day to house our inmates. We need a standard so that jails aren't undercutting each other.

Quinn: I would go back to the old system in a heartbeat because it worked for us, but it didn't work for everyone. My recommendation is if you're going to create something new, you have to fund it.

Merry: Somerset County is in a unique situation because of the enormous debt service. If you were to operate under your existing cap, wouldn't all of that pay for operations? You would still have the issue of the debt service to pay.

Quinn. Yes. And the debt is unpopular; the vote to build the jail was so close I'm surprised there wasn't a recount. We were sold the argument that we would make money on the jail.

Steven Joy, Hancock County Commissioner (written testimony attached)

Highlights: Suggests hybrid system of local and state support, increasing user fees, regionalize into larger, more efficient jails, more pretrial, alternative sentencing, create one union for all the jails, give BOC line item veto for two years, then return jails to counties with "scrubbed budgets", Create an advisory board with sheriff, commissioners and union reps, make sheriffs appointed, reporting to commissioners.

Flood: What is the "power struggle" between elected commissioners and sheriffs?

Joy: Commissioners control and approve jail budgets, but sheriffs have control of running the jails. Example: our sheriff didn't want to be told how to run something in the jail, so he stopped taking in Federal inmates, and then we lost that revenue.

Crichton: Have you looked at other states like New Hampshire, where Sheriff's report to commissioners?

Joy: No.

Merry: You alluded to the fact that the sheriff is accountable to no one but voters, but aren't commissioners in the same situation?

Joy: Yes, but the jail budget drove the increase of our whole budget, but it's hidden in the county budget.

Ouellette: Fines are down right now, because they are so inflated that police officers are inclined to just write warnings. The taxpayer totally has control right now to judge whether the Sheriff is doing a good job. Neither the Board nor Commissioners are trained to run the jails, and some of these decisions are life and death matters and the board's only meet monthly.

Alexander: what do you consider "top-heavy" administration in a jail?

Joy: Just to make sure that there is an appropriate number of supervisors.

Alexander: Not all jails are currently union; are you suggesting that the non-union jails be forced to unionize?

Joy: No. Just looking for some sort of standardization.

Devlin: Would you consider the idea of specialty jails? EG. One specializing in substance abuse, or domestic violence offenders?

Joy: Everyone knows that just warehousing people doesn't do anything. If there are no services, they just keep coming back. If specialized jails would help, I would support it.

Elizabeth Simone, Maine Pretrial Services

The mission of Pre-trial is similar to the mission of the BOC: increasing pre-trial diversion, reducing the rate of incarceration, and reducing the rate of growth of inmate population. MPS saved over 167,000 jail bed days in 2012, but pre-trial services are still severely limited in Maine. Far too many low risk defendants are incarcerated due to their inability to meet cash bail, often as low as \$100. If pretrial case processing and bail were reformed in Maine, some jails could experience up to 25% reduction in pre-trial population. 60-80% of jail population is pre-trial.

National study now shows that inmates detained more than 48 hours pre-trial, even when controlled for risk factors and histories. We have a new tool that can predict failure to appear, pretrial misconduct, and violence, but the entire system will have to support shifting to coordinated case processing and full use of pretrial services.

Peter Baldacci: Would you say that our bail system is antiquated?

Simoni: the only place that has fully reformed the cash system is Washington DC. They've eliminated the cash system except in 5% of cases, and have had no change in failure to appear rates, but it takes quality tools to do accurate assessments.

Devlin: How do we get to more counties offering pre-trial?

Simoni: Budgets have been too locked down. Everyone receives the information gladly, but because of the rest of the process, they don't take the opportunity to have these automatic efficiencies. There was a concern from the judicial branch that it would take a lot of initial investment, but this is already happening and the tools are already available.

Crichton: When the BOC was created, there was a person coordinating pretrial services. Is that necessary? Which counties are not participating?

Simoni: The BOC doesn't need that position. Local coordinating councils as recommended by the CAC report would be more effective.

Piscataquis cannot afford to participate, Hancock (but has active drug court), there are also others.

Ouellette: I have capacity for 200 inmates; currently have 227 inmates, plus 111 out on pretrial. It's very helpful. The CAC report is very helpful.

When someone gets arrested at 2am and calls the bail commissioner, the first question is, "does he have \$60", and that's not what it's supposed to be about.

Frey: We'll be talking about what kind of cooperation between feds, state, pre-trial, is necessary. What will help us do that?

Simoni: There's a fear that a third party will come in and advocate for prisoners' rights. It's not about advocacy. It's about assessing risk. The prosecutors have good information about risk: past conduct and criminal history. We need to have a partnership. We want to provide a tool that can be used by judges, prosecutors, and law enforcement on the street. People who are low risk should be let out until trial, and people who are high-risk should keep in custody and be granted a speedy trial. We should have a handbook about what services are available, and places that provide services need to provide outcome data to so decision-makers can feel comfortable about the risks involved.

Zinser: Getting more people out is hampered by philosophical difference between DAs, Bench etc.?

Simoni: Adding more caseworkers would not fix the system. There are philosophical differences, but we are all hamstrung by the antiquated cash system. Whether or not someone has cash will not keep the public safe. Either you need to be in, or you are safe to be out.

Zinser: If a law were passed to standardize pre-trial, would that solve the philosophical differences?

Simoni: Kentucky has passed a law that a single statewide tool would be used with all pre-trial inmates. It doesn't have to be law. It will take a system to agree on this and make it work. Kentucky has had years of working with a coordinating council. If we have criminal history, the whole system thinks about how much cash we should ask for. But a lot of dangerous people have access to cash. I'm suggesting we move to a system for risk assessment. It's not about Maine Pretrial. It's about assessing everyone equally, and providing supervision to those that need it.

Zinser: if we could agree on a set of standard assessment tools; would we see an immediate reduction in populations in the jails?

Simoni: If the courts and prosecutors were comfortable with the tool and system, yes.

Merry: Use of Pre-trial is really up to the bench, not the sheriffs. How important are re-entry services?

Simoni: Re-entry work is important, and should start the moment someone is arrested. You have to figure out who you're dealing with and what the risks are. I would advocate for an information sharing system. Instead of starting over with someone who re-offends, pick up the information and process and do it better the second time.

Westrum: in Maine we only have 2,200 beds available, and 1,800 are filled on any given day. It concerns me that an inmate in one county would be treated differently than in another county. I support standardization of pre-trial. The problem with "scrubbing budgets" is that some counties will cut pre-trial first. We have to get to standardized risk assessment tools. Is it true that one pre-trial worker can supervise 25 people?

Simoni: We used to use 25-35/person. We also had a situation with two people overseeing 120/person without increases in failure to appear. In many cases, pre-trial is underused or mis-used.

Alexander: What Elizabeth is proposing is saving \$30M, of which only about \$1M would go to Pre-trial. That's \$29M savings.

Devlin: is it true that low-risk offenders who are jailed are made higher risk?

Simoni: Yes, and we're doing that every day.

Flood: Can you give us a picture of what Pre-trial staff does?

Simoni: Pretrial staff goes into a jail and performs a risk assessment of all inmates who are pre-trial. Most of the information is from their criminal history. And then we independently verify any information that comes from the inmate. We do a bio-psycho-social assessment interview. We ask them what they need, where they're going to go, risk assessment. Then there is setting bail at court. At that point, we say "yes, we can supervise the" or "no, we can't". In a risk-based system this assessment would be automatic.

We file a contract that says all the conditions they are required to live by based on their prior history. We sign it, the jail and the judge signs it. Then the person becomes our "customer". We supervise them. Sometimes we'll go their homes. They call us every day. We assign them colors based on risks, such as substance abuse; we may give them surprise urine tests. We're sort of like probation officers. If they violate any conditions, we report it to all parties that day.

Devlin: In many cases, Pre-trial is brought in as a population management tool, but they should have been doing it with everyone.

Mr. Rushlau: Sagadahoc County, Maine Prosecutors Association

The one thing that has changed over the past decades is the amount of information available to everyone in the process. The bail commissioners typically hear about criminal history and past failure to appear. If they don't make bail, they can appear within 48 hours to judge to assess the situation. People are still regularly let out without bail. There is suspicion on the part of prosecutors of Pre-Trial; Maine Pre-Trial was new to me when they started in Knox County. We didn't know if they could truly be an arm of the court as opposed to client advocates. I am now confident and supportive in their services.

I worry about trying to impose standardized practices. Recently the courts lost the ability to put people on probation for many low-level offenses. We have turned to Maine Pre-Trial to do post-conviction, because we can't get supervision by probation.

Prosecutors don't know who is in jail because of cash bail and shouldn't be – whoever knows that has an obligation to let the courts know. I don't know who has that information but that would be very valuable.

The changes in 2008 have not improved my district. Waldo County from a financial standpoint has done well. They have a re-entry center, but the inmates are housed in Two Bridges. But being 50-60 miles away from where the people live eliminates chances of re-integrating people into their communities. Two Bridges, with its hybrid population, is not really a jail anymore. It's very challenging to have a mixed state and jail population. I don't think large geographic jail regions could be successful.

Zinser: Talk more about the post-conviction part? How do we get the people out?

Rushlau: People need to be monitored after their case is concluded. If the only two choices are lock them up or let them out, it's better to let them out with deferred disposition and supervision.

Flanagan: Some counties have video arraignments, please comment.

Rushlau: We started having video arraignments in Two Bridges. It worked reasonably well, saved some time and money. But when the technology fails, it sets the whole system back. After an hour or two of waiting, the court won't wait any more. Then you have to call in transport and it increases workload exponentially.

Westrum: That's correct. Videoconferencing is down statewide right now, so we've had to step up our transportation. There have been big issues since we switched from phone lines to internet system. However, this is not just a cost saving issue; it's a big public safety issue.

Alexander: We've had technical issues as well. Other jails have had great success.

John Pelletier, director of indigent and legal services

The system is interconnected, so there will be unintended costs when you change one part of the systems. Housing people far from where they live makes it harder for inmates to interact with their lawyers, and if a lawyer has to drive a long way to interact with their client it adds cost to the state system. It's difficult to do over the phone.

There are ways to save beds. We have a number of low-risk offenders that are sent to jail based on mandatory minimum sentences. Some jails used to sentence people to stay at a facility owned by non-profits, transport themselves, and pay a fee to stay there, and did community service during the day for 7-10 days and have programming in the evening. If you had a facility that mimicked those programs – dormitory style, minimum security. This could be a modest investment, and have good results.

Pre-trial is not going to be uniform, because the judges are making the decisions.

There is some concern about using video for inmate- lawyer interactions; it's important to make sure that there is a guaranteed confidential video link.

Westrum: Supports the idea of creating Day Reporting and Justice Centers like Pelletier suggests.

Commr. Hardy: Somerset County probably planned on boarding prisoners to pay off their debt, so even though they'd have to pay that debt service either way, if they had their jail they could use those revenues.

Reports from Subcommittees:

Two groups are meeting after the full task force meeting.

Ouelette/Cloutier/Whitten met, got through list, will share notes once group approves.

Crichton/Westrum/Labelle/Whitten met, will meet again next week. Talking about goals and objectives not defined or not met. BOC has adopted goals, but there's been lack of communication. We also talked about the fiscal cliff. We are keeping all options on the table.

Devlin/Dawson/Frey: we are developing matrix of programs being provided by jails. While there may not be standards, most jails are providing programs.

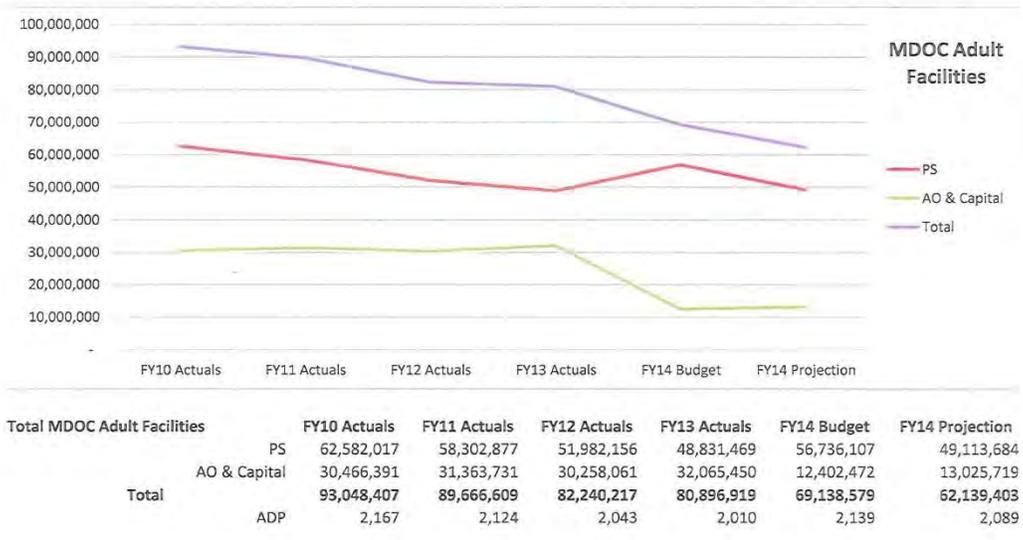
Flanagan: Teams should not limit themselves to the questions provided.

Presentation by Scott Ferguson (Graphs below)

- Salaries and benefits are 70% of the budget and it's the part of the budget that is growing (average 3.4% per year), but BOC has no control over those costs.
- Counties submitted \$84M in budgets. There's only \$80M in funding.
- Budget group met yesterday and thinks only about \$82.5M will be needed.
- So compared to what's submitted right now, you have a \$2.5M-\$4M hole.
- It's up to the board whether and when to submit a request for a supplemental budget.
- The DOC has worked to reduce overtime and has frozen salaries, so the DOC personnel services are not growing.
- Chart shows the expenditures reported, so may not show some of the capital expenditures paid for by individual jails.
- "Scrubbing budgets" is not a road we want to go down again. It's a never ending process. We're already behind a year behind schedule on the 2014 budget. That's historically been a problem.
- We've asked for inverse debt in the past and it's been excluded.
- Any request can be made through any committee; any legislator can put in a bill.
- Counties have submitted budget requests for 2014-2015 with a \$9M increase, and the BOC been told "no" by the governor's office, gets sent back to the BOC, but BOC doesn't have any authority to tell the jails what to do.
- There's a difference in how counties have to budget to work on state. Counties have historically come up with budget and send to taxpayers; state might have lower revenues than expected.
- If the counties were in synch with the budget process, you would know July 1 what you were dealing with, as opposed to trying to make up what you missed in the previous year. We're so far behind we've even missed the supplemental budget.
- BOC needs to simplify budget process, for example start with a baseline, and then have budget increases based on initiatives.

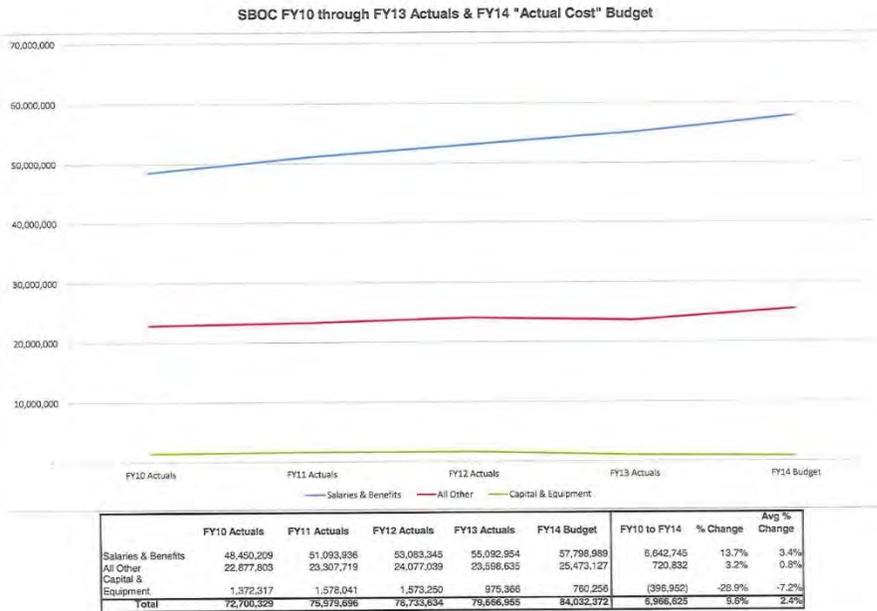
MDOC Adult Facility Historical Cost Analysis

MDOC Adult Facility Historical Cost Analysis



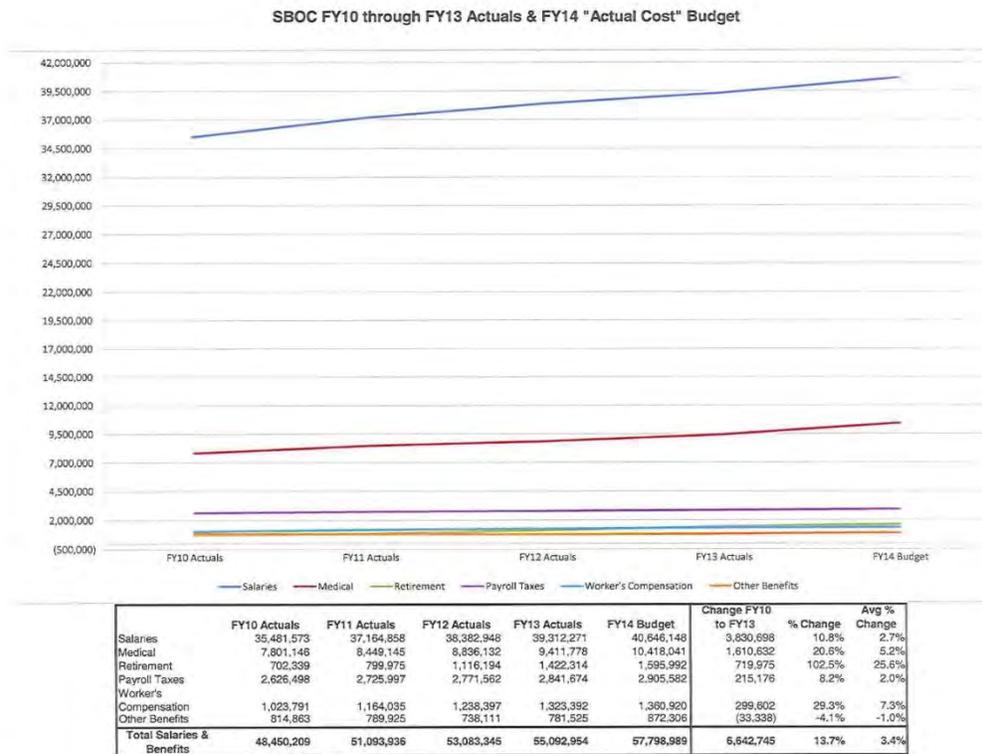
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SBOC FY10 through FY13 Actuals & FY14 "Actual Cost Budget"



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FY12-13 Per Capita Calculation

County	FY2012 Actual CRAS				FY2013 Actual CRAS			
	Expenditures	Avg ADP	Per Capita	Daily Cost	Expenditures	Avg ADP	Per Capita	Daily Cost
ANDROSCOGGIN	5,631,074	148.1	\$ 38,025	\$ 104.18	5,652,304	142.9	\$ 39,554	\$ 108.37
AROOSTOOK	3,187,853	73.9	\$ 43,148	\$ 118.21	3,462,571	77.2	\$ 44,852	\$ 122.88
CUMBERLAND	17,575,066	427.3	\$ 41,129	\$ 112.68	17,584,683	441.8	\$ 39,802	\$ 109.05
FRANKLIN	982,780	4.8	\$ 206,723	\$ 566.36	1,005,486	5.1	\$ 197,154	\$ 540.15
HANCOCK	2,199,785	46.0	\$ 47,836	\$ 131.06	2,362,889	42.2	\$ 55,993	\$ 153.40
KENNEBEC	6,841,376	143.8	\$ 47,588	\$ 130.38	6,661,101	147.4	\$ 45,191	\$ 123.81
KNOX	3,714,554	62.9	\$ 59,030	\$ 161.73	3,694,245	67.9	\$ 54,407	\$ 149.06
OXFORD	1,234,311	9.4	\$ 131,708	\$ 360.84	1,189,946	10.9	\$ 109,169	\$ 299.09
PENOBSCOT	7,414,515	150.1	\$ 49,384	\$ 135.30	7,624,042	160.7	\$ 47,443	\$ 129.98
PISCATAQUIS	1,407,628	29.9	\$ 47,062	\$ 128.94	1,392,398	32.5	\$ 42,843	\$ 117.38
SOMERSET	6,436,179	173.3	\$ 37,141	\$ 101.76	6,452,372	176.8	\$ 36,495	\$ 99.99
TWO BRIDGES	6,358,500	161.8	\$ 44,335	\$ 121	7,000,466	164.0	\$ 47,774	\$ 130.89
LINCOLN	425,535				437,542			
SAGADAHOC	389,718				396,965			
WALDO	2,012,671	24.2	\$ 83,020	\$ 227.45	2,105,931	30.1	\$ 69,964	\$ 191.68
WASHINGTON	2,377,164	40.2	\$ 59,150	\$ 162.06	2,425,398	36.3	\$ 66,815	\$ 183.06
YORK	10,544,925	193.6	\$ 54,462	\$ 149.21	10,216,357	202.1	\$ 50,551	\$ 138.50
Total Jail System	78,733,634	1,689.3	\$ 46,608	\$ 127.69	79,664,695	1,737.9	\$ 45,840	\$ 125.59

CRAS (County Reporting of Actuals System) data. Information input directly by each county/jail; **unaudited**.

FY12-13 Per Capita Calculation - Average ADP

County	FY12	FY13
ANDROSCOGGIN	148.1	143
AROOSTOOK	73.9	77
CUMBERLAND	427.3	442
FRANKLIN	4.8	5
HANCOCK	46.0	42
KENNEBEC	143.8	147
KNOX	62.9	68
ME COASTAL REGIONAL REENTRY CTR	22.1	28
OXFORD	9.4	11
PENOBSCOT	150.1	161
PISCATAQUIS	29.9	33
LINCOLN/SAGADAHOC	161.8	164
SOMERSET	173.3	177
WALDO	2.1	2
WASHINGTON	40.2	36
YORK	193.6	202
	1,689.3	1,738

Per Capita by Budget Category

	FY10 Per Capita	FY11 Per Capita	FY12 Per Capita	FY13 Per Capita	FY14 Per Capita
Androscoggin					
Wages & Salaries	\$ 18,049	\$ 19,981	\$ 20,399	\$ 20,920	\$ 21,140
Benefits	\$ 8,266	\$ 9,267	\$ 9,358	\$ 10,231	\$ 10,545
Contractual	\$ 8,291	\$ 9,269	\$ 9,510	\$ 9,134	\$ 9,920
Commodities	\$ 2,309	\$ 2,476	\$ 2,496	\$ 2,660	\$ 2,522
Capital & Equipment	\$ 168	\$ 365	\$ 1,124	\$ 104	\$ 107
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 37,083	\$ 39,209	\$ 38,022	\$ 39,554	\$ 36,300
Aroostook					
Wages & Salaries	\$ 22,496	\$ 23,494	\$ 24,896	\$ 26,149	\$ 26,528
Benefits	\$ 6,471	\$ 7,014	\$ 7,895	\$ 9,249	\$ 9,902
Contractual	\$ 12,966	\$ 11,351	\$ 11,425	\$ 12,727	\$ 12,847
Commodities	\$ 2,908	\$ 4,015	\$ 4,306	\$ 4,578	\$ 4,447
Capital & Equipment	\$ 1,311	\$ 1,278	\$ -	\$ -	\$ -
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 46,152	\$ 44,005	\$ 43,137	\$ 44,852	\$ 49,025
Cumberland					
Wages & Salaries	\$ 20,808	\$ 21,703	\$ 23,148	\$ 23,659	\$ 23,710
Benefits	\$ 5,934	\$ 6,740	\$ 7,361	\$ 7,708	\$ 8,570
Contractual	\$ 11,915	\$ 11,053	\$ 11,930	\$ 10,844	\$ 11,355
Commodities	\$ 2,188	\$ 2,223	\$ 2,199	\$ 2,418	\$ 2,392
Capital & Equipment	\$ 346	\$ 530	\$ 473	\$ 507	\$ 487
Other Expense	\$ (0)	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 41,192	\$ 37,997	\$ 41,129	\$ 39,802	\$ 37,597
Franklin					
Wages & Salaries	\$ 166,802	\$ 180,447	\$ 173,215	\$ 166,620	\$ 205,799
Benefits	\$ 82,301	\$ 77,480	\$ 67,017	\$ 77,025	\$ 114,403
Contractual	\$ 153,413	\$ 73,756	\$ 57,613	\$ 62,703	\$ 119,586
Commodities	\$ 7,139	\$ 7,175	\$ 8,323	\$ 6,710	\$ 39,891
Capital & Equipment	\$ 3,423	\$ 17,411	\$ 951	\$ 1,157	\$ 12,969
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 413,078	\$ 292,323	\$ 204,746	\$ 197,154	\$ 35,829
Hancock					
Wages & Salaries	\$ 22,355	\$ 22,368	\$ 22,322	\$ 22,518	\$ 23,299
Benefits	\$ 6,014	\$ 7,534	\$ 8,019	\$ 11,883	\$ 10,646
Contractual	\$ 8,366	\$ 8,874	\$ 8,598	\$ 8,285	\$ 7,253
Commodities	\$ 2,848	\$ 2,677	\$ 2,844	\$ 2,754	\$ 2,809

Capital & Equipment	\$ 116	\$ 863	\$ 519	\$ -	\$ -
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 39,699	\$ 53,668	\$ 47,821	\$ 55,993	\$ 39,455
Kennebec					
Wages & Salaries	\$ 16,482	\$ 17,269	\$ 18,707	\$ 18,076	\$ 20,790
Benefits	\$ 5,831	\$ 6,416	\$ 7,538	\$ 7,203	\$ 7,901
Contractual	\$ 10,532	\$ 11,782	\$ 12,918	\$ 12,790	\$ 13,583
Commodities	\$ 702	\$ 853	\$ 824	\$ 786	\$ 781
Capital & Equipment	\$ 400	\$ 396	\$ 351	\$ 421	\$ 457
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 33,947	\$ 40,019	\$ 47,576	\$ 45,191	\$ 50,202
Knox					
Wages & Salaries	\$ 26,388	\$ 26,450	\$ 27,459	\$ 28,103	\$ 28,103
Benefits	\$ 8,013	\$ 8,028	\$ 8,793	\$ 9,248	\$ 10,015
Contractual	\$ 11,559	\$ 12,790	\$ 12,955	\$ 11,700	\$ 12,597
Commodities	\$ 2,663	\$ 2,707	\$ 3,023	\$ 2,859	\$ 3,074
Capital & Equipment	\$ 1,127	\$ 212	\$ 27	\$ 213	\$ -
Other Expense	\$ 778	\$ 887	\$ 1,037	\$ 879	\$ 1,037
Total Expense	\$ 50,528	\$ 52,738	\$ 59,055	\$ 54,407	\$ 47,178
Oxford					
Wages & Salaries	\$ 67,294	\$ 65,747	\$ 69,287	\$ 67,457	\$ 72,685
Benefits	\$ 27,811	\$ 28,948	\$ 31,888	\$ 29,538	\$ 39,128
Contractual	\$ 46,931	\$ 21,344	\$ 22,163	\$ 21,475	\$ 27,644
Commodities	\$ 4,326	\$ 4,668	\$ 5,334	\$ 5,452	\$ 10,534
Capital & Equipment	\$ 6,518	\$ 14,098	\$ 4,050	\$ 4,272	\$ 5,823
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 152,880	\$ 125,369	\$ 131,310	\$ 109,377	\$ 120,756
Penobscot					
Wages & Salaries	\$ 21,904	\$ 22,982	\$ 23,237	\$ 23,792	\$ 24,196
Benefits	\$ 7,347	\$ 8,363	\$ 9,276	\$ 9,403	\$ 10,491
Contractual	\$ 7,048	\$ 7,222	\$ 7,615	\$ 8,422	\$ 9,246
Commodities	\$ 2,636	\$ 2,806	\$ 2,474	\$ 2,198	\$ 2,326
Capital & Equipment	\$ 380	\$ 368	\$ 456	\$ 460	\$ 446
Other Expense	\$ 294	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 39,610	\$ 46,887	\$ 49,397	\$ 47,443	\$ 56,243
Piscataquis					
Wages & Salaries	\$ 26,122	\$ 26,849	\$ 27,881	\$ 28,966	\$ 32,978
Benefits	\$ 11,453	\$ 11,839	\$ 12,962	\$ 15,039	\$ 16,695
Contractual	\$ 10,060	\$ 11,689	\$ 11,254	\$ 11,734	\$ 14,072
Commodities	\$ 2,758	\$ 3,291	\$ 3,796	\$ 4,424	\$ 4,701
Capital & Equipment	\$ 495	\$ 2,898	\$ 4,935	\$ 0	\$ -

Other Expense	\$ 418	\$ 641	\$ 641	\$ 641	\$ 641
Total Expense	\$ 51,307	\$ 52,824	\$ 47,078	\$ 42,843	\$ 49,441
Somerset					
Wages & Salaries	\$ 18,247	\$ 18,856	\$ 18,344	\$ 19,929	\$ 20,201
Benefits	\$ 7,451	\$ 7,795	\$ 8,201	\$ 8,005	\$ 8,778
Contractual	\$ 8,524	\$ 10,166	\$ 10,799	\$ 10,275	\$ 10,639
Commodities	\$ 2,280	\$ 2,229	\$ 2,279	\$ 2,116	\$ 2,446
Capital & Equipment	\$ 331	\$ 140	\$ 628	\$ 27	\$ 196
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 36,831	\$ 38,967	\$ 37,139	\$ 36,495	\$ 35,195
TBRJ					
Wages & Salaries	\$ 19,454	\$ 21,188	\$ 20,461	\$ 22,009	\$ 23,912
Benefits	\$ 9,266	\$ 9,775	\$ 8,843	\$ 10,554	\$ 12,780
Contractual	\$ 12,020	\$ 12,648	\$ 11,990	\$ 13,711	\$ 14,924
Commodities	\$ 1,109	\$ 1,055	\$ 1,083	\$ 857	\$ 1,350
Capital & Equipment	\$ 277	\$ 277	\$ 615	\$ 201	\$ 480
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 42,126	\$ 45,684	\$ 39,299	\$ 42,686	\$ 47,907
Waldo					
Wages & Salaries	\$ 82,835	\$ 83,850	\$ 83,454	\$ 96,755	\$ 95,896
Benefits	\$ 41,689	\$ 38,780	\$ 42,606	\$ 44,745	\$ 48,404
Contractual	\$ 117,217	\$ 120,093	\$ 119,910	\$ 116,155	\$ 130,575
Commodities	\$ 5,184	\$ 8,560	\$ 11,404	\$ 12,494	\$ 12,973
Capital & Equipment	\$ 4,078	\$ 5,458	\$ 5,411	\$ 5,071	\$ 5,360
Other Expense	\$ 5,571	\$ 5,571	\$ 5,571	\$ 5,571	\$ 5,571
Total Expense	\$ 256,575	\$ 91,081	\$ 83,168	\$ 69,964	\$ 26,363
Washington					
Wages & Salaries	\$ 28,061	\$ 29,511	\$ 30,019	\$ 30,486	\$ 31,368
Benefits	\$ 15,680	\$ 15,946	\$ 17,722	\$ 19,659	\$ 18,979
Contractual	\$ 7,439	\$ 7,887	\$ 7,738	\$ 7,233	\$ 8,813
Commodities	\$ 3,816	\$ 4,219	\$ 4,515	\$ 3,356	\$ 4,249
Capital & Equipment	\$ 50	\$ 2,047	\$ 339	\$ 823	\$ 136
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 55,046	\$ 54,874	\$ 59,133	\$ 66,815	\$ 59,611
York					
Wages & Salaries	\$ 20,169	\$ 21,281	\$ 22,503	\$ 22,173	\$ 22,427
Benefits	\$ 7,577	\$ 7,641	\$ 7,430	\$ 8,135	\$ 7,913
Contractual	\$ 13,268	\$ 14,771	\$ 15,322	\$ 14,534	\$ 15,546
Commodities	\$ 768	\$ 551	\$ 783	\$ 706	\$ 725
Capital & Equipment	\$ 3,207	\$ 2,850	\$ 3,146	\$ 2,103	\$ 734
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -

Total Expense	\$ 44,990	\$ 50,612	\$ 54,468	\$ 50,551	\$ 43,195
Total SBOC					
Wages & Salaries	\$ 21,444	\$ 22,462	\$ 23,198	\$ 23,759	\$ 24,566
Benefits	\$ 7,838	\$ 8,418	\$ 8,885	\$ 9,537	\$ 10,367
Contractual	\$ 11,756	\$ 11,947	\$ 12,347	\$ 12,095	\$ 13,015
Commodities	\$ 1,976	\$ 2,069	\$ 2,127	\$ 2,096	\$ 2,303
Capital & Equipment	\$ 829	\$ 954	\$ 951	\$ 589	\$ 459
Other Expense	\$ 94	\$ 71	\$ 78	\$ 71	\$ 78
Total Expense	\$ 43,938	\$ 45,920	\$ 47,585	\$ 48,149	\$ 50,787

	FY10 Per Capita	FY11 Per Capita	FY12 Per Capita	FY13 Per Capita	FY14 Per Capita
Androscoggin					
Wages & Salaries	\$ 18,049	\$ 19,981	\$ 20,399	\$ 20,920	\$ 21,140
Benefits	\$ 8,266	\$ 9,267	\$ 9,358	\$ 10,231	\$ 10,545
Contractual	\$ 8,291	\$ 9,269	\$ 9,510	\$ 9,134	\$ 9,920
Commodities	\$ 2,309	\$ 2,476	\$ 2,496	\$ 2,660	\$ 2,522
Capital & Equipment	\$ 168	\$ 365	\$ 1,124	\$ 104	\$ 107
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 37,083	\$ 39,209	\$ 38,022	\$ 39,554	\$ 36,300
Aroostook					
Wages & Salaries	\$ 22,496	\$ 23,494	\$ 24,896	\$ 26,149	\$ 26,528
Benefits	\$ 6,471	\$ 7,014	\$ 7,895	\$ 9,249	\$ 9,902
Contractual	\$ 12,966	\$ 11,351	\$ 11,425	\$ 12,727	\$ 12,847
Commodities	\$ 2,908	\$ 4,015	\$ 4,306	\$ 4,578	\$ 4,447
Capital & Equipment	\$ 1,311	\$ 1,278	\$ -	\$ -	\$ -
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 46,152	\$ 44,005	\$ 43,137	\$ 44,852	\$ 49,025
Cumberland					

	\$	\$	\$	\$	\$
Wages & Salaries	20,808	21,703	23,148	23,659	23,710
	\$	\$	\$	\$	\$
Benefits	5,934	6,740	7,361	7,708	8,570
	\$	\$	\$	\$	\$
Contractual	11,915	11,053	11,930	10,844	11,355
	\$	\$	\$	\$	\$
Commodities	2,188	2,223	2,199	2,418	2,392
Capital &	\$	\$	\$	\$	\$
Equipment	346	530	473	507	487
	\$	\$	\$	\$	\$
Other Expense	(0)	-	-	-	-
Total Expense	\$ 41,192	\$ 37,997	\$ 41,129	\$ 39,802	\$ 37,597
Franklin					
	\$	\$	\$	\$	\$
Wages & Salaries	166,802	180,447	173,215	166,620	205,799
	\$	\$	\$	\$	\$
Benefits	82,301	77,480	67,017	77,025	114,403
	\$	\$	\$	\$	\$
Contractual	153,413	73,756	57,613	62,703	119,586
	\$	\$	\$	\$	\$
Commodities	7,139	7,175	8,323	6,710	39,891
Capital &	\$	\$	\$	\$	\$
Equipment	3,423	17,411	951	1,157	12,969
	\$	\$	\$	\$	\$
Other Expense	-	-	-	-	-
Total Expense	\$ 413,078	\$ 292,323	\$ 204,746	\$ 197,154	\$ 35,829
Hancock					
	\$	\$	\$	\$	\$
Wages & Salaries	22,355	22,368	22,322	22,518	23,299
	\$	\$	\$	\$	\$
Benefits	6,014	7,534	8,019	11,883	10,646
	\$	\$	\$	\$	\$
Contractual	8,366	8,874	8,598	8,285	7,253
	\$	\$	\$	\$	\$
Commodities	2,848	2,677	2,844	2,754	2,809
Capital &	\$	\$	\$	\$	\$
Equipment	116	863	519	-	-
	\$	\$	\$	\$	\$
Other Expense	-	-	-	-	-
Total Expense	\$ 39,699	\$ 53,668	\$ 47,821	\$ 55,993	\$ 39,455
Kennebec					
	\$	\$	\$	\$	\$
Wages & Salaries	16,482	17,269	18,707	18,076	20,790

	\$	\$	\$	\$	\$
Benefits	5,831	6,416	7,538	7,203	7,901
	\$	\$	\$	\$	\$
Contractual	10,532	11,782	12,918	12,790	13,583
	\$	\$	\$	\$	\$
Commodities	702	853	824	786	781
Capital &	\$	\$	\$	\$	\$
Equipment	400	396	351	421	457
	\$	\$	\$	\$	\$
Other Expense	-	-	-	-	-
Total Expense	\$ 33,947	\$ 40,019	\$ 47,576	\$ 45,191	\$ 50,202
Knox					
	\$	\$	\$	\$	\$
Wages & Salaries	26,388	26,450	27,459	28,103	28,103
	\$	\$	\$	\$	\$
Benefits	8,013	8,028	8,793	9,248	10,015
	\$	\$	\$	\$	\$
Contractual	11,559	12,790	12,955	11,700	12,597
	\$	\$	\$	\$	\$
Commodities	2,663	2,707	3,023	2,859	3,074
Capital &	\$	\$	\$	\$	\$
Equipment	1,127	212	27	213	-
	\$	\$	\$	\$	\$
Other Expense	778	887	1,037	879	1,037
Total Expense	\$ 50,528	\$ 52,738	\$ 59,055	\$ 54,407	\$ 47,178
Oxford					
	\$	\$	\$	\$	\$
Wages & Salaries	67,294	65,747	69,287	67,457	72,685
	\$	\$	\$	\$	\$
Benefits	27,811	28,948	31,888	29,538	39,128
	\$	\$	\$	\$	\$
Contractual	46,931	21,344	22,163	21,475	27,644
	\$	\$	\$	\$	\$
Commodities	4,326	4,668	5,334	5,452	10,534
Capital &	\$	\$	\$	\$	\$
Equipment	6,518	14,098	4,050	4,272	5,823
	\$	\$	\$	\$	\$
Other Expense	-	-	-	-	-
Total Expense	\$ 152,880	\$ 125,369	\$ 131,310	\$ 109,377	\$ 120,756
Penobscot					
	\$	\$	\$	\$	\$
Wages & Salaries	21,904	22,982	23,237	23,792	24,196
	\$	\$	\$	\$	\$
Benefits	7,347	8,363	9,276	9,403	10,491

	\$	\$	\$	\$	\$
Contractual	7,048	7,222	7,615	8,422	9,246
	\$	\$	\$	\$	\$
Commodities	2,636	2,806	2,474	2,198	2,326
Capital &	\$	\$	\$	\$	\$
Equipment	380	368	456	460	446
	\$	\$	\$	\$	\$
Other Expense	294	-	-	-	-
Total Expense	\$ 39,610	\$ 46,887	\$ 49,397	\$ 47,443	\$ 56,243
Piscataquis					
	\$	\$	\$	\$	\$
Wages & Salaries	26,122	26,849	27,881	28,966	32,978
	\$	\$	\$	\$	\$
Benefits	11,453	11,839	12,962	15,039	16,695
	\$	\$	\$	\$	\$
Contractual	10,060	11,689	11,254	11,734	14,072
	\$	\$	\$	\$	\$
Commodities	2,758	3,291	3,796	4,424	4,701
Capital &	\$	\$	\$	\$	\$
Equipment	495	2,898	4,935	0	-
	\$	\$	\$	\$	\$
Other Expense	418	641	641	641	641
Total Expense	\$ 51,307	\$ 52,824	\$ 47,078	\$ 42,843	\$ 49,441
Somerset					
	\$	\$	\$	\$	\$
Wages & Salaries	18,247	18,856	18,344	19,929	20,201
	\$	\$	\$	\$	\$
Benefits	7,451	7,795	8,201	8,005	8,778
	\$	\$	\$	\$	\$
Contractual	8,524	10,166	10,799	10,275	10,639
	\$	\$	\$	\$	\$
Commodities	2,280	2,229	2,279	2,116	2,446
Capital &	\$	\$	\$	\$	\$
Equipment	331	140	628	27	196
	\$	\$	\$	\$	\$
Other Expense	-	-	-	-	-
Total Expense	\$ 36,831	\$ 38,967	\$ 37,139	\$ 36,495	\$ 35,195
TBRJ					
	\$	\$	\$	\$	\$
Wages & Salaries	19,454	21,188	20,461	22,009	23,912
	\$	\$	\$	\$	\$
Benefits	9,266	9,775	8,843	10,554	12,780
	\$	\$	\$	\$	\$
Contractual	12,020	12,648	11,990	13,711	14,924

	\$	\$	\$	\$	\$
Commodities	1,109	1,055	1,083	857	1,350
Capital & Equipment	277	277	615	201	480
Other Expense	-	-	-	-	-
Total Expense	42,126	45,684	39,299	42,686	47,907
Waldo					
	\$	\$	\$	\$	\$
Wages & Salaries	82,835	83,850	83,454	96,755	95,896
Benefits	41,689	38,780	42,606	44,745	48,404
Contractual	117,217	120,093	119,910	116,155	130,575
Commodities	5,184	8,560	11,404	12,494	12,973
Capital & Equipment	4,078	5,458	5,411	5,071	5,360
Other Expense	5,571	5,571	5,571	5,571	5,571
Total Expense	256,575	91,081	83,168	69,964	26,363
Washington					
	\$	\$	\$	\$	\$
Wages & Salaries	28,061	29,511	30,019	30,486	31,368
Benefits	15,680	15,946	17,722	19,659	18,979
Contractual	7,439	7,887	7,738	7,233	8,813
Commodities	3,816	4,219	4,515	3,356	4,249
Capital & Equipment	50	2,047	339	823	136
Other Expense	-	-	-	-	-
Total Expense	55,046	54,874	59,133	66,815	59,611
York					
	\$	\$	\$	\$	\$
Wages & Salaries	20,169	21,281	22,503	22,173	22,427
Benefits	7,577	7,641	7,430	8,135	7,913
Contractual	13,268	14,771	15,322	14,534	15,546
Commodities	768	551	783	706	725

Capital & Equipment	\$ 3,207	\$ 2,850	\$ 3,146	\$ 2,103	\$ 734
Other Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expense	\$ 44,990	\$ 50,612	\$ 54,468	\$ 50,551	\$ 43,195
Total SBOC					
Wages & Salaries	\$ 21,444	\$ 22,462	\$ 23,198	\$ 23,759	\$ 24,566
Benefits	\$ 7,838	\$ 8,418	\$ 8,885	\$ 9,537	\$ 10,367
Contractual	\$ 11,756	\$ 11,947	\$ 12,347	\$ 12,095	\$ 13,015
Commodities	\$ 1,976	\$ 2,069	\$ 2,127	\$ 2,096	\$ 2,303
Capital & Equipment	\$ 829	\$ 954	\$ 951	\$ 589	\$ 459
Other Expense	\$ 94	\$ 71	\$ 78	\$ 71	\$ 78
Total Expense	\$ 43,938	\$ 45,920	\$ 47,585	\$ 48,149	\$ 50,787

Westrum: some jails want to give salary increase, so spend CIP on salary increase, and then ask for money for the CIP item. I'm worrying what's going to happen after January 1. I need to hear some idea about how drastic is this going to be come January 1st?

Ouellette: If the BOC set the growth rate as it's supposed to, then the counties can say, Ok we have this much increase to play with, what are we going to do? As it is now, we're still negotiating with our corrections union. Operating off a uniform growth rate would be a great step forward. Jails have minimum staffing requirements; we have to fill shifts; that's a lawsuit waiting to happen.

Alexander: if one jail says they are going to lower the population, then where do counties without jails send their inmates?

Baldacci: Ponte took the maximum security inmates from Penobscot and put them in the state facility so that we could take on more federal prisoners to help generate revenue.

Flanagan: would like to get views from the judiciary (Chief Justice Laverdiere) at next meeting.

Meeting adjourned

Public Testimony

In addition to the public notice, an invitation to testify was sent out to all parties (insert #13). Included in that hearing, the following testimonies were submitted, (insert #15, and #16) from Elizabeth Simoni, Executive Director of Maine Pretrial Services, Fred W. Hardy, Franklin County Commissioner, and Steve Joy, Hancock County Commissioner. A report, *The New Asylums: Jail Swallowed Mentally Ill*, was presented (see Appendix XXXX).

**MAINE PRETRIAL SERVICES, INC.
9 GREEN STREET, SUITE 3-A
AUGUSTA, MAINE 04330
207-831-6849**

Commission to Study the Board of Corrections
32 Blossom Lane
Augusta, ME 04330

4 October 2013

Dear Members of the Maine Jail Task Force:

I am respectfully offering testimony regarding jail population control. I will reserve comment or opinion as to the efficacy of the Maine Board of Corrections and stick with a topic I know well: pretrial services, risk assessment, and pretrial case processing.

Maine Pretrial Services, Inc. (MPS) has been incorporated in Maine since 1983, and has remained dedicated to providing criminal justice risk assessment, pretrial release, supervision and case management. MPS currently has 44 staff, 25 of whom are dedicated to the provision of pretrial services, the rest of whom provide case management to the 11 problem solving courts. MPS provides criminal justice services in eleven counties (York, Cumberland, Knox, Kennebec, Oxford, Franklin, Androscoggin, Aroostook, Penobscot, Washington, and Hancock).

MPS collects outcome data based on measurements recommended by the National Institute of Corrections, "Measuring What Matters". In FY'12, MPS supervised 1764 defendants. 1747 of them successfully appeared for court, and 119 committed new criminal conduct during their release period. MPS saved 167,411 jail bed days. Weekly reports are also created. As of 9/26/13, 823 individuals were out on MPS supervision (pretrial, drug courts, reentry, etc). 514 of these people are pretrial defendants.

Pretrial services are an effective tool to relieve jail crowding. With the support of a number of county officials, MPS provides high quality, effective services. MPS is the first pretrial agency in the nation to receive national accreditation, a demonstration of adherence to the black letter standards of pretrial services. MPS utilizes objective risk assessment, independent verification, and risk based case planning for all releases.

However, pretrial services are still severely underutilized in Maine. Many counties have weak or little pretrial release programming. Far too many low risk defendants are incarcerated pretrial due to their inability to meet cash bail. Conservatively speaking, if pretrial case processing and bail were reformed in Maine, certain jails could experience as much as a twenty-five percent reduction in their pretrial populations. Pretrial release also impacts the rest of the justice continuum. Research shows that defendants remaining in custody are more likely to receive jail or prison sentences.

Jail crowding has been viewed as a problem for sheriffs, jail administrators, and county managers. Bench and bar have been conspicuously absent from these statewide correctional conversations, as noted by the recent NIC report. If prosecutors, defense attorneys, and judges accepted pretrial bail recommendations based on risk assessment, this crowding problem would be shared and mitigated to a noticeable extent.

The Arnold Foundation will be publishing a critical national study within weeks, based on Marie Van Nostrand's and Chris Lowenkamp's examination of over 750,000 pretrial cases. An advance overview indicates findings that inmates detained more than 48 hours pretrial are 4 x more likely to recidivate within two years, even when controlling for criminal history, risk, age, and other factors. Data for this study was gathered from 11 states (including Maine) as well as the entire federal system. A new, simplified risk assessment will be presented with this study. Like the risk assessment currently used by MPS, it will predict failure to appear, pretrial misconduct, but this new tool will also predict violence.

MPS plans to work with members of bench and bar to bring greater efficiencies and effectiveness to the process by an examination of this research, adoption of the new risk assessment tool, and coordinated case processing. We urge this group to consider these efforts as well. People go to jail and stay in jail largely due to judicial determinations. These determinations must be informed by risk assessment, and it will take the entire system to support this shift.

Jail population management, with the help of pretrial services, is a first step in reducing cost, enhancing public safety, and reducing recidivism in any system. Whatever your deliberations are, they must include this essential element. Pretrial justice informs the entire criminal justice continuum. Better decisions on the front end will aid the entire system.

Respectfully Submitted,

Elizabeth Simoni, J.D.
Executive Director
Maine Pretrial Services, Inc.

At the meeting, a county correctional budget procedure and county jail financial information were also presented:

Put in FY 10 - 14 Investment Fund Disbursements & Expenses.xlsx as Appendix XXXX

David Flanagan Memo 2 to Task Force Members

As previously mentioned, the task force was broken into five committees of three members each, to further study two problems of the top ten issues identified by the task force. Their instructions were provided by Chair Flanagan in the following letter:

October 1, 2013

To: Sub Committees
From: David Flanagan
Re: Issues at meetings

As you consider the issues which are the subject of your Subcommittee, you should bear in mind that our ultimate product should be a set of recommendations and draft legislation. The Legislature is looking to us for evaluating the pros and cons of different models of governance, and funding, and assessing the strengths and weaknesses of the current system, as a basis for making recommendations to the Legislature. You can be certain they are behind the efforts of this Commission.

The realistically possible alternative models for governance of the Maine County Corrections system are:

1. Construction of an independent BOC with an Executive Director reporting to or advised by a board of directors with mixed State and local funding.
2. Return to the prior system of control and funding by individual counties.
3. State DOC assumption of control, with responsibility for funding of the system.

There are as many variants as there are basic models, such as county management with mandatory State standards, State assistance on an incentive basis, some centralized functions, etc. But the fundamental choices are: 1) an independent authority with mixed funding, 2) county control and funding or 3) State control and funding.

So, as you examine the issues your specific group has chosen, please frame some of your work to include the thoughts of members of your committee on the following questions.

Thank you,
David Flanagan

Notes from Subcommittee Meetings

Each of the Subcommittees met at various times to discuss their questions prior to and after the October 4, 2013 meeting. Notes of these Subcommittee meetings follow.

Team V Meeting Notes

Tuesday, October 22, 2013

Conference Call (Senator Flood, Commissioner Baldacci, Captain Alexander, Bill Whitten)

Senator Flood, Bill Whitten, Mr. Flanagan, Rep. Peggy Rotundo, and Senator Hill met today to review expectations, review the appropriations process, and reiterate the intent of the letter.

- They would like to see the process work
- Flexible with what the end process will be – appropriate, efficient, with cost savings presented when budget requests presented
- Honest discussion amongst all parties regarding the need for change so the system can be successful and to support collaboration by all involved in the process.
- Expectation is that a “plan of action” with legislation/process to ensure success
- This was not a decision-making meeting but just introductory to give an opportunity to hear concerns

Suggestions

- Maintain state funding at a 2014 baseline
 - Either flat or with a slight yearly increase there after
- Uncap property tax
 - More incentive for counties to grow slowly by using LD1
- Remove state from future obligations
- BOC to distribute state funding
- Strengthen BOC authority
- Establish boarding rates (Federal and state)
- CCA formula established
 - With set outcomes/performance measures
 - Money follows the programs
- Create a viable BOC - state/county to see overall picture
- Strongly oppose state takeover of the system
- Need to simplify how the state funds BOC
- Need to create trust and symmetry with the Appropriations Committee.
 - Show efficiencies/progress/collaboration
- Legislation needs to be clearer on what the state is responsible for regarding funding/debt costs.
- Consider statutory language like OPEGA and Judicial Branch regarding budgeting requests that the Executive Branch should have to write a report to the

Appropriations Committee if the Executive Branch denies BOC requests to ensure the committee is aware of the situation.

- There are several filters that occur prior to the committee seeing requests from BOC.
- Committee does not hear about the debt.
- Clear language in the statute that states obligations/authority with incentives for efficiencies
 - Currently, efficiencies are a disincentive

Inverse Debt

- ?? Back to the counties – tax payers responsibility- approval of budget committees
 - Tax payer contribution to the cost of county corrections.
 - Counties then decide how this money is spent.
 - Statutory Language allows for too much interpretation

General Discussion

- Need to unburden BOC with the budgets
- Provide outline to the counties of expectations
- Base a % of your budget for specified programming – if you meet expectation then the money will be provided.
- Clean up the structure as currently it is “out of whack” and dysfunctional
- Possible: Allow counties to opt out of the system if they so desire.
- Some counties have not liked the system from the beginning.
 - Cause:
 - counties not receiving revenue as originally designed
 - Jails changed to 72 hr.
 - State not paying what was promised
 - Have issues with how the state treated the counties
- JAs/Sheriffs have spent too much time designing budgets, changing them, to be then told flat funded – make that work.
- Need to strengthen BOC, decrease time wasted, increase collaboration, and restore relationship with DOC/BOC/Counties.

Team W Meeting Notes

October 4, Cumberland County Courthouse

1) Too much time spent on budget approval-

The issue that has driven a tremendous use of time, almost certainly to the exclusion of other important topics, is deliberating about where jail operating funds will come from and where it is going to be spent.

EXAMPLE:

Sheriff Mo Ouellette was in front of the BOC seven times in one year to see where he can save a few dollars here and there. The scarcity of funds means that increasingly greater scrutiny or discussion of local onsite operations is becoming the norm.

ISSUE:

BOC should not have to be concerned with small items like # of miles and possible additional extended use of vans and similar management decisions. These are pure example of micromanaging budgets, which are likely to lead to uneven and inconsistent results, dispersion of operational authority and responsibility and broad brush “management” rules and procedures not appropriate for local conditions.

ISSUE:

Some counties are budgeting for fiscal years, some for calendar years. The BOC cycle is tied to the state fiscal year. BOC has sought “needs” budgets, while county response has ranged from requests for large increases to survival proposals tied to current spending levels.

ISSUE:

Funding has been constrained by meager resources from the state, including no appropriations for “inverse debt” replacement. “Growth rate” in funding has been illusory after accounting for withheld county funds, state sequester, initial budget allocations and supplemental appropriations.

GOAL:

Explicit standards for all jail budget submissions of budgets should be developed. The BOC should reconcile proposed budgets to funding levels after completion of the Appropriations process, and should provide the Appropriations Committee and Governor’s Office with reviewed, compiled state wide budgets, based on BOC budgeting standards, once completed. Going to the State is not an option, and neither is going back to the counties, due to tax problems.

See below concerning budget standards.

ISSUE:

Budgeting is not outcome or productivity driven. Plans for specialization through changes in function or mission have been resisted. Per inmate costs for routine operations vary widely. Requirements for contribution by counties to BOC budgeting are based on historical costs which appear to include disparate, and probably inequitable variances. Economizing by local management results in budget reductions and reallocations. Highly useful programs such as supervised pretrial release are not funded.

The original funding paradigm is necessarily infected with inequitable charges due to disparities in levels of facilities related capital investment and debt related to those facilities, existing

idiosyncratic budget differences and differences in service levels which may be not desirable to perpetuate.

GOAL:

Create operating and funding benchmarks based on historical utilization, adjusted for any anticipated increase or reduction in inmate population at each facility. Focus on productivity (modified “per inmate” funding) as basic core budget criteria for 70% of all funding. Develop differential rules and procedures for funding to account for different functions allocated to different facilities. Fund programming based on best practices.

Suggestion – use federal inmate funding formula as initial baseline.

Use a major portion of budget funding (30%) to address transition issues, fund specialized, more expensive programming (see below re: mental health crisis units) and begin transition to taxpayer equity.

Equity - focus on county payments to develop a “per taxpayer” cost for all statewide, property tax funded jail activity. Seek to incrementally equalize “per taxpayer (actually per capita) county revenue assessments over an extended period of time. Annual funding for this purpose is likely to be derived from existing resources and will have to be limited.

BOC should deliberate on these issues in depth. It is not up to this task force to anticipate and resolve the “in the weeds” issues. State policy makers, including DOC and funding decision makers need to have routine future involvement in the development of these undertakings.

ISSUE:

Requests for budget proposals and revisions have been chaotic at times, often with extremely short deadlines. Some counties have submitted budgets without votes from their Boards of Commissioners, most have been unable to have budget committee reviews.

RECOMMENDATION:

Previous reports have outlined systematic budget processes, which the BOC should adopt, with timelines, for the preparation of biennial budgets.

RECOMMENDATION:

The three possible courses paradigm discussed by some suggests (1) return to complete county operations and budget (property tax based) (2) divest county government from operations and budget and vest all responsibility in DOC (state funding) or (3) continue BOC process of statewide operations planning and budgeting and county based execution and operations management.

Given the corrections focus of jail operations, the persistent resort to county jails as a stabilization and treatment location for drug dependent and mentally ill citizens, and the

historic and continuing overuse of local property taxation for funding government operations, option one is undesirable.

Option two suffers from the problems of centralization of a diverse and geographically dispersed aggregate enterprise, and raises numerous logistical issues – multiple contracts affecting various bargaining units with labor contracts throughout the state, unreimbursed capital investments, some with associated locally sponsored debt, unintegrated retirement and benefits programs, including, in some instances, employees enrolled in social security programs not offered to state employees, and a large, currently unallocated budget commitment from state funds.

The recommendation of option three does not import agreement with the current budgeting and management problems. As noted above related to budget (and subsequently as to mental health issues,) the recommended action includes continuation of the BOC with a budget focus on funding largely (70%) tied to actual cost based funding of inmate census. The BOC should also use budget resources (30%) to encourage appropriate specialization (including, e.g., specially staffed and equipped mental health crisis units, shared inmate programming opportunities) and seek to diminish and ultimately eliminate unfair disparities in county per person property tax effort for support on the statewide system.

2) – Mental Health Issues at Jails

ISSUE:

County jails are resource of first, middle and last resort for mental health patients throughout Maine. Jail budgets sustain costs for diagnosis and treatments unless the jail refuses to incarcerate (casting the placement problem and costs back on the arresting agency) or Riverview.

There is a VERY limited capacity at Riverview, and jails are constantly looking for beds for severe patients. Riverview lacks the capacity and institutional commitment to be responsive to the forensic issues experienced by the jails beyond its current undertakings. At times there are waits of three weeks or more simply for evaluation. Jail budget includes extensive costs related to evaluation, diagnosis and treatment. Incarceration is used as a means of stabilizing both mental health and drug abuse crises.

Persons posing a threat to themselves or others are placed in settings inappropriate for the degree and nature of their health crisis, with the only personnel available for their care and protection being Corrections Officers. This is both expensive and far less than optimal for inmate protection. Inmates experiencing the most serious levels of mental health crisis have no access to appropriate facilities for their benefit, causing significant dislocation to the jail system. The budgeting proposals outlined above envision a 30% allocation for specialized purposes, including providing such specialized units.

RECOMMENDATIONS:

A proposal to create two units (north and south) with specialized capability to manage inmates in severe mental health crisis should be revived and implemented. Costs related to the operation of these two units should be understood as extraordinary to the sending jail and treated as outside the normal funding paradigm, as such costs otherwise unpredictably distort program budgets necessary for other functions.

The units should be understood to be a mental health operation with forensic capabilities, not an incarceration unit. The units should be operational at all times, staffed by professionals qualified for such mental health related work and able to accept inmates for stabilization, treatment, custody and care at all times. The recommended approach is through specialized units within the BOC jail system.

It is possible to consider DOC resources, which are located at the Supermax, which are of unknown capacity and availability. Use of such a facility for pretrial incarceration seems problematic for a number of reasons, including distance from population centers, co use of a facility designed for very serious offenders serving lengthy periods of incarceration, and isolation from community resources.

Team X Meeting Notes

10/13/13

5) No jail standardization

The committee feels, that when it comes to standardization, the first step would be to adopt and formally approve (update if necessary) the mission, goals and standards as determined by the BOC. This would be done as a formal agreement with the counties, the sheriffs and administrators. This would set the basis for all other standards, IE, does it meet the needs and requirements of the BOC and its mission? If not, don't do it unless you pay for it. If yes, need BOC approval if it increases your budget.

In addition to abiding by the BOC "standards" a system of measurement for each needs to be clearly defined, along with a time line for meeting those standards. This would then be turned into an annual form for each jail to fill out to present their accomplishments for the year, relating to the requirements as set forth by the BOC. This would be somewhat like a grant process, with the criteria for funding based in part, on this application.

In Fact: Jails go through a rigorous compliance inspection and must meet many standards. The areas we fail to coordinate or seek some level of standardization are in the areas of:

- programing,
- financial management,
- financial reporting,
- staffing,
- transportation,
- client risk assessment,
- contracted services.

- Programs.

Programs:

The system needs to work toward better trained, skilled work force, particularly at the administration level. This could be accomplished through hiring, but should also include training on a regular basis for all personnel, with specific requirements set for all positions. The costs of personnel needs to be evaluated for each jail, with specific, measurable standards set up for all jails, (or based on regional economics). Certain measurable standards of requirements for each type inmate must be developed to help understand the “formula” for jail staffing needs.

- This has essentially been left to the sheriff in each county. Alternative sentencing opportunities may be available in one county and not another.
- At one point a county that wanted to offer pre-trial services was blocked by the district attorney.
- Politics, judiciary, experience with programs, lack of imagination, lack of information all hinder the adoption of progressive programs.
- REMEMBER, not a single sheriff grew up in the corrections industry. They were trained as LEOs whose task was to fill the jail, not manage it. Management of the jail was on the job learning.
- Few jail administrators have advanced education in correctional practices.

Financial Management

A “growth factor” should be presented each year for budget guidelines for the counties, and they must live within that factor. If not, they will lose (?), if they do, they get their funding (?). If they are working within guidelines from above, then parts 3 and 4 below should be clear. The problem is, HOW to ENFORCE?

- Counties make financial decisions that cost the investment fund.
- Budget growth in some counties is above the norm and there is a lack of explanation.
- Counties operate deficit spending without any attempt to control costs.
- Counties ignore the statute and use jail funds for non-jail purposes.

Financial Reporting

Here again, the standards as determined above, must be met. If a county cannot report correctly, perhaps a fee to the BOC staff for filling out the proper forms, CRASS, etc. could be instituted?

- Let’s just say, “the level of expertise in financial management and reporting varies from county to county.”

Staffing

See above discussion- but standards can and should be set here, what is an equitable staffing team? How many administrators are needed per jail, based on their mission?

- Should be some standard for co/inmate ratio.
- Admin – needs a real look, top heavy in some cases.
- Transportation – how many is the right number?

Transportation

- Some jails have opted out of participating.
- See bullet #3 under programs.
- Staffing numbers lopsided in some circumstances.

Client Risk Assessment

Need to require jails to provide recognized pre-trial services. There are very strict standards in place for pre-trial, as required in order to qualify as “pre-trial”.

The bail system should be evaluated and revised to meet today’s technology. Bail should be based on severity of the crime, not ability to pay.

- No standard
- Maine Pre-trial and VOA use different methods.
- Jails use the model in their software.
- No standard for classification of inmates.

Contracted Services

Jails have saved hundreds of thousands by contracting out food service. Although this is a supposed “small item” on the budget spreadsheet graph, money can be saved by bidding out services on a regular basis, by combining with other jails in a specific area, or statewide, and require these bids are done and presented to the board of attempts to save. This would be done, again, after specific, measurable standards of service are determined for each facility.

- Counties have turned down these opportunities because of lack of information and afraid of loss of local jobs. Guess who the new contractor hires.
- No need to make strategic decisions when someone else is footing the bill.
- State bid participation could be better i.e. RX

7) Jails not “obeying the rules”

Here again, by getting each of the jails to conform to the guiding principles and setting measurable standards, there will be requirements for payment of requested funding. But the question comes down to “how do we get them to play by the rules”. Obviously, the system and the BOC (or other?) need to be given the authority to reward and or “punish” those who comply and those who do not?

Perhaps with a new ED and Finance administrator these tasks will be easier defined?

This area needs more work from the committee?

Also, how do we get the state to comply per statute?

Fiscal

- Jail revenues being used for non-correctional activities.
- Statute says the debt must be paid with the property tax, not jail revenues.
- Jails may not contract with each other for boarders.
- Jails may not send bills to sending counties.
- Counties shifting the cost of non-jail personnel onto the jail budget.
- Jail revenues being used to offset the property tax.

Not a “rule”, but not playing well in the sandbox.

- Jail dropping out of the transport hub system.
- Cherry picking transfers.
- Not participating in programs offered at other facilities.

Granted, the rules were not carved in stone but counties are using the smallest ambiguity to drive a Mack truck through the smallest perceived loop hole.

It was very clear and everyone agreed:

- ✓ Jail funds and revenues stayed with the jail.
- ✓ Debt would be paid through the property tax. This is in statute.
- ✓ The jail budget would pay for staff and functions directly related to the jail. The litmus test was if the jail went away would the position or function remain i.e. Payroll staff, sheriff etc. If the position remained it was not jail funded.
- ✓ There has been some creep as existing positions funding suddenly became a jail function.

In some cases the board has authority to manage certain functions and but the statute is weak on the exercise of that authority:

- **34-A MRSA 1803.2.B . Review Staffing Levels**
- **34-A MRSA 1803. 3. A. Adopt Standards for consistent statewide pre-trial.....**

Is the statute not clear?

- **30-A MRSA §701, sub-§-B, The counties shall collect taxes from the municipalities for the purpose of retiring the county debt in existence as of July 1, 2008 until the debt is formally retired.**

One 72 hour jail county has announced it is going to send its jail funding directly to another county. The irony is that their inmates are currently being housed by other counties, creating overcrowding, without any additional compensation for these counties.

Anecdotally, we are hearing that several counties are diverting jail revenues to the county side of the budget without any benefit to the corrections system.
The board should be encouraged to seek an investigation and opinion from the attorney general's office and if necessary seek relief through the court.

Team Y Meeting Notes

Problem- Why are pretrial populations so high? In fact, 60% of jail population is classified as pre-trial.

- 1) What factors determine the size of pre-trial population?
 - a. Important to first understand the numbers and whether or not someone is eligible to be released. Often individuals are classified as "pre-trial" for one offense but are being held on another charge that prevents their release until being processed in the courts. So, they are classified as pre-trial but cannot be released. Numbers can be deceiving.
 - b. The Bail System
 - 1) Do prisoners have the "cash" to post bail?
 - 2) Are bail commissioners asking the right questions?

A uniform risk assessment questionnaire ought to be developed to assist in whether or not to release someone. However, this leads to constitutional questions as well as who would administer assessment and do away with cash bail system.

- c. Lack of Consistent Prosecutorial Standards
- 2) Do pre-trial populations vary from County to County?
 - a. Yes
Why:
 - 1) Philosophical differences of DA's or ADA's-there is no consistency in D.A. policies. They keep the person locked up because they cannot convict.
 - 2) Lack of funding or threat of reduction due to funding reductions.
Should the average length of stay at jails be reviewed? This will identify issues within DA's office in terms of prosecution philosophy.
 - 3) Would the size or cost of pre-trial be different if:
 - a. The BOC were revised- yes, but would run up against the DA's, and 30-A programming.
 - b. Control reverts to Counties-depends and varies from County to County but slight possibility may be more incentivized to save money.

1. This would eliminate the constant “threat” of reducing pre-trial programming.
 2. Funding would still be an issue.
 3. Lack of consistency amongst counties leads to different treatment of inmates.
- c. State takeover- unknown.
- 4) Reforms to Judicial System
- a. Should support the Unified Criminal Docket (U.C.D.) and further enhancements to video arraignment.
This will help with the speed in which someone progresses through the system (resulting in less bed days) but does not necessarily help with getting someone out on pre-trial before the “trial”.
 - b. Endorse use of pre-screening risk assessment.

Just as much effort should be put into post-conviction programming.

- Alternative sentencing programs
- Trustee status to work off sentence
- Deferred disposition

Questions- need to understand:

- 1) What is the average length of stay at each jail?
- 2) What is average sentence length?

Lack of Authority for BOC (Team Y continued)

- 1) List the powers of the BOC- see statute. Other than exercising a limited amount of budget approval, it is unknown if other powers have been exercised.
- 2) Powers the BOC would need to govern the system
 - a) Final budget approval including line item approval
 - b) Approval of staffing levels
 - c) Shift the operational authority from the Sheriff to the BOC and County Commissioners to eliminate inconsistencies
 - d) Set boarding rates
 - e) Incentivize system
 - f) Manage bed space
- 3) How could the BOC be held accountable for appropriations?
 - a) Can only be held accountable if they have the authority.
 - b) No one else is to blame but themselves if proper authority is given.
 - c) Put stipulation in law which requires the BOC to request full funding for what they have been approved-not what’s politically appropriate.
- 4) Pros/Cons of a BOC which is accountable to:
 - a) The DOC

- Pros: effective and decisive decision making on the part of DOC for BOC inaction
- Cons: continued lack of trust- who are you in it for, lack of County Voice, BOC subject to will of DOC
- b) The County Commissioners (has to be some accountability since they are County employees and County facilities)
 - Pros: i.) Chain of Command is simplified.
 - ii.) Greater decision making capability in some Counties
 - iii.) Greater operational accountability in some Counties
 - Cons: i.) Lack of knowledge to run a jail in some Counties.
 - ii.) Consistency from County to County is not guaranteed.
- c) The Sheriffs
 - Pros: Single point of contact in each County
 - Cons: Meddled authority and continued inefficiencies
- 5) Pros and Cons of BOC that is:
 - a) Advisory to Executive Director
 - Pros: Greater decision making capabilities by E.D., ability to effectuate change in a more efficient manner.
 - Cons: Just one person making decisions for a very diverse clientele.
 - b) Manages the E.D.
 - Pros: Increased depth and breadth of knowledge
 - Cons: Delayed decision making, E.D. less willing to take chances.
 - c) Advisor to Commissioner of DOC
 - Somewhat counter intuitive to what we are trying to accomplish.
- 6) What efficiencies could be achieved by BOC with greater authority?
 - a.) Questions can be researched and answered.
 - b.) Can speak as one voice.
 - c.) Can affirmatively eliminate all of the “unanswered,” “unspoken,” “perceived problems” that have developed over the years and whether or not there is truth in them.
 - d.) Greater ability to manage the jail system in a more consistent manner.
 - e.) With a centralized authority, costs could potentially be reduced with command staff at each facility.

Team Z Meeting Notes

October 21, 2013

David Flannigan, Chair
 Peter Crichton, Cumberland County
 John Lebel, Androscoggin County Jail
 Bill Whitten, Cumberland County
 Alex Kimball, Cumberland County

- There is a net increase of \$3.5 million for FY14, based on Scott's report
- A few jails have some big jumps in expenses; overall 4% I/F increase (see Alex's report)
- Additional Goal ideas (per John's list):
 - Reduce recidivism in jails
 - drug court
 - veterans court – Kennebec County only, small population
 - educational program – provide educational opportunities, better odds; reduced to next to nothing now
 - substance abuse
 - mental health services
 - secular/faith based – helping inmates inside not as effective, aftercare more impactful
 - Need long term programs for effectiveness – current population is very short term – 75% pretrial
 - What would work for short term population? Drug court, veterans court, mental health court and aftercare programs
 - Pretrial service program
 - must be statewide and very effective
 - Pretrial Services of Maine & VOA only services
 - We need to expand pretrial service program throughout the state, get all jails onboard and figure out why some are not as effective
 - Need to include Title 30-A programming (sentenced to jail but not housed within Jail, i.e. house arrest/educational release/etc.) – won't have large impact
 - Alternative sentencing programs expanded regionally (prior recommended regions – i.e., Androscoggin, Cumberland, Oxford, York; funding benefits within regions; correctional authority); county makes money, no additional cost; Androscoggin has 300 inmates in this program
 - Work release
 - Public works
 - Electronic monitoring
 - Regionalize Jails
 - Reduce incarceration
 - Increase “good time” awards, award extra “good time” for work release participants as incentive – help with getting jobs after getting out of facility
 - Expedite court appearance, rural counties
 - Limit continuance requests – individuals backing up in jails
 - Limit mental health evaluations – Riverview – backs-up beds for jail needs
 - Probation not a huge offender; violation of bail conditions issues huge

- Straight sentences for repeat offenders – cut back on doing time via an installment program
- More mental health beds available to the system
- Medication compliance protocols for mental health patients in the community
- Cost of facility + cost of labor = stays close to the same when all beds not filled; flagship jails; impact of pretrial programs could free up some beds
- Achieve Efficiencies
 - Video arraignment – not a huge savings for all counties; video hearings can be more cost effective
 - Criminal Justice collaborative groups
 - Transport hub system – works in some areas, not well in southern regions, pretty informal, could be formalized with scheduling, etc.
 - Group purchases – some on State contracts for food; national vendors for other items; State contracts typically more expensive; no central hub controlling/reporting purchase needs
 - Contracting – difficult to make mandatory, especially given level of service from facility to facility; need to have ability for RFPs (skillset, money to hire writer, etc.)
- Reduce Rate of Growth & Costs
 - Mandate pretrial services
 - Consider medical insurance plans, inmates – affordable healthcare act may impact this
 - Create incentives for staff medical plans (re: nonsmoker, healthy weight, etc.)
 - Capital plans followed – maintain buildings
 - Tremendous savings if use internet based
 - Unify CBA's
 - Link management information systems across the state
 - Increase PT staff – though correctional academy changing training schedule/requirements; employee turnover not a big deal due to current economy, though has to do with qualified candidates

David Flanagan Memo 3 to Task Force Members

The third meeting of the jail task force was to take place on October 18, 2013 at 9:00 a.m., at the Marquardt Building in Augusta but was postponed to October 25, 2013.

Chair Flanagan sent task force members a letter prior to the October 25, 2013 meeting a requested reporting method that would be most efficient for the upcoming committee reports and an expected method for identifying solutions:

To: Task Force Members
From: David Flanagan
Subject: This week's meeting
Date: 10/22/13
Members:

You have been sent the formal agenda for this week's Commission meeting, but for clarification purposes, I would like to ask the committees to have their designee spend about a half hour each, describing your progress to date, and what you see as solutions. We will then discuss those briefly. For the next meeting, November 1, if you could use the following format as a general guide, and as much as possible this week, given time limits. I think this will help move us in a direction to prepare our final report and recommended legislation for the meeting of November 15 and finalization on November 22. Using one of the issues from Group W, as an example, please use the general format as follows:

1. Identify the PROBLEM, e.g. "Too much time spent on budgeting."
2. Identify the REASONS for the problem, e.g.
 - no standard format for submissions
 - no standard FY
 - no standard Chart of Accounts describing budget objects consistently
 - too many individual county budgets
 - excessively detailed budget submissions
 - no defined parameters for what levels or purposes maybe included
 - confusion as to party responsible for making the submission either to the BOC or the legislature
 - no enforcement mechanism for excessive or unreasonable appropriations requests
 - uncertainty as to the funding sources or amounts available
 - inconsistency in the philosophy and approach to budgeting of individual counties
 - State failure to meet its "Inverse Debt" obligations, creating additional uncertainty.
3. Describe the RESULTS of the problem, e.g.
 - no time left to attend to other BOC statutory mandates
 - volunteer BOC members, professional staffs worn down by unproductive hours of deliberation
 - confusion as to content of actual requests/no final authority
 - lack of credibility of submissions with Administration/Legislature
 - BOC does not know actual contents of final submissions to Legislature.
4. Possible SOLUTIONS

A. Return to County system where each decides and funds its own budget.

PROS:

- no need to standardize
- clear accountability for spending decisions

CONS:

- lose State support
- higher property taxes
- missed opportunities for economies of scale efficiencies

B. State unified system under DOC

PROS:

- certainty of timely, consistent budget submissions
- Legislative confidence in the process
- process encourages finding efficiencies and coordination of resources

CONS:

- uncertainty as to treatment of past county capital investments
- inconsistent treatment of county correctional personnel on different retirement systems
- multiple collective bargaining agreements

C. Continuation of BOC, as amended by, e.g.:

(i) Using the federal funding formula to develop costs

(ii) Allocating 70% of the appropriation to actual costs and 30% to specialized functions

(iii) Requiring use of a mandatory budgeting format, with non-inclusion of counties which fail to comply in State budget requests

(iv) Etc.

PROS:

- give finality, authority and clarity to BOC budget submissions

CONS:

- disappoint counties whose requests are reduced or not recommended for inclusion
- if based on actual costs, no incentive to economize

5. Which solution, A, B, or C best meets the OBJECTIVES set for this Commission:

A. Satisfying Legislative concerns

B. Creating the framework for long term financial stability

C. Creating the framework for long term stable governance and operations

D. Is most conducive to operating in accordance with the BOC principles

E. Is most conducive to encouraging operating efficiency.

I am also thinking if we stayed with the split county/State financing under a BOC with actual budgeting authority, what are the possible models? So far what occurs to me are

either a Legislative cap model (I), or a grant model (II), or a franchise model (III). I'm sure we can think of others as we go through this process.

I. Keeping the County cap + a State appropriation based on a formula related to general pop, inmate pop and inflation + conformity with DOC/BOC standards, allocated biennially, with any county spending over the formula amount the responsibility of the county exceeding its state allocation to fund itself. Such a model would incentivize counties to control expenditures.

II. GRANT: Keeping the county cap + a state appropriation available on a competitive basis for counties to meet certain standards. Such a model would again incentivize standardization and developing programs, but would require some administrative machinery to draft and evaluate grant proposals. Presumably the BOC would decide on grantees, though the DOC should probably have a voice.

III. FRANCHISE: Keeping the County cap + a state appropriation available to counties that met DOC contract specs for cooperation, coordination and efficient operations. Failure to satisfy the terms of the contract would result in reversion of the jail in non-compliant counties to DOC control.

Thanks,
David Flanagan

Summary of Subcommittee Recommendations

The review summary of the Subcommittee group findings and recommendations to date (October 24, 2013) was provided prior to the October 25, 2013 meeting:

A. Increase BOC Authority

Team V. Give BOC authority to manage only what funds the state pays, and uncap counties. BOC would distribute Community Corrections Account funded by state based on what counties are paying in debt service (inverse debt), plus amount currently allocated with fixed modest growth. Counties would be responsible for the remainder of their budgets.

Team V. Require executive branch to write report to Appropriations Committee if BOC requests approved by Appropriations are denied.

Team W. BOC Develop explicit standards for all jail budget submissions. The BOC should reconcile proposed budgets to funding levels after completion of the Appropriations process, and should provide the Appropriations Committee and Governor's Office with reviewed, compiled state-wide budgets, based on BOC budgeting

standards, once completed. BOC adopt systematic budget processes with timelines, for the preparation of biennial budgets as outlined in previous reports.

Team X. BOC Enforce existing rules. Revenues from state are to stay with jails and not be used to lower property taxes. There are designated sending jails and designated receiving jails (receiving jails are supposed to take in inmates from sending jails)

- a. Franklin, Waldo and Oxford send inmates out to other jails
- b. Jails over capacity also become de facto sending jails

Team X. Make new rules, regarding a. when jails can refuse what types of inmates; b. whether jails keep funds from federal prisoners; c. whether jails can choose to not release eligible inmates to alternative sentencing in order to refuse taking in inmates from other jails.

Team Y. Increase BOC authority by giving them power to:

- a) Approve budgets including line-item approval
- b) Approve staffing levels
- d) Set boarding rates
- e) Incentivize system
- f) Manage bed space

Team Y: Shift the operational authority from the Sheriffs to the BOC and County Commissioners

- Undecided about whether BOC should be accountable to County Commissioners or DOC, and whether BOC should only be advisory to Executive Director or hire/fire the executive director.

Team Y. Require the BOC to request full funding for what they have approved

Team Z. Give BOC final approval over total Jail budgets. Have jail administrators report to county managers/commissioners

Team Z. Give BOC staff of 4-5

Team Z. Ask counties to commit to standards and mission of the BOC and to working together to achieve those goals.

B. BOC set standards for jails state-wide for consistency and efficiency

Team V. Create financial incentives for efficiencies and specific types of programming.

Team V. Give BOC authority to: establish boarding rates, create Community Corrections Account distribution formula based on programs, outcomes and performance measures.

Team X. Create one shared set of objectives, standards, and measures for BOC and jails, plus a means to uphold those standards.

Team X. Implement standardizations which would save costs. Possibilities include medical treatment providers, prescription drug coverage, food service, transportation, programming, financial management, financial reporting, staffing, client risk assessment,

Team Y. Support the Unified Criminal Docket (U.C.D.)

Team Y. Support enhancements to video arraignment

Team Z. Achieve Efficiencies

- Video arraignment – not a huge savings for all counties; video hearings can be more cost effective
- Criminal Justice collaborative groups
- Transport hub system – works in some areas, not well in southern regions, pretty informal, could be formalized with scheduling, etc.
- Group purchases – some on State contracts for food; national vendors for other items; State contracts typically more expensive; no central hub controlling/reporting purchase needs
- Contracting – difficult to make mandatory, especially given level of service from facility to facility; need to have ability for RFPs (skillset, money to hire writer, etc.)
- Group purchasing of food & supplies

Team Z. Reduce Rate of Growth & Costs

- Mandate pretrial services
- Consider medical insurance plans, inmates
- Create incentives for staff medical plans (re: nonsmoker, healthy weight, etc.)
- Unify CBA's
- Link management information systems across the state
- Increase PT staff

C. BOC Incentivize pretrial services and programming that reduces jail population that uses evidenced-based practices

Team W: Continue BOC funding of jails with 70% based on inmate census and 30% to encourage specialization. Tie the 70% to actual cost based funding of inmate census.

The BOC should also use budget resources (30%) to encourage appropriate specialization (including, e.g., specially staffed and equipped mental health crisis units, shared inmate programming opportunities) and seek to diminish and ultimately eliminate unfair disparities in county per person property tax effort for support on the statewide system.

Team W. Fund programming based on best practices. Create operating and funding benchmarks based on historical utilization, adjusted for any anticipated increase or reduction in inmate population at each facility. Focus on productivity (modified “per inmate” funding) as basic core budget criteria for 70% of all funding. Develop differential rules and procedures for funding to account for different functions allocated to different facilities.

Team Y. Increase post-conviction programming.

- Alternative sentencing programs
- Trustee status to work off sentence
- Deferred disposition

Team Y. Develop a uniform risk assessment questionnaire to assist in whether or not to release someone.

Team Z. Mandate Pretrial service program throughout the state.

- Pretrial Services of Maine & VOA only services
- Get all jails onboard and figure out why some are not as effective
- Alternative sentencing programs expanded regionally
- Work release
- Public works
- Electronic monitoring

Team Z. Implement and fund programming to reduce recidivism in jails, including:

- Drug court
- Veterans court
- Substance abuse
- Mental health services
- Secular/faith based -aftercare more impactful than while in jail
- Need long term programs for effectiveness

Team Z. Reduce Incarceration:

- Increase “good time” awards, award extra “good time” for work release participants as incentive – help with getting jobs after getting out of facility
- Expedite court appearance, rural counties
- Limit continuance requests – individuals backing up in jails
- Limit mental health evaluations – Riverview – backs-up beds for jail needs
- Probation not a huge offender; violation of bail conditions issues huge

- Straight sentences for repeat offenders – cut back on doing time via an installment program
- More mental health beds available to the system
- Medication compliance protocols for mental health patients in the community
- Cost of facility + cost of labor = stays close to the same when all beds not filled; impact of pretrial programs could free up some beds

Team Z. Create rewards and punishment for following BOC goals and guidelines.

D. Create Regional Jail Districts

Team Z. Create 4-5 Regional Jail Districts

1. Cumberland, York, Androscoggin and Oxford
2. Coastal region
3. Somerset, Franklin, Piscataquis, Kennebec
4. Northern Area – new jail Washington, Aroostook, Penobscot
5. Need a fifth regional jail along RT 9 in Clifton or that area, to service the surrounding counties, with all jails becoming satellites to the 4/5 flagship jails, under the authority of either the BOC or regional jail authorities. The BOC could oversee this re-organization and then becomes obsolete?
6. Make Waldo and Knox 72 hour holding facilities.

Team Z. Have county jails become re-entry centers for state inmates.

Meeting 3 Summary

The third meeting of the jail task force took place on October 25, 2013 at 9:00 a.m. at the Marquardt Building in Augusta. This meeting was dedicated to review of the subcommittee group reports.

Jail Task Force Minutes
Meeting Three - October 25, 2013

Present:

Aaron Frey
Pat Flood
Capt. Marsha Alexander
Bob Devlin
Joseph Ponte
Greg Zinser
Peter Crichton
Peter Baldacci
Joel Merry
Mo Ouellette
John Lebel
Max Dawson
Mark Westrum
Bill Whitten
David Flanagan
James Cloutier

Chair Flanagan noted meeting with Chairs of Appropriations Committee recently regarding Jail Task Force and how pleased they are with the momentum of the task force and their want to be helpful.

Report from Committees

Team V

Marsha Alexander & Pat Flood reporting

- Innovative Programs
 - Reviewed other programs from other Jail Admins regarding sacrifices/stopped planning for.
 - Reviewed diversion programs, including ones State doesn't participate in.
 - Reviewed reentry programs.
 - 72-hour jails were effected – work release program not being utilized, so inmates losing jobs
 - Chair Flanagan asked Marsha to quantify – 7 jails responded, 8 did not, Marsha did not have number of inmates.
 - Penobscot County would have to cut programs if don't receive 3rd quarter payment.
 - Kennebec County already cut CARE program.
 - Androscoggin reduced as well.
 - Alternative sentencing – advertise more with DA's to help reduce the jail population.

- Diversionary programs – jail cost for monitoring, but decreases jail population; if funding is decreased, would cut program contract or position. I.E. 25 people on program in Kennebec is \$75,000.
 - Look at program further due to the decreased population
- Jail Admins felt BOC should have more authority and funding
- Sen. Flood’s funding process
 - Coordinator system currently isn’t working as efficiently as it could, esp. due to lack of trust and need to believe in system and trust system before changes
 - Upcoming legislature – language revision to statutory inverse debt funding
 - Upcoming legislature – BOC gets same statutory language as budget request/denials, denial portrayed back for accountability (establishing trust)
 - Participating counties could budget on baseline, bringing in initiatives, like other government processes, causing a justification process
 - Suggest additional authority to BOC
 - Simplify budget process to avoid rework
 - Suggest State and participating Counties make 10 year committee to work together (giving long term trust)
 - Discuss pros and cons of having participation by different counties voluntary
- Peter Baldacci
 - Focused on funding part of discussion. Must think bigger. Is it realistic that State will fund properly their obligation under current system? Take a step back and review history. BOC plays a roll and State should fund what currently funds and have a baseline for 2014, uncap property tax. Currently very little incentive for local citizens to make changes for lower taxes. BOC would distribute funds, based on need.
- Questions
 - Zinser – How would you envision the baseline be determined?
 - Baldacci A: Establish baseline of State contribution based on needs county presented and then going forward with a cap so as not to exceed. Five years of capped property taxes, so County would still bring in the same amount of income. Would give property tax payer more accountability.
 - Max – When you say baseline budgets, are you talking about flat?
 - Flood A: Almost. If you maintain baseline with an LD-1, anything beyond that would written as a paragraph with justification, like State Departments.
 - Max: Employee benefits would be part of the baseline?
 - Flood A: yes
 - Frey – Only 8 counties responded, so your presentation was based on the 8 counties who responded?

- Alexander A: Yes and no – I did research a lot of Avesta, etc. for further information.
- Frey: Shows that a lot of counties aren't ready to buy in if they aren't responding or willing to engage in a conversation. Hard to establish trust if half aren't engaged.
- Alexander: Am continuing to reach out.
- Merry: Correction working group evaluating programs offered at 15 jails as it relates to community correction account funding. Do have a matrix with a 100% response and will share with committee.
- Westrum: Each county was asked to submit fiscal impact statement regarding flat funding, with 90% response. We have inundated the counties with lots right now, so there might be a lot of confusion out there right now.
- Mo: There's so many different people asking Counties to have something in ASAP, procuring certain amount of frustration. Need to streamline. Case study today just in seeing how many people have reached out with various levels of response.
- Frey: I hear people are responding to other things, so why aren't they responding to this committee, who will change everything. It suggests to me they aren't taking this seriously.
- Flanagan: What would impact be if went back to County tax system, what would cost of different alternatives be?
- Westrum: Difficulty will be with caps vs. other counties and bidding wars, which impacts local property tax.
- Ponte: Other option would be go back to full service.

Team W

Mo & Jim Cloutier reporting

- Too much time spent on budget approvals
 - BOC shouldn't have to be concerned with smaller things like mileage on vans.
 - Some Counties on fiscal years and calendar years, so not all on same page – BOC should all be on same State fiscal year if continuing with same system.
 - No appropriations for inverse debt. Need to discuss growth rate.
 - BOC should reconcile proposed budgets after completion of appropriations process.
 - Budgeting shouldn't be outcome of productivity. Why three programs to fund when you can cross send inmates to a good, working program.
 - Look at inmate population nights as baseline for budget allocation decision making.
 - Flanagan: Budget processes so different in each county – how do we compare when everything different?

- Cloutier: BOC needs to standardize budgets so everyone is looking at same thing and understands.
 - Westrum: BOC issue lies with Counties don't all enter data into the system the same way. No way to discern it with in the Crass system. System is good, but people perceive it differently. Not looking to micromanage everyone, but at the end of the day, can't make a true decision.
- Mental Health Issue
 - Find ways system could deal with inmates who have mental health needs and can't get access to them for a few days or weeks.
 - If could split state in half and have a Mental Health location in North and South and have BOC pay for that specialization with a portion of the funds.
- Recommendations
 - Option one isn't working.
 - Option two suffers more problems.
 - Option 3 gives BOC better budgeting.
 - Questions
 - Frey – Was there any consideration that Warren 2015 jail opening would have positive or negative impact?
 - Mo A: Location and services and legal council availability an issue. Having just one place is an issue due to travel, family, legal council, etc.
 - Cloutier: If specific places were developed, better care available for patients, vs. an officer who may not be qualified to truly handle suicide watch.
 - Flanagan: Does anyone have statistics one how many people during the year have mental health issues during year?
 - Alexander A: Recently 2,245 days in correctional facility; 454 day wait, 252 people in Kennebec County (due to current compliance inspection, due to why currently overpopulated).
 - Cloutier: Budgeting for medical staffing and medications, especially for psychotropic medicines, is going way over.
 - Merry: These inmates are going through system very, very slowly and hold up beds, causing overcrowding and budget drain.
 - Devlin: Attitude of we know they're in a safe place, so what's the rush?
 - Flood: How would the facilities work?
 - Cloutier: We don't want to build anything. Want to try to reconfigure and utilize current spaces and buildings.
 - Flanagan: How does that work with keeping close to home?
 - Cloutier: Would help stabilize faster.

Team X

Bob Devlin reporting

- Standardization
 - BOC formal agreement with Counties, like a grant process to formalize financial aspects.
 - Staffing standardization for inmate to staff ratio
 - Bail system
 - Transportation – ratios of inmates to transportation
 - Some systems have opted out of a hub
 - Client risk assessment
 - VOA and Maine Free Trial use different methods, based on various software used – need standards there
 - Contracted Services
 - If State already bid it, a county doesn't have to go out to bid – can jump on State bid
 - Many people want to keep dollars local for vendors, helps votes, etc.
 - Jails create jobs
 - Programs
 - More programming going on than given credit
 - Can do a lot to better coordinate and regionalize programming
 - Regional programs with some participating and some not
 - Financial reporting standards
 - Individuals interpreting what lines certain costs should be, which is interpreted differently by others
 - Jails don't follow the rules
 - Invoicing other jails for housing
 - What does jail budget pay for, who does it pay for?
 - Board authority
 - Board can review staffing levels
 - Adapt standards for state wide pretrial (don't currently have though)
 - Debt challenge
 - 72 hour jail sent out with no collections
 - Mo: About bail situation, wanted to remind Committee of CACK report, a lot of work done on bail upgrades and Committee should review. Legal council in some counties states can't piggyback off State bids. Staffing levels are being reviewed – serving two masters – counties don't want to pay for staffing increased Board recommends.
 - Devlin: Absolutely. Went through process of hiring 12 but due to budgeting issues, now down 13.
 - Flanagan: I'm trying to get a handle on contract savings generally. Big or small? Will appropriations committee wonder why we're asking for money?
 - Devlin A: Food contracts, saved lots and the contract company hired current cooks and paid more. Political realities are that local jobs may be lost.

- Mo A: Can be substantial savings. Will provide recent report we did for ideas on how much.
- Merry: A big contract is pretrial services. Only two in state. Need to look at these and regionalize these services which might save lots of money. It's an area to open up. Some counties are trying to do it on their own – how will that compare to contracting out?
- Mo: Pretrial huge
- Alexander: There are some jails that don't do pretrial services, but it's a huge cost avoidance and cost savings. VOA offered to do state wide service.
- Devlin: A lot of got into pretrial as a population control, but it should be a best practice standard.
- Cloutier: Contracting in Cumberland County was shown to be hard to quantify. Need benchmarks to design the system.
- Alexander: Need to look at Sheriffs and Jail Admins and get the Commissioners, DA's, Judges, etc. to get buy in or statutes for authority and vetoes along the way for initiatives so BOC has genuine authority.
- Flanagan: What percent of inmates would pretrial affect? What are your numbers? What are the basic fixed costs?
- Baldacci: Shifts that would normally be filled aren't being filled if the office on duty determines there wouldn't be stress on shifts.
- Devlin: Some indication would be the 72 hour holds.
- Whitten: Please send info to me and I will disperse it, for continuity.
- Flanagan: We need to see what each subcommittee is doing.

Team Y

Zinser reporting

- Level of authority of BOC
 - The idea of serving two masters – the BOC and the Counties
 - See the statute for powers of BOC, but real question is do they exercise any of them?
 - It's fairly limited
 - Powers they would need, but not limited to:
 - Line item approval, operational authority to BOC from Sheriff, boarding rates, incentives, manage bed space
 - How accountable?
 - Exercise authority – if not, no one to blame but themselves
 - BOC forced to submit budget approved, with political winds aside
 - BOC accountable to DOC, creating a better chain of command, better decision making process
 - Cons would be lack of trust
 - BOC accountable to County Commissioners- as county dollars and staff are pertinent

- Cons, too many decision makers at local level, push and pull at local level, muddled authority
 - BOC have an Executive Director – one person in charge
 - Cons one person making decision for diverse clintal and counties who all have varying needs, delayed decision making, Board reporting may make ED hesitant
 - What advantages?
 - BOC speaking in one voice, manage jails in more consistent manner
 - Merry: A regional approach, creating options for all of us to work together. We need to incentivize finding savings/efficiencies. If not participating, funding stops. Should look at growth rate and create a system that is clearly spelled out.
- Pretrial issue
 - Why is it so high?
 - Person classified as ineligible to be released due to holding on various probation holds or violations.
 - Cash bail issues. People indigent, nature of crime causes high cash bail.
 - Numbers are deceiving as to what the pretrial count is.
 - Are right questions being asked? Need to standardize questionnaire.
 - Lack of consistency with prosecutorial standards.
 - Cloutier: Please elaborate?
 - Zinser: They aren't using it as a tool to enhance their convictions. If you look at average number of bed days, when you see variable numbers from one county to another, it leads you to ask why is there so much variance. ADA & DA's use as tool to hold people to freeze situation.
 - Merry: Based on practices that are certainly well intended, especially due to complexities around cases and prosecution. I don't think it's a practice that is a gross deviation. It's very case specific, especially when probable cause exists and case is still developing and it's a public safety issue.
 - Jeff: Puzzled by comment. If someone's being held because can't make bail, accelerates time for hearing.
 - Varies greatly county to county, especially due to budget issues.
 - Costs would be different if BOC revised and could control program better and incentivize.
 - Merry: Pretrial unknown if there was a State takeover. There should be a statewide best practices/contracts. A lot of exploration would be needed.
 - Support a unified criminal docket
 - Support enhances for video arraignment – bandwidth requirements
 - Focus on alternative sentencing programs

- Frey: As we identify issues with judicial system and holdings and video arraignments, encourage conversations at local level with important players, but does it pertain to BOC changes? These conversations could be happening already at the local level.
- Merry: There is a statute and coordinate council but the group disbanded. Would look at sentencing practices. I would suggest we create a committee to review that again, reviewing sentencing practices.
- Baldacci: A recommendation of the CACK report was a fiscal note if sentences would be elongated. It was in the law, it was working, but only lasted about 2-3 years and legislature removed it as a requirement because wanted tougher laws, but didn't want to pay for it. Also, noted that BOC has authority it isn't using, but important it doesn't become this all-knowing head. We need to focus on regionalize with the hub system and not stifle what would happen with a regionalized system.
- Flanagan: We will focus on this next week, with pros and cons of all those issues.

Team Z

Peter Crichton and John Lebel reporting

- Fiscal Cliff
 - 3rd quarter only 25% funding left
 - Working with Scott Ferguson and Alex Kimball to understand where we are
 - Created a tool – BOC-O-Metric, with all of the option being a tremendous impact on outcome.
 - There's a lot of variability. Best case scenario: \$2.2 mil (all 3rd and half of 4th quarter goes out). Worst case scenario: \$4 mil (3rd quarter paid out).
 - This is based on actual budgets, not flat budgets.
 - Ferguson: Depending on what the variables are, which are determined by the Board. Haven't gotten word if actual vs. flat budget, fuel rates, etc. Can have discussions with counties about variances, but no one to hold them accountable and tell them to bring things down.
 - Alex reviewed FY'13 IF requests vs. FY'14 IF requests slide (in packet). Biggest difference is in revenue increases, translating in a 4.7% increase in expenses. There is nothing consistent about these numbers, it differs tremendously county by county.
 - Devlin: We put our CARA program in for funding and put the 12 positions back in that were mandated to have – there's costs associated with that.
 - Ferguson: Sagadahoc and Lincoln depends on Two Bridges. They should be included in the overall analysis because they do effect things. Also, when you look at federal boarding that has dropped. Franklin is presenting as a full blown jail.
 - Kimball: Federal Boarding is tricky to determine.
 - Ferguson: Recommend to keep Federal and general separate to get a true sense of reporting.
 - Cloutier: Do you carry over your federal revenue excess over each year?

- Ferguson: Yes, carry it forward each year.
 - Kimball: Speaks to core of issue, with state vs. county budgeting. County can't carry over, but state can. Is there, but can't carry over as a revenue.
 - Devlin: Can go into a CIP.
 - Ferguson: Not considered a revenue, it's a source. On the books to be used for the fiscal year.
 - Kimball: It's not an option for us to do it any other way.
 - Westrum: Concerned about Federal Boarding dropping.
 - Ferguson: We know who's submitted what.
 - Flanagan: Flat vs. Actual would help?
 - Ferguson: I wouldn't bank on thinking you would make it on flat funding.
 - Kimball: Is flat funding a viable option. This tool is to help each determine which works best for them.
 - Crichton: Tool is helpful in understanding. Don't promote flat funding, but focus on priorities. Talked about many options to fix funding, but need to make some tough decisions.
 - Mo: CCA hasn't kept up with actual cost. 5.8 is far under budget. If you take CCA money, and shift it to another county, are we gaining anything?
 - Crichton: With regional jail authority at Two Bridges, options to do things differently.
 - Devlin: Board looking at it. Not relevant today. Doesn't fit population trends.
- Goals for BOC
 - Reduce recidivism
 - Drug, veteran courts
 - Enhance mental health courts
 - Secular and faith based aftercare programs
 - Reduce growth and costs
 - Mandate pretrial
 - Medical coverage for inmates
 - Follow through with capital plans
 - Alternative fuel sources
 - CBAs
 - Privatization
 - Pretrial programing
 - Achieve Efficiencies
 - One size doesn't fit all
 - Transport hub
 - Video arraignment
 - Group purchasing
 - Contracts

- Reducing Incarceration
 - Reduce amount of good time awards, provide incentives (getting individuals employed to assist in stability when released)
 - More mental health beds
 - Bail reform
- Plan for State takeover
- Baldacci: Is there a plan?
 - Ponte: We don't have a current plan. One was made in 2009, but not updated.
- Lebel: Seriously look at regionalization. 4 different correction authorities. Elephant in room about what happens to authority of Sheriff and Commissioners. Would force to collaborate in a smaller group. Reduce to set of 4 makes more sense, vs. current 16.
 - Flanagan: That elephant has to be recognized at next meeting. Must figure out best way in the interest of the people. Can't have both systems (State and County). This is our responsibility. I can't see the State coming up with the additional funding before having things worked out.
- Westrum: If you go to Two Bridges' website and read the various legislature for regionalization.

Zinser: I'm having trouble reconciling all the talk about the funding of the system and what our role is in that initiative. What is our role? Isn't it ultimately the BOC who is responsible for the funding?

- Flanagan: The purpose of this group isn't to come up with budget or manage financially the funding. It helps with the layout and it shows inconsistencies in the 16 different decision makers. We are charged with giving the legislature options for a model, but one that is different than the current model to gain the trust of the legislature. Our job to come up with a creditable, long-term solution.
- Cloutier: How do you resolve 3 or 4 fundamental questions? Funding comes down to, "what are you going to pay for" and what are you going to do with the money. We really are used to regionalizing things anyway. The disparate funding through the years is a result of the need to equalize the funding efforts for the jail system. People in Maine may have to deal with non-equal funding, how do you resolve the inequity.
- Flanagan: At next meeting, have three plans to review – one state takeover, one county and one BOC retains. We need volunteers to put together the review. Let each contingent make its case.
- Baldacci: I would be willing to work on a plan that retains BOC but defines its mission more clearly and has the County running the jail with BOC statewide guidelines and return to local country for funding increases.
- Whitten: Should we vote out the first two options since the committee seems to be all in agreement?

- Flanagan: I want to be able to report back to legislature that we considered all options.
- Merry: I will work with Peter.
- Cloutier: I will pitch local control.
- Zinser: All of the solutions we've discussed can be placed within the three outcomes we've outlined. Maybe best way is to go through all three and discuss solutions for each.
- Flanagan: You've pointed out there's an infinite spectrum. Our job is to reduce that to a manageable number.
- Crichton: When you are talking about the concept, what do you mean about counties? Regional jails?
- Baldacci: Yes, I think it would make sense. It's worked at Two Bridges and it should definitely be looked at. The funding responsibility would go back to the County. It would give incentives for counties to look at each other and try to do better, cheaper together.
- Crichton: I am interested in a more statewide approach with a regional approach with BOC having more authority while having counties keep a more defined role. I will work on that.
- Flanagan: I don't want it to add another layer and cover something in the system to have it not work again.
- Crichton: It's the right thing to do because it will rebuild trust.
- Merry: Before the bottom fell out, there was a group of four counties in Midcoast overseen by Com. Ponte, to start talking about regionalization pretrial, reentry, high-risk classifications. It was very constructive and we all felt heard.
- Mo: We had an extra building and we reached out to Southern Maine and the reentry program works fairly well now. Maybe it goes a long way to sit side by side and work for the same thing. At the end of the day, the statute says we have to run a jail. So what if Oxford County sends their people down to my OUI program?
- Zinser: For the record, I am very concerned to head down a road and undue the tax cap at this time. It would not be very widely accepted.
- Flanagan: If you have a formula for annual growth set at a certain percent with a cap, then you need something above the cap, you'd have to go to the voters.
- Baldacci: The legislature has placed on the State, this unending future liability for funding all jail increases. Is that sensible? Or is it sensible for the State to contribute some. It's not possible for the State to continue exponentially, and it will hit the tax payer no matter what – through state taxes or county taxes.
- Cloutier: I don't think increasing taxes in Cumberland County is a good idea. It is a very difficult issue due to the size of property tax issues and people's income. It's always worth a discussion thought.
- Westrum: I hear what Peter's saying. But I don't agree. When our jail is carrying 60% of another counties and only receiving half of the payments for each, you can't go back to your tax payers and ask them to cover the difference.

- Mo: Regionalizing would allow charging to a more specific area due to the region. Make the costs more pertinent to the market you are serving – Southern vs. Northern.
- Devlin: Incarcerating people is a societal issue, not a County issue. Municipalities only have one place to go – property tax. Maybe we start a talk about a County tax for funding the jails.
- Alexander: Outside Maine, in Tampa jails funded by Buccaneer’s. Maybe we start to look at alternate sources of funding.
- Flanagan: Maine already takes a larger GDP. I don’t think we need to increase revenue.
- Devlin: We pushed to get on this task force because we believe in what we’re doing and want to make it work. Plenty of people would just assume see it fail.
- Flood: Seems like we should have a governing principal to build in some incentives to build trust. You can’t talk or legislate your way through things – you have to take action. In the long run, if we could simplify the budget lingo, it would help with talking past each other. If we standardize lingo, would make it helpful.
- Two committees in favor of the reconstituted BOC.
- Commissioner Baldacci chairman of one group; Commissioner Crichton and Cloutier another group; Flanagan to work on County reversion model.
- Flood: You’ve put it on the record. It’s public record now.
- Whitten: I will work on the other two committees, willing to help.
- Flanagan: We will reconvene next Friday. In the meantime, if you have any questions or suggestions, please let Bill or I know.

At this meeting, Assistant Attorney General Andrew Black provided questions to the committee, which were presented to him by the BOC (insert #30).

Following this meeting, Chair Flanagan requested three groups to come together and present, based on the information accumulated, the three options presented to the commission: 1) State takeover, 2) Return back to the way it was, and 3) an amended version of the current system. Out of this discussion, two additional courses of action were developed: 1) a regional jail authority and 2) county cap.

Subcommittee Meeting – Regional Jail Authority

The regional jail authority group was chaired by Peter Crichton, with other members as defined by the included minutes of their meeting on October 29, 2013.

Jail Task Force Subcommittee Meeting
 Peter Crichton – Regional Jail Concept Group
 October 29, 2013

Peter Crichton
Mark Westrum
David Lebel
Sheriff Kevin Joyce
Mo Ouellette
Greg Zinser
Jim Cloutier
Alex Kimball
Wanda Petterson
Bill Whitten

Option 1

BOC

|
Regional Jail Authorities

South – Cumberland
York
Androscoggin
Oxford

Coastal – Sag – Linc
Knox
Waldo

Central – Penob
Hancock^{or}
Franklin
Somerset
Kennebec

Northern – Aroostook
Wash
Piscat



BOC

- More authority than present

Regional Authorities

- Board of directors
- Organized similar to Two Bridges w/ the jail staff authority employees
- Regional contracts for medical, food, etc.
- Reallocate the staff & management structure
- One union contract

Westrum: Two Bridges concept is based on Virginia Regional Jail model, ownership shared. Came out of lack of beds in Bath and the further away they were housed, the harder it was to program. Met several jail authorities in Virginia and worked to put together the legislation. Jail Bond passed legislation and at referendum.

- 6 members from each county are on jail authority, 12 member BOD.
- Retained a lot of local control, making local decisions about jail, inmates, employees, etc.
- Jail Administrator works for Jail Authority, which has committees.
- Has operating governance agreement, spelling out rules and regs.
- Has cost sharing agreement – bond for facility was split equally, but operating budget based on number of inmates from County. It is now a 50/50 split no matter what.
- Multi-County Jail Authority can vote to accept a new member if another county wanted to come in.
- Retain local controls
- Cap = \$12 mil. with more counties, wouldn't need State if Waldo and Knox joined.

Zinser Q: If could do it within cap, would you still need BOC with greater amount of authority?

Westrum: I don't think so. More BOC authority is a little scary because people have agendas. The more control that can be kept in the Counties working together, the better we'll be in the long run. A Regional approach is the way of the country.

Ouellette: How do you set yourself up to be successful 2-3 yrs down the road?

Zinser: I like the operating within the tax cap, but how do we do it down the road. If we don't come back with something in terms of legislation that addresses the BOC, we might need them in a couple years – will they let us go that route? Should we keep status quo with BOC?

Whitten: Who would that Jail Authority report to?

Westrum: When you look at budgets and duplication, we could get along fine for the first 3-4 years. We won't be able to live within the cap forever. Have thought about the LD1 model to keep cap reasonable but also able to operate.

Crichton: We'll all need funding for capital needs. Maybe we think about a funding formula?

Ouellette: The four counties Mark's talking about fit well together. Before we figure out what we'll do in 2-3 years, what would it look like and how would it work in other regions? How does that shake out?

Westrum: If we could agree with MCCA, MSA that we are a system, I think we can answer that. Other counties could have joined, but they chose not to. A regional concept with less BOC oversight could work.

Crichton: What if Regional Jail Authorities don't do anything? Who's going to be responsible for making sure that things get done? Right now the BOC deals with 17 different entities. With the regional aspect, only overseeing four.

Lebel: I see the BOC as a policy making entity, overseeing.

Ouellette: Then we're answering to BOC, DOC, etc.

Zinser: Look at schools – why can't the BOC have a central office, like the superintendent's office. DOC should be left out of the equation. There needs to be some metrics to ensure Counties doing what supposed to be doing. How do you incentivize though for a few years down the road?

Lebel: Not convinced we give up the funding and operate within cap. I think we take the funding and use it for capital repairs. We could have a flagship jail in each region, need to build one in the Northern region. So money needs to be set aside.

Zinser: My concept is the region is assessed to establish a new facility. It's not a BOC responsibility, it's a county responsibility and jail authority responsibility.

Cloutier: EcoMaine issued its own bonds based on its revenues for building. A regional jail may get a revenue mix we aren't thinking of. That sort of financing doesn't have to compete with other things. Regional Jail Authority should be receiving revenues to sustain and refresh jails over time.

Zinser: Perhaps Jail Authority should be given bonding authority with a cap for upkeep and major renovations, but not new construction.

Westrum: Our regional jail has the ability to bond, with consent from Commissioners from both Counties.

Ouellette: I caution Jim about where revenues would come from – look at Somerset. If we used Two Bridges and kept BOC and the state funded the Inverse Debt, we'd be fine.

Whitten: Go for a flat amount, like \$15 mil a year with a 3% growth factor. It could be built in so it's not a request each year.

Lebel: Looking for solutions so we aren't revisiting what we're seeing now 5-10 years down the road. Whatever we put together, it has to be solid.

Zinser: I don't think they'll give us that money without maintaining some semblance of control.

Lebel: We need to see what we can come to consensus within three weeks.

Crichton: How do we feel about regional jail authority?

Joyce: I'm not in favor of it. Each county should be able to work it out amongst themselves before going to someone to run the jail. Someone in Oxford doesn't know what's going on in Portland. I get the scaling back on administrative stuff, but I don't know if we could scale back anymore. Accreditation is important to us, but what if it's not important to others?

Cloutier: I disagree. The system is a mess and it's had a negative impact on many, including Cumberland County Jail. Looking for ways to cut back because the local control isn't working. I don't think there will be great savings, but there will be better operations. Consensus does work, and people do work together.

Lebel: Sheriff Joyce's concerns are legitimate but regional layout is coming down the road. We need to look at how to belay some of those fears and controls to make things function. How do we address that?

Cloutier: Ok, so he cares about accreditation and it costs \$50,000, but other members of the region feels money should go elsewhere. How do we resolve that?

Lebel: Why couldn't BOC set same policy – must be accredited. Make it part of best practices.

Zinser: We could address issues and concerns like that through the structure of the Jail Authority. Maybe language about all initiatives currently in place must be maintained/continued, so that in this example Cumberland County doesn't lose accreditation. Does being accredited or the process lead to better performance and cost savings?

Joyce: What works for us, might not be on the radar screen for Oxford or others. Dealing with homeless and shelters within winter, others might not really care because so different than Portland.

Zinser: I envision some local autonomy within the Jail Authority. As long as acting within the confines of the budget, should be able to. I don't think the Authority should approve if Cumberland County Jail wants to open the kitchen on a cold winter night to help out the homeless.

Joyce: The elephant in the room is Somerset. They're doing their own thing. We've never had 15 jails working together. I don't want a BOC takeover. We are proud of our jail. We are like county with York, but we're not like Oxford. We've tried to work together on contracts. There will be hardships if getting these counties together. I don't feel I should make a decision about Androscoggin because I don't know a thing about it.

Ouellette: There has to be some discussions about who has authority to do what. There are many times because of the money issue that we can't do things because Commissioners make decisions. At the end of the day, I have to run a safe facility. If it's regional concept and I'm on committee with regional folks, so be it.

Crichton: Kevin Joyce plays a key role and we need to work together. I think we're at end of the rope if we don't make some dramatic changes – the DOC will be running the jails in five years. I don't think that's right. The Counties do a good jobs at running the jails.

Zinser: The local control is the white elephant. For the system to be successful, how do we get over that? I think we look at model of town government. What about local jail authority, that assembles like town council and they are ultimately responsible to the overall jail authority. We need to look at how locally management is going to happen.

Crichton: I think we should go through Dave Flanagan's sheet.

A. Overall

1. Where would each of the 4 regional jails be located? (see Peter's layout)

Zinser: Each region should have flagship facility. Would Androscoggin be best suited in South?

Lebel: Population in that region, fairly large. Maybe shared flagship between York/Cumberland.

Crichton: Coastal and Northern populations small. Central could provide services if needed. Not impossible to realign over the years. Looks pretty good to me.

Whitten: There has been discussion to do a regional jail on the Airline Rd. in Bangor.

Westrum: There's a Denise Lord layout as well. Coastal was Bath to Machias.

Kimball: I reconfigured based on this and Central is large. South was \$35m, Coastal was \$15m, Central was \$26m and North was \$8m.

2. Counties would continue to own jails. Language needs to be included to retain ownership.

Crichton: In terms of new facilities, could be joint venture.

Cloutier: Facility owned by county unless other agreement established.

Westrum: How do you feel about paying York's debt?

Cloutier: Funding question. But must figure out a funding model.

Westrum: Franklin isn't paying a penny for their people in Two Bridges.

Cloutier: System must be fair and equitable.

Zinser: Midcoast paying all the tax debt and that's hard.

Whitten: What about taking the capital, have a capital fund and put the debt in there and it makes it fair.

Cloutier: Now we're going to do something wider and bigger than a county, but currently not a viable option. Just because you paid off your debt, doesn't mean you are free and clear.

Whitten: This would start as soon as this passes. If we don't do something, the state is going to take it over as soon as possible. We have to do something. This is it – the line is in the sand. By July 1, the state will have the jails.

Crichton: Bill I take what you say very seriously. So we've got to do it now. We are going to have to do some funding figures.

Zinser: If counties retain ownership, then they retain debt; if facilities are retained by jail authority, they have debt.

3. What facilities shut down?

Up to regional authorities.

4. What are the sources of savings?

Administration, staffing, group purchasing on a local/regional level vs. for whole state, negotiations, one union contract for regional jail authority

Petterson: Consistency of staffing, one set of rules, one set of benefits, contracts.

Zinser: Would all staff be employees of jail authority?

Ouellette: You just tell them that's the deal.

Crichton: It's a great opportunity because 69% of the costs are employee related.

Zinser: I don't think the savings would be there.

Crichton: I disagree. The greatest increase are on the employee side.

Zinser: Our union hasn't gotten raises because insurance so expensive. In terms of overall, insurance costs so high.

Crichton: I think that's an opportunity though – there could be savings there.

Ouellette: Salary-wise, I don't think we'll save much.

Joyce: We have NCU-teamsters. County with highest wage would be standard, so we all go up to same level.

Zinser: I'm not saying cost savings wouldn't be there. In admin staff, lots of people need to be there. I'm not so sure how, knowing personnel costs.

Cloutier: Any savings would be conjectural, and if savings, put it back on the costs. Maybe more efficiencies.

B. Governance

1. Would county participation be required?

Yes. Not option to not participate.

Cloutier: No, you're in. You have registry of deeds. Have right to operate only if participating and have license. Can prevent counties from suing. Have an ADR process- refer disputes to BOC and their decision is final.

2. Who would make up the governing body?

Zinser: Different with Mark because jail authority owns his stuff.

3. What powers would regional authorities have?

Zinser: If counties owns building and their employees, are you not going to fight for your employees and capital repairs? I see a deadlock with other jails.

Lebel: Could we transition into that type of situation? I think authority needs to assume it all.

Zinser: I don't think in a shared facility, you can separate the costs and bricks.

Crichton: I think existing ownership stays with County with existing facilities.

The authority wouldn't have been created if they didn't have to build a new facility.

Zinser: I'm not debating it. But we don't have the time and we need to really discuss all the small, important little details so we don't reach an impasse.

Crichton: Maybe we put in legislation that regional jail authorities doesn't come in for a year, so we can have the time to figure out the details.

Whitten: If we go in with a plan, stating we don't have the time to situate the details, we could possibly get the funding and the time.

Ouellette: I agree with that concept.

Westrum: When are we going to face reality? The answer in Augusta isn't that we need more time, it's that we need more money! We have to have some answers other than saying we need more time.

Crichton: I think we need to have a planning committee that meets to discuss the regional issues. We are going to use the time to develop policies and procedures.

Whitten: This is one of four options on the table. One direction is going to be decided next Friday. Once that is picked, moving forward then we figure out the details.

Ouellette: I have an issue with the Governor wanting to take over another 300 state employees. I think Comm. Ponte said it all. They don't have a plan right now. I think we're being pushed, but we need it.

Lebel: The level of detail we need is nearly impossible by Friday.

Whitten: We need to show progress. We need to show consensus agreement. Then work out those details. I think they understand that.

Zinser: Is it the common consensus that this is a funding and management issue?

Westrum: That's how it's been conveyed to me.

Zinser: Ok, assuming that, if I was a legislator, would I grant a supplemental request? The money I'm asked to appropriate is based on a system that didn't work.

Whitten: I have been told yes. There are going to be startup costs. If we can show we're doing something, the supplemental is available.

Crichton: Do we get a resolution passed in Cumberland County to show legislation we are serious. Enter into agreements with other counties?

Zinser: question – on a date certain, this will move forward. It gives us time to work out problems. Then jail authorities established and on a date, the

assume authority. This means we're running two parallel tracks – the current one and maintaining and starting up the new one.

Whitten: In meantime, we need to establish some authority of BOC for the time being because can't continue exactly as is.

4. What powers would new authorities have?

Zinser: Are we still in a BOC system? Does it have a greater amount of authority? Why do we need a DOC moving forward?

Ouellette: Because they are the standards that are set now. When we got sued, AG and DOC weren't helpful, when we were under their guidelines. I don't think they are needed.

Zinser: The BOC then becomes like a State set-up.

Ouellette: We're looking at what are the standards for running the County Jail.

Zinser: The issue should be, let's not underestimate what the DOC provides. I'm looking at more of the operational aspect.

Crichton: I'd rather have them close and working with us than nothing. I think the legislature will want the DOC part of this because they're funding it.

Lebel: I think being an advisor would be great.

Ouellette: I'm just saying we should bring it down to our level.

5. What is role of BOC/DOC?

Westrum: We've talked with the DOC about centralized and regional issues and bringing them together. We would make up a board of five county and four commissioners.

Zinser: What is the state function of the BOC? It could just become another layer of bureaucracy. How do we set it up so we don't all agree at the county level, then have to go to regional jail authority then to the BOC level? Will the state go for it?

Whitten: It would seem you would still want a central authority.

Zinser: Right, but how do we morph it? Do they just take on the payroll, HR, admin tasks?

Whitten: This gets into setting standards and DOC requirements. Set 2% growth factor, but no more.

Zinser: But is it the BOC's job to then go sell it to the legislature.

Whitten: I don't think they have a right to agree or disagree with the budget. They don't know specifics of what is going on at the local level of the jail.

Zinser: Mark, what do you see as roles of BOC?

Westrum: In a County driven system, the BOC to me would be the central office. The oversight board, the funding mechanism, standard setting, overseeing programs. It would be the job of the regional jail authority to manage their budgets. Each region would have one single set of rules for everyone.

Ouellette: When counties do budgets, once number agreed on number, does the money go to authority and they manage it?

Westrum: Yes. Used to be you paid based on your amount of inmates in the system.

Ouellette: I see trying to run the facility with the money raised in that region, the authority has to take the money and manage it. Each county in each group, all money goes into authority and move forward.

Whitten: Additional money could come from cap doled out by BOC.

Ouellette: We need to have an honest conversation about boarders, because different in North than South. At end of month, I should send bills for boarders through the BOC. This way we know money is coming in.

Zinser: But would be up to jail authority for staff hiring. I just want to get rid of the push/pull, too many hands in the pot. End case – you need more people, present to jail authority and make case.

Ouellette: Yes. I know what I need. The problem has always been I want to move forward, but yet I don't get it because there's no trust in the BOC, the State doesn't get it. We need to get away from this.

Zinser: Employees would have to travel. Assigned to authority.

Westrum: That is dangerous.

6. Who would decide on classification of inmates?

Would it be statewide?

Lebel: I feel like we're getting into the weeds. I think there's a template for how to transfer into this type of setup. Why recreate the wheel? We need to decide on the concept and then take a look at what's put out there.

Zinser: I think we're coming to conclusions with BOC and Regional Jail Authorities more than we thought.

Ouellette: 99% of BOC is budget related. They can't do anything else. I think it'd be great to know that inmates are coming and know I could call Kevin and say, "hey..." We can take pressures off because we're part of a system.

Whitten: the southern region is probably 60% of the population in the set up presented.

Zinser: I want to be clear that the jail administrator would be moving the inmates around – females to one, max to another, etc.

Ouellette: The sheriff would be part of the jail authority to help to move around.

Westrum: Right now, if I get a call from Piscataquis, I can say no, but if I get a call from Scott, I can't say no.

Zinser: I think the person saying no should be the one who manages the bed space.

Crichton: Why do we think the other regions will go along with this without a group to help maintain and administer and get things moving? Who's going to do that if not the BOC? I think we need to figure out how the BOC will make these changes.

Whitten: I think members of the Jail Task Force would help move forward with the BOC.

Zinser: It's easier for us because we're in the same room, same level of understanding. Is same thing going to happen up North? Who's going to ensure that within a year, their jail authority will assume control? We can't down here? Sounds like there should be a model piece of legislation to implement.

Crichton: Could have corrections group assist or take to task.

Zinser: That could be tough.

Crichton: Given state take over, I don't think we have much choice.

Westrum: I think BOC needs authority. It needs to be like DOC. It does create another level. But it allows oversight. I don't think it should micromanage if I'll buy a car next year, the jail authority should be in that.

Whitten: This is where the regional authorities come in. The purpose of the regional is because they know what the real needs are. It's just a matter of BOC passing budgets within assigned requirement standards. They could focus on standards and procedures, accreditation, etc.

Westrum: The issue we ran into in the beginning was the scrubbing process by the BOC. The regional authority should.

7. Who would decide on capital budgets for facilities?

Ouellette: It's a regional thing.

Whitten: Where does the money come from?

Zinser: Is there something we have to throw the state?

Whitten: I was thinking that \$12-15m could be managed by the BOC, controlling the state funding, based on review.

Zinser: Are we foolish to think that the State is going to give the money down without some sort of accountability back up to the state?

Whitten: If we could set a certain amount and BOC had bonding authority, it could work. Just use the state revenue as security for bonding.

Ouellette: Conversation with Governor about Counties keeping some portion of taxes/revenue.

Whitten: They are aware of that. I think they'd at least look at it. We agree that the BOC oversees capital based on proven needs.

8. Joint contracting and standardized accounting

BOC sets standards for all jails.

Westrum: We sort of skipped over the question of specialized classification.

Whitten: It's the special definition – male/female.

Crichton: I feel it's more like Knox becomes female facility, etc.

Westrum: So would regional authority make that decision or BOC?

Zinser: I think that's a hard decision to make at this juncture. I think we need to figure out where those pods exist as we move forward.

Whitten: This gets to standards, set by BOC. The BOC would have to work with the authorities to set these up.

Zinser: There's going to have to be some money available to the BOC to do this. I can't say right now what the layout would be, because we don't have

the budgets set up. Maybe this goes back to basic costs, incremental costs for pods, etc. Who funds this and can BOC impose this?

Whitten: This gets back to four members of BOC board help make up the board and one member from each authority also.

C. Funding

1. Federal Funding/ Revenue

Zinser: Federal inmate funding is allocated to the regional jail authority.

Whitten: It gets back to all inmates are created equal. If it's a regional authority, it's a regional authority in all ways.

Zinser: (in response to Peter's note about Cumberland County deferring Federal Funding): Comes back to "are we going to get paid or not" – we'll kill system again. All in or all out. End of story.

Crichton: I don't want to set up the regions and have them just become silos.

Whitten: A percentage could go to BOC of federal prisons to help offset funds.

Zinser: Could be used as an incentive, but tapped into if extraordinary circumstances.

Kimball: Make it explicit that BOC can come after fund balances.

Zinser: It makes is a failsafe for extraordinary circumstances.

Westrum: You'll see in the handouts I passed out, we are required to carry 3% in a reserve in an operating reserve fund. Leave the federal funding to the authority and the region. It's less that the BOC has to deal with. Fund balances are really set in place for when people leave and we have to pay out their vacations, for example.

Zinser: I think this comes down to a fundamental layout of county, state and municipal budget setup.

D. Savings

Whitten: I think we've actually covered all of these.

Statements:

1. Whitten: We brought Mo over, so there's participation.

6. Zinser: We need to come back to the investment fund dollars and capital.

Whitten: If we do a flat fee per year with a growth amount, this way it doesn't come up every year and it's all together.

Zinser: As long as we are clear it isn't investment fund or capital. Call it more appropriations.

Whitten: We haven't talked about it today, but we need to standardize what every item means for the Crass system. We need to have the same accounting system and words and definitions so all on same page. Ferguson has said the chart of accounts is built into the system, but are not followed and people do not want to learn.

Kimball: What if we switched Penobscot, Aroostook, Washington and Hancock. Piscataquis would go to Central.

Westrum: Need to consider the DA office locations as well. The closer we can align the counties and the regional jail authorities the better.

Zinser: What's the concern?

Westrum: Transportation and Courts.

Kimball: Makes numbers a lot more even.

Zinser: Will we be hauling people all over creation?

Westrum: If we could utilize more video arraignment, it'd be fine.

Ouellette: It's the greatest thing since sliced bread. It works very well. It's great with juveniles, takes a lot of time/manpower away. Same with medical appointments.

Westrum: We're also doing divorces, probate and telemedicine with video.

Zinser: Have heard grumblings of the privacy aspect due to various bandwidths, etc.

It was agreed Crichton would discuss this on Friday with participation from all, that there was general consensus this is a good road to travel and much was covered in this meeting.

Alex Kimball provided the following chart to the Regional Jail Authority group, showing how each grouping of counties fiscally fit together:

Name	Investment Fund Requests				Overall Expenses				I/F increase as percent of 2013 expenses
	FY 13 IF Request	FY 14 IF Request	\$ Increase	% Inc.	FY 13 Expenses	FY 14 Expenses	\$ Inc	% Inc	
South									
Androscoggin	\$ 687,017	\$ 935,704	\$ 248,687	36%	\$5,553,577	\$ 5,808,001	\$ 254,424	4.6%	4.5%
Cumberland	\$ 2,220,663	\$ 2,417,216	\$ 196,553	9%	\$17,561,597	\$ 18,121,612	\$ 560,015	3.2%	1.1%
Oxford		\$ -			\$1,307,072	\$ 1,449,071	\$ 141,999	10.9%	NA
York	\$ 1,010,906	\$ 1,010,906	\$ -	0%	\$10,340,569	\$ 10,150,763	\$ (189,806)	-1.8%	0.0%
Total	\$ 3,918,586	\$ 4,363,826	\$ 445,240	11%	\$ 34,762,815	\$ 35,529,447	\$ 766,632	2.2%	1.3%
Coastal									
Knox	\$ 146,549	\$ 263,407	\$ 116,858	80%	\$3,704,529	\$ 3,821,387	\$ 116,858	3.2%	3.2%
Lincoln					\$437,542	\$ 446,195	\$ 8,653		
Sagadahoc					\$396,965	\$ 429,686	\$ 32,721		
TBRJ	\$ 2,035,672	\$ 2,737,533	\$ 701,861	34%	\$7,222,552	\$ 7,904,586	\$ 682,034	9.4%	9.7%
Waldo		\$ -			\$2,151,148	\$ 2,240,849	\$ 89,701	4.2%	NA
Total	\$ 2,182,221	\$ 3,000,940	\$ 818,719	38%	\$13,912,736	\$ 14,842,703	\$ 813,109	5.8%	5.9%
Central									
Somerset	\$ 1,121,767	\$ 1,121,767	\$ -	0%	\$6,805,069	\$ 6,757,381	\$ (47,688)	-0.7%	0.0%
Franklin		\$ -			\$1,130,142	\$ 1,576,470	\$ 446,328	39.5%	NA
Piscataquis	\$ 314,563	\$ 418,115	\$ 103,552	33%	\$1,478,208	\$ 1,582,110	\$ 103,902	7.0%	7.0%
Kennebec	\$ 652,134	\$ 1,346,177	\$ 694,043	106%	\$6,940,090	\$ 7,379,758	\$ 439,668	6.3%	10.0%
Total	\$ 2,088,464	\$ 2,886,059	\$ 797,595	38%	\$16,353,509	\$ 17,295,719	\$ 942,210	5.8%	4.9%
North									
Penobscot	\$ 637,848	\$ 1,102,646	\$ 464,798	73%	\$7,467,895	\$ 8,042,693	\$ 574,798	7.7%	6.2%
Hancock	\$ 311,949	\$ 311,949	\$ -	0%	\$2,228,172	\$ 2,288,372	\$ 60,200	2.7%	0.0%
Aroostook	\$ 465,760	\$ 829,935	\$ 364,175	78%	\$3,165,599	\$ 3,529,774	\$ 364,175	11.5%	11.5%
Washington	\$ 261,586	\$ 391,000	\$ 129,414	49%	\$2,376,750	\$ 2,503,664	\$ 126,914	5.3%	5.4%
Total	\$ 1,677,143	\$ 2,635,530	\$ 958,387	57%	\$ 15,238,416	\$ 16,364,503	\$ 1,126,087	7.4%	6.3%
Overall	\$ 9,866,414	\$ 12,886,355	\$3,019,941	31%	\$ 80,267,476	\$ 84,032,372	\$ 3,764,896	4.7%	3.8%

Subcommittee Meeting – County Cap

The county cap group was chaired by Peter Baldacci, with other members as defined by the included minutes of their meeting on October 30, 2013.

Jail Task Force Subcommittee Meeting
County Cap Group (Peter Baldacci's Group)
(via conference call)
October 30, 2013

- County Cap is seen as removing the cap on the county property tax, have a BOC with more clear roles set out, state funding continue with current level with a cap on their increases in the future and build in a growth factor.
- The County would submit budgets to BOC and the BOC would have discretion as to how to use the funding, based on whether Counties are using services available to them or not.
- Sheriff Ross: Getting funds through different stream created problem. The funding issue is the issue that has crippled the jail system. The benefit of having local funding is time (more efficient process) and decisions made locally.
- Sheriff Merry: A system where we could pay for programs and services that are felt to be needed to meet goals. A model where the fund income is from the Cap and the state and anything raised locally is important. It's effecting local people. Counties left holding assets and State telling them how to control those assets. Look at the school system – BOC could set standards like Dept. of Education. It would be great to not have to work within the cap, to be able to go back to BOC and ask for more if needed something.
- Baldacci: I think there's some value in coming up with a State amount plus growth so not working with a moving target and spending time with budgetary meetings.
- Merry: I agree. I'm not sure why BOC doesn't have a growth cap set. It would be the target for everyone, including State cap.
- Baldacci: BOC hasn't bothered to set growth rate because they've been told there will not be any growth. Should be the growth of state funding, where the counties are under LD1. Local for Counties is different than towns saying they want local control. Counties are regional to begin with. Baseline – look at what will be spent in 2014 and that is assured with a modest increase moving forward. Counties could get funding if needed by residents.
- Collins: Liked Sheriff Merry's idea of defining what are essential services in County Jails similar to the school funding model. CAP baselines were never clearly defined (what should be included or excluded) which was a problem from the start. The challenge facing all jails now is funding? The old model of funding Jails through local taxes worked. Commissioners and Budget Committees were diligent and frugal. If we return to the old model, Jail increases should be governed by the LD1 because it's based on your own county growth factors. There has been hard feelings expressed about who receives CCA funding in the past. I believe facilities that do their job with alternative programs, should share in those funds and while facilities that don't, provide alternative

programs should not. If State funding were to continue I would suggest it be tied to a COLA.

- Baldacci: Return to former system, but with BOC. Issue is what is role of BOC? What should they spend time on? Old system Counties were siloed and didn't want to collaborate. BOC would have right to issue new jail construction or major construction. It would be a statewide board made up of commissioners and sheriffs. BOC could set rates for boarders.
- Merry: Inmates were a commodity and were traded for funds. How can you have the invest fund at a certain level and counties pay for boarding out for inmates.
- Baldacci: If we had system with current state funding, counties could get extra needs from property taxes and boarders could be funded from state fund.
- Merry: I would have to look at numbers.
- Ross: Should this be part of consolidating jails?
- Merry: Oxford County already contributing \$200,000 to investment fund. If it cost more to board out, they would have to go back to taxes.
- Baldacci: The investment fund is being funded by three jails paying in as if they are a full service jail. If they opened as such, they would have to get money from the state or property taxes. It would reduce the number of boarders in system, reduce transportation, but their budget would be greater than 2008. It would be up to the BOC then to distribute.
- Ross: County jails were regional lock-ups for its municipalities. Need to bring it all back locally.
- Baldacci: Transportation is a huge burden.
- Merry: If jails could get State funding it could work. BOC would set guidelines, so each jail would have to meet certain criteria to get funding.
- Baldacci: I think that's a better roll for them. The BOC has to play a roll. We are taking a lot of what was good about the old and moving forward.
- Whitten: In this model, who would build and approve the budget?
- Baldacci: The townspeople would build it. The BOCs role would be to mandate program in order to receive share of funding. Similarly to the CCA formula, so people weren't counting bed days and coding crimes. BOC wouldn't allow new construction to protect tax payers. Would have clear decisions to get funding.
- Whitten: What about capital and federal inmates?
- Baldacci: When we do budgets for the county, we have a capital budget built in. Role of the state: we aren't asking the state to pay for a new roof, it'll be in our budget.
- Merry: Exactly. The State has no plan for taking care of capital needs that they're tell us how to operate.
- Baldacci: You know in the future there will be huge capital repairs. Especially with new jails.
- Ross: Federal boarders, BOC doesn't have a role with, other than having the County budget what they are going to have for federal boarders.
- Baldacci: It will be transparent in the budget, clear what it is. We need a simpler formula from the State. But overall budget is with County.

- Merry: It's very difficult to build it in to the budget though. Can affect higher or lower revenue amounts. There's no easy way to count on it.
- Baldacci: How do we deal with a surplus? It should go into a capital account. It shouldn't pay for non-jail functions. The State looks at federal boarding like we're taking money out of their pocket.
- Ross: What happens when you get excess inmates and have to board them out? We need a relief valve. People can never lose site that the jails are local resource for community.
- Whitten: What would happen if State didn't provide flat funding?
- Baldacci: Sen. Flood assures us that that won't happen.
- Whitten: Under this system, would this model require standardized accounting?
- Baldacci: This would be a positive.
- Whitten: Crass is supposed to be standardized with chart of accounts, but each county has different system and State has different fund. Do you find that to be true?
- Atkins: Standardized accounting would be great for reporting and looking at trends. These are small problems to be followed by the BOC. Federal boarding is a great problem to have. When it comes to E.D., should be the numbers guy for the BOC.
- Baldacci: Would be beneficial and BOC should work on with Counties.
- Whitten: We've gone through much of the questions. What are the efficiencies that would happen?
 - Baldacci: I think our program is great for efficiencies. Currently there is are no efficiencies. Any efficiencies will save our property tax payer, so if we save money, they are directly affected. We'll see a lot more County collaboration with this model. Now they don't get rewarded. Now it would be a true incentive because have to face taxpayers directly. Hope to reduce amount of transportation going on. Keep inmates closer to home county, get work releases, cases resolved faster because closer to home.
 - Merry: Rather than complain to the state for money, make changes to not cost so much.
- Whitten: Is there an opt clause?
 - Baldacci: If you opt out, do you get no state funding or CCA money?
 - Collins: Somerset and Franklin may opt out. Seems like everyone else is in. If they opted out and receive no funding, what would those numbers look like?
 - Ross: Let's just make the system so they feel they want to be part of it, not punished.
 - Atkins: If counties go back to being in charge of each budget, it won't matter. The CCA monies should be used to allocate to individual county needs. You won't rely on it.
 - Baldacci: We are so intertwined now, so if we go to this plan, one of the benefits would be allowing counties to regain more control with a state subsidy. They'd get reasonable boarding rates, etc.
- Whitten: What the MMA?
 - Baldacci: They should be happy. They were late to the party.
 - Ross: MMA wanted to be advocate but has been silent.

- What if jails are shut down or opted out and lose funding?
 - Morton: It will affect municipalities on a big level.
 - Baldacci: Police departments need to be on board as well.
 - Merry: There's a separate unit of staffing for central office and booking. Some sheriffs have been closing down CO or booking for some hours to help with costs and man hours. Has a direct impact on local municipalities.
 - Ross: We've toyed with it too. The impact on the municipalities is huge. What has been lost is the value that the local records database has on the municipalities. By going to the state BOC system, it would separate everything that ever happened before they get booked out of the system.
 - Whitten: We are switching to all Spillman as well.
 - Ross: Governance issue: we don't have to set up at the state level. Those decisions would be made by each County, as fits each County.
 - Baldacci: We're saying the Governance goes back to the County with the Sheriff and Commissioners.
- Baldacci: Are we good?
 - Whitten: How do you go from here? How do you want to report?
 - Baldacci: I'm not wedded to David's format.

Meeting 4 Summary

The fourth meeting of the jail task force took place on November 1, 2013 at 9:00 a.m. at the Marquardt Building in Augusta.

PUBLIC NOTICE
COMMISSION TO STUDY THE BOARD OF CORRECTIONS

Meeting Agenda
NOVEMBER 1

Marquardt Building, BOC Conference Room, Augusta
9AM - Noon

Call to Order

- I. Introductions & Review of Meeting Expectations (Chair)
- II. Review of Options
 - a. Return to County Control and Responsibility (Chair)
 - b. Adopt a State Unified System (Whitten)
 - c. Amend BOC/Create Regional Authorities (Crichton)
 - d. Amend BOC/ Increased County Role & Responsibility (Baldacci)
- III. Comments of Rod Miller re BJA Report (Miller via phone)

- IV. Discussion of pros and cons of options presented
- V. Straw vote on principles to incorporate in legislation
- VI. Discussion of outline of the Commission Report
- VII. Discussion of next steps and timetable

Adjourn

Jail Task Force
Meeting 4
November 1, 2013

Present:

Pat Flood
Aaron Frey
Marsha Alexander
Bob Devlin
Cindy Brann
James Cloutier
Peter Crichton
David Flanagan
Greg Zinser
Peter Baldacci
Joel Merry
Mo Ouellette
John Lebel
Max Dawson
Mark Westrum
Bill Whitten

- I. Introductions & Call to order
- II. Expectations
 - a. Flanagan discussed the process in which the commission went through to arrive at this meeting.
 - b. Each group to get a 15 minute forum to present their proposed solution, with a short discussion allotted afterwards.
 - c. Rod Miller will give his analysis afterwards.
 - d. Define contents of final report to legislature and draft response.
- III. Peter Baldacci's Group Presentation – County Cap Proposal

- a. Retain BOC with same membership arrangement and appointment process. BOC would require certificate of need for any jail expansion or expenses above and beyond budget.
 - b. BOC to set boarder rates.
 - c. State funds would come in from counties and be distributed by BOC. They would still continue to fund, based on a formula like the LD-1 growth factor.
 - d. Additional funds necessary would return to counties through budget process. The county taxpayers would be presented with budget needs.
 - e. Counties cannot opt out of the system.
 - f. BOC would require standardize accounts, establish essential services and programs (pretrial, reentry, etc.) and establish growth rate.
 - g. Jails make decision to become full-service or 72-hour holds locally, but must operate within the funding scheme.
 - h. Any surplus generated by a jail must be used by jail operations in a capital fund.
 - i. Require executive branch doesn't fund, must explain to appropriations committee.
 - j. Currently, no incentive to not spend at jail and money coming from State. Incentive to save money when have to face the tax payers to ask for more money.
 - k. Inmates would be in their hometown jails, closer to employers, families and lawyers, to allow for pretrial cases to continue to work and get through system faster.
- IV. State Unified Corrections System – Cindy Brann
- a. Reviewed 2006, 2008 and 1996 reports
 - b. DOC has infrastructure currently, with regional offices. Already working with jails.
 - c. Do not need mass-hiring or infrastructure set-up.
 - d. Have standardized classification system already, with web-based data administration system, which can expand for entire system.
 - e. See financial analysis provided by Brann.
 - f. System is present in 6 other states, so could work in State of Maine.
- V. Regional Jail System – Peter Crichton
- a. Can't go back to way things were if want to create efficient process.
 - b. Currently, 76 regional jails in 21 states. In Virginia – only way.
 - c. Peter reviewed the 4 regions (see regional map).
 - d. Would still have BOC and regional jail authorities, with counties owning the jail.
 - e. Regional authorities to decided what/if jails shut down.
 - f. Assure continued property tax relief, provide opportunities for collaboration especially with mental health.
 - g. Regional purchasing and admin efficiencies.
 - h. County participation is mandatory.
 - i. Each County would send representatives to the Board.

- j. Staff would be employees of regional jail authority.
- k. BOC would be statewide policy making authority, including contracting and service programs.
- l. BOC would enforce standards.
- m. BOC would ensure funding meets needs of jail authority, as well as issue bonds.
- n. Joint contracting would not be mandatory so Counties can work together and build decision making into jail operations.
- o. Standardized accounting for regions.
- p. Federal revenues have three options for distribution.
- q. In extraordinary circumstances, would be responsible for going to BOC to ask for more funding if unable to balance the budget.
- r. Provides lots of opportunity to improve processes and the system and create many efficiencies and collaborations.

VI. Questions

- a. Flanagan: Cindy, how did Maine reduce its medical costs? Do the models and incentives presented reduce costs in your experience?
 - i. Brann A: Analysis was done regarding what medications were being used and found we were overmedicating patients and providing some that inmates would not have gotten on the outside. Once reduced, costs reduced. Regardless of if you're with a State or County facility, you're still accountable to your taxpayers because it's ultimately their money. We can't go on spending rampages if surplus. Empowers administrators to be in charge of making those budget decisions. I think all proposals have merit.
 - ii. Baldacci: State started out with high cost point, so once in control, costs went down. We were never at that high point.
 - iii. Flanagan: According to a chart passed out, Maine was 9th highest in the country at the county level. So if State was high because of medical costs, what is the county issue?
 - iv. Baldacci: We've tried to work with hospitals and reduce medical costs.
 - v. Westrum: By the time to DOC takes an inmate, the County jail has already done the work to stabilize the inmate. In some cases it's hard to control cost.
 - vi. Lebel: The average length of stay has increased significantly due to court back-log.
 - vii. Ouellette: We use same provided as DOC for medical and pharmaceutical and we will be saving. We still come under the DOC for inmates' complaints regarding medical. DOC is prison function and Counties are jail.
 - viii. Brann: The State cannot turn away anyone. And to follow up with Mark, yes, we do get some unstable inmates and those costs are significant.
- b. Rod Miller: There's no precedence for this situation and are going to have to come up with a new solution. System has had a lot of the good stuff squeezed

out like party fairness and innovation. Lots of inefficiencies with court backups. Not having home courts for some is a big issue and unfairness. Many facilities are decaying and not being maintained, causing more costs down the road.

Mission changes at Board have proven to be counterproductive. I have found that the required minimum staffing is not consistently delivered on – can't understaff to keep costs down so warden's pay is met. Wardens should not be considered CEO's. Whatever is decided on, funds have to be delivered on consistently. Must give counties what they need – no more, no less.

With BOC, while state is contributor, legislature has no connection to the board.

Regionals are not on fire. Virginia jails get half of operating money from Commonwealth of Virginia. Without a State incentive, regional jails are hard to start. But once they get built, they are strong and last. No States have consolidated their jails in at least 20 years.

Its apples and oranges when comparing DOC with BOC inmates. DOC approach has been signaled with discussions with Penobscot County. Heading down this road if consolidate with DOC.

Devil is in the assumptions. Make sure things test out to be accurate. Don't lose character of efficiencies, fairness and consistency.

- i. Brann: Mr. Miller said he had a conversation with CCA and pay is based on surplus. DOC is not set up as such. We are non-profit, CCA is for profit.
 - ii. Miller: I meant the person should have a strong vested interest in maintaining the budget.
 - iii. Brann: All budgets should be run by administrators, not central office. We empowered them and enhanced their professional skills. Staffing is also suffered by revolving door of employees. With proposal for new Maine Correctional Center, there have been some facilities thought about being taken offline.
 - iv. Miller: What Cindy described as budgeting targets, that's a great step forward and sounds great. Take that piece and put it on the table.
- c. Flood observations: I thought all presentations were very thoughtful and earnest. There were some good conclusions in all.

Many legislatures were worried back in 2007 that there wasn't an "air traffic controller" managing inmate flow. We want to make sure that is managed.

The legislature wants relative limits for costs. Seems like that is important here and was accounted for today.

Most general fund accounts do lose their money at the end of the year and then

reallocate to other places. In some instances, we do have carrying accounts. It is a possibility and it doesn't seem like it's happening here and maybe we should consider it.

You don't want the appropriations committee to make last minute decisions, as a general principle.

The bill we end up with either suggest new legislation or repeal current legislation. Referred to current statute that unfilters the filtering going on. Should include some statutory language similar, this way you're connecting all the people that are part of why the budget was submitted and why it didn't pass.

- i. Cloutier: Assuming we come up with some principles or legislature, would it be going to both appropriations and criminal justice?
- ii. Flood: Aaron and I would take our principles to a revision office, then they'd massage and sculpt and bring to public hearing.

VII. Proposal Discussions

- a. Straw vote handed out
 - i. Ouellette: I thought we could ask questions.
 - ii. Flanagan: Let's do that now. I wanted to get these out so everyone could see we had some tangible ideas floating around.
- b. Ouellette: In listening to all the proposals today, I believe each one certainly has some concrete ideas as to how to fix things. After lots of consideration, I think what we are tasked with right now, a lot of it can be handled with simple revisions and might not be as bad as we think it actually is.

Certainly, the money issue is a major concern. But how do you get everyone on the same page? How do you find efficiencies?

I think the State DOC is run well. If you don't have too many leaders, it's easier to do. It'd be great if BOC could be same thing – the 'big brother' to the Counties. We could piggyback their best practices.

The growth rate has to be set, with Board overseeing the budgets. By statute, budgets are set in the law. There's no real need for Counties to go back and forth to the BOC regarding budgets.

We all need to get on the same page regarding accounting standards.

Instead of ending fiscal year with wondering if we had money, should preload the system with money so we'd know where we are.

BOC should preset manpower standards, with County hiring practices staying the same.

The BOC should break the State down into four geographical regions. I don't think they should be regional authorities, as the BOC would be the overseer. We don't need to recreate another form of government, especially with some counties being resistant to ideas within other county regions.

BOC would be dealing with small group of individuals, as currently in the statute. Sheriffs should be responsible for reporting to and working with the BOC. Given the language in the oath for Sheriff, must all work together or Governor can oust you.

- c. Cloutier: Are we going to have a generalized conversation about the presentations? One of my concerns is that the 2007/2008 county cap is unfair and based on historical set of events. As a result of that, we have 7 questions on the straw poll. Is there anything in your proposals that would result in a long term resolution to some equitable basis?

- i. Baldacci: My proposal would remove the cap. There was very little guidance on the cap. It was a poor foundation for the system. There has to be constraints built in moving forward though, so the effect on the property tax payer is minimal.

You unburden the BOC if you remove the cap, so the counties who felt it wasn't fair, they would have a chance to go to the BOC to argue being underfunded. The BOC would administer an appropriations committee.

Federal funds belong to County that generates them and BOC sets boarding rates for county to county boarding.

- ii. Crichton: BOC has had to address issues with tax caps and have supported some but not others. I think it's subject to review.

In terms of federal revenue, I present three options. The revenues would always be county jail operations revenues.

- iii. Cloutier: Seems like Somerset thought they would generate a lot of federal revenues. The citizens are now paying a lot more than the citizens of Cumberland County. How do we try to address that inequity?
 - iv. Devlin: The cap has been changed several times. Federal revenues have never been clarified. It needs to be clearly defined and some authority around if it's misused.
 - v. Flanagan: The tax burden for public safety shouldn't be higher in the northern part and lower in the state. It should be equal all around, as it's equally as important statewide. Bill Brown, could find some calculation of what the tax effort is in support of the County system.

- vi. Devlin: We went through the exercise of State takeover, but we would have had to close some jails to make it financially possible. The cap would still be here. It was down to Penobscot and Kennebec.
 - vii. Ouellette: A Franklin County inmate has just filed a motion because he's in Windham and he's 100 miles away from family and lawyers.
 - viii. Merry: Regionalization bumps up against individual rights and what the courts have to deal with. It creates other issues that are not being considered by this body.
 - ix. Westrum: We also have 4 county jails that lost their ability to house contingency beds, which automatically drives inmates into the system elsewhere.
- d. Cloutier: I favor this regional jail idea. You can do things locally in a fast way if need be. Citing Feb. homeless man freezing to death. The State, while nice, there's a lot of checks and balances and worries on how money is spent vs. what services are administered and can't do things as fast.
 - e. Zinser: I support the regional jail idea. The regional management allows us to retain some local control. It would let the BOC morph into a regional coordinator and the jails could maintain the management of their facilities, which I think addresses some of the issues the legislature had.
 - f. Flanagan: Peter Crichton, even if you establish the four regions, what's changed to make it better from the current system?
 - i. Crichton: Cumberland County has done a lot of regionalization, for example our communications facility. Watching their board of 19 has been amazing due the communication, trust and decision making. I see the same thing happening in the regional jail system. The huge piece we're missing now, is the chance to build commitment and trust.
 - ii. Devlin: I think that's a different model because they were offered to the chance to consolidate communications. This isn't being offered, we're being dragged in. It can make the bigger dogs get bigger.
 - iii. Baldacci: We aren't against a regional approach, if there's a statutory regional authority set up, it's going to have a system where people aren't buying in. We need to return some accountability to the Counties. We would have to go to our own county to ask for things and approach other counties voluntarily to collaborate.
 - iv. Cloutier: The reason I support the regional involuntary proposal is because it's the clearest path out of the chaos that we currently have. If we want to get out of the mess we are in, we've got to move drastically. The voluntary aspect has created chaos that we can't get out of and leaves to unfairness and perceptions of unfairness.
 - g. Merry: Peter Crichton, given there's mandatory involvement, what is the governance set up? Is it based on size? Is it equal? Who has say – like a model House of Reps or Senate? Given the trust issues between the Counties and the BOC, how is this going to work?

- i. Crichton: Joel, everything you said regarding the challenges is true. We've seen it first hand as well in initiatives Cumberland County has done. Is it right for each County to have one vote? This is the stuff we need to flesh out. But I have faith it will provide more coordinated system.
- h. Ouellette: I spoke to a friend in Virginia. His small county is 127 square miles and I patrol 500 of 900 square miles. All the regional jails in VA have to do with new construction. And what we're forgetting, in VA county government is it.
- i. Zinser: I agree with what Peter B. said, and not let BOC mediate. It's more efficient at local level.
- j. Flood: I think we need to figure out how to improve fairness and improve the certainty for all factions. I have heard lots of things today that would help. Let's address the cap. I have heard Peter B. mention creating certainty regarding growth factors; let's work on that. Until you address those issues, we aren't freeing up any time to talk about other things.
- k. Merry: We need to create a pathway to make this work. We don't want 11th hour results with unintended consequences. I worry we are going to get caught up with creating a whole new system without creating a clear path.
- l. Whitten: I would like remind the committee about the meeting we had with the co-chairs of the appropriations committee. We are tasked with finding efficiencies and consistencies now. If we can show our system is on the path to saving money and working more efficiency, the system will be funded while we work out the details.
- m. Flanagan: Bill, you're right. That's exactly what we were told and the Governor is anxious to see some reform.
- n. Devlin: Are we rearranging the deck chairs?
- o. Baldacci: If you analyze it like another department, there's not even an understanding of what has been taken on. Obviously counties are looking to restrain spending. LD-1 was barely starting when this was taken over. It's the State government that passes laws regarding classification changes, legal hires, etc. We deal with bath salts, which isn't the same as running a department and controlling costs. If we are constrained with funding, municipalities will be negatively affected.
- p. Ouellette: To comment on the four regions, right now BOC does their thing and they pass it down. We've been so preoccupied with the mess, we haven't told people the creative things we have been doing. Example: York and Cumberland sharing training classes. York has alternative sentencing and collaborates with other counties. Those are efficiencies.
- q. Flanagan: Pat Flood has done everyone a favor by helping creating criteria we should oblige
 - i. Cost reduction
 - ii. Tax fairness
 - iii. Equal treatment in terms of services and programs for inmates throughout the state
 - iv. Accountability of funds

- v. Whatever we do, it's got to be enforceable.
- vi. We have to have some sort of incentives for the conduct we want
- vii. Alexander: Can we please add who has the authority? We have to have it very clear.
 - 1. Flanagan: Yes, you are right Marsha.

VIII. Meeting adjourned.

Presentations were made at this meeting regarding the various options. Commissioner Ponte's deputy, Cindy Brann, shared a letter to the task force from the Commissioner regarding why the State should take over the BOC. Peter Crichton presented the Regional Jail Authority concept (, in addition to Crichton's report, the agreement between Lincoln & Sagadahoc needs to be included) and Peter Baldacci presented the County Cap concept, reports follow. A discussion followed regarding the available options among committee members.

BOC Deputy Cindy Brann Presentation – State Takeover

Commission to Study the Board of Corrections

33 Blossom Lane

Augusta, Maine 04330

Chairman David Flanagan,

I would like to go on record listing the pros and cons of a unified prison/jail system in the State of Maine. In December of 2006 the Final Report of the Corrections Alternatives Advisory Committee was issued. In the reported starting on page 5, there are seven recommendations.

1. Reform Maine's Bail System
2. Improve pre-trial case processing efficiency
3. Integrate Risk and Need Assessments into Criminal Justice Processing
4. Ensure the Availability of Evidence Based Treatment
5. Disseminate and Use Evidence Based Practices Information in Decision Making Where ever Possible.
6. Facilitate Interagency Coordination
7. Increase Financial Support for Community Corrections Programs and Separate from Jail Subsidy

This Committee began its work in August of 2005.

The second report I would like to cite is, A Plan for a Unified Correctional System for Maine published January 28, 2008, by the Maine Department of Corrections.

On page 4 of this report the author list nine positive outcomes a unified system would achieve.

1. Provide property tax relief
2. Reduce the combined cost of state and county corrections
3. Reduce the rate of growth of cost of corrections
4. Significantly improve services for offenders with special needs to include mental health, substance abuse and co-occurring disorders.
5. Provide for community alternatives to incarceration including graduated sanctions for probation violators, and pre-trial services in every region of the State.
6. Provide re-entry services for offenders returning to the community.
7. Provide a standard level of care for all persons in a correctional facility including medical, medication management, and mental health treatment.
8. Improve services to victims of crime.
9. Manage available jail and prison beds in order to avoid the cost of new construction.

There was a great deal of time and effort dedicated to produce this report and it has many good points that should be considered.

Finally I would like for the Committee to review, A Review of the Function within State Unified Correction Systems, published by the National Institute of Corrections, September 1997. This reports examined the six Unified State Corrections Systems. Three of the six States are here in New England.

Beginning on page 8, under Advantages and Limitations of State Unified Corrections Systems, they have listed about eleven advantages and limitations.

Advantages and Limitations of State Unified Corrections Systems

Advantages:

In interviews with DOC administrators in the states with unified systems, administrators cited the following advantages of unified corrections systems over county jail systems:

Corrections administrators can directly influence decisions made by state legislatures.

While county jail administrators tend to be completely dependent on decisions made at the State level, in a unified system there is no "dumping" on the local level.

Resources can be evenly distributed throughout the state. In most states, some jurisdictions are wealthier than others, which influence the extent of resources available for local corrections services. A unified corrections system relies on direct funding from the state and allocates funds appropriately to counties or other jurisdictions around the state.

Economies of scale are possible. Cost savings result from centralizing many functions, programs, and purchases.

Leadership flows from the governor to the commissioner of corrections, creating consistency.

All branches of government can work together.

State oversight provides better quality control and improves public safety. In contrast, some county jails are well run; others are not.

There is increased professionalism because those in a unified system are not elected.

Needs can be examined system-wide by judges, the legislature, and the governor.

Limitations:

Administrators in the unified systems identified the following as ways in which unified corrections structures may be less effective than county jail systems:

Counties can sometimes make things happen more quickly. In state systems, practices sometimes get entrenched and there may be less flexibility.

Even with state- - level administration, it is important—and sometimes difficult—to respond to the needs of the communities in which jails are located.

All jail resources must come from the state; there is no support from local revenues. State systems sometimes suffer from inbreeding, or a lack of new leadership, within the Corrections agency.

I would ask that the committee weigh the pros and cons of each solution concerning the Board of Corrections. It would appear the State of Maine has spent a great deal of time and money outlining the problem and now we will need the courage to push forward a real solution. While there have been several variations of regional systems discussed at our meetings, history over the past four years would not support a positive outcome. The State of Maine cannot afford another attempt at fixing this issue, since the data and outcomes concerning County Jail operations is very clear. A unified correctional system works well in three of the New England States and will work well for Maine.

All of the reasons the current system does not work, lack of standardization, lack of a unified risk assessment, lack of a unified classification system, lack of a standard hiring procedure, lack of a standard inmate management system, lack of regional oversight, are all currently in place today with in the Department of Corrections. Our Department already is set up regionally and has staff in every county.

I do not take the position that the State can do a better job than any County, but rather the State can offer a system that is already in place, in corrections, that can answer all of the limitations that presently exist with the Board of Corrections. That infrastructure will have to be created for a County Regional System or Jail Authority.

Thank you for any consideration you may offer.

Sincerely,

Joseph Ponte

Commissioner, Maine Department of Corrections

Peter Crichton Presentation – Regional Jail Authority

October 31, 2013

REGIONAL JAIL CONCEPT REPORT

Introduction

The Regional Jail Concept Group met on October 29th to discuss the concept of creating Regional Jail Authorities. Present for the meeting were Mark Westrum, John Lebel, Kevin Joyce, Maurice Ouellette, Greg Zinser, Jim Cloutier, Peter Crichton, Bill Whitten, Amy Fickett, Alex Kimball, and Wanda Pettersen.

As the expression goes, the definition of insanity is to expect a different result if you continue doing things the same way. Well, just as we can't continue to do things the same way with a weak BOC and 17 separate silos, we also can't go back to the way we were if we want to achieve a more efficient and high performing county coordinated system.

According to the **Regional Jail Feasibility and Facility Re-Use Study for 15 counties in Michigan** published in November of 2010, you may be surprised to learn there are 76 existing regional jails in 21 states. It further states that "when a regional jail replaces two or more jails the savings are usually substantial." The premise of this report is that regional partnerships through the creation of four regional jail authorities would provide the best solution to meet our present and future needs.

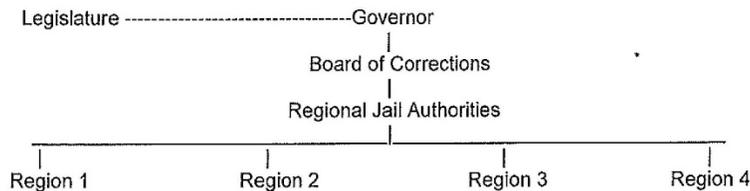
A. Overall:

1. Where would each of the 4 regional partnerships be located? One option is the following:

One Option

South – Cumberland York Androscoggin Oxford	Coastal – Lincoln Sagadahoc Knox Waldo	Central – Somerset Franklin Piscataquis Kennebec	North - Penobscot Hancock Aroostook Washington
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Proposed Regional Jail Authority Structure



2. Who would own them?

The jails would continue to be owned by the counties within each region.

3. Who would run them?

The jails would be administered and run by the regional jail authorities.

4. How would the capital and operating costs be divided?

The goal would be to have a fair and equitable system of paying for the capital and operating costs.

5. What facilities would be shut down?

This would be up to the regional authorities.

6. What would be the sources of new efficiencies and savings?

- Regional Jail Authorities will assure continued property tax relief at the local level;
- Reduce the rate of growth in the cost of corrections;
- Significantly improve services for inmates with special needs by working together more effectively on issues having to do with mental health, substance abuse, and co-occurring disorders;
- Provide for greater opportunities for community alternatives to incarceration;
- Provide expanded reentry services for offenders returning to the community;
- Provide a standard level of care within the region for all inmates on medical, prescription management, and mental health treatment;
- Manage available jail beds in a more effective manner;
- The Regional Jail Authorities will seek efficiencies in the purchase of certain services and commodities, such as food, fuel, pretrial and inmate medical services;
- There will be administrative efficiencies by reducing the number of contracts for like services by moving from 15 separate entities into 4 regional jail authorities;
- The "back office" functions can be consolidated into a regional approach to create consistency and efficiency in the delivery of accounting, payroll and human resource functions, etc.;
- Provides a greater opportunity for consistent management and adherence to best practices and methods. Accreditation could become a goal for the facilities where it makes sense.
- We can do a better job of capitalizing on opportunities by working collaboratively and more effectively managing the staff and how we allocate our personnel and financial resources.

B. Governance:

1. Would county participation be mandatory? If not, what would be the consequences of non-participation?

Yes, there should be no option. Everyone has to participate. In that way there is no need for developing consequences of non-participation.

2. Who would make up the governing body?

On this question, I am reminded of what Peter Drucker, the Father of Modern Management, once said, "How do you orchestrate and operate a successful collaboration?" The governing board would be represented by the counties within each authority. Similar to Two Bridges, there would be County Commissioners, County Managers, Sheriffs and Jail Administrators who would represent each community with a fair and equitable sharing of the responsibility. In addition, there may be other representation from key stakeholders in the system.

3. What powers would the counties keep?

Existing ownership of the jails would stay with the counties. The counties would appoint the representatives to the governing board for their county.

4. What powers would the new Regional Authorities have?

Similar to Two Bridges, the jail staff for each of the proposed regions shall be the employees of the regional jail authorities. The authorities shall have the power to provide for the equipping, operation and maintenance of the facilities, and the ability to generate revenues from those activities and incur expenses. The authorities shall also have the power to make contracts with persons, firms, and other entities as is appropriate to do.

5. Any role for the BOC?

The BOC will be the statewide policy making board for a county coordinated jail system, with the power to direct the regional jail authorities to implement policies that are established by the BOC, including programming and contracting for services related to the operation of the jails within each regional jail authority. The BOC may also require that the regional jail authorities meet certain accepted principles, methods and practices in regards to the operation of the jails. The BOC will ensure that the achieved performance results are compatible with the goals and objectives of the BOC and the system. The BOC will also make sure that each year there is an audit done of the accounts for each jail authority and that the funding from the legislature which is appropriated for the county coordinated system meets the needs of the regional jail authorities. In addition, the BOC will have the consent of the legislature to issue bonds and provide funding for capital needs.

6. What role for the State DOC?

The DOC will continue to maintain its existing statutory standards for county jails within the regional jail authorities, including training, safety and security, supervision of inmates, inmate management, medical services, etc.

7. Who decides which Regional Authority will specialize in particular classifications of inmates?

The BOC in collaboration with the Regional Jail Authorities will determine whether there are special needs inmates that are to be housed in specific jails.

8. Who would decide on the capital and operating budgets for the 4 jails, and for any remaining county facilities in the region?

The Regional Jail Authorities in cooperation with their participating counties will develop the capital and operating budgets for the BOC to consider and approve. And once the legislature has provided the appropriations, the capital and operating budgets for the regional jail authorities will be overseen by the authorities.

9. Who would assign inmates among regions?

The Regional Jail Authorities would determine the best method for assigning the inmates.

10. Would joint contracting within the regions be mandatory?

No. Once the Regional Jail Authorities have been structured, orchestrating the collaboration so that the counties can work together effectively is going to be one of the challenges in order to build agile decision making into the operation of the jails. Like other effective collaborations, to mandate something does not necessarily lead to creativity and innovation. Instead, the objective should be for the BOC and the Regional Jail Authorities to develop specific tangible goals, with clear accountability and explicit timelines. In that way, the authorities will be able to choose their own path in attaining the results that are needed. Success may be through contracting or it may be achieved in other ways, such as rapid and effective decision making.

11. Would accounting be standardized within and/or between regions?

Yes. Absolutely!

C. Funding:

The enclosed chart below shows what the budgets would look like for the four proposed authorities were they to be established. There are a host of questions regarding the funding of jails ranging from what happens to federal revenue, to surplus revenues, to outstanding capital debt, to fund balances. I think it is fair to say, that if there were 4 regional jail authorities this would help create the structure for more effective communications on fiscal matters..

Name	Investment Fund Requests				Overall Expenses				I/F Increase as percent of 2013 expenses
	FY 13 IF Request	FY 14 IF Request	\$ Increase	% Inc.	FY 13 Expenses	FY 14 Expenses	\$ Inc	% Inc	
South									
Androscoggin	\$ 687,017	\$ 935,704	\$ 248,687	36%	\$5,553,577	\$ 5,808,001	\$ 254,424	4.6%	4.5%
Cumberland	\$ 2,220,663	\$ 2,417,216	\$ 196,553	9%	\$17,561,597	\$ 18,121,612	\$ 560,015	3.2%	1.1%
Oxford					\$1,307,072	\$ 1,449,071	\$ 141,999	10.9%	NA
York	\$ 1,010,906	\$ 1,010,906	\$ -	0%	\$10,340,569	\$ 10,150,763	\$ (189,806)	-1.8%	0.0%
Total	\$ 3,918,586	\$ 4,363,826	\$ 445,240	11%	\$ 34,762,815	\$ 35,529,447	\$ 766,632	2.2%	1.3%
Coastal									
Knox	\$ 146,549	\$ 263,407	\$ 116,858	80%	\$3,704,529	\$ 3,821,387	\$ 116,858	3.2%	3.2%
Lincoln					\$437,542	\$ 446,195	\$ 8,653		
Sagadahoc					\$396,965	\$ 429,686	\$ 32,721		
TBRJ	\$ 2,035,672	\$ 2,737,533	\$ 701,861	34%	\$7,222,552	\$ 7,904,586	\$ 682,034	9.4%	9.7%
Waldo					\$2,151,148	\$ 2,240,849	\$ 89,701	4.2%	NA
Total	\$ 2,182,221	\$ 3,000,940	\$ 818,719	38%	\$13,912,736	\$ 14,842,703	\$ 813,109	5.8%	5.9%
Central									
Somerset	\$ 1,121,767	\$ 1,121,767	\$ -	0%	\$6,805,069	\$ 6,757,381	\$ (47,688)	-0.7%	0.0%
Franklin					\$1,130,142	\$ 1,576,470	\$ 446,328	39.5%	NA
Piscataquis	\$ 314,563	\$ 418,115	\$ 103,552	33%	\$1,478,208	\$ 1,582,110	\$ 103,902	7.0%	7.0%
Kennebec	\$ 652,134	\$ 1,346,177	\$ 694,043	106%	\$6,940,080	\$ 7,379,758	\$ 439,668	6.3%	10.0%
Total	\$ 2,088,464	\$ 2,886,059	\$ 797,595	38%	\$16,353,509	\$ 17,295,719	\$ 942,210	5.8%	4.9%
North									
Penobscot	\$ 637,848	\$ 1,102,646	\$ 464,798	73%	\$7,467,895	\$ 8,042,693	\$ 574,798	7.7%	6.2%
Hancock	\$ 311,949	\$ 311,949	\$ -	0%	\$2,228,172	\$ 2,288,372	\$ 60,200	2.7%	0.0%
Aroostook	\$ 465,760	\$ 829,935	\$ 364,175	78%	\$3,165,599	\$ 3,529,774	\$ 364,175	11.5%	11.5%
Washington	\$ 261,586	\$ 391,000	\$ 129,414	49%	\$2,376,750	\$ 2,503,664	\$ 126,914	5.3%	5.4%
Total	\$ 1,677,143	\$ 2,635,530	\$ 958,387	57%	\$ 15,238,416	\$ 16,364,503	\$ 1,126,087	7.4%	6.3%
Overall	\$ 9,866,414	\$ 12,886,355	\$ 3,019,941	31%	\$ 80,267,476	\$ 84,032,372	\$ 3,764,896	4.7%	3.8%

2. What categories of activities would have the potential for greater efficiency under this model?

There are a number of opportunities for greater efficiency, including:

- Maximizing bed space;
- Reducing the costs of corrections;
- Managing pretrial services more effectively;
- Improved standards, methods, and practices; and
- Improved evidence based programming and services that reduce recidivism.

3. Any quantification possible for potential dollar savings?

Quantification of the savings will need to be better defined. But it is certainly fair to say that with the creation of Regional Jail Authorities there would be more cooperation among the jails and a more highly organized and coordinated system. This would obviously lead to greater opportunities for collaboration, including an increase in the use of pretrial services which could save the system millions of dollars annually.

4. How would 4 regional authority models create more opportunities for saving than a single BOC model?

What is clear after 5 years of a single BOC model is that it is not working well and has many shortcomings. Currently, we have 15 separate jails that to a large extent are still operating as separate silos. This approach has not translated into an effective county coordinated system. The best step to structuring a real collaboration is the formation of these 4 Regional Jail Authorities. If you think of the BOC and the county jails as a corporation, we are reducing the number of divisions from 15 to 4. The smaller framework with 4 authorities working with the BOC is much more manageable and increases the opportunity for real cooperation and shared objectives.

Establishing the authorities will lead to greater collaboration and effective communications, as well as good decision making. It creates a foundation for building commitment and trust, with the stakeholders sharing more information, working together more closely, getting results and continuously improving what they are doing with an environment that is open to new ideas and approaches. It is our greatest chance for success!

5. What existing facilities would experience a reduction in costs as a result of this model?

We don't know at this point. What we do know is that this approach lends itself to greater collaboration and creates the conditions for being able to establish key performance measures that will lead to better results.

6. What categories of costs would likely experience an increase under this model-e.g., transportation as more inmates are housed in a central location?

Logic suggests that the potential savings from the Regional Jail Authorities model will definitely outweigh any increased costs that may occur. But this is not to say that there may be certain areas where there are increases. Transportation may well be one of those areas, although the use of video arraignment and other new technology means the transporting of inmates becomes less of a financial risk.

7. How would this model address the 10 problems identified by the Commission?

This is a great question. For all the reasons mentioned above and more, this approach is the intervention that is needed if we want to address the problems identified by the Commission, with the possible exception of the so-called fiscal cliff! A key consideration is what model ensures that there is an inclusionary approach for counties that will achieve the results necessary with the greatest likelihood of a smooth and rapid implementation by the legislature and the governor? The Regional Jail Authorities model has all the elements to be successful.

On behalf of Team Z with John Lebel and Mark Westrum, as well as the participants in the regional jail authorities discussion, respectfully submitted by


Peter Crichton

Task Force Solutions Survey

Also at the November 1, 2013 meeting, the committee members were provided with the Task Force Solutions Survey. From this survey, the following ranking summary recommendations were found as well as a spreadsheet of all answers were summarized and this information was distributed to all involved. A Tax Burden of Capped Corrections Spending by County was also provided.

Task Force Solutions Survey November 1, 2013

Please rank using the following scale:

0= Over my dead body
3= I'm willing to consider this
5= Absolutely, why aren't we already doing this?

- Give BOC authority to manage only the state's share of county correctional budgets.
- Give BOC approval over total jail budgets.
- Give BOC line-item approval of total jail budget if budget exceeds growth cap.
- Give BOC authority to establish and enforce accounting standards.
- Continue BOC funding of jails with 70% based on inmate census and 30% to encourage specialization.
- Remove 2008 county jail property tax cap.
- Have jail administrators report to county managers/commissioners.
- Have jail administrators report to BOC.
- Have jail administrators report to Sheriffs.
- BOC Enforce existing rule that revenues from state are to stay with jails and not be used to lower property taxes.
- BOC designate and enforce rules for assigning and transferring inmates.
- Create financial incentives for following or disincentives for not following BOC goals and guidelines.
- Give BOC authority to approve staffing levels.

- ___ Give BOC authority to set boarding rates.
- ___ Give BOC authority to manage bed space.
- ___ Give BOC authority to contract for shared purchasing and services.
- ___ Require counties to commit to standards and mission of the BOC and to working together to achieve those goals.
- ___ Create one shared set of objectives, standards, and measures for BOC and jails.
- ___ Give BOC staff of 4-5 to help counties standardize and enforce rules.
- ___ Support the Unified Criminal Docket (U.C.D.).
- ___ Support enhancements to video arraignment.
- ___ Federal funds should stay with individual county generating the revenue.
- ___ Create a transport hub system.
- ___ Unify collective bargaining units.
- ___ Link management information systems across the state.
- ___ BOC funds programming based on best practices.
- ___ Develop a uniform risk assessment questionnaire to assist in whether or not to release someone.
- ___ Mandate Pretrial services program throughout the state.
- ___ Implement and fund programming to reduce recidivism and reduce incarceration.
- ___ Have county jails become re-entry centers for state inmates.
- ___ System shares responsibility for existing debt service.
- ___ System shares responsibility for future debt service incurred by BOC approval.
- ___ Federal funds should be paid into the BOC system.
- ___ DOC takes over jails.

___ Revert to independent county control.

___ Amend and strengthen BOC.

___ Create four regional authorities.

List other items for consideration in legislation.

1.

2.

3.

4.

NAME _____

Bill Whitten Memo 1 – Task Force Survey Results

To: All Concerned

From: Bill Whitten

Subject: Task Force Survey Results

Date: 11/07/13

Folks- Following you will find results of the survey taken by the Jail Task Force members at their meeting last Friday, November 1. Although it did not cover every possible permutation, the survey did reflect the principal suggestions for reforms made by each of the Subcommittee teams which tackled the 10 problems identified by the Commission members themselves.

All members were asked to rank order their thoughts on each of the two pages- plus questionnaire.

Those numbers were then applied to a spread sheet by member and rank ordered, once with gross numbers and again with the high and low taken out and ranked. While these results are certainly not controlling on our future deliberations, they will be helpful in informing our efforts to draft a workable plan for consideration at our next meeting, November 15.

The top ranking suggestions were:

1. Give the BOC more authority
2. Give the BOC the strength to carry out its authority
3. Require counties to physically sign a commitment to live by the mission, standards and goals of the BOC

4. In addition to these, more specific rules, guidelines and methods for better methods were needed, including such items as required pre-trial, video arraignment, a transport hub; revenues do not go to tax relief, and others to be explained further.

Some thoughts: require counties to abide by a set of goals and standards established by the BOC and enforce those rules. This is where the system currently fails; as the BOC does have some of that authority currently, but a) does not make decisions in a timely manner, b) does not enforce the rules and c) members apparently refuse to vote against their “fellow counties”, causing a standstill, and d) counties not abiding by the current standards. Please contact me with questions/ explanations.

Survey results attached.

Bill Whitten

Ranking Summary Recommendations

	Total	Average																			
14 ___ Give BOC authority to set boarding rates.	97%	4.83	5	5	5	4	5	5	4	5	5	5	5	5	5	5	5	5	5	5	
4 ___ Give BOC authority to establish and	95%	4.75	5	5	5	4	5	5	4	4	5	5	5	5	5	5	5	5	5	5	
29 ___ Implement and fund programming to	93%	4.67	5	5	5	4	5	3	4	5	5	5	5	5	5	5	5	5	5	5	
36 ___ Amend and strengthen BOC.	93%	4.67	5	5	5	5	5	3	5	4	4	5	5	5	5	5	5	5	5	5	
12 ___ Create financial incentives for following or	92%	4.58	5	5	5	4	5	5	2	4	5	5	5	5	5	5	5	5	5	5	
17 ___ Require counties to commit to standards	88%	4.42	5	5	5	4	3	3	4	4	5	5	5	5	5	5	5	5	5	5	
21 ___ Support enhancements to video	88%	4.42	5	5	5	4	3	5	4	4	5	5	5	5	5	5	5	5	5	5	
18 ___ Create one shared set of objectives,	85%	4.25	5	5	5	5	4	3	4	4	5	5	5	5	5	5	5	5	5	5	
23 ___ Create a transport hub system.	85%	4.25	5	3	5	3	4	3	3	5	5	5	5	5	5	5	5	5	5	5	
28 ___ Mandate Pretrial services program	85%	4.25	5	3	5	4	4	3	5	4	5	5	5	5	5	5	5	5	5	5	
10 ___ BOC Enforce existing rule that revenues	82%	4.08	3	5	3	3	5	3	4	5	5	5	5	5	5	5	5	5	5	5	
25 ___ Link management information systems	82%	4.08	5	5	5	4	3	0	5	4	5	5	5	5	5	5	5	5	5	5	
26 ___ BOC funds programming based on best	80%	4.00	5	3	5	4	3	3	3	4	3	5	5	5	5	5	5	5	5	5	
27 ___ Develop a uniform risk assessment	78%	3.92	5	0	5	5	2	3	5	4	5	5	5	5	5	5	5	5	5	5	
32 ___ System shares responsibility for future	78%	3.92	5	3	5	4	3	5	4	2	5	5	5	5	5	5	5	5	5	5	
11 ___ BOC designate and enforce rules for	77%	3.83	5	5	3	1	5	3	3	3	5	5	5	5	5	5	5	5	5	5	
13 ___ Give BOC authority to approve staffing	75%	3.75	5	3	3	4	4	3	4	3	5	5	5	5	5	5	5	5	5	5	
3 ___ Give BOC line-item approval of total jail	73%	3.67	5	3	0	5	3	5	4	3	5	3	5	3	5	3	5	3	5	3	
15 ___ Give BOC authority to manage bed space.	73%	3.67	5	3	3	4	4	3	4	2	3	5	5	5	5	5	5	5	5	3	
16 ___ Give BOC authority to contract for shared	73%	3.67	5	3	5	3	2	3	4	1	5	5	5	5	5	5	5	5	5	3	
2 ___ Give BOC approval over total jail budgets.	72%	3.58	5	3	5	2	3	5	4	0	5	3	3	5	5	5	5	5	5	5	
20 ___ Support the Unified Criminal Docket	72%	3.58	5	5	3	4	3	0	4	3	5	5	5	5	5	5	5	5	5	3	
31 ___ System shares responsibility for existing	65%	3.25	5	3	0	4	3	3	4	3	5	3	3	5	3	3	3	3	3	3	
9 ___ Have jail administrators report to Sheriffs.	62%	3.08	3	0	3	5	3	5	3	4	1	3	4	3	4	3	3	3	3	3	
19 ___ Give BOC staff of 4-5 to help counties	62%	3.08	5	3	3	2	3	3	3	1	3	5	3	3	3	3	3	3	3	3	
22 ___ Federal funds should stay with individual	62%	3.08	5	0	5	3	2	3	2	4	5	0	3	5	0	3	5	0	3	5	
5 ___ Continue BOC funding of jails with 70%	58%	2.92	3	5	0	3	3	3	2	4	3	3	3	3	3	3	3	3	3	3	
37 ___ Create four regional authorities.	58%	2.92	5	5	3	0	2	0	5	2	5	3	0	5	3	0	5	3	0	5	
7 ___ Have jail administrators report to county	57%	2.83	3	5	3	0	2	0	2	1	5	3	5	5	5	5	5	5	5	5	
24 ___ Unify collective bargaining units.	53%	2.67	3	3	3	1	3	3	4	0	3	3	3	3	3	3	3	3	3	3	
33 ___ Federal funds should be paid into the BOC	52%	2.58	3	3	0	3	4	3	4	0	3	5	3	0	3	0	3	0	3	0	
30 ___ Have county jails become re-entry centers	48%	2.42	3	3	3	1	4	3	4	0	2	3	3	0	3	0	3	0	3	0	
6 ___ Remove 2008 county jail property tax cap.	45%	2.25	3	3	3	1	4	3	3	4	0	0	3	0	3	0	3	0	3	0	
1 ___ Give BOC authority to manage only the	42%	2.08	3	0	3	4	3	3	3	4	2	0	0	0	0	0	0	0	0	0	
8 ___ Have jail administrators report to BOC.	28%	1.42	5	3	0	1	1	0	3	1	0	3	0	0	0	0	0	0	0	0	
35 ___ Revert to independent county control.	18%	0.92	0	0	0	1	1	3	1	2	3	0	0	0	0	0	0	0	0	0	
34 ___ DOC takes over jails.	7%	0.33	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	
			157	123	124	113	122	109	130	107	145	140	130	120							

Summary results of Task Force Survey Results

Recommendations to date:

(All Task Force Members except Ferguson, Ponte, and Dawson responding, highest and lowest scores for each recommendation dropped. Highest possible 5= Absolutely, why aren't we already doing this?; 3= I'm willing to consider this; 0=over my dead body)

Top Agreements (4.8-4.9, 96-98%)

Give BOC authority to set boarding rates.
Give BOC authority to establish and enforce accounting standards.
Implement and fund programming to reduce recidivism and reduce incarceration.
Amend and strengthen BOC.
Create financial incentives for following or disincentives for not following BOC goals and guidelines.

General Agreement (4.3-4.5, 86-90%)

Require counties to commit to standards and mission of the BOC and to working together to achieve those goals.
Support enhancements to video arraignment.
Link management information systems across the state.
Create one shared set of objectives, standards, and measures for BOC and jails.
Create a transport hub system.
Mandate Pretrial services program throughout the state.
Develop a uniform risk assessment questionnaire to assist in whether or not to release someone.

4.0-4.2 80-84%

BOC Enforce existing rule that revenues from state are to stay with jails and not be used to lower property taxes.
BOC funds programming based on best practices.

System shares responsibility for future debt service incurred by BOC approval.

BOC designate and enforce rules for assigning and transferring inmates.

Requires Negotiation 3.7-3.9, 74-78%

Give BOC line-item approval of total jail budget if budget exceeds growth cap.

Give BOC authority to contract for shared purchasing and services.

Give BOC approval over total jail budgets.

Support the Unified Criminal Docket (U.C.D.).

Give BOC authority to approve staffing levels.

Give BOC authority to manage bed space.

Requires significant negotiation 3.1-3.4 62-68%

System shares responsibility for existing debt service.

Have jail administrators report to Sheriffs.

Federal funds should stay with individual county generating the revenue.

Give BOC staff of 4-5 to help counties standardize and enforce rules.

60% or less

Continue BOC funding of jails with 70% based on inmate census and 30% to encourage specialization.

Create four regional authorities.

Have jail administrators report to county managers/commissioners.

Unify collective bargaining units.

Federal funds should be paid into the BOC system.

Have county jails become re-entry centers for state inmates.

Remove 2008 county jail property tax cap.

Give BOC authority to manage only the state's share of county correctional budgets.

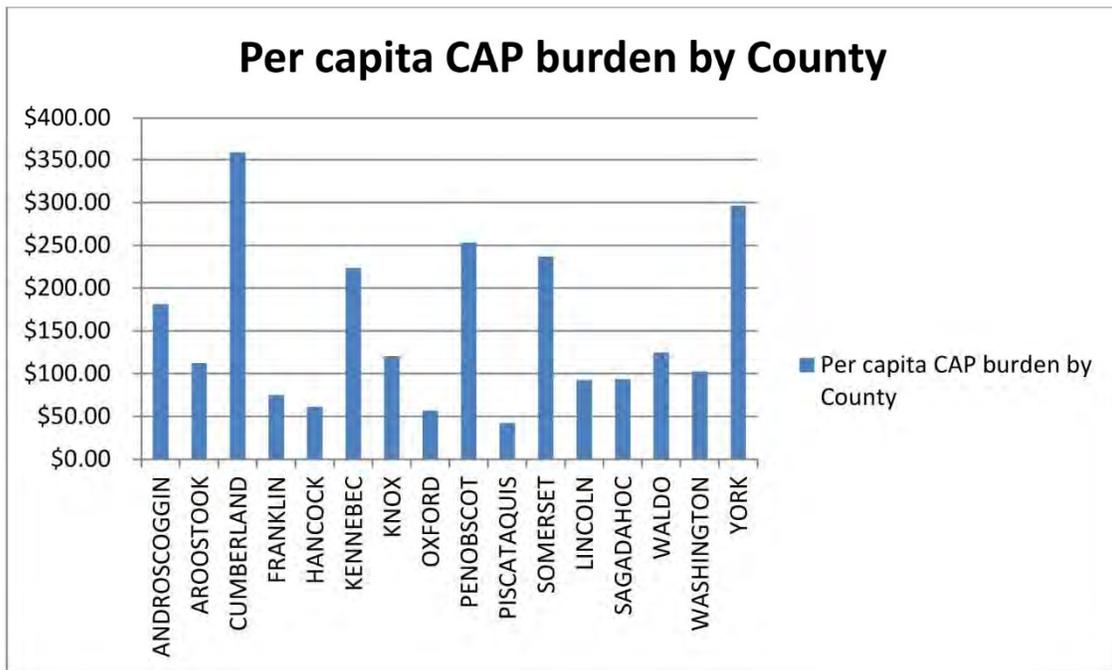
Have jail administrators report to BOC.

Revert to independent county control.

DOC takes over jails.

Tax Burden of Capped Corrections Spending – Scott Ferguson (as requested by Task Force)
 Tax Burden of Capped Corrections Spending

County	2008 CAP (Baseline)	2014 Revised CAP	Population (U.S. Census)	Per capita income (U.S. Census)	Per capita CAP burden by County
ANDROSCOGGIN	4,287,340	4,287,340	107,609	\$23,663	\$181.18
AROOSTOOK	2,316,666	2,316,666	70,868	\$20,659	\$112.14
CUMBERLAND	11,575,602	11,575,602	283,921	\$32,277	\$358.63
FRANKLIN	1,621,201	1,621,201	30,630	\$21,595	\$75.07
HANCOCK	1,670,136	1,670,136	54,558	\$27,227	\$61.34
KENNEBEC	5,588,343	5,588,343	121,853	\$25,023	\$223.33
KNOX	3,188,700	3,188,700	39,668	\$26,504	\$120.31
OXFORD	1,228,757	1,228,757	57,481	\$21,735	\$56.53
PENOBSCOT	5,919,118	5,919,118	153,746	\$23,366	\$253.32
PISCATAQUIS	878,940	878,940	17,290	\$20,871	\$42.11
SOMERSET	5,363,665	5,000,221	51,910	\$21,105	\$236.92
LINCOLN	3,018,361	2,657,105	34,180	\$28,741	\$92.45
SAGADAHOC	2,295,849	2,657,105	35,191	\$28,370	\$93.66
WALDO	2,832,353	2,832,353	38,820	\$22,706	\$124.74
WASHINGTON	2,000,525	2,000,525	32,462	\$19,527	\$102.45
YORK	8,667,248	8,386,815	199,005	\$28,321	\$296.13
Total	62,452,804	61,808,927	1,329,192	\$26,195	



David Flanagan – Concept for county Correction Legislation

To: Commission to Study the Board of Corrections Members

From: David Flanagan

Re: Concept for County Correction Legislation

While we have been working with three distinctive models for future governance of the county-level corrections system (hereafter CIS), the survey we conducted of the last meeting revealed a considerable overlap of the ideas for addressing the problems of the current system. Furthermore, I detect further movement towards consensus among the members to consider further the idea of voluntary regional jail authorities, a concept which is incorporated in this draft outline.

As Bill Whitten indicated in his memo of the 7th, there was a strong consensus that the BOC should have more authority, that the system should have common standards, and that the counties should make commitments and live up to them, among others.

In the following draft I have tried to identify widely shared concepts for improving the governance, financing and operation of the County jail system based on the discussions and presentations the Commission has heard to date. I am basing this set of ideas on a perception that NONE of the three models we have been considering- (1) reversion to autonomous county rule; (2) a four sub-region set of authorities, or (3) a straight state takeover is likely to achieve a consensus or even a majority of the votes or acceptance by the Legislature.

As the Maine Sunday Telegram put it in the Op-Ed editorial on November 3, "A legislative commission is giving it (an attempt to enforce cost efficiency into the County Jail System) another try. The group has winnowed to three the number of scenarios under consideration, each of which includes promising ideas that could be included into the final proposal presented to the legislators later this year. The challenge for the commission will be to bring the best parts together to form a system that will create efficient, effective County jails while appeasing the many constituencies that have a stake in them."

Exactly.

Whether this combination of steps alone would be enough to earn Legislative trust and confidence sufficient to commit State funds remains an open question in a situation where the county contribution is already frozen, but the State's share is projected to increase by more than \$10m within 5 years, but I believe the following measures might be building blocks towards achieving that goal:

I. FINANCE.

1. GROWTH FORMULAE.

A. PROPOSAL: Create and adopt a biennial budget growth formula for budget planning purposes that projects approved future growth in operational costs, and a second for capital costs. The operational formula would be based on a CPI or LD1 cap. The capital expenditure formula would be determined by a base-line survey of the square feet, beds, historic costs, age, and a State BGS estimate of near term and long term costs per facility, plus a factor for management information system

upgrades, updated in a formal report to the Legislature at the beginning of every other biennium.

B. BENEFITS: A formula for operations expenditure budgeting would reduce uncertainty and eliminate creation of unrealistic budget proposals which cost considerable time and effort. A formula for capital budgeting would enhance long term planning and alert all concerned as to the trajectory of future obligations.

2. BUDGET PROCESS.

A. PROPOSAL: The County Corrections (CIS) budget process should track and be synchronized with the State process.

i. Budget instructions based on the Growth Formulae should be sent from DFAS to the BOC. The BOC should transmit the same to the Counties, based on a BOC approved allocation formula.

ii. The County Commissioners, after consultation with the Sheriffs, Jail Administrators and other relevant officials shall submit a two part budget in a DFAS-approved format to the BOC. Part 1 would continue current operations. Part 2 would propose any additional programs, services or other initiatives a County wishes to propose.

iii. The BOC would submit any Part 1 request of a County, which is below the Growth Formula cap, directly to DFAS for inclusion in the Governor's budget. The BOC would review and vote on whether to include any Part 1 requests in excess of the cap or any Part 2 requests by any County, as well as its own request, in its submission to DFAS. The BOC will be required to rule in a timely manner on such requests to stay within the State budget process.

iv. The same process would be used to create a capital budget.

v. In the event the Governor reduces or eliminates any BOC requests from his budget, the BOC shall have the right to report its original request directly to the Legislature.

vi. In the event the Legislature appropriates less than the full Part 1 amount requested, the BOC shall allocate the deficiency among the Counties to minimize the impact on CIS operations overall.

B. BENEFITS: The Legislature is currently unaware of the CIS needs or the capital budget obligation overhang, and the process is confused by the existence of separate county budgeting processes. Moreover, the BOC consumes extraordinary amounts of time examining the detail of Part 1 equivalent budgets, leaving no time for innovative Part 2 type initiatives. Finally, there needs to be a clear, central decision-making point for budget submissions rather than a cacophony of 16 counties and other interested parties.

3. ACCOUNTING.

A. PROPOSAL:

- i. The BOC should establish a single chart of accounts concerning county corrections-related expenditures consistent with DFAS and DOC standards and practices. Non-compliance should result in ineligibility for State funds.
- ii. All county CIS-related budgets shall be submitted on a State Fiscal Year basis.

B. BENEFITS: Currently, accounting for like items is done inconsistently among the counties despite the existence of the CRAS system, which was supposed to eliminate the problem. A transparent, consistent system will help the Legislature evaluate budget requests, enable decision-makers to see if the various counties are spending appropriately and facilitate benchmarking, comparing the relative efficiencies of the counties.

4. USE OF FUNDS.

A. PROPOSAL:

- i. Neither property taxes up to the aggregate amount established in 2008 nor any State appropriated operations funds can be used for any county purposes other than supporting CIS operations.
- ii. Capital funds appropriated either through the Inverse Debt Account or otherwise can be used only for BOC approved capital investment purposes.
- iii. Any fund balances which may remain at the end of any Fiscal Year shall not lapse, but be carried forward for the benefit of the County which created the surplus.
- iv. Any federal or State inmate boarding revenues shall be retained by the county generating such funds and they shall be offset against the State appropriation otherwise due to that county under the approved appropriations allocation formula.
- v. The BOC will distribute allotments of appropriate funds quarterly, together with a report of the individual Counties financial status. It may curtail allotments to anticipate shortfalls.
- vi. The BOC will allocate funds among the Counties in accordance with formulae established by the Legislature in each biennium and shall make timely recommendations to the Legislature with respect there to.
- vii. Reports on revenue generated and expenses incurred by each County shall be sent to the BOC on a monthly basis in a prescribed form.

B. BENEFITS: These proposals address known deficiencies in the current system.

II. BOC Authority

1. POLICIES.

A. PROPOSAL: The BOC should have the authority to set policies and adopt routine technical rules to promote consistent management of

operations, encourage innovative programs and services and undertake long term planning for capital needs.

The Commission also proposes that the Criminal Justice Committee authorize any major new substantive rules to facilitate the aforementioned activities and additionally to empower the BOC with the authority to implement and enforce compliance with its decisions.

B. BENEFITS: For the BOC to be effective, it must have the authority to assure compliance with its decisions, in place of the current dysfunctional, futile system.

2. STANDARDS.

A. PROPOSAL: To promote efficiency and fairness, the BOC should have the authority to set and enforce standards concerning:

- i. Management Information Systems and their interconnections;
- ii. Security equipment;
- iii. Inmate classification;
- iv. Pre-trial services;
- v. Assignment of inmates among the county jails;
- vi. Staffing qualifications and ratios; and
- vii. Bed space determination/ classification.

B. BENEFITS: Maine has suffered from implementation of mutually incompatible systems by random counties in the past, to the detriment of communications, economics and security.

3. CONTRACTING.

A. PROPOSAL: To maximize the potential savings that might be realized from contracting for goods and services that can be used by multiple counties, the BOC should have the authority to contract, authorize the counties or regional jail organizations to jointly contract, or on behalf of any combination of, or all, of the counties either by piggy-backing on State DOC contracts or acting on its own for:

- i. Medical and mental health services;
- ii. Pharmaceuticals;
- iii. Food and food services;
- iv. Appliances and equipment;
- v. Telecommunications equipment and computer hardware and software;
- vi. Insurance policies;
- vii. Other goods and services it may identify by policy from time to time.

B. BENEFITS: Bulk contracts often can be negotiated at better prices than smaller, individual deals. While there should be no limit on the ability of individual counties to negotiate their own joint ventures with each other, the State should not wait for prolonged negotiations of voluntary agreements when opportunities for significant savings are manifest.

4. BACK OFFICE SERVICES.

- A. PROPOSAL: The BOC should have the authority to provide support services needed by all county correctional systems on a contractual basis for:
 - i. Hiring and human resources;
 - ii. Civil rights;
 - iii. Risk management and insurance;
 - iv. Training;
 - v. Financial management, budgeting and procurement;
 - vi. Management information systems; and
 - vii. Other services it may identify from time to time.
 - B. BENEFITS: There may also be economies of scale to be realized by providing common back office services to some or all of the counties, depending on their individual capabilities, resources and needs.
5. ASSIGNMENT OF INMATES.
- A. PROPOSAL: The BOC shall have the authority, subject to oversight by the DOC, to establish and maintain a coordinated system for the assignment of county inmates, pre-trial detainees and others housed in the county jails as follows:
 - i. The BOC shall establish rules under which it may demand any county facility to accept any inmate from any other county facility, the State or the Federal government.
 - ii. The BOC shall set boarding rates as appropriate from time to time for such transferees and oversee the appropriate account transactions; and
 - iii. The BOC shall set standards for the software necessary to facilitate transportation of inmates among facilities so as to create a truly State-wide system of assignments.
 - B. BENEFITS: A major benefit of inter-jail transfers is minimizing the number of beds and cells necessary State wide, for maximum efficiency. Moreover, requiring collaboration can avoid absurd results, such as one county refusing to take inmates from an adjacent county, forcing the use of more distant jails or State prison facilities.
6. REGIONAL AUTHORITIES
- A. PROPOSAL: Nothing herein shall preclude the various counties from entering into mutual, voluntary agreements to procure and provide goods and services and mutual aid of any kind, on such terms and conditions as they may from time to time agree, so long as such agreements are limited to subjects and to the extent with respect to which the DOC or BOC have not exercised such authority.
 - B. BENEFITS: Maine cannot and should not wait to achieve efficiencies and cost savings until there is a consensus of all the counties on how to proceed. But neither should the State stand in the way of counties reaching cooperative agreements and establishing regional

facilities when they can reach agreements among themselves and their actions do not undermine State-wide economies of scale.

7. MONITORING PERFORMANCE.

A. PROPOSAL: The BOC should have the authority to monitor the operational, programmatic and financial performance of the CIS and to establish appropriate metrics for comparison of the counties among themselves and with other appropriate jurisdictions, and require timely reporting in a consistent format, with appropriate penalties for non-compliance.

B. BENEFIT: Efficient management depends on timely, relevant information to benchmark performance. Moreover, such transparency is very helpful in establishing confidence and trust.

8. COMPLIANCE.

A. PROPOSAL: The BOC must have the authority to incentivize compliance with the decisions made in accordance with the authorities and mandates within its jurisdiction. Specifically, the BOC should be able to:

- i. Provide discretionary funding to support innovative or efficient programs for meeting identified needs;
- ii. Withhold appropriations otherwise due as set offs for violations of established policies;
- iii. Declare a county ineligible for participation in programs for a period of time; and
- iv. In the event of serious or systematic violations of its policies and regulations, request the DOC to take over the management and control of such a facility and its staff and inmates. Subject to the plenary power of the DOC in cases of emergency, the BOC shall establish the circumstances under which such a transfer of authority could be made by regulation.

B. BENEFITS: For the BOC to be effective, it must have the authority to assure compliance with its decisions, in place of the current dysfunctional, futile and frustrating system.

III. PRE-TRIAL SERVICES

1. ESTABLISH PROGRAMMING TO REDUCE RECIDIVISM AND PRE-TRIAL INCARCERATION.

A. PROPOSAL: The BOC shall have authority to establish programs and services designed to reduce recidivism and pre-trial incarceration and to require participation by all counties in providing such services.

B. BENEFITS: While a substantial percentage of the costs of operating jails are fixed, some are variable depending on the number of inmates at any time, and further capital construction costs can be deferred by managing the size of pre-trial populations, which may constitute as much as 75% of the total of some counties. Programs and services that facilitate reductions are of economic as well as social advantage. Currently,

at least four counties do not have pre-trial programs designed to reduce incarceration numbers.

2. MINIMUM RISK QUESTIONNAIRE.

A. PROPOSAL: In collaboration with the Corrections Working Group, the BOC should create a Uniform Risk Assessment Questionnaire to assess in the process of determining which arrestees are good candidates for pre-trial bail and upon what terms.

B. BENEFITS: Such a Uniform Questionnaire used by the criminal justice system throughout the State was identified as a significant step forward in reforming Maine's bail system.

3. USE OF VIDEO PROCEEDINGS FROM JAIL.

A. PROPOSAL: Each jail shall provide facilities for conducting pre-trial arraignments and other judicial proceedings which are linked into a common system with the counties and are available for use to reduce the number of trips for inmates and guards between the jails and the counties. The Court Administrator is directed to maintain statistics for each county and each court as to the percentage of arraignments conducted by video, and the jail administrator for each jail is directed to maintain statistics on the number of miles travelled by Sheriff's Offices transporting prisoners to court houses for arraignments.

B. BENEFITS: It is evident that savings could be realized by reducing the number of trips from jails to courthouses for pre-trial proceedings. However, technical obstacles and institutional conservatism have impeded the full use of modern communications in our rural state and minimized the potential savings.

First steps towards improving this software include installation of uniform, reliable, soundly linked equipment and collecting the statistics which may reveal the magnitude of the opportunity for savings.

IV. BOC GOVERNANCE

1. BOARD COMPOSITION.

A. PROPOSAL: The BOC should be governed by a manageably sized council representative of the funders of the system, its operators and the public. A reasonable number would be seven, nominated by the Governor and confirmed by the Legislature, as follows:

- i. One County Commissioner;
- ii. One Sheriff;
- iii. One Jail Administrator;
- iv. The Commissioner of Corrections, or his designee;
- v. The Commissioner of DFAS, or his designee; and
- vi. Two members of the public.

B. BENEFITS: An effective BOC must have the trust and confidence of the funders, which include the State and Counties who would both benefit from operational expertise and public input.

2. BOC STAFF.

- A. PROPOSAL: The Staff should consist of:
 - i. An Executive Director selected by the BOC;
 - ii. A Financial Manager; and
 - iii. Such other personnel, by employment or contract, as the BOC may determine to be necessary to carry out its responsibilities.
 - B. BENEFITS: Staff are necessary to effectively carry out the duties assigned to the BOC. The work may be carried out by contract with the DOC or other individuals and organizations.
- V. SUPPLEMENTAL APPROPRIATION
- 1. AMOUNT.
 - A. PROPOSAL: There is appropriated the sum of \$----- for the following purposes:
 - i. \$---- for operations of the County Jails in Q3 and Q4 in FY 2014;
 - ii. \$---- for staffing the BOC in the same period;
 - iii. \$---- for funding the Inverse Debt account for FY 2014 in an amount consistent with meeting the long term capital needs of the CIS.
 - B. BENEFITS: A supplemental appropriation will be necessary to avoid incurring a deficit in FY 2014 operations.
 - 2. FY 2015 AMOUNT.
 - A. PROPOSAL: There needs to be a calculation of:
 - i. A projected amount for O & M within an established cap, to supplement the \$62.5 million provided by the county property tax.
 - ii. A projected amount to fund incentive grants to the counties for programs approved by the BOC to reduce recidivism and pre-trial detention.
 - iii. A projected amount to contribute to the capital expenditures fund, now known as the Inverse Debt Fund.
 - iv. A projected amount to funding any startup costs needed to fund this reform legislation.
 - B. BENEFITS: The FY15 budget is overdue and must go into the queue, immediately.

While this draft is intended to address the many issues on which there appeared to be various levels of consensus, it does not address some of the major problems with capital budgeting, which we will be learning more about soon. So, for example, it does not address shifting liability for past county corrections-related debt obligations, or changing the mechanism for funding future capital costs and sharing the liability. It also does not create, beyond what may already be in place, any mechanism for future capital planning. And it does not address the very large degree of inequality in the corrections-related tax burden of the citizens of the various counties. Finally, it does not address the specific problem of the very large per capita debt Somerset County took on. These are all issues we may wish to consider as we move forward.

Best,
David Flanagan

Meeting 5 Summary

The November 15, 2013 meeting was a discussion and finalization of concepts. Chair Flanagan reviewed and expanded upon his thoughts concerning this project (**summary from minutes into the body of narrative**). In addition, Peter Crichton, Peter Baldacci and Commissioner Ponte discussed their views of the specific plans they felt pertinent. A general discussion of all the points followed. It was then determined, in order to clarify and point in a specific direction, a survey would be taken of the task force members. The questions asked of the task force members required ranking of the four options as follows: State takeover; a regional cooperative; some funding returned to counties; or Chair Flanagan's plan.

PUBLIC NOTICE
COMMISSION TO STUDY THE BOARD OF CORRECTIONS

Meeting Agenda
November 15, 2013

Marquardt Building, BOC Conference Room, Augusta
9AM - Noon

Call to Order
Welcome and Introductions
Approval of Minutes from October 4 meeting
Brief Analysis of Member Survey
Concepts in the Report
Discussions
Straw Draft of Proposed Legislation
Adjourn

Jail Task Force Minutes
Meeting 5 – November 15, 2013

Present:
Pat Flood
Aaron Frey
Marsha Alexander
Bob Devlin
Joe Ponte
Peter Crichton
David Flanagan
Greg Zinser

Peter Baldacci
Joel Merry
Mo Ouellette
John Lebel
Max Dawson
Jim Cloutier
Bill Whitten
Mark Westrum, via phone

- I. Chair Flanagan called the meeting to order
- II. Introductions
- III. Flanagan noted an agenda change – Bob Devlin to report on Corrections Working Group and Rod Miller’s final report on the Maine Correctional System will be circulated to all via email.
 - a. Devlin: Corrections Working Group is reviewing the CCA money formula, based on a 1990’s formula. Group did a survey regarding services occurring currently within counties (reporting summary passed out). A finding was that the state is allocating \$5.6m without any expectation of outcomes or performance measures. A recommendation of the group is that funding should be allocated based on need and population.
 - i. Flanagan: Your theme sounds very consistent to me, with what this committee has been talking about for a month. This is similar to the University of Maine System funding issue, with the slow economy and an old formula and it needs to be changed. We have to come to some decision about what we’re going to recommend to the legislature, so we have today and maybe a meeting next week if needed. We need to reach consensus and/or take a vote today, then we’ll recruit some help to draft up the legislation.

I wanted to give you a brief overview of where I think we are. This group has been very cooperative and done a lot of work to identify problems and solutions. It’s been a pleasure to be associated with this group. Based on a compilation of the survey done last meeting, there seems to be great consensus on problems and solutions. Finally, there seems to be no easy way out – we have lots of different options and there’s no best way. The models we’ve looked at are a reversion to complete county control, complete state takeover, and the creation of regional jail authorities. A fourth alternative is a strengthened BOC model, because we need something to be credible with legislature and something that will make a big change. Right now, it’s an archaic system and doesn’t have the support of its funders and isn’t consistent in standards and expectations. There’s a big problem with the funders being so concerned they’re not willing to put money into the system incrementally. This is because efficiency and trust are missing. This is only going to get to be a bigger

problem moving forward because the county share is frozen at \$62m, with no option for growth. This means that if costs go up, every additional dollar has to be funded from general fund taxes appropriated by the legislature. The system needs to be transparent and accountable.

The current BOC model cannot succeed because there is no incentive for counties to control spending when all incremental costs are incurred by the state. There's no political accountability for increases. There's no power in the BOC to impose fiscal discipline or require financial efficiencies. Counties can go off on their own and do whatever they want. The counties can do whatever they want. There doesn't appear to be any mechanism for systematic capital spending. The state has no clue as to the size of this obligation, as the capital needs is great.

No matter how we disagree, it's urgent to try to address these problems because there is a FY14 deficit, which is a clear illustration that the system is failing. No one is sure what the deficit is, which is also an indication of failing. And there's no FY15 budget set yet either. There is no inkling as to where we're going in terms of spending either. In my opinion we need a BOC with the power to enforce its policies, set standards and enter into contracts on behalf. The BOC should be able to provide back-up office support if needed, and be able to approve budget requests. It also needs independent governance membership to cure the lack of incentives. There also needs to be some sort of capital planning expenditure mechanism put into place.

1. Westrum: I am enamored with the presentation. I think it has merit. I think this is one I would vote for. I haven't had a chance to vet that with anyone though. I liked what I heard.
2. Ouellette: After other presentations, will be discussing your proposal?
Flanagan: Yes.

- ii. Crichton: Regional Jail Authorities concept
Currently, a lot of positive things are happening in the county jails throughout the state and we can't ignore that and overlook any of them. The comments about consistency and standards issues, it resonates with us all. There may be a jail within a county that is operating with consistent standards and metrics. There is some chaos within the system. In looking at that system, how do we get the system to work? How do we transition from a 200 year old chaotic, dysfunctional system to a new system? We do need the counties to collaborate and act in concert together. We needs the system to be transparent as well. I think the Regional Jail concept presents an opportunity for the jails to accomplish many of the problems identified. By working together in smaller groups, you're able to build trust and confidence and accomplish things together.

It provides the opportunity to implement policies. An all mighty BOC is great, but how do you implement it? I feel like if we don't have a regional jail authority, which would be a voluntary participation, I think we're missing out on the best opportunity to be able to implement the vision behind the BOC creation. We need to have a mechanism and structure in place and this is it. We need to give the counties, jails and sheriffs the power to make changes and work together and better the system. If we don't change the local level structure, like they've done in VA for 20 years, this is our chance to make that change.

iii. Baldacci-County Cap

I don't have the same outlook as the problems and what's gone on. I agree there's no perfect way out. I think we should look at what is doable and what can work. The picture painted of problems I think is grimmer than reality. I think a lot of the issue is dealing with insufficient funding. The system isn't chaotic, it's moving inmates around to fit into the budget shortfalls. I think what Bob Devlin spoke about with the CCA funding is a positive thing. All the programs benefit the system.

The funding problems to me are the main problems. Will the state ever have reliable, dependable funding for county jails? No. It'll always be a challenge. The way CCA money has worked by having it be clear and statutory is a positive. This is an opportunity for us to say we can change this for the better. We aren't reverting to what we did. The BOC cannot serve as a mini DOC, so the board needs to be able to handle the funds and make sure counties are accountable. They could set guidelines on how funds are spent and jail construction.

Currently, you say there is no dealing with capital needs in the future but it hasn't been addressed or proven. It's up to the counties to handle this. Incentives are reversed right now. The counties need to be accountable. The counties should be able to go back to their people, the property tax issue. There needs to be a growth rate included, like Sen. Flood mentioned. If the state doesn't agree or approve, then you have to go back to your county and ask. It goes back to accountability – there will be more support for funding if the legislatures understand better. The property tax is merely a safety valve and provides accountability.

iv. Ponte: I think the issues that have been talked about have been great. We always mention flat funding and the BOC has never flat funded. The counties have increased costs in the areas they had cost control over. We have risen at a 3.7% rate. The chairman addressed this very well- we're trying to mix a county and state system together and it doesn't work. We have had four years where counties could come together for contracts and agreements and nothing's happened. From where I sit, that somehow we're going to pass anything without some real authority, it

doesn't matter with whom, we're never going to get there. We are at a fiscal cliff here. We don't have a lot of time. A state unified system answers all the questions as to why the BOC didn't work. All the pieces of how to do it are here in the system, but no one's working together to fix it or use it.

The counties costs were going up the last 4 years when the worst financial crisis was happening and inmate counts were going down. How does that happen? This should have been a time for cutbacks. We need to make a system that functions well for the state of Maine. The DOC has the ability to do that. In the VA model, we can't have any one area that's all inclusive, so we're still going to driving around. We need everyone playing the same game.

v. Open discussion to four options on table

Ouellete: I was on the regional jail committee. After listening to the folks in VA, it reaffirmed what we all know – once you leave the state, county governments have a lot of authority and are strong. The Commonwealth pays for 80% of all personnel costs, which is how it all works. And the Commonwealth covers 25% of new construction. I would love to be in that predicament today. I ask myself: did we have that ability to work together? Yes, we've have it all along and haven't done it. I feel like it looks a lot like another layer of government and it looks a lot like another round of school consolidation. 22 ballots just had questions for schools to unconsolidated. I think we need to focus more on working together, voluntarily. It needs to be a priority. Recently, a few of us Sheriffs sat and talked over lunch for 2 hours to fix an inmate situation and we figured it out, we worked together. The biggest problem we've had is trying to take state and county corrections and shove them down the same silo. The fact of the matter is there are still a lot of statutes on the books allow us to work together and do what we need to do. The BOC issues have all been money related.

No one talks about the transportation hub that was build up north that works really well. It needs some work, but it can work really well. We need to do that down south too. I don't think it's the Sheriff's looking to give up authority or the Commissioners looking to gain authority, but the problem becomes, if we go a different way, will the issues go away? The structure of authority is there, but it's a two-way street. I run a paramilitary organization, it's different than a political organization.

Regarding Commissioner Baldacci and the inverse debt issue, that's where we're protective.

Do we want to create a BOC that mirrors the DOC?

Regarding the state takeover, we talk about the presentation by Scott Ferguson and that 3.4% increase wasn't just personnel. I think the counties have done well. I've sat in Ponte's office to try to work on the medical contract and it didn't work out. We ended up piggybacking with the state. The point is, there is authority and statute to do these sort of things.

I'm not afraid of Chair Flanagan's report. We bring up a lot of great points and if we can bring these points together, we'll be doing something. At the end of the day I think if I had to vote right now, there are a lot of great promising points without cannibalizing the system in the fourth report.

- vi. Cloutier: I still believe in regional cooperation and would support a report like the one Peter Crichton already delivered this morning as long as there were enough incentives delivered. I hope we don't get to a situation where we approve a plan to do nothing than what we can already do anyway. I do not favor a state takeover at all. When I read the Chair's report, I feel like that lead me down a path of ideas that I could really get behind and I feel like we could get down that path. We need strong, purposeful, well-structured parts of the BOC. We heard a lot of positive stuff about how that works in VA and the substantial carrot for those who want to build new facilities. We know we have at least 5-10 facilities here that will need to be replaced soon and that's a major issue to be planned for.
- vii. Devlin: On the regional issue, when we look at VA, it's apples and oranges because their counties are the size of Augusta. The cynic in me, we have a substance abuse block and veterans block and counties refused to send us anyone. Some counties have closed their doors and won't even consider helping out some counties who are overflowing. I think we're missing the point about the counties who have large debt. They are much more burdened in the system than the rest of us and it's a serious problem we need to address.
- viii. Flood: I have enjoyed all the proposals and outlines. I believe strongly the issues lie with fair and certain outcomes. The committee is trying to be very fair and certain. Regarding funding, very often we don't have the money for anyone. We don't arbitrarily just remove money, we try to do what's right and try our hardest to do what we think it best. I think this effort is keyed up for success because everyone's dealing with each other well and cordially.

I am in a strong belief that the committee will be fair about debt. It's not one that's come before us in the past. It needs to be addressed fairly, for the state and the counties. There's needs to be expectation for growth,

shared responsibility too, is critical. It's fair and certain.

Everyone really wants to accomplish something. Our job is to make it easy for someone to say yes. Be easy, be clear. If we put contentious items in, you risk losing the whole thing. Put in what you can all agree on. Legislatures are going to have mere minutes to work on this – make it something they can agree on without a lot of jargon. The criminal justice committee has great credibility. If we make something they agree with and can stand behind, we have a great chance.

I think if we call something a regional authority, DOA. But if we talk about regional collaborative, it's better. We don't want to make it look like we're adding another layer of authority or government. Also a state takeover creates the same kind of tension. We need to focus on areas where we can agree, like the Chairman noted.

- ix. Zinser: In reviewing the Chairman's report, I overall agree with some nitty-gritty to work out, which echo what Bob has said. We need to look at the debt. We also need to address the issues of the other revenues. I think the use of the federal funds you mention is a disincentive. If the BOC says it'll fund you, they should. There's things we can do to creatively bring in revenue, but that reduces the funds the BOC gives you. So if we're counting on that, but it's not coming because we're finding creative ways to fund, where's the incentive? There are some counties that share a large burden at the expense of tax payers and basically footing the bill for counties sending their inmates over. It all centers on use of the funds. I want to be clear, when we talk about incentivizing, it's to allow us to get things done that have been delayed because we haven't had the funds to do so.
- x. Flanagan: Great argument, Greg. I put it that way to lower the property tax burden.
- xi. Cloutier: I agree with the incentivization as well. There should be a way to use the funds – it can't be a one-way process.
 - 1. Zinser: The BOC should continue fund that year and the incentives could accrue for a year. Allowing us to keep it to accomplish other much needed projects for that year because we found a way to do something different shouldn't be penalized.
 - 2. Cloutier: It is a familiar issue and no one's come up with a bullet proof answer yet. The equity over the long term would help.
- xii. Devlin: The way the systems operated, if you run a surplus you're criticized and if you run a deficit you're rewarded. The BOC needs to aggressively manage that. What Sen. Flood said, I agree – never bring the legislature a problem, bring them a solution. Heed his remarks.
- xiii. Zinser: With the regional jail conversation and what Sen. Flood said, in the Chair's proposal, the BOC is given much of the authority. What if we

give the BOC the authority to create the regions and incentivize things? If we can start incentivizing counties to collaborate regionally, I think it bumps control to regionally and out of Augusta. I think the savings would be realized too.

1. Flanagan: The whole issue of the cap x planning is ripe for consideration. More regional facilities might be how we address our problems.
- xiv. Merry: VA's circumstances are different than ours based on geographic and demographic. I've been encouraged by a lot of things I've heard here this morning. I think we've moved closer to the center and have gotten to a place we can build consensus on. This system was created 5 or 6 years ago with the best in mind and we shouldn't lose sight of that. There were so many unintended consequences that weren't able to be fleshed out. We've addressed many of them in these 6 weeks. I don't think it's going to take us long to move into a better area. The proposal the Chair submitted is worthy. Creating a new, much different system is going to set off red flags and we don't have that amount of time. Tweaking the system and dealing with the elephants in the room is what is needed. Many of the counties have shown a willingness to work together. We do it quietly and behind closed doors. We shouldn't create a system that erases that.
 - xv. Flanagan: I couldn't agree more with Joel's point about maintaining cooperation, like Mo mentioned.
 - xvi. Baldacci: I appreciate Sheriff Merry's comments. I think we have to keep it simple. What we're trying to do is make the BOC helpful to counties and to the state. If we create a more bulky BOC, that money comes from the state that are limited and supposed to go to jails. They can't run 15 jails, but there have to be ways to help counties working together and give them some incentives. If the BOC gets too into the weeds, that's a mammoth task with a lot of bureaucracy. We don't want an Augusta-centric view on how to help each county. The BOC can be a referee.
 - xvii. Dawson: I was gravitating to a strengthened BOC as we've been moving along, and I'm also a fan of regional. I have been involved with working with four counties and while not heartwarming, it was something. I don't know how it would work in this state – would we have to build three jails in Aroostook County because of its geography? I would like to see the BOC participate in the regional options.

I'm probably more of a fan of the DOC taking over than many, as I don't have great faith in the state and I think it'd be a major hurdle we don't want to jump.

The other group I represent, the tax payers, I have zero interest in going back to property tax.

- I point out Two Bridges built it cooperatively and are stuck with debt.
- xviii. Zinser: The issue of equity we keep going back to. The issue is also within each jail's budget. I understand the issue of the BOC being involved in the nitty gritty as to what is appropriate. There needs to be some type of authority to push for savings because that's a savings for a system that can be put back into the system. The other issue is the equity in the county per capita. I think the proposal Chair Flanagan has given is starting to address all these issues.
- xix. Flanagan: Let's take a 5 minute break, chat amongst ourselves and move on.
- xx. Flanagan: Let's reconvene. You all have a ballot. Let's fill out based on 1 you're favorite through 4 your least. Given time, let's focus on the idea we can work on next week. A variant that's been thought of is the legislation put in money for voluntary regionalization. During the course of the next few days, I welcome any comments about how to fix the debt issue and ask you to review Miller's report. Part of this might require an emergency bill for supplemental assessing, so we might have to ask for basic statutory change. I invite everyone to fill out the anonymous ballots now.
1. Crichton: I accept the change to regional cooperative.
 2. Baldacci: These titles leave out a lot of details. Should we vote on idea we agree on then move forward?
 3. Flanagan: We did that last week – we have that summary Bill's team put together about all the points agreed upon. We can focus on that after the vote. Any suggestions on modifications to language, send to Bill by next Monday.
- xxi. Results: Bill Whitten
State Takeover – 3.21 avg.
Regional- 2.28 avg.
Funding to County- 2.75 avg.
Chair's version- 1.75 avg.
- xxii. Flanagan: Great this gives us some idea of how to proceed. By the end of the day Monday, please communicate with Bill changes or ideas to language of that plan. Sen. Flood if you could ask the committee for some help in drafting. I will ask someone at the DA's office as well. I know we won't have an LD on Friday, but I want the language draft if possible. My dream is by the close of business on Wednesday to get to you all a draft of the report and meet next Friday to decide if this is how we want to proceed.
1. Flood: When you do the report and include the draft legislation, you'll be doing a far better job than most do and it will be very well received.

- xxiii. Zinser: Bob, I have a question on your recommendation of the CCA funding. Do you mean, as part of the CCA application, a portion will be removed for a discretionary funding? Which removes some money from the overall investment fund allocation.
1. Devlin: Right now, it's 80/20 and that has to be changed.
 2. Zinser: Right, either way, we're robbing Peter to pay Paul. In the current scenario, we'd be short a lot.
 3. Devlin: Conceptually, yes. More money would be included to fund programing.
- xxiv. Crichton: I've heard many talk about the debt issue and how to we address the issue that has been created in Somerset, Lincoln and Sagadahoc counties. Is there a recommendation we can make to address those issues?
1. Flanagan: Thanks for raising that issue. I think we need to deal with that in the remaining time we have today.
 2. Crichton: Sen. Flood, I took you literally when you mentioned the fiscal cliff. Is there a way we can fast track this so we don't have to deal with the cliff?
 - a. Flood: I don't know how to do so or where the supplemental budget would come from. If it were embedded in budget, it'd be dealt with in February. If it's just a policy, it'll be April. It might be possible to convince the appropriations committee to pass the budget if we promise them the language is coming.
 3. Cloutier: You mentioned the tax per capita would be circulated. Will that address the debt as well?
 4. Zinser: We allocate \$1.6m in debt service each year. Where's the money going to come from? What are simple ways to address this? Maybe with the Chair's proposal, allowing us to use the surplus we create to pay the debt service.
 5. Baldacci: We should have the BOC review the rate and the population to see how to reallocate.
 6. Devlin: There's been evolution on the marginal rate.
 7. Baldacci: We're fighting for operational costs. It would be fair and they're part of the system.
 8. Flood: Referred to statutory language regarding debt. It needs to be tweaked. The verb is proposed. We should get some agreement on that.
 9. Devlin: And that wasn't meant to pay the debt. That was meant to be discretionary.
 10. Zinser: We need to have a note in there about 2008 and onward.
 11. Cloutier: What happens when you build more jails? Is that coming out of property tax? Equity is everything.

12. Crichton: As we go forward and we build more jails, we will use the same mechanism as Cumberland County used with the courthouse annex. I was hoping that would happen with this jail set up, that we could regionalize it and counties would retain ownership. If the county is operating the jail, you want to own it.
13. Ponte: We haven't been frustrated by bond issues. We have a proposal coming up in January for funding and current budget allotments. There is no statute on the books that allows for that. The criminal justice committee asked for a feasibility study.
14. Cloutier: Is there anything given the BOC that authority to propose bonds?
15. Crichton: No. Though personally, I think they should have it.

Meeting adjourned.

Meeting 5 – Task Force Survey and Results

Rank order of preference (1 – most favorable; 4 – least favorable)

- _____ State Takeover
- _____ Regional Authority
- _____ Some Funding Return to County
- _____ Chair Plan

The results were overwhelmingly in favor of Chair Flanagan's proposed plan, with necessary revisions and additions. The staff was charged with providing any information to the members for them to report back by close of business, Monday, November 18, 2013 with their thoughts as to necessary revisions to the proposed plan.

Meeting 6 Summary

The December 6, 2013 meeting was a discussion and approval of the proposed solutions. Chair Flanagan reviewed and expanded upon his thoughts concerning this project. A general discussion of major points within the proposed report followed. It was determined that a few amendments were needed to the proposed report and members of the task force volunteered to write the amendments.

PUBLIC NOTICE
COMMISSION TO STUDY THE BOARD OF CORRECTIONS

Meeting Agenda
December 6, 2013

Marquardt Building, BOC Conference Room, Augusta
9AM - Noon

Call to Order
Welcome and Introductions
Approval of Minutes from November 15 meeting
Discussion of Draft Report
Approve Proposed Solutions
Adjourn

Jail Task Force Minutes
Meeting 6 - December 6, 2013

Aaron Frey
Marsha Alexander
Bob Devlin
Joseph Ponte
Mark Westrum
James Cloutier
David Flanagan
Greg Zinser
Peter Baldacci
Mo Ouellette
John Lebel
Max Dawson
Bill Whitten

Absent:
Peter Crichton
Pat Flood
Joel Merry

Meeting called to order. It was noted that those missing from the meeting had truly made incredible efforts during this process.

Flanagan: First time working in the criminal justice system. Of all the functions of government, the most thankless is corrections. It's been hard work and have experienced enormous frustration. But, thankless as it is, of all the jobs of government, public safety is job one. I have seen firsthand what happens when there is not sense of justice. It sucks the blood out of a country. We are so lucky where our founders recognize that a good commitment to public safety is job one and the key function to any government. At least I appreciate the careers and lifetime of dedication you have put in to this.

Bob Devlin helped bring us back to the colonial days of corrections. From those early days, Maine has always been a state of scarce resources. People got ahead by taking advantage of

the few natural resources and hard work. We have developed a proud tradition of local control and local government. We are engaged in a perpetual struggle between local control and natural resources for an economy of scale.

It's been a pleasure to work with you all. We've worked together to identify the problems and had intelligent conversations about solutions. I believe in government, no solution is ever perfect. We're always trying to find a balance for what's most doable. The report we have laid out I feel is the best option. It leaves control with the counties, beefs up the BOC and it brings the state voice in when needed. However we come out today, it's been an honor to work with you.

Introductions occurred.

Flanagan: As it's pointed out in the agenda, the only item for today is consideration of the report. If there's any other business you want to bring up, feel free. There's no need to read any of the report, just your thoughts and comments on where you want to go.

Devlin: I commend the staff for the detail of the work they did, especially with documenting materials. On page 16, it talks about per capita costs – can we clarify? There were two different numbers we'd talked about, the burden on income or the county.

Bill Brown: I'd need to review my materials.

Whitten: I can call Alex and get it clarified once we have a list of items.

Zinser: I'll make some generalized concepts. I think this report can be seen as a county payout and unfairly targets county government and paints us in a bad light. The lack of funding has caused a lot of these problems. The other thing is the major concepts we're trying to incorporate. As the plan is presented, I don't see a whole lot of changes aside from the BOC being given more authority. I really think the DOC should be taking a back seat. I don't see this plan being reconciled with some of the other jobs out there in connection with the sheriff, jail administrator, etc. The BOC would have the authority but there'd be someone with veto authority, but one person on the board can overturn things. We need to give some thought to the DOC authority.

There's no reference to the use of the funds. Surplus funds, federal boarding – it will be a bone of contention if not included in this report. We have an accounting system – we have CRAS. There's always going to be confusion and disconnect because there's new accounting software in cities and towns and I'm not always going to switch mine because someone else did.

Page 5, under capital investment – the county bond issues is dangerous. We have a cap, but we can do this or we can do that. Is there truly a cap then? If this moves forward in my view, we'll be starting out in a debt situation. How do I say as a county official, I can't ignore it?

I don't disagree having the BOC enter into contracts, just be careful about the unilateral aspect. Keep in mind if we're picking and choosing and pulling out various parts, it'll have a negative effect on the General Fund. As we move forward, we need to be clear of the intent of what we want to accomplish. I feel this report doesn't address some core issues.

Baldacci: I agree with Greg's concerns. It is very difficult to consolidate and report on the various thoughts and ideas we've discussed. My concern is on the bigger picture, this is a board of many county people and it's pretty strongly saying, while not accurate, the system hasn't worked because counties haven't managed their budgets better. I don't think that is the major issue and it shouldn't be reported that way to the public and Legislature. I think the State has some blame because they set up a law and then ignored it. We as counties had to operate everything without a lot of guidance. We've done fairly well to maintain the system without any history. I don't think the State has to rescue us from ineptitude. We wanted to go to strengthen the BOC and I have some concerns about the duplicative nature of DOC and BOC authority. I think we need to be realistic.

We need to be clearer on joining in on contracts, they shouldn't be mandated. The BOC should assist, not mandate.

I wanted to note the unified system. It's never been. We need to have a coordinated system and it was clarified in the legislation and it was never done. The goal should be for counties to be unified amongst each other.

I don't agree with changing the Board make up. It's going back to the old way.

Ouellette: In reviewing the draft, there was no growth rate set out. I think it's extremely important part of this. If one is set, counties can better plan their budgets. If we don't have it, we're right back where we started.

The discussion about the DOC overcrowding issue that started this whole thing, let's not forget that it was not a fiscal plan issue, but more an employee issue. There was space, but there weren't enough people to run the space.

I notice in the report we talk about costs and the AG's office supplying someone, I don't think I have to remind anyone that these costs come out of the BOC budget and if we want to be square with everyone, all those costs effect the county budgets. Every position added is less money for the county.

On page 26 we talk about statutory changed. Under section 6, we talk about relative experience and professional credentials. I personally think if we can give the BOC the authority they need and the State to pony up what they're supposed we won't need those positions.

I'll reiterate what Greg said a little earlier, if at the end of the day when the BOC was formed, if everyone had done what they were supposed to do, would we be here today? I think the

answer is no and when we drill down into it, there was no money to run the system and we were cannibalizing ourselves.

Westrum: I hear what everyone is saying. As counties, we own some of this – we really do. A quick example, we got out a grant for pretrial diversion reentry programs and not one of the recommendations were accepted and implied by the county. Because as 16 different counties, we can't come together on the same things.

Marginal cost rate issues were confusing to me. We started with marginal costs, then we went to actual costs for operating. I think part of the board's frustration is because we never go the support from either administration. The former administration set up a program and never funded a penny for inverse debt, so the Board gets stuck. Scott Ferguson just handed out a chart that showed that things have stayed flat, the increases have been salaries and health insurance costs. I didn't see some of that in here.

As far as the system being in chaos, Commissioner Ponte had the authority to place inmates in county jails and he left that up to the counties. Now one is suing us. If noncompliant, you really can't not fund daily safety issues because then what happens? We have no say over collective bargaining. Will a future board have say in it? This has caused us some issues.

Moving forward, we have to really be careful because we need more buy-in from the State. They have funded us \$15m since this started, but they haven't fulfilled their entire responsibility. I think we need people that understand budgets, safety and security and what's going on inside of the jail. It isn't the same as running a business. It's amazing what the work is and what the people go through.

Flanagan: These have been very thoughtful comments. Let me try to respond to some of the points. To Greg's points about the state responsibility and the counties being unfairly targeted, I'd be happy to add that to the report and if someone wants to work on a draft of that section, I'd be glad to add that to the report.

I wish Ponte was here to offer his suggestions and ideas.

As I understand it, in 2008 the county tax would be capped and the State would take up the difference. In my experience, people who put up the money expect to have a say in how the money is used. The fundamental problem here is they don't have confidence that the money they are appropriating is being spent as efficiently as it should be. One of which is having a system of accounting. RHR Smith gave a list of 100 things that needed to be done and as far as I can tell, that hasn't been done. No one in the same is going to support a capital investment plan if they don't know what it's going to look like. I think you'll get nowhere without a change in membership, an accounting system.

The concern that the commissioner can have a veto, we didn't write it so he could or would. The Board can't order him to do that, he'd have to make that on his own. We didn't intend anyone having a veto.

Your point about surplus funds I completely agree with and would appreciate your help with that as well. And your point about the \$100k point, we were trying to minimize smaller projects and with your expertise I'm sure we can make that stronger.

On contracting, with economies of scale there should be a carve out that should be done. I'm a believer in efficiency, not just doing things for the heck of it. If you're going to make it worthwhile, you have to give them the power to move when they see economies of scale that benefit everyone.

To Peter, I think the State intended having a Board of county people. And the duplication in responsibilities, fair enough and we should try to draft in a way that avoids that.

I used the word unified because it was in the study order title and I thought that is what the Legislature had in mind. I for one think that's the way to go.

Sheriff Ouellette, you're right, the growth rate did get lost in here and we need to bring that forward. Your points were valid and thanks for bringing them to the forefront.

In the end, this corrections gets an entitlement. You have to demonstrate the need and compete for the demand on limited State money. We have to make a case for it. That's what I was trying to do. Get an accounting system, contract discipline and capital issues to show confidence.

Mark, you are right. 16 different decision makers will never give one solution. That actual cost issue was one we tried to deal with and a lot of the problems has encountered is the dream budgets versus the reality budgets. We need one common budget to justify to the Legislature. As to the point about no support in the Administrations, doesn't matter who is there, if you can't show a plan no one will give the money.

As to what to do with Somerset County, I think the Board needs to have the authority to deal with it.

I think all of you have made great points and things should be incorporated in here.

Westrum: There was a plan regarding Inverse Debt. When it started, we paid it down. And the plan could have been built, the Board did get plans but they weren't funded. I looked for support. I wanted to bring in firms to plan for long term capital planning and funding and it never happened.

Flanagan: I totally understand your need and your thoughts. I can see the Board hasn't had the ability to bring in any outside help. I asked what the counties had spent for capital funding but no one knows. No one's given the Legislature any idea. I don't think it's plausible that appropriations committee would give money with no plan.

Baldacci: I think Mark's point is important. You are looking at it in a world where we're supposed to be all equal partners. I point you to DHHA for example. They don't put us in the same position as their own departments. Putting the membership in a more friendly layout for the State sounds good, but we'll always been the "redheaded stepchild." We had just redone the Board a few years ago. I think we can work together to strengthen it for sure. \$62m is still coming from the counties for the budgets. We need to clean up the authority and make it clear.

Cloutier: Another example of how State government doesn't meet our needs is the ride system. I think there's a lot of history that people see in their own way. One thing that is important to remember is it was created in the spring of 2008 and in the fall, there was catastrophic economic collapse similar to 1929. The root cause of most of this and an unwillingness to fund comes straight from the lack of money. There's a lack of money in every human enterprise that the State effects. The State is unreliable. I don't think changing the membership helps a bit, I don't think it helped a few years ago. The most important thing to me is to redefine the fundamental mismanagement issues of the current system. The Board needs more authority. They need to be able to close facilities – no license, you're shut down. There needs to be an enforcement mechanism.

I think in 2008 the Counties thought they were getting rid of a burden with the property tax cap. But with the healthcare costs of the inmates costs rose. The State thought there were a lot of money savings in collaborating. They were two ships passing in the night. The Appropriations Committee doesn't write letters like they did in June very often.

Zinser: I will get you something Chair on the use of funds and the other things. I want to point out on the finance stuff, there needs to be a common set of chart of accounts. Even so, it becomes a technical issue even with a common set of charts because systems don't talk. The issue is what is contained within those line items. We need to clarify that it's the line items that need the BOC to say what should and shouldn't be included.

Capital plans have been submitted, but no one looks. On the bottom of page 5 there's a reference about caps up to \$100,000. There's a lot of 'but...' The construction of new facilities, not debating the school process, but bonding is that money the county would expect over and above the cap?

Westrum: Part of the problem with CRAS is how it's entered in. The operating system is important. The other thing not mentioned, I'm concerned with the lack of the Board's ability to not be able to give out Q4 payments, especially to the counties with such a high burden. My only means to fund capital projects is to save and spend wisely all year long. The unfair inequity of the counties that are carrying the system need to be addressed.

Cloutier: The disparities are so huge, it's almost impossible to handle it. I imagine some counties are substantially benefiting given they're prisoners are sent elsewhere. And there's other counties are struggling because of what they pay. I would be glad if there was a little

more in the report that one of the responsibilities of the BOC is to look at the inequity issue and try to find a way using a revenue source other than property tax to equalize the property tax.

Devlin: You have used this theme throughout our meetings –creating confidence in the system. I have lost a lot of confidence in the system because I created a program and is not being funding. But counties make questionable decisions and ask the Board to fund them; counties operate in deficit spending for their holes to be filled; deferred maintenance is funded. I'm stuck with it. I've lost a lot of confidence. We've offered our innovative program but we can't get it funded. We have one program going. I'm very disappointed.

Scott Fergusson: The biggest quagmire for the BOC is the budget process. Historically the Board has been 6 months at least behind with a budget. WE are in FY14, or funding is what it was in FY13, there was no supplemental funding put forth. Until you line the funding up, it'll always be behind. Put the stake in the ground. I can't move to FY15 until we solidify FY14.

I read the report. CRAS does standardize the chart of accounts. We've offered in the past to do crosswalks between county codes and CRAS codes. WE have someone to spend their day looking at inconsistencies. The offer still stands. When CRAS was set up, we solicited you all for the codes.

Westrum: Would it be your recommendation, Scott, to have FY14 be the same as FY13?

Ferguson: Yes, it actually went down.

Westrum: I think we need to vote on a flat budget for FY14. But this is where we always run into issue.

Ferguson: There isn't enough money to pay all quarter payments. Should really be focused on the supplemental report.

Devlin: Col. Westrum brings up a great point – federal revenues. Those who can garner them, get an advantage and those who can't, don't. It's a slush fund we don't ever recognize. We need to address it. I think maybe it should be run through the BOC.

Zinser: We have talked about it and recognized the inequity. In some aspect, it is what it is and there's not much we can do about it. But in other ways, we could say the counties could keep a percentage and turn over a percentage and we struggle with it...if you take it from the counties, where's the incentive? How do we get that inequity resolved? If they want that advantage, upgrade your facility?

Whitten: Alex has gotten back to me about the first question. **[See Alex's email to bill]** It's per capita, not wealth, Statewide.

Bill Collins: I view what's going on as a short term problem. In 2008, Penobscot County budget \$0 to bring in federal inmates. We generated a good deal of income. I felt like we were a victor because it meant we didn't need to ask for lots of funds. In 2013, we have a budget present, we are requiring federal inmates' everyday just to keep me whole. I'm doing it because it's the only way to keep the facility whole, versus 5 years ago my hands were slapped. My budget is based on receiving 100% of my budget. I've received 50% of it thus far, and I've been told I'll receive another 25%, but I'm going to have to make a decision now that isn't advantageous to the State or the County.

If I understand what I heard Mr. Ferguson say, we have to do a supplemental just to get us through until this committee puts in its report.

Flanagan: It's like when I was at CMP. We were broken into 15 sections, capital priorities in Cumberland County cost more than in Dexter, so Dexter would always get work done but not Cumberland County. So we pooled things and made a top ten list for statewide. The school construction doesn't say what are the 10 most urgent statewide needs, and it's a cycle to work through things. I think this is an issue we need to make Statewide and I think this is what the Appropriations Committee was thinking when they wrote that letter. How do we then treat people as fairly as we can Statewide?

Collins: I understand the issues. I'm not talking capital needs. I'm talking daily operations needs. Come January, we're in trouble.

Westrum: If we vote flat FY13 in FY14, we're voting wrong. If we can't fund safety and security first, what can we do?

Flanagan: Is there anyone who hasn't spoken that would like to?

Dawson: The fundamental question when we come back is do we have insurmountable issues and the BOC take over? OR should we move forward?

Alexander: I think what Bill Collins was talking about points out the day one problem. We're talking about the entire system, not just the silos we're in, and that affects us because we view it as 'us' in each county. It has to change to be a system. It all comes down to the question of who has the authority. We need a statewide system for fed inmates and determine how much money goes back to the system, not just stay with the jail/county.

Flanagan: You're right Marsha. There isn't going to be another Commission like this. Either we come up with a plausible solution or the State steps in.

Zinser: What's the ability of extending the Commission? How do we magically solidify the understanding of each line and have it appear next week?

Alexander: Could it be like the Domestic Violence Commission, where you move through phases?

Cloutier: I think we need to manage within ourselves and that makes a good Commission. I think at a certain point we need to lob authority to the Board and say we want them to help with thing and they need to be in charge and are the authority. We've talked about our around the fiscal cliff. A supplemental request needs to be sent in. We can't operate on a shoestring and be safe. The Legislature needs to understand that.

Ouellette: At the first meeting, Sen. Flood mentioned that this Commission isn't going to solve all the problems. WE have to delve in and make sure we come up with reasonable solutions. We're not able to fix 5 years in 6 meetings. I think we ought to stick with what our charge was.

Devlin: I didn't mean to criticize anyone. We have a mechanism to take these ideas and move forward, using the BOC's systems.

Alexander: I wasn't clear – that's what I mean. We should note that this is what we can do in this amount of time, but in the rest of the time this is what needs to be done by the BOC subcommittee.

Flanagan: Let's take a break.

Meeting reconvened.

Flanagan: In thinking of how to proceed, there are two outcomes today. We can either decide to have a report or not have a report. We can make amendments to current report. I don't think the Legislation will let us have another month to fineness the report – the train will have already left.

I think we're in the situation that we can either reach some consensus to advance the cause of the non-felony corrections system or we can't. If we can't the Board will go to the Legislature with a supplemental budget and if they don't get the money they can shut down parts of the system and the State can step in to avoid public safety issue.

I'd like to see if there's a consensus on some elements so we can move forward. Marsha put it right – we can't be 16 counties doing our own thing. There has to be a vision of unified system, Budget practices, BOC authority, accounting system, unified capital plan, propose supplemental appropriation, [#7 #8].

I have heard that there will be no supplemental budget passed if report doesn't give more BOC authority.

What I hope we can do is to say we lack some basic concepts and in the next few days, those who have interest and insights will help draft some changes so we can get something over to the Legislature by December 15.

Westrum: Are we proceeding as a coordinated county system or a unified state and county system? I want to be clear with that.

Flanagan: It seems to me that your plate is so full dealing with counties, dealing with State things seems too much.

Westrum: I agree. It appears the Board still has a role based on a meeting I had at SMRT this week.

Cloutier: County jails incarcerate people which is part of the Corrections process. I focus on what's our process here so that we don't mimic the joke of camels. I think it would be smart for us to adopt that looks like our report in a generic way. I think the drafters have been true to what we've been saying. Let's start by taking this draft and approving, but stating what changes we want to make to this document. I motion to accept this report but make some amendments.

Devlin: I second that.

Zinser: I can stand behind this, but I need some changes made. The surplus funds and the debt issue in the use of funds is what I will discuss. I would also like to see clarified or removed on page 5. I would like to see that stricken or adjusted. The unified system of the BOC should be able to do this. Let's not break the county and go back on the county. In no way will the cap be exceeded.

Cloutier: How does that idea of staying within the cap interact with other ideas? Do you envision if Mo can stay within his budget that he use it for capital? And what about carry-over?

Zinser: The issue comes in that in year 1 you might be able to find some surplus but not in other years, and it becomes an issue with future years and the BOC needs to be aware and ready for guidance.

Cloutier: At what point does the BOC have the right to say your medical budget is too high?

Zinser: At any point. You can't keep inflating that line item unfairly.

Cloutier: I want the BOC to have long term authority to equalize property tax inequities across the state.

Zinser: Page 30 gets into issues with BOC authority, we need to be cognizant of the duties of all and how we reconcile them all. Can we define operational controls? If the BOC wants to do something they're told no because the law says no.

Flanagan: It's hard to define in broad terms. So the Sheriffs and the County Commissioner's would retain authority they have but with a BOC standard. If they're already setting standards, the BOC shouldn't do it – there should only be one organization setting standards.

Procedurally, we have Jim's motion on the table and Greg's changes which are understandable. In good faith, I'd like to adopt the modifications and send along to each of you. The option would then be agree or dissent.

Baldacci: There are other areas though that have changes though.

Flanagan: Make a friendly amendment.

Westrum: What does page 30 mean about incentives and sanctions for Counties that fail to follow the BOC rules? I can't vote on this until I know.

Flanagan: For counties that just hold on to money and don't pay in but are pulling off the system, how do you get them to cooperate? I don't have the answer or the language for that. Maybe there license is suspended?

Westrum: Will the Board have line item authority or will that stay with the counties?

Flanagan: I think the answer is that you have to ask for money from the DOC and the State Appropriations Committee. You have to know what you're asking for. If you find that jails aren't using the money, sanction them next year.

Cloutier: Intrinsically, the Board doesn't have any power. In short term, maybe you shut down some facilities. The question is how specific do we need to be today regarding sanctions? Money is one thing. It seems to me like we can define sanctions or something enforceable and usable. I think we have to assume that the things laid out in this report will be followed up on. I don't know if there should be line item authority at the BOC level. My budgeting history is that you get to appoint that says this is reasonable but if changes need to be made, they shouldn't need to come back to the BOC to make that change, there should be some local flexibility.

Zinser: I don't think we should be detailed. The language should say that the BOC can levy and deliver sanctions. Page 32, it's always been assumed that the BOC has a great deal of budget control. That to me says you can modify a budget because it says you can revise.

Westrum: I'm good with that. It gives us an understanding of our authority. Should the financial analyst have more of a role in the budgeting process and would the executive director help with inmate control? The flagships that are carrying the system aren't getting any payback. The inequity bugs me.

Zinser: What can we do with those funds? I think your question is more has your cap been fairly set as it pertains to that inequity. If the people within the county are funding the facility, but the inmates are from elsewhere, is your cap correct? But if caps are lowered, where does that money come from?

Todd Brackett: I feel the counties have stabilized the cap issue. But who has final say on the budget? We've had situations in the past where a budget item was approved by the BOC but not the County Commissioners and it leaves us in a sticky situation. I realize it's a bog down here, but it might be that detail we need. Programs set by BOC but might not meet interests of the county or its commissioners, we are stuck.

Devlin: The debt issue does create a huge inequity among counties. As a long term goal we need to address that issue.

Cloutier: I appreciate Sheriff Brackett's comments. This is clearly an example where the BOC should have the authority to implement standards that the counties have to address and adhere.

Ouellette: We might talk about the safe, secure operation of the facility. The BOC should have authority on staff level minimums.

Flanagan: Right. Going back to Mark's points, the debt service I think what Jim talked about is the best we can do. What we thought the executive director and financial analyst would allow you guys not to be sucked into the detail and they could handle that. It would be up to the Commission to set expectations to those people. We felt the BOC should have authority to move inmates around.

Westrum: I just want to make sure there's not a conflict with the Commissioner of Corrections and the Executive Director.

Devlin: It's a hiring issue.

Cloutier: If the Board has authority to move inmates, it would be a staffing issue. You wouldn't do it at a Board meeting.

Westrum: It may be advantageous for the Executive Director to move inmates versus the Commissioner.

Zinser: I'm getting a different vibe that the debt services won't be used like I mentioned earlier. Can we define this? I want to use some of our funds for this.

Devlin: Should we bundle the debt and look at it as a system? It's a very broad thought.

Ouellette: I think we'd be a lot better off not to muddy the water for what we have with overages and what we can save. I think we should take care of the debt service itself. Once

we've launched, then we can really look at that. Those counties that have debt services should be able to get a helping hand.

Zinser: Are there other ways to look at that year after year?

Cloutier: We've got a lot of things running around here. We have to make a distinction. If someone has debt, but have a low cap to begin with, it's not unfair. If someone has a high cap and no debt, it is unfair.

Zinser: Page 30, I'd like to have an understanding of this. What are the lines of authority? Mo mentioned the safety and security issue. I understand that. Mark, can you clarify the standards for minimum standards on staffing? How are they set and who would set it?

Ouellette: Currently the DOC does a walk-thru staffing analysis and tells you their minimums. Rod Miller came back and redid it later. That gives me my license to operate.

Flanagan: I wrote that in reference to police and guards.

Ouellette: For example, I can have a pod I can fit more than 63 inmates, but if I do that, I need more staff, so I can't do that because I can't afford to. So I keep minimums.

Westrum: So this points us to the inequities: I have 75, Cumberland has 56 before needing second person. There aren't standards.

Alexander: There are many standards that can be used across various associations and consultants you talk to. Then there's different standards depending on unions.

Flanagan: is this an issue left to the BOC?

Ouellette: There should be a set of standards, based on linear or direct supervision. We should operate under one set. The BOC is the one to set it.

Westrum: But it won't do any good if the unions are setting the standards and dictating what should be done.

Ouellette: Unions should not dictate staffing standards. We need to figure out in this draft report if we want the BOC to set this standard. Currently with the DOC it's a free-for-all. We need to address this.

Alexander: NIC still follows suit with Ron and Ralph.

Ouellette: The measurements tend to change though.

Flanagan: This is something where the DOC preempts the BOC.

Dawson: Are we discussing our concerns and then voting?

Flanagan: Yes.

Dawson: Mo mentioned earlier a growth limit and Mark mentioned runaway costs. I ask if the BOC should have authority to set those.

Devlin: Yes, page 31.

Dawson: Wide reference to counties but no notes of Two Bridge Correctional.

Flanagan: Yes, I will reference it correctly.

Dawson: Assuming that Two Bridges went back to the county to ask for help, we'd have to go to the State to ask for help.

Cloutier: True. You're off the hook until you're back to a good average.

Devlin: Any county that wanted to expand to open more doors would have to go to the Board.

Baldacci: I wanted to add the issue of having an entirely new board I oppose that and think it's unnecessary. I think we need to clarify and redefine authority, but not reconstitute it.

Flanagan: I understand.

Devlin: Is there a way to support with reservations?

Baldacci: Can we vote on just that issue?

Cloutier: I'd be happy to have amendment votes. We need to make sure that State knows they are the bag carriers. It seems just adding some members who are consumers would help versus deducting county folks. I support it the way it's written though. We can take a straw vote.

Westrum: I agree with Peter. I would like a straw vote.

Flanagan: We would vote on Jim's resolution to approve the whole report, though with the changes recommended today. If you disagree with the change, you can dissent from the report or move forward with the change and we'll submit with the change.

Cloutier: Straw vote for composition. Favor changing composition vote yes: 2 Favor keeping way it is now vote no: 9.

Membership will be stricken from the report.

Zinser: What about what I talked about the \$100,000 cap?

Devlin: I didn't read it that way Greg. I read it as if you have the surplus, do it.

Flanagan: That is what my thought was.

Zinser: I'm fine with that then. It just needs to say jail reserves. And use of funds. We can only pass straight-face test once. It's a one-time thing. It shouldn't be counted against us. You should still be guaranteed your full amount of the investment fund for that year.

Point two, for some reason, if federal boarding revenue should it be used as extra to offset the State Appropriation that would be given to the Inverse Debt Fund? I say no, it stays with the counties. Where is the incentive here for the counties?

Alexander: The first problem we have to clarify federal funding. What happens when a smaller jail needs to transfer to a jail that has federal inmates and can't? It doesn't support the system.

Cloutier: I think we have to have a division between onetime events and budgetary events. Federal funds are correctional funds. Debt service has resulted in plenty of inequity. I agree with Greg's first point – once a budget is set, its set. The BOC doesn't need to monitor the financial aspects of all jails. If we reserve that surplus for capital needs and operational shortfalls, then we are preserving the revenues and economic value in the jail system. I would favor use of funds to the extent that there is unanticipated revenue that carries over. The BOC needs to budget expense and revenue. We can't move outside of the BOC cap.

Zinser: Maybe the better way to deal with it is to move the money out to the county for sole use of the jail system only.

Cloutier: I don't think we can direct funds outside of the jail system for county cap. It's dangerous.

Devlin: If we start moving money into reserve funds with no clear use set, that doesn't increase confidence. I am funding my capital plan with our savings once we switch to natural gas. I won't get penalized for that because it's a one time savings.

Westrum: I'm good with what you're saying Greg. I'm a little nervous about Aroostook County. Is everyone ok with the cap?

Ouellette: I think it's a good point, but not for now. Once the ship has sailed, the BOC should work on that for the next Legislature.

Lebel: As long as it doesn't negatively impact the need for beds in the system. Some will do that at the risk of the system.

Alexander: The DOC is supposed to have to authority to handle this and say no, you will open.

Westrum: I have to deal with that now. The bed thing is bigger than this.

Flanagan: The solution should be to minimize the impact statewide and maximizes money statewide. It shouldn't come at the cost of other counties.

Cloutier: But you don't want to rewrite the budget every 60 days. The BOC at the end of the year can restructure that and the difference goes to another jail.

Ouellette: I don't think we should look for the fact that we're going to be holding these people all the time. Look at Berlin. This whole discussion may be for not. I think we need to move forward.

Zinser: My three points are:

1. If a county accrues savings on a onetime basis, it can save those funds for one year for county jail expenses and our investment fund wont' be penalized. Favor: 7
2. The issue of federal boarding revenue. It should stay with the County as well to be used for jail services. Favor:
3. Amend the resolution to say that unencumbered surplus can be used to fund jail unfunded jail liabilities, capital and shouldn't include budget items refused. Favor: all

All in favor of whole report: 10.

Final Report

The final report was distributed to the entire Commission on December 13, 2013. The complete report, including Appendices, follows.

Commission to Study the Board of Corrections
142 Federal Street
Portland, ME 04101
207-871-8380

December 13, 2013

Commission Members

David Flanagan, Chair

Capt. Marsha Alexander,
Kennebec County

Peter Baldacci, Penobscot
County

James Cloutier, Cumberland
County

Peter Crichton, Cumberland
County

Lawrence (Max) Dawson,
Sagadahoc County

Bob Devlin, Kennebec County

Sen. Pat Flood, Legislature

Rep. Aaron Frey, Legislature

John Lebel, Androscoggin
County

Joel Merry, Sagadahoc County

Maurice Ouellette, York County

Joseph Ponte, D.O.C.

Mark Westrum, Two Bridges
Regional Jail

Greg Zinser, York County

Bill Whitten, Chief of Staff

Elizabeth Trice, Staff Assistant

Amy Fickett, Staff Assistant

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Hon. Stanley Gerzofsky
Hon. Mark Dion
Members of the Joint Standing Committee on Criminal Justice and Public
Safety
126th Legislature

Re: Report of the Commission to Study the State Board of Corrections and the
Unified County Corrections System

Dear Sen. Gerzofsky, Rep. Dion and members of the Committee:

In accordance with the mandate of the Joint Resolution establishing the
Commission, as amended by the Legislative Council concerning the reporting
date, we are pleased to submit for your consideration our report and
recommendations for reform of the system of governance of the State Board of
Corrections and Unified County Corrections System.

It is our conclusion that the current system is not working as envisioned
by the Legislature when it created the current system in 2008, despite
enormous effort by many Maine citizen volunteers and corrections specialists.

We believe that changes in the scope of the authority, staffing
responsibilities, enforcement powers of the BOC, budget process and capital
planning could lead to greater understanding by the Legislature of the needs of
the correctional system, greater economies of scale in its operations, and
greater capacity to achieve its statutory goals.

Envisioning the county corrections system as more than a confederacy
of temporary alliances, but as a planned, coordinated system, with a more
equitable distribution of the cost burdens, would be in the best interest of the
people of Maine.

We will make every effort to be available at the convenience of the
Committee to respond to any questions you may have.

In closing, I want to acknowledge with genuine appreciation the
collegial work of the members of the Commission, who gave so generously of
their time and expertise, and of the many able staff who helped make this
report possible, especially William Whitten, Assistant County Manager,
Elizabeth Trice, Special Projects Coordinator, and Amy Fickett, Public
Relations Assistant of the Cumberland County Government.

Yours truly,

David T. Flanagan

**One Maine,
One System -**



Report of the Commission to Study the State Board of Corrections and the
Unified County Corrections System to the 126th Maine Legislature

One Maine, One System -

**Report of the Commission to Study the State Board of Corrections
and the Unified County Corrections System to the 126th Maine Legislature**

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I. Introduction

In 2008, Maine entered a new chapter in its organization of the county jail system. In essence, the state agreed to freeze the local property tax, and assume responsibility for financing any additional operational and some capital costs out of the General Fund, in consideration for the counties submitting to the oversight of a newly created Board of Corrections which would approve budgets, set goals, and champion economies of scale.

Now, five years later, the new system has displayed such serious shortcomings that the Legislature has initiated a special study of what's working and what's not, and directed this Commission to make recommendations for further reform by December 4, 2013. The following report and draft legislation is provided in fulfillment of that mandate.

II. Executive Summary

The Board of Corrections and the Unified County Corrections System were created by the Legislature in response to growing demands for inmate beds, proposed major capital spending to meet the need and concerns about the efficiency of the autonomous county system and the burden on local property taxpayers.

The Legislature adopted a hybrid solution to these challenges, "Capping county taxes in exchange for making unused space available to house inmates from elsewhere in the system,"¹ under the oversight of both the DOC and a new entity, the BOC. The BOC was invested with a mandate to promote efficiency, reduce recidivism and several other goals. But it was not equipped with sufficient authority or means to achieve those goals.

Recognizing the need for change, the 126th Legislature created a Commission to study the system and report back in advance of the second session.

The Commission identified 10 major problems:

1. An unrealistic funding process;
2. Lack of authority for the BOC
3. Too much time spent by the BOC on budget approval;
4. Goals and objectives neither defined nor met;
5. No jail standardization;
6. Innovative and high quality programs and incentives sacrificed;
7. Too many jails "not obeying the rules";
8. The current funding crisis;
9. Excessive pre-trial populations, coordination with the judicial system; and

¹ "Fund Report - Maine State Board of Corrections" RHR Smith & Co, CPAs, Accounting & Consulting Services Contract #CT95E20125-3230, June 11, 2012, pg. 9. Hereafter cited as "Smith."

10. Mental health needs inadequately addressed.

It then analyzed the root causes that contributed to the creation of these problems, namely:

1. Lack of a vision that the jails are part of a statewide criminal justice system which should be for the common benefit and protection, and the fair distribution of the common burden, of all the people of Maine;
2. Lack of ownership of the hybrid organization by the Legislature and Administration;
3. Lack of incentives and disincentives for system collaboration among the counties;
4. Incomplete executive leadership;
5. Lack of common accounting standards;
6. Lack of will and authority of the BOC to make and enforce critical decision; and,
7. Lack of a mechanism for systematic planning and funding capital expenses.

The Commission then considered four basic structural models for getting at the problems identified and their causes.

Briefly, those models were:

1. A return to autonomous county management and incremental property tax funding for future budget increases;
2. Creation of a new regional jail authority model with groups of 4 counties each following the Two Bridges Regional Jail Authority model;
3. A complete state take-over; and
4. Modification of the current BOC model, to give the Board real authority over budgets, contracts, standards and new construction.

Though each model had some appeal, the Commission settled on the modification of the current BOC as the most practical. Based on these conclusions, the Commission recommends the following changes to the current statute:

1. Vision:
Revise 34-A MRSA § 1801(2) to expressly state the BOC is empowered to adopt and require compliance with procedures, policies and regulations to promote statewide actions to plan, finance and execute a unified county correctional system.
2. BOC Representation:
By a majority vote, to retain the current membership composition of the BOC.
3. Provide enforcement incentives to assure compliance with BOC policies:
Amend 34-A § 1803 by adding a new subsection (12) to give the BOC explicit authority to:
 - a. Provide discretionary funding for innovative projects;
 - b. In the event a county does not comply with a lawful directive of the BOC, withhold funds otherwise allocated to that county until, in the judgment of the BOC, it comes into compliance; and

- c. In the event of a major breach in its directives, recommend to the DOC that it assume direct control of a facility pursuant to 34-A § 3009, in which case the county would be responsible for the costs incurred by the DOC.
4. Executive Leadership:
Amend 34-A MRSA § 1803-A to make explicit the duties and expectations for managing the business of the BOC by the Executive Director and the Financial Analyst, freeing the Board members to concentrate on issues of broad policy.
5. Common Accounting Standards:
Amend 34-A MRSA § 1803(5)(E) to give the BOC authority to establish common accounting standards consistent with State procedure concerning corrections related county budgets and to establish and enforce standard performance matrix and reporting formats for operational and capital investment issues as well. Rename the “Investment Fund” the “State Operations Support Fund” to clear up confusion regarding the use of these amounts.
6. BOC Authority:
Amend 34-A MRSA § 1803 to confer greater authority on the BOC to:
 - a. set standards
 - b. enter into contracts
 - c. offer back office services
 - d. assign inmates
 - e. encourage regional cooperation
 - f. monitor performance, and
 - g. collect and distribute funds, in order to promote economies of scale, efficiencies in operations, orderly expenditures of available funds and other related purposes.
7. Capital Investment:
Amend 34-A MRSA 1803(4) to provide that the BOC shall affirmatively establish a program for requiring 10 year major capital improvement plans from each of the counties, and prioritize projects for funding. These projects would then be funded by the creation of a transitional legislative provision to fund “Inverse Debt” in an amount equal to 10% per year of the estimated total CIP cost over the upcoming 10 year period for all capital projects of more than \$250,000. This new fund could then be called the “Major Capital Projects Sinking Fund”

For major capital needs, funding should be underwritten by a combination of State Appropriations and county bond issues in a way that ensures no county is required to make a property tax effort greater than the average for all counties. For projects of less than \$100,000 the county should be able to call upon its own reserves, and 30-A MRSA § 924(2) should be amended to allow fund balances to be maintained by the county based on 20% of corrections expenditures, as recommended by RHR Smith.²

It is the view of the Commission that county surplus funds should be available for use in a capital improvement program and placed in a capital improvement fund for a program

² Smith, p 15

approved by the BOC. Surplus funds may also be dedicated to a county's unfunded liability to the amount identified in the county budget, with the approval of the BOC.

8. Supplementary Legislation:

In addition to the foregoing measures to address the root causes of the BOC's problems, the Commission further recommends changes to achieve the goals of the BOC

Legislation as follows:

- a. Amend 34-A MRSA § 1803(3)(A) to improve pretrial management of cases by
 - i. mandating pretrial diversion and bail services statewide;
 - ii. developing and utilizing a standard minimum risk questionnaire to facilitate the use of bail in appropriate cases; and
 - iii. mandatory provision of video links with reliable interconnections in each jail for use for arraignments and other appropriate proceedings and trading usage by judges and DAs of such facilities.
9. It now appears that the budget is likely to be approximately \$2.8 million short for FY 2014 given certain assumptions. This Legislation should address that shortfall and ensure a realistic amount for FY 2015³ and begin funding the sinking fund for future capital consideration by a supplemental appropriation bill for consideration at the 2nd session of the 126th Legislature.

III. Mandate of the Commission

The 126th Legislature enacted the creation of a Joint Study Order Establishing a Commission to Study the State Board of Corrections and the Unified County Corrections System by LR 2171, which reads as follows:

126th Maine Legislature, LR 2171

Joint Study Order Establishing the Commission To Study the State Board of Corrections and the Unified County Corrections System

ORDERED, the Senate concurring, that, notwithstanding Joint Rule 353, the Blue Ribbon Commission To Study the State Board of Corrections and the Unified County Corrections System, referred to in this order as "the commission," is established as follows:

1. Membership. The commission consists of the following members:

A. Three county commissioners, one of whom is appointed by the President of the Senate and 2 of whom are appointed by the Speaker of the House of Representatives from a list of 5 county commissioners submitted by the Maine County Commissioners Association;

B. Three county administrators, 2 of whom are appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives from a list of 5 county administrators submitted by the Maine Association of County Administrators and Managers;

C. Two jail administrators, one of whom is appointed by the President of the Senate

³ See Appendix K

and one of whom is appointed by the Speaker of the House of Representatives from a list of 4 jail administrators submitted by the Maine Jail Administrators Association;

D. Two sheriffs, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives from a list of 4 sheriffs submitted by the Maine Sheriffs Association; and

E. A member of the public, appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

The President of the Senate and the Speaker of the House of Representatives shall invite the Commissioner of Corrections, or the commissioner's designee, and the chair of the State Board of Corrections to participate as members.

2. Chair. The public member appointed pursuant to subsection 1, paragraph F serves as chair of the commission.

3. Appointments; convening. All appointments must be made no later than 30 days following the passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. When the appointment of all members has been completed, the chair shall call and convene the first meeting of the commission. If 30 days or more after passage of this order a majority of but not all appointments have been made, the chair may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

4. Duties. The commission shall:

A. Review the current structure of the county jail corrections system, including but not limited to its source of revenues, the predictability of costs and revenues and strengths and weaknesses of the current system, in order to determine methods for long-term sustainability of funding, best practices and necessary processes;

B. Review and propose revisions, if necessary, to the mission and authority of the State Board of Corrections; and

C. Clarify the structure and authority of the unified system of corrections and the State Board of Corrections and develop recommendations to strengthen centralization of the system and control and coordination of operations.

5. Staff assistance. The Legislative Council may seek the provision of staffing services from a non-legislative entity, including the Maine County Commissioners Association. The Legislative Council may not incur any costs for staffing services provided pursuant to this subsection.

6. Outside funding. The commission shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the passage of this order, no meetings are authorized and no expenses of any kind may be incurred or reimbursed.

7. Report. No later than December 4, 2013, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Criminal Justice and Public Safety.

IV. Commission Membership

After extensive consultation, 15 members were appointed to the Commission by the Speaker, Mark Eves, and the Senate President, Justin Alford. The public member, David Flanagan, a retired executive and attorney, served as chair. The commission has been staffed by Bill Whitten, Deputy County Manager, Elizabeth Trice, Grants & Special Projects Coordinator, and Amy Fickett, Public Relations Coordinator, all loaned from Cumberland County.

David Flanagan	Chair	Public Member
Capt. Marsha Alexander	Jail Administrator	Kennebec County
Bob Devlin	County Manager	Kennebec County
John Lebel	Jail Administrator	Androscoggin County
Greg Zinser	County Manager	York County
James Cloutier	County Commissioner	Cumberland County
Joel Merry	Sheriff	Sagadahoc County, Sheriff's Assn.
Joseph Ponte	DOC Commissioner	Department of Corrections
Lawrence (Max) Dawson	County Commissioner	Sagadahoc County
Mark Westrum	BOC Designee	Two Bridges Regional Jail, Chair of BOC, President of MJAA
Maurice (Mo) Ouellette	Sheriff	York County, VP of Sheriff's Association
Peter Baldacci	County Commissioner	Penobscot County
Peter Crichton	County Manager	Cumberland County
Rep. Aaron Frey	Representative	Legislator, from Bangor, Approps. Com.
Sen. Pat Flood	Senator	Legislator, Winthrop, Approps. Com.

V. Commission Process

In order to deal with such a complex issue in such a short space of time, the Commission organized its work as follows:

1. Six plenary meetings were conducted between September 20 and December 6, 2013, which were noticed and open to the public, with a broadcasting link for interested parties who were unable to get to Augusta for the meetings.⁴
2. At the first meeting the Chair outlined a process to be followed: (i) defining the problem; (ii) identifying the issues; (iii) creating a vision; (iv) conducting fair, fact-based hearings; (v) evaluating the root causes of the problems; (vi) reviewing the pros and cons of alternative governance models; and (vii) identifying opportunities for savings and efficiencies.
3. Invitations were sent to all groups believed to have an interest in the subject matter of the Commission, requesting their participation and testimony.
4. A public hearing to take testimony was conducted on October 4, 2013.
5. Interviews were conducted with policy makers and experts with relevant information, including Rod Miller, CRS Inc.; Sheriff Michael L. Chapman of Louden County, Virginia; Governor LePage and his legal counsel, Chief Justice Leigh Saufley and Chief Judge Charles Laverdiere, members of the Legislature and Elizabeth Simoni of Maine Pretrial Services.
6. The Commission identified ten issues of particular concern and divided into five subcommittees to discuss them in depth.
7. Those subcommittees then developed potential approaches, to the problems identified with each subcommittee dealing with two of the ten problems, and then, acting as a committee of the whole, which then polled itself on the preferred solutions.
8. The staff developed an extensive online file of past reports evaluating the system, and other relevant documents, for the members' reference.
9. The Commission developed and discussed four general approaches to dealing with the issues and potential solutions: 1) return to complete management and all incremental funding by the individual counties; 2) development of a comprehensive regional jail system through four new regional authorities 3) a complete state takeover of all county corrections responsibilities; ; and 4) strengthening the current hybrid state/county approach by changing the BOC composition and granting it real authority.
10. The commission asked the Legislative Council for an extension of the deadline for its work from December 4 to December 15, 2013, which was granted, and it has completed this final report.

VI. History of County Jails in Maine, 1653-1970

Just 33 years after the Pilgrims first set foot on Plymouth Rock in 1620, our Puritan ancestors saw fit to authorize a prison for the Province of Maine.

⁴The agendas of the six meetings are attached as Appendix B.

After some delay, a building for this purpose was erected at Meetinghouse Creek in the Village of York in 1656. The present Gaol was built in 1719 with timbers salvaged from the original structure. With the influx of settlers into Maine in the mid-18th century, the building was enlarged to provide more space for the housing of prisoners, as well as improving accommodations for the gaoler's family. The humanitarian drive to better prison conditions for debtors following the American Revolution resulted in the addition of a large debtor's cell in the 1790s, giving the building its present shape.

Until 1760 the Gaol was a prison for the entire Province of Maine. It served as a county jail from 1760 until 1820. For the next forty years it continued to be used for the incarceration of local wrongdoers.⁵ It remains in existence today as a museum.

An additional jail was built as each new county was incorporated, as Maine continued the system created by Massachusetts after 1820, with the counties' major role "to administer justice, rather than provide general services or enforce local policies."⁶

But some evolution did occur. Originally the jails or lockups were entirely a local responsibility. "Here thieves, arsonists, debtors (by far the majority), murderers and all other criminals in the county be held until their punishment was decided, or (until 1820) they could be dealt with at Massachusetts facilities.⁷ But county jails "became increasingly inadequate to house the State's criminal population and the need for a state prison became apparent. The Thomaston facility opened in 1824 with a small staff of guards under Chief Warden Daniel Rose."⁸

So nearly 200 years ago Maine started down the road of managing two separate jail systems, one county and one State. Overall, during the 19th and 20th centuries little changed in public policy toward the operation of the county jail system. Elected sheriffs reigned over the pretrial detention and correctional system in each county. Small counties with low populations built and maintained small jails. The reality of Maine's geography prevented any idea of consolidation during the era of horse and buggy.

VII. History of County Jails in Maine 1970-2008

Only Sagadahoc County eventually avoided building a modern facility, instead boarding its inmates at neighboring jails. Then during the building boom from 1990 to 2008 Lincoln and Sagadahoc formed a regional jail authority and built the Two Bridges Regional Jail, 30-A MRSA §1801, et. seq.

⁵ www.oldyork.org/buildings/gaol.html 12/2/13

⁶ Maine had nine counties by 1820 and added seven more thereafter. "Maine Politics and Government" Kenneth Palmer et al, University of Nebraska Press 1992, p 173.

⁷ "Maine: the Pine Tree State from Prehistory to the Present" Richard Judd et al, University of Maine Press 1995, p 230.

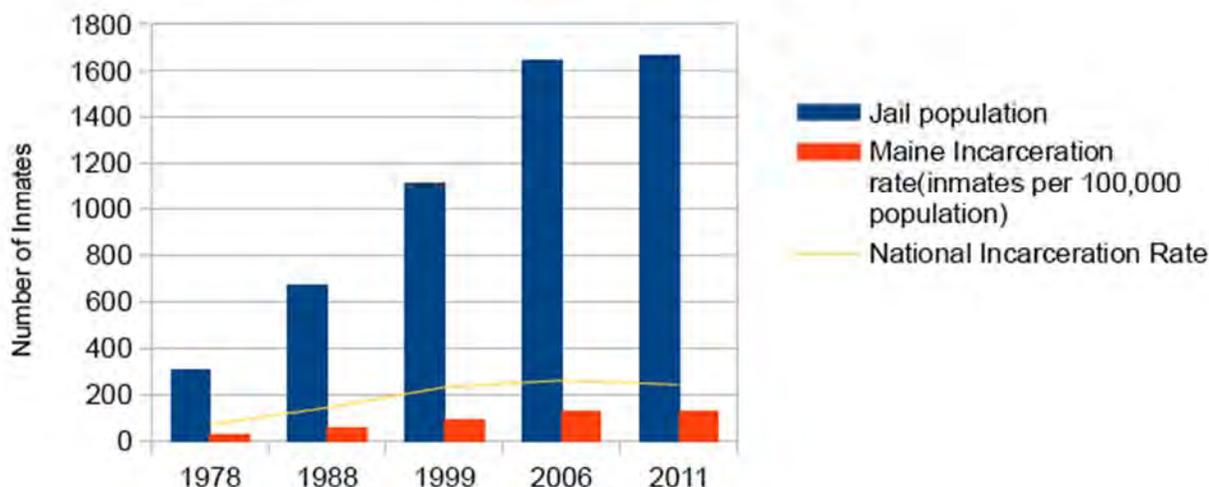
⁸ Ibid., p 200.

Over the last several decades, other large modern facilities were constructed in Cumberland, York, and Somerset. Medium size jails were built in Penobscot, Kennebec, and Androscoggin. Smaller facilities were constructed in rural counties across the state.

A rash of new construction was stimulated by a sharp increase in the number of people caught up in the criminal justice system in this period, and by the age and condition of some older jails.⁹

Maine Jail Population and Jail Incarceration Rate by Year

From BJS Census of Jails 1978-2006, NIC 2011



The Department of Corrections, having regulatory oversight¹⁰, required the newer facilities to be built to a twenty-year projected capacity, creating a large surplus of empty beds. This surplus of bed space was created in anticipation of an increased crime rate. In actuality, the criminal

⁹“A 1978 statewide jail study conducted by the Maine Sheriff’s Association revealed substandard conditions in most Maine Jails. At that time the average age of a jail bed was 80 years. Facilities that were 152 years old were still in service.” “Technical Assistance Report for the Maine Board of Corrections,” Rod Miller and Rebecca Ney, National Institute of Corrections vs Dept. of Justice, June 28, 2011, p. 28. Hereafter cited as “NIC Report.”

¹⁰The Department of Corrections sets standards for jails, conducts inspections, and is empowered to enforce compliance. “If a county or municipality fails to correct deficiencies and offers no plan of correction, or if the plan of correction offered to the department is determined inadequate by the commissioner, the commissioner shall determine an appropriate action to restrict or modify the operations of the facility, consistent with the nature of the uncorrected deficiencies, which action may include ordering an entire facility closed until the deficiencies have been corrected.” Emergency powers are also allowed if the noncompliance is determined to endanger the safety of the staff, inmates or visitors Title 34-A MRS § 1208.

caseload decreased from over 70,000 cases per year in 2009 to 57,000 cases per year in 2013.¹¹

These thirty-million dollar facilities (Somerset, Cumberland and Two Bridges) were entirely funded through the county property tax and often sold to the voters with the claim that the empty beds would be filled by counties with overcrowded jails needing bed space. The “county adopted boarding rate” was set at a premium price and inmates soon became a commodity where counties with empty beds bid against each other for a body to fill the bed. The prices ranged from \$80 to \$150/day.

During this period, the jail budget represented approximately 50% of the county assessment each year. The counties were proposing \$110 million in capital projects to increase jail capacity and alleviate a perceived system-wide overcrowding issue. Major capital projects were proposed in Kennebec, Cumberland and Waldo counties.¹² A study conducted by the Baldacci Administration found that capacity existed within the system and jail expenditures were growing at an average of 9% over the previous five years. Much of this growth was attributed to new debt due to jail construction.¹³

VIII. History of County Jails in Maine 2008-2013

By 2008 the county jail system was costing property taxpayers in Maine \$62,000,000 annually. The Maine Jail and Community Corrections System Report predicted in 2008 the county system could have a capacity of 2,382 inmates, with the expected opening of the Somerset jail in 2009, a 29% increase over 2007, when the county jails were housing approximately 1,689 inmates.

In addition, the State of Maine Department of Corrections was housing 2,060 adult prisoners at an annual cost of \$79.3 million. The state system was overcrowded and the Legislature turned down the proposal to house prisoners out of state. Still facing an overcrowding problem, the state’s eyes turned to the empty beds in the county system.

In response to this cost and capacity escalation, the Baldacci Administration proposed a direct state takeover of the county jail system, with jail administration and financing to become a responsibility of the State DOC.

¹¹ Jail population increased from 1,113 to 1,642 from 1999 to 2006, BJS Census of Jail Facilities 2006 <http://www.bjs.gov/content/pub/pdf/cjf06.pdf>. See Appendix D for charts of “Maine State Caseload 5-year Trends” 2009-2013.

¹² In 2003 Waldo County lost a referendum to replace its jail, and in 2008 Cumberland County lost a referendum to expand its medical pod. See Appendix F for a complete list of capital projects proposed in 2007/2008

¹³ CAAC Study 2006

After that proposal to absorb the county system failed, the State, counties and Maine Municipal Association entered into negotiations to unify the system. The result of those protracted negotiations¹⁴ was that:

- A. The Maine Board of Corrections (BOC) was created 34-A MRSA 1801, et seq.;
- B. The State would gain access to county beds at a marginal rate. The marginal rate reflected the incremental cost of adding an inmate in a facility without requiring additional staff, ranging from \$24-\$45/day depending on county, and that rate was set by the BOC.
- C. The property tax assessment on county corrections would be capped at the 2008 dollar level, 30-A MRSA §701(2-A).
- D. Counties would be responsible for any debt incurred before 2008, 30-A MRSA § 701(2-B).
- E. The Legislature would appropriate funds to meet the increasing cost of county jail operations through the General Fund, based on a growth rate set by the BOC, 34-A MRSA § 1805.
- F. The Legislature would appropriate and fund a Capital Improvement Plan based “inversely” on the difference between the debt at 2008 and the amount of debt paid by the counties annually each year forward, 34-A MRSA § 1803(5)(E).

As a result of the 2008 reforms:

1. The state got the needed beds at a marginal rate, which did not include any accounting for future capacity costs;
2. The municipalities got the property tax capped;
3. Overcrowding was eliminated in the county system as surplus beds were made available at the marginal rate;
4. The counties received State General Fund contributions to support the jails;¹⁵
5. Three county jails were converted to 72 hour holding facilities;¹⁶
6. The “inverse debt” obligation to fund new capital construction was assumed, but then not funded, by the State;
7. County inmates were no longer treated as a commodity to be assigned to other facilities on a bid basis.

The Board of Corrections and members of the Corrections Working Group dedicated long days and thousands of hours to tackle the daunting task of creating a unified system.

- Training seminars were offered on how the system should work.
- Financial reporting systems were created.
- Programs to coordinate transportation (transportation hubs) were created and large efficiencies were realized regarding moving county inmates around the state.

¹⁴ LD 2080, “An Act to Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services,” was signed by the Governor on April 18, 2008 and became PL 2009, Chapter 653.

¹⁵ See Appendix J

¹⁶ Oxford, Franklin, and Waldo

At first the counties cooperated, many reluctantly, to provide budgets and plans to get the system moving. But, passage of the budgets became an endless task, with repeated submissions and onerous scrubbing of individual county budgets.

It became apparent early on that deferred maintenance and capital improvements, as well as wage increases, had become a priority now that the state was funding incremental costs. There were no consequences for deficit spending or lack of capital planning.

Still, most county officials felt the system could and should work to find efficiencies and cooperation where possible. The operational budgets were tight but in most cases adequately funded. Some counties ran surpluses that were put towards capital improvements. Additional investment fund monies were allocated to Aroostook County to make up for a deficit at the end of its fiscal years. Some counties managed their budgets carefully and created small surpluses to fund capital improvements and innovative programming.

However, the perception that the Legislature had reneged on its promise to fund the operational budget and the reality that the Legislature never funded the inverse debt, the defacto capital sinking fund, has kept the Board and counties in a carousel of endless budget proposals and capital needs requests.

A form of battle fatigue set in with the counties.

The original statute was amended to add additional county members to the board.¹⁷ The Board and Working Group were repopulated with new blood, but the issues hadn't changed, and the working group became gridlocked with minor issues and made little progress towards addressing the critical issues. The Subcommittees of the working group stopped functioning. The budget focus group, consisting of several county finance directors, county administrators and state finance officials was disbanded and replaced by three BOC members.

The system was floundering:

- Money from the investment fund was diverted from the operations budgets to help counties pave parking lots, fix roofs and address deferred maintenance with no overall capital planning. Innovative programs to address recidivism had their funding cut.
- Deficit spending continued and some wage increases far outpaced the norm for other Maine public sector workers.
- Revenues for federal boarding were being used to pay debt instead of supporting the operational budget and the BOC faced a legal challenge over this use of funding.¹⁸
- Jails with empty beds stopped accepting inmates from overcrowded facilities, compounding the problem and forcing 72 hour hold counties to drive extra miles to find a bed.

¹⁷ County representation moved from two to four. MRSA 34-A § 1802(1).

¹⁸ Somerset County v. State Board of Corrections, Somerset county Dkt No. AP-13-004(2013)

The plan to create a system designed to find efficiencies, enhance programs to reduce recidivism and prevent overcrowding has been lost amongst turf battles over budget dollars and a sense of loss of local control and the lack of funding by the Legislature. Further, the Appropriations Committee did not get timely information, and as a result, funding requests fell behind the necessary schedule.

The state flat funded FY14 and FY15 appropriation to the county system¹⁹ causing cuts to staffing and programs as a result of the systems' inability to make clear and convincing justifications in a timely manner within the state budget process.

Since FY10 county jail expenditures have grown on average 2.4%, primarily in the areas of wages and benefits (3.4% or \$6.6 million); commodities and contracts (.8% increase, or \$.7 million); while experiencing a reduction of 7.2% (-\$.4 million) in capital spending.

As authorized by 34-A MRSA § 1202(5), the DOC is currently providing staff support for the BOC, including Scott Ferguson from the DOC for financial management, while Attorney General Janet Mills is providing legal counsel for the Board.

The DOC is further assisting the counties by providing housing for some county inmates to avoid local overcrowding, though there is at least one recent case in which a pretrial detainee in Franklin County was sent to the Men's Correctional Center in Windham and sought bail on the grounds that pretrial detention in a distant state facility was a violation of his rights. The presiding judge has dismissed the claim, but similar cases are likely to arise.²⁰

IX. What the BOC System Has Achieved

Primarily through the hard work of numerous individuals, the BOC system has made some progress over the preceding independent county system:

1. Saving the DOC and the State \$2.9m in the first year of operation by making jail beds available to State inmates at cost.²¹
2. The capital construction boom has stopped, with the \$100M program contemplated in 2008 now a dead letter.²²
3. The rapidly increasing burden on local property taxpayers was stopped in its tracks.
4. Some savings have been realized by converting the Oxford, Franklin and Waldo county jails to 72-hour lock ups.²³

¹⁹ The Legislature appropriated FY 2010: \$9,1369,506; FY 2011: \$9,058,217; FY 2012: \$12,650,035; FY 2013: 12,039,128; FY 2014: \$12,202,857; FY 2015: \$12,202,857.

²⁰ Parker v State, Franklin County Superior Court. See "Attorney seeks release of suspect forced to await trial in distant prison," Kaitlin Schroeder, Maine Sunday Telegram, Nov. 3, 2013, p B2

²¹ NIC Report, p 6

²² The BOC took credit for this cancellation, though Miller & Ney disagreed, arguing instead the new construction was merely delayed. Ibid. p 34

²³ Ibid. p 33

5. More savings have been achieved by development of a cooperative transportation system for moving prisoners around, particularly in Northern and Eastern Maine.
6. The practice of setting boarding prices by bidding for inmates ended.

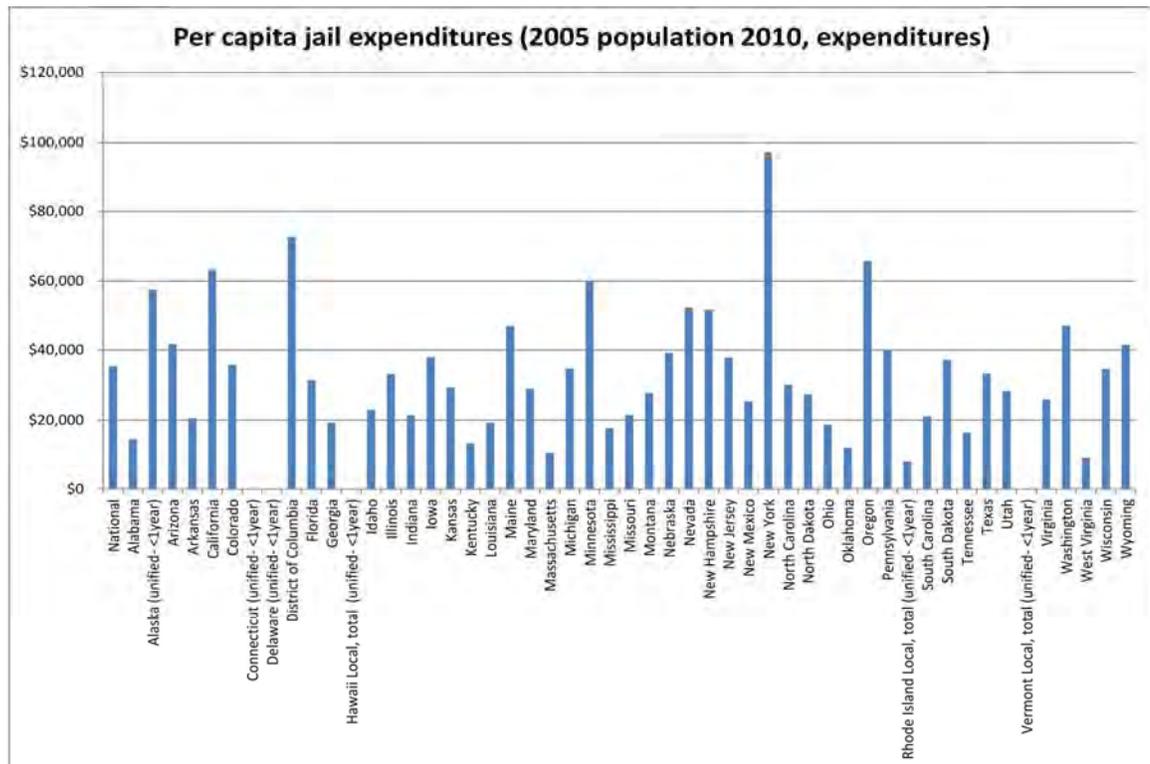
X. What the BOC System was intended to achieve, but has not:

The objectives of the BOC were set out in the legislation creating it as follows:

The first section of the legislation, Title 34-A §1801(1), states that “The State Board of Corrections is an autonomous body whose purpose is to develop and implement a coordinated correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities.” The statute also directs the Board to develop goals including benchmarks for performance in the following areas: A. Recidivism reduction; B. Pretrial diversion; and C. Rate of incarceration, 34-A MRSA § 1801(2).

The actual achievements of the BOC have fallen short of the goals. For example:

1. Costs continued to increase²⁴ since 2008, so that Maine has a per capita cost for county inmates of \$59.94, the tenth highest among the states.



²⁴ In the first biennium of the BOC overall costs rose at a rate of 3.5%, but in its second biennium, that rate decreased to 2.45%, and for FY14-15, the actual rate is believed to be 5.5%.

2. There has been no coordinated capital planning, and limited appropriation for capital construction, contrary to the “inverse debt” funding promise in 2008.
3. The BOC has been limited in new funding from the Legislature, and appropriations have risen from a starting point of approximately \$5.7 Million for FY2008 to approximately \$13 Million for FY13, with the operations deficits for those 5 years made up by savings from the conversion of three county jails to 72-hour lock ups.
4. The fiscal shortfall has reached the point that it is anticipated that at the current rate of spending, the county jails will require a supplemental appropriation of around \$2.8 million for 2014, excluding Somerset, based on current assumptions, or else will run out of money sometime in the fourth quarter of FY14.²⁵
5. The BOC has been unable to fulfill several of the statutory mandates included in the 2008 legislation which were intended to improve management efficiency and reduce both recidivism and the rate of incarceration, and increase pretrial diversions.²⁶
6. For the most part, the BOC has been mired in a decision making impasse for a long time, unable to reach decisions on critical matters concerning county jail budgets and only recently was able to allocate some \$5.6 million for programs to reduce recidivism.²⁷

XI. Why the BOC has failed

Despite tremendous efforts by many Maine people in government at all levels and volunteers serving their civic duty, and the tireless leadership from BOC Chairs Neale Duffett and Col. Mark Westrum, the BOC has failed to achieve the initial expectations of the Legislature in creating this novel, hybrid system.

It has failed to:

1. Achieve cost reductions through collective contracting for goods and services;
2. Secure budget discipline at the county level or full state funding for its budget requests;
3. Address its mandate concerning reductions in recidivism and pretrial services;
4. Achieve standardization regarding staffing and equipment;
5. Develop a unified plan for capital investment; or
6. Win the trust and confidence of the Legislature.

²⁵ See Appendix I

²⁶ The NIC Report contains a table at pp. 8-11 detailing the 47 statutory mandates requiring action by the BOC, a copy of which is attached. Of those 47, in 2011 the NIC determined that fully 15 were not complete, 19 were “partially complete,” and only 11 were actually completed (the rest were basically “unknown”). A review in connection with this report indicated that 15, including crucially, developing “goals to guide the development and evaluate the effectiveness” of the new system and “develop a plan for ‘managing costs’” have not been completed. Since 2011, no additional mandates appear to have been completed, or even undertaken. See these tables in Appendix A.

²⁷ “Jails will get more funds for reducing recidivism,” Craig Crosby, Portland Press Herald, Nov. 25, 2013, p C1

The BOC legislation has failed to adequately address 10 specific and serious problems identified by the Commission including:

1. An unrealistic funding process;
2. Lack of authority for the BOC
3. Too much time spent by the BOC on budget approval;
4. Goals and objectives neither defined nor met;
5. No jail standardization;
6. Innovative and high quality programs and incentives sacrificed;
7. Too many jails “not obeying the rules”;
8. The current funding crisis;
9. Excessive pre-trial populations, cooperation with the judicial system; and
10. Mental health needs inadequately addressed.

What are the root causes of these results?

1. Lack of a vision that the jails are part of a Statewide criminal justice system which should be for the common benefit and protection, and the equal distribution of the common burden, of all the people of Maine.

As the framers of the US Constitution argued, the safety of society is among the transcendent objects of government, and justice is its purpose.²⁸

As noted above, criminal justice started out in the Massachusetts Bay Colony as a county responsibility, as the dictates of colonial transportation and communications demanded.

Since then Maine has successfully modified other institutions in its criminal justice system, as the courts now operate on a statewide basis, with its judges now funded through the state General Fund, though the counties retain a role in owning and maintaining courthouses.

Likewise, the District Attorney system has been updated, with multi-county districts and state funding for the salaries of the District Attorneys and their assistants, 30-A MRSA § 255(2).

The result of the continued fragmented jail system has been a lack of reasonably equal opportunities for pre-trial services for diversion programs, regardless of location, and a significant disparity in the tax burden among the various counties,²⁹ as well as inability to achieve potential economies of scale and other efficiencies.

This lack of vision for a single statewide criminal justice system has contributed to the problems identified by the Commission.

²⁸ The Federalist Papers No. 43 and 51 (Madison).

²⁹ See Appendix H

2. BOC representation and lack of ownership of this hybrid organization by the Legislature and Administration.

As the NIC report explains, “There are no counterparts to the Board’s structure in other states...the difficulties encountered in Maine in the last four years explain why no other state has tried a similar approach. We believe that no one will be looking to Maine as a model.”³⁰

The BOC does not have an independent source of funding. It is entirely dependent on the counties through the property tax, and the Legislature through the General Fund.

But the Board now consists of nine members, of whom four are county officials, and only two representative of the interests and concerns of the Administration. Additionally one is a municipal official, while two represent the general public, one of whom should be a mental health specialist, 34-A MRSA § 1802(1).

In 34-A MRSA § 1801 the Legislature declared the BOC to be an “autonomous body.” But it does not operate in a vacuum, and is dependent on the Counties, and increasingly, the State, for appropriations. There is no escaping the reality its budget priorities must compete with all others vying for State funds.

There is a risk that the absence of adequate representation reflecting the priorities of the payor, leads to a loss of understanding of the needs of the county corrections system by the Legislature and a lack of confidence in the decisions the Board is making.

A dominant representation by county officials also contributes to a lack of incentive to scrutinize county jail operations and to make hard decisions. These realities have contributed to State appropriations less than the BOC has requested and a total lack of State investment in the capital investment sinking fund.

This lack of ‘ownership’ has contributed to several of the problems identified by the Commission.

On the other hand, extensive county representation does provide much needed experience and expertise concerning the county jail system, which is valuable in the BOC’s deliberations. The Legislature will have to resolve the tension between these two competing considerations.

3. Lack of incentives and disincentives for systematic collaboration by the counties.

While individual counties readily reach informal, ad hoc mutual aid agreements, there is no culture or tradition of consistent collaboration to achieve the standardization necessary to realize long term economies of scale.

³⁰ NIC Report, p 36

Every county, understandably, seeks to maximize its own benefit, rather than optimize results system wide. Understandable, because there are few incentives in the form of retaining savings, eligibility for programs or avoiding sanctions. The result is a confederacy of autonomous governmental units acting in their own best interests, rather than a union looking to achieve common standards and making the best use of resources for the whole state.

This lack of incentives and disincentives for systematic collaboration by the counties has contributed to many of the problems identified by the Commission.

4. Lack of executive leadership.

The BOC is a part-time job for nominal consideration for its members, yet has consumed an enormous amount of their time and attention.³¹

It has suffered from the lack of a consistent, full-time, professional, empowered executive and a finance director who can organize agendas, prioritize issues, scrutinize budgets and collect information, so that the Board members themselves can concentrate on broad policy issues. Fortunately, an executive director and financial analyst have both been hired this fall.

This shortcoming has resulted in at least two major problems that have crippled the system:

1. The board members themselves have ended up consuming all available time on reviewing the minutia of the individual county budgets, repeatedly sending versions back for revision, but not assembling a single overall budget within realistic parameters.
2. Because all the time and effort of the BOC has been expended on budget review, the Board has been unable to take action on the many other mandates established by the legislature as outlined in Appendix A.

Thus, the lack of an empowered executive has contributed to the problems identified by the Commission.

5. Lack of common accounting standards.

The lack of uniformity in how the counties account for expenditures, and of standardization for metrics, makes it very difficult to measure performance or even compare correlations-related spending among the various counties.³²

A good example of this problem was provided in the RHR Smith report: "Since costs are not categorized consistently, it may be time consuming to identify and quantify potential savings.

³¹ 5 MRSA §1200A-G, sub-§ 6-C

³² "There have been instances of inconsistency, resulting from the Counties' lack of clear understanding of their responsibilities and of the BOC's expectations regarding budgeting, allocations, cash flow needs, fund balance and contingency funding. This makes it difficult to compare data between time periods on countries for meaningful analysis," Smith, p 4.

Using information technology for example, IT costs may be included in capital, wages and/or contracts, making them difficult to isolate or measure.”³³

In turn, lack of metrics makes it extremely difficult analyzing where economies of scale and efficiencies of performance may be achieved.

It may be that the BOC has the implied authority to require such accounting and reporting standardization, under 34-A MRSA § 1801(1), 1803(1)(A) and 1803(5)(D), and 30-A MRSA § 710(1), but if so, it has failed to effectively exercise such authority.

The lack of such standards has contributed to several of the problems identified by the Commission.

6. Lack of will and authority at the BOC to make and enforce critical decisions.

The system suffers from the failure of the BOC to present budgets to the Legislature that drive down the requests of the various counties to a realistic overall figure, instead acquiescing in the incremental demands of the counties.

Likewise, the Board has been unwilling to enforce decisions against uncooperative counties that fail to conform with its policies and rules, for example the refusal of Somerset County to accept prisoners from other counties.

This problem was summed up in the NIC report: “One of the issues most often cited by those interviewed is the perception the BOC does not exercise its leadership and decision-making authority to [move toward a version of One Maine, One System].”³⁴

Many interviewees put it succinctly: “There are too many meetings that don’t accomplish anything.”³⁵

The lack of will by the BOC to make and enforce decisions has contributed to the problems identified by the Commission.

7. Lack of a mechanism for planning and funding capital expenditures.

There is no centralized record of how much has been spent on capital projects since the BOC was created.

³³ Smith, p 7. Likewise, the BOC lacks reliable non-financial metrics as well. “The BOC has not developed a plan for measuring its progress beyond costs benefits. Some, like pretrial services, do attempt to quantify their outcomes, but generally the notion of a performance management plan does not yet exist.” NIC Report, p 17.

³⁴ NIC Report, p 16.

³⁵ NIC Report, p 14.

Likewise, there is no CRAS module for uniform accounting for capital expenditures.

Further, there is no mechanism for compiling aggregated data as to the needs for capital investment to maintain or replace facilities, let alone for prioritizing needs.

Instead, there is a passive certificate of need review process under which the BOC is to rule on the merits of such proposals or individual counties may care to make. 34-A MRSA § 1803 (4).

Or, in the alternative, counties can ask for ad hoc funding for capital projects out of the Investment Fund, which is primarily intended as the vehicle to fund General Fund contributions to the county corrections operations but, confusingly, also can be used to pay for capital projects. 34-A MRSA § 1806(2).

In practice, such requests are made without reference to an overall plan or consistent with any articulated criteria.

Without any comprehensive plan, any criteria for funding projects, any priorities, any guess as to the total amount which may be needed from year to year, or even any consistent mechanism, it is hardly surprising that the Legislature has never funded the Inverse Debt account intended to fund county corrections capital projects. 34-A MRSA § 1803 (5) (E).

Yet, the physical infrastructure inexorably ages and, according to the 2013 BJA study, decays.³⁶

The lack of such a mechanism for planning and funding has contributed substantially to the failure to do the necessary planning and investing.

In closing this analysis, we need to state that these problems are not the products of failings on the part of individuals. Many good Maine people have worked hard these last five years to try to make this hybrid system work. The problems are not individuals, but flawed institutions, complicated legal arrangements and inadequate mechanisms for achieving progress.

They are problems that can be solved.

XII. The concerns of the Legislature

In its communication to the Criminal Justice Committee of June 3, the Appropriations Committee noted that the jails were acting like a decentralized confederation, and that several problems had arisen as a result, including:

1. Constant adjustments to the budget;
2. Inability to coordinate and control operations among the counties;
3. Inability by the BOC to enforce its decisions;

³⁶ Miller 2013 Bureau of Justice Administration, USDOJ study, p 3.

4. Counties opting out of the system with impunity;
5. Uncertainty as to the amount of revenues available because of the unilateral actions of some counties; and
6. Inequity in the sharing of the burden of capital construction debt.

In sum, the Committee expressed a lack of confidence in the ability of the BOC to manage its finances and create the unified system originally envisioned.³⁷

XIII. Statement of the Problem

The identification of the issues related to the shortcomings of the current system led the Commission to adopt the following statement of the problem:

Maine has adopted a system of governance of its county jails and lockups that fragments decision-making with respect to (1) raising revenues; (2) managing budgets; and (3) achieving operational efficiency, which has resulted in uncertainty, absence of accountability, deteriorating incentives for efficiency and now a funding crisis.

The mandate of this Commission, of course, was not just to identify the problems, or to analyze their root causes, but to go further and come up with recommendations for solutions.

XIV. Alternative Models for Restructuring and Reform

We have described a formidable set of problems, and analyzed what we believe are their fundamental root causes.

The Commission evaluated four potential approaches to addressing these issues:

1. Return to the pre-2008 system of individual county responsibility.
This approach has the virtues of reasonably clear accountability for a single political decision-maker, the County Commissioners, although there is some ambiguity in the relative accountability of the Commissioners and the Sheriffs³⁸, and a reintegration of decision-maker and taxing authority.

But any possibility of state-wide efficiencies and economies of scale would be greatly diminished, and we believe it would be impossible to break the freeze on local property tax increases.

So we do not recommend this approach.

³⁷ For the full text of the letter, see Appendix C.

³⁸ 30-A MRSA § 1501 provides that the Sheriff has custody and charge of the jail...and the appointment of the jail (administrator). But in 30-A MRSA § 709, the County Commissioners are responsible for setting the annual budget to the BOC.

2. Create four regional jail authorities.

This proposal called for dividing Maine into four mandatory regional authorities modeled along the lines of the Two Bridges Regional Jail Authority, with multiple counties cooperating to achieve regional efficiencies and economies of scale, programs, shared accommodations, training, etc.

But the Commission was concerned such an approach would also serve to create more sub-state bureaucracies without addressing the causes of the deadlocks that have characterized the current system.

Still, there can be a constructive role for voluntary collaboration among various counties on different issues, and our recommended approach recognizes and encourages such arrangements, where they do not conflict with the exercise of authority by the BOC or the DOC.

3. A DOC takeover of the county jail system.

Again, this approach would have the virtue of reuniting decision-making with taxing authority, and take advantage of a unified command and control system that could provide consistency in policy and administration statewide, with a greater opportunity to realize economies of scale.

On the other hand, a single statewide system would be unable to adjust to local pay scales and thus might incur additional, unnecessary costs.

More importantly, such unification would overturn 350 years of political culture and tradition in Maine, requiring a redefinition of the roles of county officials and employees, and perhaps of the county government system itself.

We are not prepared to recommend this step, but future Legislatures may find such restructuring necessary if the approach we do recommend fails to successfully resolve the issues facing the current system.

4. Restructure the current BOC system.

Considering the numerous, serious problems of the current system, it is reasonable to question whether it can achieve its goals with only a few, pivotal statutory changes.

We believe that with the right leadership structure, proper incentives and disincentives for system participants, and legal authority to require standardization in key areas, the original goals of controlling costs, achieving statewide consistency and minimizing additional infrastructure can be achieved.

We recommend this set of reforms because achieving Maine's objectives in the least disruptive way, preserving as much of our traditional system as we can, seems the most prudent course of action.

Those few, pivotal reforms are as follows.

XV. Recommendations

The Commission formulates its recommendations in the form of responses to the root causes of the problems identified, as follows:

1. VISION

a. Root Cause

The BOC has lacked a unifying vision to support its various activities and the energy to set a direction and make progress.

b. Solution

The State and the counties should commit themselves by law to a set of common purposes to be established by the Legislature, including:

- (i) protection of public safety statewide;
- (ii) assurance of equal treatment in the criminal justice system statewide;
- (iii) movement towards equality in the tax effort devoted to county

corrections statewide;

(iv) actions to achieve efficiencies, economies of scale, and full utilization of facilities statewide;

(v) a reduction in recidivism

(vi) collaboration with and coordination of programs and services with the DOC.

Such a solution would be consistent with recommendation A-15 of the NIC USDOJ report of 2011 which advocated “the Board should seek legislation to redefine the scope of [its] purpose and authority.”³⁹

c. Relationship of solution to problems identified

The adoption of a vision of a unified, statewide system relates to the 10 problems identified by the Commission.

d. Statutory changes needed

34-A MRSA § 1801(2) already empowers the BOC to adopt goals and objectives. The BOC has also adopted some useful “Guiding Principles,”⁴⁰ which have provided some parameters for action, but express neither a vision nor a set of goals, both of which are needed to energize the system.

Therefore, § 1801(2) should be amended to express the statewide goals and mission of the BOC.

³⁹ NIC Report, p 18

⁴⁰ “The Guiding Principles” are set out in Appendix G.

2. BOC REPRESENTATION

a. Root Cause

Currently the BOC's membership consists of four representatives of various county interests, two Administration, one municipal and two public members, following amendment of the statute in 2011.⁴¹

The amendment was added to assure a high level of county corrections expertise within the BOC, but it came at the cost of further isolating the BOC from the State government, which provides an ever increasing share of the costs, and promotes a culture of mutual forbearance among the counties, which in turn has contributed to an impasse in decision making.

b. Solution

It might have been helpful to the BOC in successfully carrying out its mission if the (i) Legislative and Executive branches have confidence in its membership, (ii) the Board operate with a manageable size and odd number of members, (iii) that the interests of the taxpayers be represented, as well as (iv) retaining the perspective and expertise of the counties.

Such a recommendation would have been consistent with the findings of NIC, USDOJ that "the Board should evaluate its membership annually and determine if changes should be made in its composition and/or the composition of its committees."⁴²

It might be argued that membership should be made in accordance with the proportional revenue contributions to the support of the jails. But since the State is putting in 100% of the marginal cost, it also could be argued that they should have the decisive voice in how its contribution is spent. In any event, a majority of the Commission members decided that the benefits of retaining the current representation of the counties outweighed other considerations.

c. Relationship of solution to problems identified

Changing composition of the membership of the Board to reflect State and taxpayer interests relates to the 10 problems identified by the Commission.

d. Statutory changes needed

34-A MRS § 1802 it was proposed this be amended to provide for a manageably sized council representative of the funders of the system, its operators and the public. It is reasonable to stay with nine members, nominated by the Governor and confirmed by the Legislature, but with a new composition, as follows:

- i. One County Commissioner;
- ii. One Sheriff;
- iii. One County Manager/ Administrator;
- iv. The Commissioner of Corrections, or his designee;
- v. The Commissioner of DAFS, or his designee; and

⁴¹ PL 2011, Ch. 374 §9 The current membership is shown on the table in Appendix E

⁴² NIC Report, p. 18

vi. Four members of the public, with relevant experience or appropriate professional credentials. But again, the decision was made to recommend staying with the current membership composition.

In any event, beyond professional qualifications, what the BOC urgently needs are members who have a commitment to a Statewide vision, to promoting efficiency, and to decisive leadership.

3. LACK OF ENFORCEMENT POWER

a. Root Cause

The BOC has acted as if it is unable to enforce its authority, and has only offered incentives to encourage innovation infrequently.

b. Solution

The BOC will accomplish little without the power to enforce its judgments. In this context both financial and operational sanctions are indispensable, including:

(i) The power to award discretionary funding to support innovative or efficient programs

(ii) To incentivize counties to operate as efficiently as possible, it should be able to retain the current year savings it achieves through good corrections management without an offset of the State or County appropriations otherwise due. The county can use such savings for reinvestment within the jail facility, including funding otherwise unfunded liabilities up to amounts approved by its auditors.

(iii) The disposition of federal and State boarding revenues cuts both ways. If all the revenue accrues to the host county, it is incentivized to maximize such revenue, given the higher boarding rates paid by the federal government, which reduces financial burden on that county.

On the other hand, such a revenue maximization strategy can hurt other counties if the federal prisoner maximizing county sends its own inmates to other counties at a lower rate, or forces other overcrowded counties to transport its inmates a greater distance to another less crowded facility.

A majority of the Commission concluded that all such revenue should accrue to the benefit of the host county, and not be used to offset State or County appropriations otherwise due.

Whichever way the Legislature decides, the law should be amended to provide a clear rule on the division of boarding revenue to forestall future, unproductive disputes at the BOC.

(iv) The power to withhold payments otherwise due to counties who:

- refuse to accept prisoners assigned;
- fail to comply with accounting and budgeting protocols;
- fail to curtail spending when directed to do so;
- improperly refund monies to counties;
- fail to operate in accordance with standards set by the BOC or DOC;

- fail to offer programs and services as required by the BOC or DOC

(v) In the event of serious or systematic failure to comply with regulations, standards or policies of the BOC, they have the authority to request the DOC to assume operational control of a correctional facility in the non-compliant county, with appropriate funding adjustments.

c. Relationship of solution to problems identified

While the BOC is charged with many responsibilities, providing adequate authority to enforce its decisions will address several of the 10 problems identified by the Commission.

d. Statutory changes needed

34-A MRSA § 1806 should be amended to add a new subsection giving the BOC explicit authority to withhold funds otherwise due or declare a county ineligible to receive some or all funds during periods when it is in non-compliance with the directives, policies or rules of the BOC, or, in serious cases, recommend assumption of control of a facility by the DOC.

4. LACK OF EXECUTIVE LEADERSHIP

a. Root Cause

The BOC has been in existence for six years. During that period it has employed four executive directors. Besides lack of continuity, the Board has not defined the role of Director in a way that has empowered its staff with leadership responsibility.

As a result, the Commission itself has taken on much of the staff role, getting lost in detail, rather than setting broad priorities and advocacy effectively for its principles, protocols and budgets.

AS RHR Smith and Co. recommended in their review of BOC operations, "Analyzing and reconciling financial information before meetings can help free up the BOC to focus on its stated mission. Many of [its] initiatives...will require the time and ability to engage in strategic planning, cost benefits analysis, and building partnerships."⁴³

b. Solution

In its recent report, RHR Smith, observed "there are no internal policies that clearly define goals, roles and responsibilities for the BOC Executive Director..."⁴⁴

The role, responsibilities and pay grade of the Executive Director should be defined in BOC regulations.

There should be a clear understanding that the BOC is responsible for setting policy and enforcing decisions, while the Director is responsible for the staff work, data collection and analysis of the Commission and carrying out the policies of the Board.

⁴³ Smith, p 9

⁴⁴ Smith, p 7

The addition of a financial director to the organization should also prove helpful in the immediate future.

It is critical the BOC staff develops strong working relationships with both the counties and the DOC.

c. Relationship of solution to problems identified

Strengthening the role of the Executive Director relates to the 10 problems identified by the Commission.

d. Statutory changes needed

34-A MRSA § 1803-A should be amended to explicitly define the roles and pay grades of the Director, Financial Analyst and Fiscal Agent, since the BOC has not done so.

Moreover, the BOC should be able to call on the expertise and resources of the DOC to minimize the growth of a new bureaucracy.

5. LACK OF COMMON ACCOUNTING STANDARDS

a. Root Cause

In the original 2008 legislation, the BOC was empowered to require a common budget reporting system, 30-A MRSA § 710(1).

However, this authority has proven too inconsistent, and in a detailed and critical report in June 2013, the authors concluded “There have been instances of inconsistency, resulting from the counties’ lack of clear understanding of their responsibilities, and the BOC’s expectations, regarding budgeting, allocation, cash flow needs, fund balance and contingency funding, thus making it difficult to compare data between time periods or counties for meaningful analysis.”⁴⁵

b. Solution

As RHR Smith noted, “The ability to capture, analyze and interpret financial information that is reliable, credible and accurate is essential to the BOC’s process. This information can be used to make routine decisions, project future expenditures, and communicate current and future needs of the Investment Fund to counties, the general public, and the Legislature with confidence.”⁴⁶

Thus, requiring a common chart of accounts and consistency of coding expenses, and adopting consistent fiscal policies and auditing policies must be at the heart of any reform to make the BOC effective. Likewise, both technical assistance to the counties and compliance mechanisms will be necessary to bring the process to life.

c. Relationship of solution to problems identified

Requiring consistent financial and performance data related to the 10 problems identified by the Commission.

d. Statutory changes needed

⁴⁵ Smith, p 4

⁴⁶ Smith, p 9

34-A MRSA § 1803 should be amended to give the BOC the authority to establish and enforce a single chart of accounts for county corrections-related expenditures for all financial management purposes. Additionally, to require budget submissions by the counties in a manner consistent with and timed to integrate with the State budgeting and auditing processes.

6. LACK OF WILL OR AUTHORITY TO ENFORCE ITS DECISIONS

a. Root Cause

While the BOC reports extraordinary frustration at its inability to fulfill its mission or execute its policies, there is a legitimate question as to what is holding it back other than an attitude of deference towards individual counties.

For example:

(i) Somerset County is refusing to accept prisoners from other counties because it thinks the boarding rate is unfair. But the BOC has taken no action to compel Somerset to fulfill its statutory duty, allowing the county to take the initiative with its own lawsuit concerning funding.

(ii) Meanwhile, Franklin County is forced to send prisoners to State post-conviction facilities in Windham instead of to Skowhegan 25 miles away.

(iii) Waldo County is, by its own admission, refunding \$233,000 to its taxpayers, rather than meeting its obligations to the overall state system, thus increasing the amount the BOC must seek from the General Fund.

(iv) The BOC has been unable to decide whether to ask the Legislature to fund either its “actual” or a maximal budget for FY14, and has not yet approved any budget for FY15, thus jeopardizing its opportunity to secure needed funding.

(v) Some counties are not providing the financial data necessary to formulate an accurate budget, but the BOC has been unable to correct this problem; and

(vi) Washington and Hancock Counties, for instance, are enduring significant facility deterioration without any assistance from the BOC.

These are illustrations of current problems in decision-making at the BOC, rather than an exhaustive list.

b. Solution

The solutions to the paralysis in decision-making are:

(i) increase the authority of the BOC to mandate policies and actions of Statewide significance, including the ability to enter into contracts binding on all the counties to achieve economies of scale;

(ii) ensure the BOC has a set of incentives and sanctions sufficient to enforce its decisions.

c. Relationship of solution to problems identified

Reforming the authority of the BOC is absolutely essential to making the organization useful for achieving standardization, economies of scale and efficiencies any time soon, and will help resolve several of the ten major issues.

d. Statutory changes needed

(i) Rulemaking: The BOC should have the authority to set policies and adopt routine technical rules to promote consistent management of operations, encourage innovative programs and services and undertake long term planning for capital needs.

The Commission also proposes that the Criminal Justice Committee authorize any major new substantive rules to facilitate the aforementioned activities and additionally to empower the BOC with the authority to implement and enforce compliance with its decisions.

(ii) Standards: To promote efficiency and fairness, the BOC should have the authority to set and enforce standards concerning:

- Management Information Systems and their interconnections;
- Security equipment;
- Inmate classification;
- Pretrial services;
- Assignment of inmates among the county jails;
- Staffing qualifications and ratios; and
- Bed space determination/ classification.

(iii) Contracting: Amend 34-A MRSA §1803(1)(f) to maximize the potential savings that might be realized from contracting for goods and services that can be used by multiple counties, the BOC should have the authority to contract on behalf of any or all of the counties unilaterally, to either piggy-backing on State DOC contracts or acting on its own for:

- Medical and mental health services;
- Pharmaceuticals;
- Food and food services;
- Appliances and equipment;
- Telecommunications equipment and computer hardware and software;
- Insurance policies; and
- Other goods and services it may identify by policy from time to time.

(iv) Back Office Services: The BOC should have the authority to provide support services needed by any county correctional systems, on a contractual basis with the consent of an interested county for:

- Hiring and human resources;
- Civil rights;
- Risk management and insurance;
- Training;
- Financial management, budgeting and procurement;
- Management information systems; and
- Other services it may identify from time to time.

(v) Assignment of Inmates: The BOC should have the authority to establish and maintain a coordinated system for pre-trial detainees and others housed in the county jails as follows:

- The BOC shall establish rules under which it may demand any county facility to accept any inmate from any other county facility, the State or the Federal government.
- The BOC shall set standards for the software necessary to facilitate transportation of inmates among facilities so as to create a truly Statewide system of assignments.

(vi) Regional Authorities: The various counties are encouraged to enter into mutual, voluntary agreements to procure and provide goods and services and mutual aid of any kind, and in fact, is strongly encouraged by the Commission, on such terms and conditions as they may from time to time agree, so long as such agreements are limited to subjects and to the extent to which the DOC or BOC have not exercised such authority.

(vii) Monitoring Performance: The BOC should have the authority to monitor the operational, programmatic and financial performance of the county jails and to establish appropriate metrics for comparison of the counties among themselves and with other appropriate jurisdictions, and require timely reporting in a consistent format, with appropriate penalties for non-compliance.

XVI. Additional Recommendations

In addition to the foregoing recommendations intended to address the root causes of the problems which have made the current system largely unsuccessful, there are administrative measures which we believe would make the current system more workable, as follows:

Budget Reform

a. **Adopt a growth formula to standardize and guide budget planning.**

Create and adopt a biennial budget growth formula for budget planning purposes that projects approved future growth in operational costs, and a second for capital costs. The operational formula would be based on the LD 1 cap as applied currently to the county payments. 30-A MRSA § 706(A)(1).

A formula for replacing the current “actual costs of corrections” standard (34-A MRSA § 1803(5) (E)) with an objective measure consistent with the discipline elsewhere in government for operations expenditure budgeting would reduce uncertainty and eliminate creation of unrealistic budget proposals which cost considerable time and effort.

b. **The County Corrections budget process should track and be synchronized with the State process.**

Budget instructions based on the Growth Formula should be sent from DAFS to the BOC. The BOC should transmit the same to the Counties, based on a BOC approved allocation formula.

The County Commissioners, after consultation with the Sheriffs, Jail Administrators and other relevant officials should submit a two part budget in a DAFS-approved format to the BOC. Part 1 would continue current operations. Part 2 would propose any additional programs, services or other initiatives a County wishes to propose.

After review, revisions and approval, under 34-A MRSA §1803(1)(A), the BOC would approve any Part 1 request of a County, which is below the Growth Formula cap.

The BOC would review and vote on any Part 2 requests by any County, in its submission to DAFS. The BOC will be required to rule in a timely manner on such requests to stay within the State budget process timeline.

In the event the Governor reduces or eliminates any BOC requests from his budget, the BOC shall have the right to report its original request directly to the Legislature.

In the event the Legislature appropriates less than the full Part 1 amount requested, the BOC shall allocate the deficiency among the Counties to minimize the impact on county corrections operations overall.

c. Benefits

The Legislature is currently unaware of the full extent of county corrections systems needs. Moreover, the BOC consumes extraordinary amounts of time examining the detail of Part 1. This separation of on-going LD 1 capped funding from consideration of new and additional spending in excess of the cap should reduce the amount of time the BOC uses up on budget issues.

d. Statutory Changes Needed

Amend 34-A § 1803(5) (E) by replacing “actual costs” with an amount not in excess of the cap generally applicable to County expenditures contained in 30-A MRSA § 706(A). In addition, the BOC may request additional appropriations, clearly identified for new or expanded programs or under the emergency circumstances described in 34-A MRSA § 1803(5)(D).

XVII. Capital Planning and Finance

1. Current Situation

Since the BOC was established, no new county correctional facility has been constructed.

However, the Legislature clearly contemplated that the BOC would play a role in the closure of older or unneeded facilities, and changes in the missions of existing facilities. 34-A MRSA §1803(2)(A) and (C).

Likewise, the BOC was given the authority to review and either approve or reject plans for new facilities using a “certificate of need” process, 34-A MRSA §1803(4).

Pursuant to these responsibilities, the BOC developed a “Draft Policy Statement” entitled “One Maine One System” to govern capital improvement planning for county correctional facilities in June, 2009.⁴⁷

It was considered by the BOC at its November and December, 2011 meetings, but not adopted as presented.

It would have required a 10 year capital improvement plan (CIP) for each county, though priorities could be adjusted during that period. It called for the counties to use up their “fund balances” at the end of a FY first, and then apply to the BOC for additional funds needed.

⁴⁷ “One Maine, One System - A Plan for a Unified State Correctional System for Maine,” created by Maine DOC, June 2009, Appendix L

Capital funding is also supposed to be made available through the “Inverse Debt” fund, 34-A MRSA §1803(5)(E), but in fact no funds have actually been appropriated for this purpose. It is hardly surprising the Legislature would not assign this cause high priority in the absence of a comprehensive Statewide capital plan demonstrating needs, and setting priorities.

In particular, there have been no further changes or mission closures or new construction since the first days of the BOC.

Still, in the past 10 years, there has been further deterioration and decay in the physical plants at several jails, and minor capital investments by individual counties acting on their own.⁴⁸

The RHR Smith accounting review also faulted the planning process, observing “the BOC lacks policies for dealing with counties’ capital and noncapital contingencies. This makes demand on the Investment Fund hopelessly unpredictable.”⁴⁹

Besides the absence of long term planning and a mechanism for prioritizing capital projects, there are further important problems in the financing of projects.

For short-term projects, the problem is that the ability to finance them depends on the amount a county happens to have in its surplus in a given year, regardless of how its needs compare in urgency to other counties.

Nonetheless, as a practical matter, the Commission recommends that the Counties be authorized to utilize surplus funds to create their own capital improvement accounts and accounts to cover unfunded liabilities up to levels approved by their auditors, which shall not offset State or County appropriations otherwise due.

For long-term, major projects, the cost must be borne by county taxpayers, regardless of the relative tax effort needed. Thus, a poor county might defer a greatly needed project, while a wealthier county can afford a less compelling project.

The costs of the present system are well illustrated by the plight of Somerset County, which voted for a \$29.2m facility to be paid for by a county bond issue, which has resulted in a per capita cost of \$20.62.

In considering the best mechanism to fund capital needs, the Commission believes, the BOC should develop a long term plan to alter the property tax burden for the counties to equalize citizen contributions to county jail operations and existing and future capital debt service expense, including through application of state funds appropriated for that purpose, by accounting for an appropriate proportion of non-property tax revenues for jail operations, such as prisoner boarding and per diem revenues from state and federal sources, and by other means to equalize property tax burdens.

2. Options for Capital Investment in the Future

There are four aspects to capital investment in county correctional facilities:

A. Planning;

⁴⁸ BJA Report, p 3

⁴⁹ Smith, p 5

- B. Financing;
- C. Ownership; and
- D. Location.

For each of these factors the responsibility could be placed with the county, the State or the BOC.

Many permutations have been adopted in Maine for other capital projects by other government agencies.

Historically, of course, jails were planned, paid for and owned by the counties.

But, as the State establishes standards and the BOC legislation contemplates a unified system, such autonomy seems inconsistent with the purposes of the law.

A second model is that of regional jail authorities like the Two Bridges Facility in Wiscasset, with regional planning, finances and ownership, but the experience of TBJA has been fraught with conflict and litigation.

A third is using the State DOC for all four. This would raise problems with the management and use of a state facility by different organizations.

A fourth alternative would be something akin to the system Maine uses for funding new school construction.

In the case of the schools, local districts do the planning in accordance with State standards, the Board of Education prioritizes projects against established criteria, and financing is shared by the State, through the GPA funds, and the local district by a bond issue.

The advantages of this model applied to development of a unified county corrections system include:

- (a) consistent standards for planning;
- (b) prioritization of projects on a statewide basis;
- (c) sharing the costs between the local organizations and the state, taking into account ability to pay;
- (d) ownership by the entity that will be managing, staffing and using the facility;
- and
- (e) proper determination of need and location for any new jail construction.

The day will come when a jail must be replaced because of age and condition. In the meantime, there will be a continued need for capital upgrades and preventative maintenance and equipment replacement. Yet we do not have a handle on the size or pace of needs, or its relationship to the "inverse debt." Maine urgently needs to adopt a rational, planned capital expenditures budget. An approach based on the current K-12 school construction system may be an appropriate template.

XVIII. Conclusion

The Appropriations Committee in its June 3, 2013 letter characterized the current system as a “confederation.”

That is a bad thing - confederations don’t tend to last very long or work very effectively.

As Alexander Hamilton observed in advocating for replacing the Articles of Confederation Government of the American States with a union under a new constitution, organizations without the power to raise revenue or enforce their decisions are devoid of energy and destined to fail.⁵⁰

The Committee expressed concern that the BOC lacked operational control or enforcement capacity or the ability to ensure receipt of its revenues.

The analysis and recommendations in the report are intended to remedy those problems, and create the unified system originally envisioned, with the least disruption possible to the traditional institutions in Maine government.

We have tried to achieve that balance by recommending legislation to provide for:

1. A greater vision of a single system achieving economies of scale, prioritized capital planning, operational efficiencies, universally accessible pretrial services and a reasonably equitable distribution of the tax burden;
2. Financial and operational incentives and sanctions to promote compliance with the regulations, policies and disincentives of the BOC;
3. Explicitly defined responsibilities for the BOC executive leadership, to free up the Commission members to focus on broad public policies;
4. Adoption and enforcement of common accounting standards and performance reporting metrics;
5. Conferring on the authority to the BOC to enter into contracts on behalf of the counties, provide back office services, coordinate prisoner assignments and evaluate appropriation requests to the Legislature, among other things;
6. Create a mechanism for planning and funding capital expenditures on an orderly, transparent, system-wide basis; and
7. More effectively address some administrative issues, including management of bail services and budget formulation.
8. Understanding that the budget is likely to be approximately \$2.8 million short for FY 2014 given certain assumptions. This Legislation should address that shortfall and ensure a realistic amount for FY 2015⁵¹ and begin funding the sinking fund for future capital consideration by a supplemental appropriation bill for consideration at the 2nd session of the 126th Legislature.

⁵⁰ “Government implies the power to make laws. It is essential to the idea of a law, it be attended with a sanction. In other words, a penalty for disobedience. If there are no penalties annexed to disobedience, the resolution...which pretends to be law will in fact, amount to nothing more than advice or recommendations.” Alexander Hamilton, The Federalist Papers, No. 15

⁵¹ See Appendix K

We hope this combination of measures will give the BOC energy, decisiveness and accountability to the Legislature.

It is the best way we know to preserve the operational authority of the old system, while achieving the Statewide fairness and efficiency current circumstances demand.

But in the end, we must replace the current unworkable confederacy with a truly unified system.

REPORT CARD: Status of Implementation of Board of Corrections Statutes

May 31, 2012

Codes for Status:
 N = Not completed
 P = Partial completion
 C = Completed
 U = Unknown

Abbreviations:
 BOC Maine Board of Corrections
 DOC Maine Department of Corrections
 AC Appropriations Committee, Legislature
 CJC Criminal Justice Committee, Legislature

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>34-A §1801. STATE BOARD OF CORRECTIONS</p> <p>1. Purpose of the board. The purpose of the board is to develop and <i>implement a coordinated correctional system</i> that demonstrates</p> <ul style="list-style-type: none"> • sound fiscal management 	<p>P</p>	<p>Coordination between counties is eroding. Coordination between counties and state has not been accomplished. DOC involvement has declined since the first year and is minimal at this time.</p>	<p>BOC and all stakeholders should review statute in full. Many do not seem to have an accurate working understanding of it (including BOC members).</p>
<ul style="list-style-type: none"> • achieves efficiencies 	<p>P</p>	<p>Significant effort has gone into <i>county</i> budgeting practices. No apparent BOC involvement with DOC fiscal practices. Implementation of BARS and CRAS management information reporting systems for jail beds, population and budgets.</p>	<p>Preliminary recommendations from RHR (auditors) address many facets of BOC fiscal practices. These should be carefully considered by the Board.</p>
	<p>P</p>	<p>Efficiencies realized in terms of:</p> <ul style="list-style-type: none"> • Jail inmate transport hub at Penobscot County to coordinate inmate transfers has reduced inter-county transfer costs. • Video arraignment and conferencing capacity within ten counties to offset court and transportation costs. • <u>Estimated</u> \$6 million in jail bed day savings as a result of implementing pretrial release screening and services, including the 	<p>Develop regional or statewide contracts for commodities, services and programs, when the contracts offer overall cost savings without reducing quality or timeliness. Adopt a methodology for estimating cost savings that may be attributed to various programs and services. Ensure consistent application of the methodology by the counties and contractors. Need Policy and Procedures drafted,</p>

Statutory Mandate	Status	Notes/Comments	Suggestions
		<p>development of a Maine Pretrial Screening Tool, MPRAI.</p> <ul style="list-style-type: none"> \$3 million in savings to the DOC from housing offenders locally, not of out of state. 	<p>reviewed and implemented.</p>
<ul style="list-style-type: none"> reduces recidivism 	<p>P</p>	<p>Implementation of a Reentry Center at the Waldo Correctional Facility serving DOC prisoners.</p> <p>Implementation of in-jail programs such as the K-CARA program, Veterans unit.</p> <p>Recidivism not being assessed or measured under BOC auspices.</p>	<p>Revisit earlier studies/reports (CACC and others. Identify "model" evidence-based practices that include a re-entry assessment at every facility, CBT programs in jails, and more.</p> <p>Develop evaluative measures and implement procedures to secure accurate data.</p>
<ul style="list-style-type: none"> and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities. 	<p>U</p>	<p>Not being assessed or measured.</p>	<p>Develop process and outcome measures.</p> <p>Monitor at least quarterly and use findings to revise strategies, and during budgeting process.</p>
<p>2. State goals. The board shall develop goals to guide the development of and evaluate the effectiveness of a coordinated correctional system.</p>	<p>N</p>	<p>Evaluation of effectiveness of system not accomplished to date.</p>	<p>Set up operational monitoring system that will measure effectiveness of the coordinated system.</p>
<p>The board shall present its goals for review and approval by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.</p>	<p>C</p>	<p>Annual reports have been reviewed for years 2009, 2010 and 2011. Not all reports presented legislative proposals.</p>	<p>Present annual goals and priorities to the legislature tied to budget and performance.</p>
<p>The goals must include benchmarks for performance in the following areas:</p> <p>A. Recidivism reduction;</p>	<p>N</p>	<p>Implementation of a Reentry Center at the Waldo Correctional Facility;</p> <p>No benchmarks created by Board, but MCRRC has been revising original benchmarks.</p>	<p>.</p>

Statutory Mandate	Status	Notes/Comments	Suggestions
B. Pretrial diversion; and	N	No benchmarks.	
C. Rate of incarceration.	N	No benchmarks.	
<p>34-A §1803. In addition to other duties and powers set out in this Title, the board is charged with the following 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.</p>	N	No plan.	
<p>Additionally, the board shall:</p> <p>A. Review, amend if necessary and adopt the correctional services expenditures in each county budget under Title 30-A, section 710;</p>	C	Annual budget review and adoption is being completed.	
<p>B. Develop reinvestment strategies within the coordinated correctional system to improve services and reduce recidivism;</p>	N	No strategies articulated.	
<p>C. Establish boarding rates for the coordinated correctional system, except boarding rates for federal inmates;</p>	P	"Nominal" rates set annually and by jail. Not set for DOC.	
<p>D. Review department biennial and supplemental budget proposals affecting adult correctional and adult probation services and submit recommendations regarding these budget proposals to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction</p>	N	<p>No reviews have been conducted.</p> <p>Recommendations not submitted to joint standing committees.</p>	

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>over appropriations and financial affairs;</p> <p>E. Develop parameters for facility population, including but not limited to gender; classification; legal status, including pretrial or sentenced; and special needs; and</p>		<p>BOC has not determined such parameters for jails, nor for DOC facilities.</p> <p>Jails and DOC facilities continue to make independent decisions regarding capacity and types of inmates.</p>	<p>Imperative to assign functional capacities to each jail, and to review annually. Jails should be considered full when functional capacity has been achieved, crowded when over. Current practices create serious safety and security risks.</p>
<p>F. Enter into contracts on behalf of and with the consent of the county commissioners and sheriffs in the case of county jails, and with the consent of the board of directors of the regional jail authority in the case of a regional jail, for goods and services when such contracts will:</p> <p>(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 section 1801.</p>	N	<p>No contracts executed to date.</p>	<p>[previously entered] Develop regional or statewide contracts for commodities, services and programs, when the contracts offer overall cost savings without reducing quality or timeliness.</p>
<p>2. Determine correctional facility use and purpose. The board shall:</p> <p>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;</p>	P	<p>BOC initially determined status of three jails (Franklin, Oxford, Waldo), reducing their operations the 72-hour lockups.</p> <p>Created "flagship" jails but beds in those jails often not offered to other counties due to cost and low board rate.</p> <p>BOC does not currently determine jail or DOC facility use.</p>	<p>Develop a master plan for statewide jail use. Not the same as a strategic plan. A strategic plan describes how to implement the master plan.</p> <p>Exercise this authority to implement provisions of the plan in each jail facility.</p> <p>Review plan annual and adjust practices as needed.</p>
<p>B. Review staffing levels at each correctional facility and county jail to ensure that safe conditions exist for staff, inmates and others; and</p>	N	<p>BOC has not reviewed staffing levels at jails, does not have that information in hand.</p> <p>BOC has not reviewed staffing at correctional</p>	<p>See <i>staffing recs at end of table.</i></p>

Statutory Mandate	Status	Notes/Comments	Suggestions
		facilities.	
C. Review the use of all correctional facilities and county jails. The board may downsize or close facilities or reassign services.	P	BOC initially downsized jails, has made no further decisions. Jails continue to determine own status individually. BOC has never attempted to review DOC facilities nor determine use/status.	Establish rules and guidelines for closing or downsizing. Particularly in light of recent conversations to close down Franklin and Oxford..
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.	N	No rules have been developed, even though downsizing of three jails has occurred.	Develop programming for sentenced jail offenders including gender responsive programming for women, expand K-CARA if possible, basic CBT programming for medium and high risk offenders. Expand pretrial services statewide; establish standards consistent with ABA standards and "Measuring What Works" Make a deliberate plan for reentry practices beyond Waldo facility Work with DOC to establish graduated sanctions for violations/revocations. DOC has recently implemented graduated sanctions in field. This has been a primary mission for Commish.
3. Adopt treatment standards and policies. The board shall:		The Board hired a full time employee for a period of time who served as a statewide coordinator of pretrial services. This position ended when grant funded ran out. Pretrial services exist in some counties through Maine Pretrial Services or VOA, however, no standards for consistent use statewide	
A. Adopt standards for consistent systemwide pretrial, revocation and reentry practices;	P		

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>B. Adopt standards for the treatment of inmates with mental illness within correctional facilities and county jails, and in consultation with the State Forensic Service, adopt policies for facilitating the performance of court-ordered mental health evaluations within correctional facilities and county jails when appropriate; and</p>	N	<p>No progress.</p>	<p>Develop a plan to address mental health issues in jail (see my brief discussion about mentally ill in Maine jails)</p>
<p>C. Coordinate transportation of inmates in the coordinated correctional system.</p>	P	<p>Some coordination has been sponsored for jails (Hubs) but no efforts for correctional system. Some MDOC facilities have utilized the Hub System but use is not routine and not used by all facilities (e.g. MSP).</p>	
<p>4. Certificate of need. The board shall review and may approve any future public or private construction projects. The board shall establish a certificate of need process used for the review and approval of any future public or private capital correctional construction projects. A public or private correctional construction project may not be undertaken unless the board issues a certificate of need in support of that project. The board shall adopt rules governing the procedures relating to the certificate of need process and financing alternatives. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.</p>	P	<p>Some preliminary drafts were developed but these have not been finalized and adopted.</p>	
<p>5. Administrative duties. The board shall: A. Identify opportunities for and approve cost-saving agreements and efficiencies, including, but not limited to, purchasing or contract agreements, shared staff and staff training, transportation and</p>	P	<p>Focus groups have identified some efficiencies for jails, but nothing has been taken to the joint standing committee. No efforts regarding DOC.</p>	

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>technology initiatives. Any opportunities identified by the board must be included and discussed in the board's reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters as required under subsection 10;</p>			
<p>B. Consult with the State Sentencing and Corrections Practices Coordinating Council established in Title 5, section 12004-I, subsection 74-E and other groups, make recommendations related to sentencing and sentencing-related practices by other state and local government entities to the State Sentencing and Corrections Practices Coordinating Council for its consideration and utilize research and reports, including those issued by the Corrections Alternatives Advisory Committee, which was established by Public Law 2005, chapter 386, Part J, section 1 and amended by Public Law 2005, chapter 667</p>	U	<p>Unknown if this has been attempted.</p>	<p>Review CAAC report, ID priorities and an implementation plan.</p>
<p>C. Assist correctional facilities and county jails when appropriate to establish, achieve and maintain professional correctional accreditation standards;</p>	N	<p>No assistance has been provided to jails or DOC.</p>	
<p>D. Administer the County Jail Prisoner Support and Community Corrections Fund established in section 1806 and the State Board of Corrections Investment Fund program established in section 1805. The board may allocate available funds from the State Board of Corrections Investment Fund program to meet any emergency expenses or for maintenance in emergency conditions of any</p>	P	<p>BOC has administered funds for jails, not for DOC.</p>	

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>correctional facility or county jail. The board may make allocations for these purposes only upon written request of the commissioner or a county;</p>			
<p>E. Prepare and submit to the Governor a budget for the State Board of Corrections Investment Fund program established in section 1805 biennially that clearly identifies the financial contribution required by the State to support the actual costs of corrections in addition to the capped property tax contribution under Title 30-A, section 701, subsection 2-A.</p>	P	<p>BOC has not been involved with DOC budgets or budget requests, with the exception of the review, without action, of the DOC 2009 budget. BOC has not consistently submitted a jail budget request that would achieve full compliance with the statute.</p>	<p>Each facility should submit an Actual budget to determine true costs of running system (incl. new CBA agreements, cost of inflation, etc.). Budget Focus Group or Executive Committee would analyze and report "real picture" to Board.</p>
<p>The board shall also propose in its budget an appropriation to the State Board of Corrections Investment Fund program of an amount equal to the difference between the 2007-08 fiscal year's county jail debt and the amount of that year's debt payment; and</p>	P	<p>BOC has submitted request but this has not been fully funded by the Legislature in recent years.</p>	
<p>F. Promote and support the use of evidence-based practices.</p>	N		<p>Use CCA money, and other funds that may be secured through grants, to promote EBP pilot projects and programs.</p>
<p>6. Receive and review recommendations. The board shall receive and review recommendations submitted by the commissioner, the counties, the corrections working group established in section 1804 or other interested parties concerning development of downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate classification, revocation and reentry services, and other recommendations with respect to the delivery of state and county corrections services. The board</p>	P	<p>BOC has received and reviewed requests regarding jails. BOC has not received requests regarding DOC/corrections. BOC has not consistently consulted with the stakeholders identified in the statute.</p>	<p>BOC should ID priorities within which counties can submit plans BOC should establish quarterly or semi-annual meetings with interested parties and/or judiciary.</p>

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>correctional facility or county jail. The board may make allocations for these purposes only upon written request of the commissioner or a county;</p>			
<p>E. Prepare and submit to the Governor a budget for the State Board of Corrections Investment Fund program established in section 1805 biennially that clearly identifies the financial contribution required by the State to support the actual costs of corrections in addition to the capped property tax contribution under Title 30-A, section 701, subsection 2-A.</p>	<p>P</p>	<p>BOC has not been involved with DOC budgets or budget requests, with the exception of the review, without action, of the DOC 2009 budget. BOC has not consistently submitted a jail budget request that would achieve full compliance with the statute.</p>	<p>Each facility should submit an Actual budget to determine true costs of running system (incl. new CBA agreements, cost of inflation, etc.). Budget Focus Group or Executive Committee would analyze and report "real picture" to Board.</p>
<p>The board shall also propose in its budget an appropriation to the State Board of Corrections Investment Fund program of an amount equal to the difference between the 2007-08 fiscal year's county jail debt and the amount of that year's debt payment; and</p>	<p>P</p>	<p>BOC has submitted request but this has not been fully funded by the Legislature in recent years.</p>	
<p>F. Promote and support the use of evidence-based practices.</p>	<p>N</p>		<p>Use CCA money, and other funds that may be secured through grants, to promote EBP pilot projects and programs.</p>
<p>6. Receive and review recommendations. The board shall receive and review recommendations submitted by the commissioner, the counties, the corrections working group established in section 1804 or other interested parties concerning development of downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate classification, revocation and reentry services, and other recommendations with respect to the delivery of state and county corrections services. The board</p>	<p>P</p>	<p>BOC has received and reviewed requests regarding jails. BOC has not received requests regarding DOC/corrections. BOC has not consistently consulted with the stakeholders identified in the statute.</p>	<p>BOC should ID priorities within which counties can submit plans BOC should establish quarterly or semi-annual meetings with interested parties and/or judiciary.</p>

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>11. Committee review. The joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters shall conduct an initial review by April 1, 2009 and annually by January 15th thereafter to analyze the effectiveness of the board in fulfilling its purposes, including but not limited to a review of the board's identification of opportunities for and agreements regarding cost savings and efficiencies in purchasing, training, transportation and technology. The committee has authority to report out legislation upon completing its review each year.</p>	C	<p>Assume the joint standing committee has conducted annual reviews.</p>	
<p>34-A §1804. CORRECTIONS WORKING GROUP The commissioner, the president of a statewide county commissioners association and the president of a statewide sheriffs association shall develop a memorandum of understanding for approval by the board that establishes an informal corrections working group consisting of representatives of the department, sheriffs and county commissioners.</p>	C	<p>MOU has been developed.</p>	
<p>The corrections working group shall meet as needed and as requested by either one or both chairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the coordinated correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the coordinated correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited</p>	C	<p>CWG has been very active in recent years with frequent meetings and reports to the BOC.</p>	<p>Structure and authority of CWG is unusual. Overlapping membership with BOC but not an executive committee. Restructuring should be considered. The CWG should meet on an as needed basis based on task(s).</p>

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board</p>			
<p>34-A §1805. STATE BOARD OF CORRECTIONS INVESTMENT FUND PROGRAM</p> <p>1. Program established. The State Board of Corrections Investment Fund program, referred to in this section as "the program," includes General Fund accounts and Other Special Revenue Funds accounts for the purposes specified in this section.</p> <p>2. Expenditures of program. Except as otherwise provided in this section, funding of the program may be expended only to compensate county governments and the department for costs approved by the board and the Legislature.</p> <p>3. Sources of funding. The State Controller shall credit to the Other Special Revenue Funds accounts of the program: [see footnote]¹</p> <p>4. Unencumbered balances. Any unencumbered balance in General Fund accounts or Other Special Revenue Funds accounts remaining at the end of</p>	<p>P</p>	<p>Fund has been created. Compensation has not been provided to the department (DOC).</p>	

¹ A. Any net county assessment revenue pursuant to Title 30-A, section 701, subsection 2-A in excess of county jail appropriations in counties where jails or correctional services have been closed or downsized; B. Any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives under section 1803 have reduced jail expenses. Any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance; D. Money from any other source, whether public or private, designated into or credited to the Other Special Revenue Funds accounts of the program; and E. Interest earned or other investment income on balances in the Other Special Revenue Funds accounts of the program.

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>any fiscal year does not lapse but is carried forward to be expended for the purposes specified in this section and may not be made available for any other purpose.</p>			
<p>5. Report by chair of the State Board of Corrections. The chair of the board shall report at least annually on or before the 2nd Friday in December to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The report must summarize the activity in any funds or accounts directly related to this section.</p>	C	Assume required reports have been completed.	
<p>34-A §1806. COMMUNITY CORRECTIONS FUNDS DISTRIBUTED BY BOARD</p> <p>2. Establishment of County Jail Prisoner Support and Community Corrections Fund. The County Jail Prisoner Support and Community Corrections Fund is established for the purpose of providing state funding for a portion of the counties' costs of the support of prisoners detained in or sentenced to county jails and for establishing and maintaining community corrections.</p> <p>3. Distribution. Beginning July 1, 2009 and annually thereafter, the board shall distribute the County Jail Prisoner Support and Community Corrections Fund to counties based on the percent distribution of actual funds reimbursed to counties pursuant to former section 1210 in fiscal year 1996-97....[see breakdown]</p>	C		<p>Percentage distribution should be updated. Two Bridges Regional Jail was not in existence when funds were divided. CCA funds should not be used to underwrite basic operations, but rather should be used to fund, and encourage development of, programs and services that meet the intent of sections XXXX [EBP, Recidivism, etc.]</p>

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>4. Authority to deviate from percent distribution. Notwithstanding subsection 3, the board may alter the percent distribution to a county based on a substantial change in the nature or extent of correctional services provided by that county.</p>	N	<p>Authority to deviate has not been exercised.</p>	
<p>5. Change in state funding of county jails. If a county experiences at least a 10% increase in the total annual jail operating budget or if a county issues a bond for the construction of a new jail or renovation of an existing jail, the county may file with the board a request for an increase in the amount of state funds the county receives for the support of prisoners. [see footnote] ²</p>	U	<p>Unknown if this statutory provision has been exercised by any county. County reports on community corrections programming (the 20%) go directly to MDOC not BOC. DOC fiscal agent makes determination if programming meets requirements.</p>	<p>If BOC is not in agreement about the intent and meaning of this section, official clarification should be sought.</p>
<p>6. Community corrections program account. Each county treasurer shall place 20% of the funds received from the board pursuant to this section into a separate community corrections program account. [see footnote for more.] ³</p>	C	<p>Assume compliance is maintained with the provisions of this section.</p>	
<p>7. Surcharge imposed. In addition to the 14%</p>	C	<p>Assume provisions of this section have been</p>	

² A county must file a request for an increase in the amount of state funds the county receives for the support of prisoners by February 15th for an increase experienced in the prior fiscal year. The board shall review the request and, if the county demonstrates to the board a need for the increase, the board shall distribute the approved amount to the county from the surcharges collected under subsection 7. All funds distributed under this subsection must be used only for the purpose of funding counties' costs of the support of prisoners detained in or sentenced to county jails and for establishing and maintaining community corrections. The board shall forward the request and supporting documents to the joint standing committee of the Legislature having jurisdiction over corrections and criminal justice matters of a county's requested increase and any distributions made to counties under this subsection

³ A county may use funds placed in this account only for community corrections. Before distributing to a county that county's entire distribution from the County Jail Prisoner Support and Community Corrections Fund, the board shall require that county to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the board shall distribute to that county only 80% of its distribution from the County Jail Prisoner Support and Community Corrections Fund. The board shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The board shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

Statutory Mandate	Status	Notes/Comments	Suggestions
<p>surcharge collected pursuant to Title 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which for the purposes of collection and collection procedures is considered a part of the fine, forfeiture or penalty. [see footnote] ⁴</p>		<p>implemented and compliance has been maintained.</p>	

⁴ All funds collected pursuant to this subsection are nonlapsing and must be deposited monthly in the State Board of Corrections Investment Fund program that is administered by the board. All funds collected pursuant to this subsection must be distributed to counties that have experienced at least a 10% increase in their total annual jail operating budget or to counties that have issued bonds for the construction of a new jail or renovation of an existing jail and that meet all other requirements under subsection 5. Funds distributed to counties pursuant to this subsection must be used for the sole purpose of funding costs of the support of prisoners detained or sentenced to county jails and for establishing and maintaining community corrections.

Appendix B: Task Force Agendas

AGENDA - JAIL TASK FORCE

9/20/13 - MEETING ONE

1. Welcome and Introductions - Chair Flanagan
2. Review of Authorizing Legislation - Chair Flanagan
3. How We Got Here - Bob Devlin
4. Report on Financial Status of BOC - Scott Ferguson
5. Identify Issues Need to be Addressed - Chair Flanagan
6. Formulation of Statement of Problems & Identification of Objectives - Chair Flanagan
(based on survey distributed)
7. What Documents will be Needed
8. Other Stakeholders to Include
9. Ground Rules for Committee
10. Meeting Schedule and Topics
11. Other
12. Adjourn

AGENDA - JAIL TASK FORCE

10/4/13 - MEETING TWO

The Commission will hold a public hearing beginning at nine AM, until not later than 11 AM Friday, October 4 in room 301A, also known as the Board of Corrections Board Room of the Marquardt Building in Augusta. The public is invited to testify with respect to revisions to the statutes relating to the County Jail System, the Board of Corrections and the state unified system. 16 copies of testimony are requested the morning of the hearing. Time will be allocated equitably to assure all parties have an opportunity to be heard. Following the hearing, the Commission will continue the meeting to discuss sub- committee progress to date and review hearing presentations. All are welcome.

AGENDA - JAIL TASK FORCE

10/25/13 - MEETING THREE

1. Call to Order
2. Approval of Minutes from October 4 meeting
3. Presentation of Committee Reports
4. Discussion of Reports
5. Next Steps
6. Adjourn

AGENDA - JAIL TASK FORCE

11/01/13 - MEETING FOUR

1. Call to Order
2. Introductions & Review of Meeting Expectations (Chair)
3. Review of Options
 - a. Return to County Control and Responsibility (Chair)
 - b. Adopt a State Unified System (Whitten)
 - c. Amend BOC/Create Regional Authorities (Crichton)
 - d. Amend BOC/ Increased County Role & Responsibility (Baldacci)
4. Comments of Rod Miller re BJA Report (Miller via phone)
5. Discussion of pros and cons of options presented
6. Straw vote on principles to incorporate in legislation
7. Discussion of outline of the Commission Report
8. Discussion of next steps and timetable
9. Adjourn

AGENDA - JAIL TASK FORCE

11/15/13 - MEETING FIVE

1. Call to Order
2. Welcome and Introductions
3. Approval of Minutes from October 4 meeting
4. Brief Analysis of Member Survey
5. Concepts in the Report
6. Discussions
7. Straw Draft of Proposed Legislation
8. Adjourn

AGENDA- JAIL TASK FORCE

12/6/13 - MEETING SIX

1. Call to Order
2. Welcome and Introductions
3. Approval of Minutes from November 15 meeting
4. Discussion of Draft Report
5. Approve Proposed Solutions
6. Adjourn



MAINE STATE LEGISLATURE
Joint Standing Committee on Appropriations & Financial Affairs
Augusta, Maine 04333

June 3, 2013

TO: Sen. Stan Gerzofsky, Senate Chair
Rep. Mark Dion, House Chair
Joint Standing Committee on Criminal Justice and Public Safety

FROM: Dawn Hill, Senate Chair
Margaret R. Rotundo, House Chair
Joint Standing Committee on Appropriations & Financial Affairs

Dear Senator Gerzofsky and Rep. Dion,

The Appropriations Committee is pleased to hear and to be invited to make recommendations issues for consideration in your proposal for a task force to study the operations of the current corrections system in Maine, and the Board of Corrections in particular. Following the incorporation of independent county jails into a coordinated correctional system under the jurisdiction of the Board of Corrections, the Appropriations Committee has been concerned with the operation of this confederation of county correctional facilities.

There have been several General Fund budget adjustments to the budget of the Corrections Department that never seem to be adequate. In addition from the perspective of all Appropriations Committee members, there are several issues that must be resolved as follows:

- **Lack of control.** The current correctional system that includes prisons and jails under the jurisdiction of the Board of Corrections appears more like a decentralized system that lacks enforcement authority and the authority to effectively control and coordinate operations.
- **Penalties.** There needs to be enforcement authority vested in the Board of Corrections. For county jail administrators who refuse to cooperate with the Board and pursue their own direction, there needs to be penalties for disregarding Board policies and acting independently.
- **Opting out.** Board of Corrections members have pointed out that some county jails have taken actions and appear to believe that they can opt out of the system. There are examples of county jail administrators that have not forwarded revenues to the Board and/or refuse to take state prisoners.

As a result of these revelations, we would like to know the full amount of money that is owed by the county jails to the Board of Corrections. We would also like to know the statutory provisions that allow county jails to opt out of the consolidated corrections system.

- **Unreliable revenues.** Operating revenues are not predictable or reliable. Some county jails withhold funds from the Board of Corrections, and some county jails provide wage increases and incur liabilities greater than the Board of Corrections recommends. On a number of occasions, the Appropriations

Committee has been required to appropriate additional funds to the Board of Corrections in supplemental budgets.

- **Debt Service.** Some county jails entered the confederation with significant debt service costs, while others had significantly less debt service liabilities. This issue seems to be a significant source of contention among the counties.

Failure to resolve these issues make it improbable that we will be able to address shortfalls of the Board of Corrections in coming years.

Thank you for requesting our input for your consideration. We hope this information is useful. Please contact us if you have any questions or concerns regarding our understanding of the corrections and the corrections system in Maine.

Appendix D “Maine State Caseload 5-year Trends”

MAINE STATE COURT CASE FILINGS 5 Year Trend, con't

AC-1

TRIAL COURTS

CRIMINAL CASES FILED	FY'09	FY'10	FY'11	FY'12	FY'13
DISTRICT CT. Criminal (1)	47,761	36,760	32,255	31,190	30,293
DISTRICT CT. PROBATION VIO'S	806	702	577	390	390
DISTRICT COURT CRIMINAL TOTAL	48,567	37,462	32,832	31,580	30,683
SUPERIOR CT. Criminal (1)	12,111	10,004	9,290	8,976	8,830
SUPERIOR CT. PROBATION VIO'S	3,382	3,156	2,787	2,603	2,211
SUPERIOR COURT CRIMINAL TOTAL	15,493	13,160	12,077	11,579	11,041
Cumberland Unified Criminal Docket (2)	6,569	9,173	8,586	8,556	8,858
Franklin Unified Criminal Docket (2)	-	-	-	-	390
Somerset Unified Criminal Docket (2)	-	-	-	-	568
Penobscot Unified Criminal Docket (2)	-	2,370	4,748	5,074	4,926
Piscataquis Unified Criminal Docket (2)	-	-	-	-	152
UCD Probation Revocations	29	233	491	669	713
UNIFIED CRIMINAL DOCKETS TOTAL	6,598	11,776	13,825	14,299	15,607
TOTAL CRIMINAL	70,658	62,398	58,734	57,458	57,331
% change from previous year	-6.5%	-11.7%	-5.9%	-2.2%	-0.2%

(1) Figures for both District and Superior Court Criminal include cases that were originally filed in District Court and then transferred to Superior Court.

(2) Unified Criminal Dockets eliminate duplicative case processing and the need for transfer from one level of trial court (District) to another (Superior). Case processing for Unified Criminal Dockets began as follows: Cumberland (1/2/09), Franklin (3/18/13), Somerset (3/27/13), Penobscot (1/4/10), and Piscataquis (4/1/13)

http://www.courts.state.me.us/reports_pubs/reports/5yr%20Court%20Stats%20for%20Internet/All%20Courts%20Caseload%20FY'09_FY'13.pdf

Appendix E: BOC Membership, November 2013

Carleton Barnes, Jr.	Manager	Wesserunsett Consulting, LLC	Calais
Douglas Beaulieu	County Administrator	Aroostook County	Caribou
Randall Liberty	Sheriff	Kennebec County	Augusta
Amy Fowler	County Commissioner	Waldo County	Palermo
Mary Louise McEwen	Superintendent	Riverview Psychiatric Center	Augusta
Susan Morissette	Consultant		Winslow
Joseph Ponte	Commissioner	Maine Department of Corrections	Augusta
Stuart Smith	Selectman	Town of Edgecomb	Edgecomb
Mark Westrum, chair	Correctional Administrator	Two Bridges Regional Jail	Wiscasset
Vacant	Executive Director	State Board of Corrections	Augusta
Jane Tower	Executive Associate	Maine Department of Corrections	Augusta

Appendix F: Proposed Capital Projects in 2007-2008

Proposed Capital Projects, 2007-2008	Borrowing	Approx. Interest	Total P&I
Cumberland (10 years at 5%)			
Medical Area Expansion	1,100,000 10 yrs. @ 5%	300,065	1,400,065
Kennebec			
Comm. Corr. Res. Ctr. 30K sq. ft. (80, 90 to 125 beds)	6,000,000 20 yrs. @ 5%	3503363	9,503,363
Incremental Operational Cost	90 Beds		
Oxford			
Kitchen/Floor Renovation and Equipment	50,000 5 yrs. @ 5%	6614	56,614
Incremental Operational Cost	12 Beds		
Knox			
Direct Supervision Addition (80 Beds)	10,100,000 20 yrs. @ 5%	5897327	15,997,327
Incremental Operational Cost	60 Beds		
Penobscot			
OPT 1 - 225 Bed Addition	26,000,000 20 yrs. @ 5%	15181238	41,181,238
Incremental Operational Cost	225 Beds		
OPT 2 - 440 Beds Direct Supervision Facility	46,000,000 20 yrs. @ 5%	26859114	72,859,114
Incremental Operational Cost	440 Beds		
Waldo			
\$17M Bond Retirement	17,000,000 20 yrs. @ 5%	9926194	26,926,194
Incremental Operational Cost	60 Beds		
Androscoggin			
Conversion of 3rd Floor Classroom (12 beds)- Min. Security	5,000		5,000
Kennebec			
Renovation of existing housing unit(20-25 beds)	10,000		10,000
Grand Total - Penobscot Opt 1	60,265,000	34,814,801	95,079,801
Grand Total - Penobscot Opt 2	80,265,000	46,492,677	126,757,677

Appendix G: Board of Corrections Purpose, Goals & Guiding Principles

PURPOSE AND GOALS

1. Purpose of the board. The purpose of the board is to develop and implement a unified correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities.
2. State goals. The board shall develop goals to guide the development of and evaluate the effectiveness of a unified correctional system. The board shall present its goals for review and approval by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The goals must include benchmarks for performance in the following areas:
 - Recidivism reduction;
 - Pretrial diversion; and
 - Rate of incarceration.

Responsibilities and duties

1. Manage the cost of corrections.
2. Determine correctional facility use and purpose.
3. Adopt treatment standards and policies.
4. Certificate of need.
5. Administrative duties.
6. Receive and review recommendations.

Downloaded from <http://www.maine.gov/corrections/BOC/purpose.htm> on 9/22/13

GUIDING PRINCIPLES

A Unified State and County Corrections System that:

- Reduces risk through the use of the Evidence Based Practices and encourages sentencing in accordance with risk;
- Creates an integrated, regional system build on the strengths of the existing state and county facilities and services and is based on differentiated missions;
- Is a stewardship approach that manages and maintains the existing assets and resources for the maximum benefit and invests strategically to accomplish system goals;
- Allows innovation, but is collaboratively based and recognizes that decisions about change and its management are shared;
- Creates incentives for us all to work together and promotes cohesion;
- Is consistent with the compromise enacted in Public Law 653;
- Incorporates the recommendations of the Corrections Alternatives Advisory Committee and the two plans developed by the state and the counties;
- Meets the system's needs for risk management and security housing;
- Works in concert with other policy makers including the Legislature, the Judiciary and the Sentencing Council, and;
- Involves and includes local stakeholders including prosecutors, local law enforcement, and others.

Appendix H: Jail Costs Per Capita by County

Per Capita Cost by Overall County Population					
County	FY10	FY11	FY12	FY13	FY14 Budget
ANDROSCOGGIN	45.25	50.46	52.33	52.53	53.97
AROOSTOOK	42.79	43.71	44.98	48.86	49.81
CUMBERLAND	56.98	58.44	62.40	62.43	64.34
FRANKLIN	43.16	37.22	32.09	32.83	51.47
HANCOCK	37.84	40.33	40.32	43.31	41.94
KENNEBEC	47.25	51.10	56.14	54.67	60.56
KNOX	88.78	89.74	93.64	93.13	96.33
OXFORD	24.73	21.81	21.47	20.74	25.21
PENOBSCOT	44.36	46.75	48.23	49.59	52.31
PISCATAQUIS	67.95	75.77	81.41	80.53	91.50
TBRJ	89.81	95.82	91.66	100.91	113.95
TBRJ w/LINCOLN & SAGADAHOC	101.48	107.15	103.41	112.94	126.57
SOMERSET	113.45	120.71	123.99	124.30	130.17
WALDO/ ME COASTAL REG. REENTRY	49.57	50.68	51.85	54.25	57.72
WASHINGTON	66.81	72.35	73.23	74.71	77.13
YORK	48.47	50.74	52.99	51.34	51.01
Average	50.09	52.25	54.54	54.76	57.37

Alex Kimball 2013

**APPENDIX I
THREE DEFICIT FUNDING SCENARIOS**

What percent of 3rd and 4th Quarter IF payments will the counties need?	<input type="text" value="100%"/>
Does the BOC receive mission change revenues? Y or N	<input type="text" value="y"/>
Does Somerset receive 2nd half 2013 Payment? Y or N	<input type="text" value="n"/>
Does Somerset receive 2014 Payment? Y or N	<input type="text" value="n"/>
Does Franklin become full service jail? Y or N	<input type="text" value="n"/>

Revenues	Full Year	Amount Remaining
Starting cash balance	n/a	\$ 4,098,340
Investment Fund Revenues	\$ 6,536,295	\$ -
CCA	\$ 5,646,562	\$ -
Court Fines, Surcharges, Per Diem's	\$ 786,259	\$ 525,950
Major Mission Change	\$ 1,029,751	\$ 1,029,751
Franklin Mission Change		\$ 180,248
Prior Year Carryforward	\$ 328,600	\$ -
Total Revenues	\$ 14,327,467	\$ 5,834,289
Expenses		
Investment Fund Payments	\$ 12,886,356	\$ 7,367,263
Somerset 2nd half 2013		\$ -
Somerset 2014 (IF & CCA)		\$ -
CCA	\$ 5,398,112	\$ 1,129,312
Board & Personnel	\$ 164,032	\$ 186,291
Total Expenses	\$ 18,448,500	\$ 8,682,866
Net Deficit	\$ (4,121,033)	\$ (2,848,577)

What percent of 3rd and 4th Quarter IF payments will the counties need?

80%

Does the BOC receive mission change revenues? Y or N

y

Does Somerset receive 2nd half 2013 Payment? Y or N

n

Does Somerset receive 2014 Payment? Y or N

n

Does Franklin become full service jail? Y or N

n

Revenues	Full Year	Amount Remaining
Starting cash balance	n/a	\$ 4,098,340
Investment Fund Revenues	\$ 6,536,295	\$ -
CCA	\$ 5,646,562	\$ -
Court Fines, Surcharges, Per Diem's	\$ 786,259	\$ 525,950
Major Mission Change	\$ 1,029,751	\$ 1,029,751
Franklin Mission Change		\$ 180,248
Prior Year Carryforward	\$ 328,600	\$ -
Total Revenues	\$ 14,327,467	\$ 5,834,289
Expenses		
Investment Fund Payments	\$ 12,886,356	\$ 5,893,810
Somerset 2nd half 2013		\$ -
Somerset 2014 (IF & CCA)		\$ -
CCA	\$ 5,398,112	\$ 1,129,312
Board & Personnel	\$ 164,032	\$ 186,291
Total Expenses	\$ 18,448,500	\$ 7,209,413
Net Deficit	\$ (4,121,033)	\$ (1,375,124)

What percent of 3rd and 4th Quarter IF payments will the counties need?

100%

Does the BOC receive mission change revenues? Y or N

y

Does Somerset receive 2nd half 2013 Payment? Y or N

y

Does Somerset receive 2014 Payment? Y or N

y

Does Franklin become full service jail? Y or N

n

Revenues	Full Year	Amount Remaining
Starting cash balance	n/a	\$ 4,098,340
Investment Fund Revenues	\$ 6,536,295	\$ -
CCA	\$ 5,646,562	\$ -
Court Fines, Surcharges, Per Diem's	\$ 786,259	\$ 525,950
Major Mission Change	\$ 1,029,751	\$ 1,029,751
Franklin Mission Change		\$ 180,248
Prior Year Carryforward	\$ 328,600	\$ -
Total Revenues	\$ 14,327,467	\$ 5,834,289
Expenses		
Investment Fund Payments	\$ 12,886,356	\$ 7,367,263
Somerset 2nd half 2013		\$ 560,884
Somerset 2014 (IF & CCA)		\$ 1,370,216
CCA	\$ 5,398,112	\$ 1,129,312
Board & Personnel	\$ 164,032	\$ 186,291
Total Expenses	\$ 18,448,500	\$ 10,613,966
Net Deficit	\$ (4,121,033)	\$ (4,779,677)

**APPENDIX J
OVERVIEW OF JAIL FUNDING SOURCES**

Funds and Purpose

Overview of Jail funding Sources

Type of Fund	Source	Purpose	Amount
Community Corrections	State Allocation	Community Corrections Programs	\$ 5,646,562.00
Inverse Debt	None	Capital Needs	\$ -
Investment Fund	State Allocation	Jail Operating Expenses	\$ 12,886,355.00
Federal Inmates	US Marshalls	Reimbursement for housing federal inmates	\$ 3,630,601.00
County	Property Taxes	Jail Operating Expenses	\$ 61,808,927.00
Other	Misc	Mostly reimbursements for inmates from other agencies	\$ 196,934.00
Total Revenues			\$ 84,169,379.00

**APPENDIX K
FY 15 DEFICIT CALCULATOR**

FY 15 Deficit Calculator

What percent of IF payments will the counties need?	<input type="text" value="100%"/>
Does Somerset receive FY 15 IF Payments? (Y or N)	<input type="text" value="Y"/>
What is the Statewide average LD 1 Cap?	<input type="text" value="3.6%"/>
What is the most recent 1-Year CPI?	<input type="text" value="1.0%"/>

Revenues	FY 14 Projected	FY 15 Budgets	FY 15 LD 1 Max	FY 15 CPI
Investment Fund Revenues	\$ 6,536,295	\$ 6,536,295	\$ 6,536,295	\$ 6,536,295
CCA	\$ 5,646,562	\$ 5,646,562	\$ 5,646,562	\$ 5,646,562
Court Fines, Surcharges, Per Diem's	\$ 786,259	\$ 786,259	\$ 786,259	\$ 786,259
Major Mission Change	\$ 1,029,751	\$ 1,029,751	\$ 1,029,751	\$ 1,029,751
Franklin Mission Change	\$ 678,026	\$ 678,026	\$ 678,026	\$ 678,026
Prior Year Carryforward	\$ 328,600	\$ -	\$ -	\$ -
Total Revenues	\$ 15,005,493	\$ 14,676,893	\$ 14,676,893	\$ 14,676,893
Expenses				
Investment Fund Payments	\$ 11,764,589	\$ 15,523,759	\$ 14,325,366	\$ 12,475,915
Somerset County Payments		\$ 1,121,767	\$ 1,365,033	\$ 1,189,341
CCA	\$ 5,398,112	\$ 5,398,112	\$ 5,398,112	\$ 5,398,112
Board & Personnel	\$ 164,032	\$ 200,000	\$ 200,000	\$ 200,000
Total Expenses	\$ 17,326,733	\$ 22,243,638	\$ 21,288,511	\$ 19,263,368
Net Deficit	\$ (2,321,240)	\$ (7,566,745)	\$ (6,611,618)	\$ (4,586,475)

DRAFT
POLICY STATEMENT
“ONE MAINE ONE SYSTEM”

June 2009

CAPITAL IMPROVEMENT PLANNING
FOR
COUNTY CORRECTIONAL FACILITIES IN MAINE

Purpose

The Capital Improvement Program (CIP) provides a basis for prioritizing and implementing the short and long range plans for property improvement projects. The CIP is intended to be a planning, scheduling and priority setting process for the county correctional facility over a ten year period. Planning for future maintenance and infrastructure improvements offers predictability during the budget process.

All requests will be evaluated and assessed to achieve a schedule that will first address critical safety issues, efficiencies, and prevent infrastructure deterioration. The county executive department will work with the county correctional facility to plan, schedule and prioritize the facilities' capital projects. The annual CIP recommendations will be presented to the county commissioners for their approval and forwarded to the Board of Corrections for presentation and final approval on an annual basis.

After the budget is approved CIP funds will be maintained as dedicated fund accounts within the jail's financial statements by the county treasurer's office.

It is important to note that the CIP is a recommended plan. Priorities may and will change as critical safety, ADA, technology, and infrastructure needs arise. Capital funds may be realigned by the county commissioners and the Board of Corrections to reflect the most urgent capital needs each year and unexpended funds from a completed project may be re-allocated to another planned project. ?

Expected Benefits

- Large expenditures can be anticipated in advance rather than being put off until the need becomes critical or an emergency.
- Project coordination may reduce costs through combining projects to increase competitive pricing.
- Projects can be assessed based on their need for employee and public safety, occupational health, vital document preservation, infrastructure improvement, ADA.
- Critical infrastructure projects should be planned to extend the life span of existing facilities.

CAPITAL REPLACEMENT PLANNING

All counties and regional jail authorities shall have a ten-year capital improvement plan that focuses on maintaining the physical plant and upgrading systems in order to ensure the safety and security of the facility.

Counties and regional authorities should identify mechanical systems, structural areas and technologies with predictable life spans and prepare estimates for the cost of a scheduled replacement.

Counties and regional authorities should prepare estimates for the on-going cost of rotational replacement for those items with a predictable lifespan i.e. HVAC components, roofs, boilers, computers, software, radios, and vehicles. Counties and regional authorities should avoid circumstances where entire collections require replacement at once. Counties and regional authorities must coordinate the purchases of collections to realize savings through group purchasing.

One of the goals of capital purchasing in the unified correctional system shall be the compatibility of systems as they are upgraded.

Planned capital improvement spending is intended to anticipate the need for the replacement of systems and collections necessary for the safe and efficient operation of the correctional facility. Planning for these replacements should avoid most instances where system failure requires an unexpected or unplanned replacement.

The county commissioners shall adopt a recommended capital plan to be forwarded to the Board of Corrections for approval.

FUNDING

Counties and regional authorities with fund balances at the end of the corrections fiscal year must first apply those funds to a capital improvement program with identified projects that have cost estimates and schedules in place.

Capital funds from the corrections fund balance must only be used for direct corrections related expenses. These funds must be accounted for separately in the corrections capital improvement account. Funds may not be transferred from this account for non-correctional activities. Funds from this account may be used for systems jointly serving correctional and non-correctional functions but only in proportion to the corrections related use of that improvement i.e. shared heating systems, shared software.

Counties without sufficient funds in their capital improvement program may submit a funding proposal to the Board of Corrections to meet unanticipated emergency needs.

FUND BALANCE

For correctional services planning:

Fund balances accrued through savings achieved through a Board of Corrections initiative must be forwarded to the Board of Corrections investment fund.

Fund balances accrued through savings achieved through a county initiative or action shall remain with the county's corrections fund balance.

Designated Fund Balance (Capital Projects) : Designated Fund Balance are those (capital projects) funds reserved a specific purpose. For example, for scheduled projects needed to maintain the mechanical systems, structural integrity, collections and technology upgrades of the correctional facility.

These capital reserves are that portion of the fund balance segregated for a specific future use.

Undesignated Fund Balance: Undesignated Fund Balance are those funds unexpended at the end of the fiscal year and any revenues in excess of estimates.

What is Capital and How should it be Treated?
Considerations for Managing Capital in Maine County Jails
(Excerpts from the State Capital Guidelines - 30.20)

How to value capital assets

Capital assets should be valued at cost, plus all ancillary charges necessary to place the asset in its intended location and condition for use.

Determine the value of capital assets in the following manner:

- Purchased Assets - Use historical costs including all non-refundable purchase taxes (e.g., sales taxes), plus all appropriate ancillary costs less any trade discounts or rebates. If the historical cost cannot be determined, use a reasonable estimated cost.
- Furniture, fixtures, or other equipment not an integral part of a building are not considered capital improvements and should be classified as equipment. The cost for this asset type reflects the actual or estimated cost of the asset.
- Include the cost of extended maintenance/warranty contracts in the asset valuation if the contract is purchased at the same time (or soon thereafter) as the capital asset. Depreciate these contracts over the useful life of the asset. Do not capitalize payments for contracts not purchased at the same time as the capital asset.

Self-Constructed Assets, excluding internally developed computer software

- Capitalize all direct costs associated with the construction and agency management costs associated with a construction project. Agency project management costs may be capitalized in one of two ways:
 1. Use actual project management costs directly associated with the project; or
 2. Apply a percentage of total budgeted project costs. The application rate may or may not be designed to recover total agency project management costs. Exclude indirect costs unless they are increased by the construction.

Ancillary Costs

- Normally, ancillary costs should be included in the cost of a capital asset. However, minor ancillary costs, not measurable at the time a capital asset is recorded are not required to be capitalized but may be capitalized if the information becomes readily available.
- Ancillary costs include such items as:
 - For land and Infrastructure:
 - Legal and title fees;
 - Professional fees of engineers, attorneys, appraisers, financial advisors, etc.;
 - Surveying fees;
 - Appraisal and negotiation fees;
 - Damage payments;
 - Site preparation costs; and
 - Costs related to demolition of unwanted structures.
 - For buildings and improvements other than buildings:
 - Professional fees of architects, engineers, attorneys, appraisers, financial advisors, etc.;
 - Damage payments;
 - Costs of fixtures permanently attached to a building or structure;
 - Insurance premiums, interest (refer to Subsection 30.20.10.a), and related costs incurred during construction; and
 - Any other costs necessary to place a building or structure into its intended location and condition for use.
 - For furnishings, equipment, collections, and other capital assets:
 - Transportation charges;
 - Sales tax;

- Installation costs;
 - Extended maintenance/warranty contracts (refer to Subsection 30.20.10.a); and
 - Any other normal or necessary costs required to place the asset in its intended location and condition for use.

- When to capitalize assets:
 - Assets shall be capitalized according to the following thresholds:
 - All other capital assets with a unit cost (including ancillary costs) of \$5,000 or greater, or collections with a total cost of \$5,000 or greater, unless otherwise noted.
 - Although small and attractive assets do not meet the capitalization policy above, they are considered controllable property for purposes of marking and identifying.
 - Each agency should perform a risk assessment (both financial and operational) on the agency's assets to identify those assets that are particularly at risk or vulnerable to loss. Assets so identified, that fall below the capital threshold, are considered small and attractive assets. Each agency should develop written internal policies for controlling small and attractive assets.
 - The agency should implement specific measures to control small and attractive assets in order to minimize identified risks. Periodically, the agency should perform a follow-up risk assessment to determine if the additional controls implemented are effective in managing the identified risks.
 - Small and attractive assets would include:
 - Communications Equipment, Public Safety: Audio and Video;
 - Optical Devices, Binoculars, Telescopes, Infrared Viewers, and Rangefinders;
 - Cameras and Photographic Projection Equipment;
 - Microcomputer Systems, Laptop and Notebook Computers;
 - Other IT Accessorial Equipment and Components (Scanners, Data Displays, etc.);
 - Office Equipment;
 - Record Players, Radios, Television Sets, Tape Recorders, VCRs, and Video Cameras.

- Extraordinary repairs, betterments, or improvements
 - Capitalize outlays that increase future benefits for an existing capital asset beyond its previously assessed standard of performance
 - Increased future benefits typically include:
 - An extension in the estimated useful life of the asset.
 - An increase in the capacity or efficiency of an existing capital asset.
 - A substantial improvement in the quality of output or a reduction in previously assessed operating costs.

- Replacements
 - For buildings, improvements other than buildings, and equipment, capitalize the cost of outlays that replace a part of another capital asset when the cost of the replacement is \$5,000

- Renovations -- Capitalization Threshold for Renovations

- A renovation enhances an already existing asset to a condition beyond that which results from normal maintenance repairs, and/or increases the useful life of the asset. Replacing a roof, or installing a better electrical system in a building, are examples of renovations.
- Capital leases
 - A capital lease is a lease with contractual terms that transfer substantially all the benefits and risks inherent in the ownership of property to the agency. A lease must meet one or more of the following four criteria to qualify as a capital lease:
 1. Ownership of the leased property is transferred to the agency by the end of the lease term; or\
 2. The lease contains a bargain purchase option
- Depreciation
 - Depreciation normally begins when an asset is purchased or completed, and accepted. However, if an asset is not placed into service immediately, depreciation should begin when the asset begins to lose value. Either option should be applied consistently and should be reasonable in the circumstance.
 - Depreciation may be calculated using either the straight-line or composite method.
 - To calculate depreciation using the straight-line method:

$$\text{Annual Depreciation} = \frac{\text{Cost} - \text{Salvage Value}}{\text{Asset Useful Life}}$$
- Useful Life for Capital Assets
 - Agencies should use the following recommended guide for assigning a useful life to an asset. However, different lives may be used if an agency has a compelling reason and the life assigned to an asset can be justified by historical experience.
 - 2-5 year property — includes computers and peripheral equipment, and computer software designed to cause a computer to perform a desired function;
 - 5 year property — includes office machinery, automobiles, light and heavy general purpose trucks;
 - 7 year property — includes office furniture and fixtures, agricultural machinery and equipment;
 - 10 year property — includes building improvements such as a new roof, plumbing and electrical renovations, vessels and water transportation equipment;
 - 15 year property — includes land improvements
 - 30-50 year property — includes residential and nonresidential real property such as buildings
 - A more comprehensive list can be found in IRS Publication 946, "How to Depreciate Property."