

Board of Corrections

Informational Snapshot

Historical Summary

1. Board of Corrections (BOC) created in 2008 to oversee coordinated jail system
 - a. Created due to:
 - 1) State Department of Corrections (DOC) had increased demand for county jail inmate beds
 - 2) Baldacci Administration proposed the State DOC take control of county jails
 - 3) County jail expenditures were growing at an average of 9% each year
 - 4) County jails had proposed \$110 million in major capital expenditures for coming years
 - 5) County inmates were a commodity where counties bid for inmates to fill their jail beds, from \$80-\$150 per day
 - b. Resulted in:
 - 1) State agreed to freeze local county jail property taxes at 2008 level, totaling \$62,000,000
 - 2) State agreed to fund additional operational costs and capital costs from General Fund
 - 3) Counties agreed to submit to oversight of the BOC and make excess bed space available to system, including the DOC, eliminating inmate bidding
2. BOC and coordinated jail system was plagued for its first five (5) years by a lack of agency rules, a lack of direct authority, and a lack of consistent funding for operations and capital needs
 - a. Minor attempts at modifying the BOC, including membership, failed to produce different results
 - b. System budget has been flat-funded since FY2012
3. Rather than find efficiencies, improve services, or produce a standardized system, the BOC faltered, becoming lost in endless budget discussions and failing to make systemic decisions
4. The few highlights of the system included:
 - a. Avoiding \$110 million in capital expenditure projects
 - b. Capping the property tax burden
 - c. Repurposing three (3) county jails to 72 hour hold facilities
 - d. Ending inmate boarding rates
 - e. Increased usage of pre-trial/diversion services

2013 Study Commission

1. 126th Legislature created a Commission to study the BOC and jail system by LR 2171
 - a. Membership included:
 - 1) State legislators
 - 2) County sheriffs, jail administrators, commissioners, and managers
 - 3) DOC Commissioner
 - 4) BOC Chair
 - b. Committee was chaired by David Flanagan
2. The Commission adopted 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.
3. The Commission provided the following areas for necessary reform:
 - a. Revising and reaffirming the purpose of the BOC
 - b. Altering the BOC membership and size of the Board

- c. Reaffirm and increase the authority of the BOC
- d. Strengthen the role of the Executive Director
- e. Implementing common accounting standards
- f. Establishing agency rules to provide ability for decision enforcement by BOC
- g. Rules for creating and adopting the system's budget
- h. System-wide capital planning and adequate sources of funding

LD1824

1. The Commission's final report and recommendations led to LD1824, *An Act to Provide Additional Authority to the State Board of Corrections*
 - a. Clarified and mandated the purpose and goals of the BOC
 - b. Established clear authority for rulemaking and standardization across jails, including:
 - 1) Jail operations
 - 2) Programming and services
 - 3) Finances
 - 4) Decision enforcement and non-compliance
 - c. Created a systematic, controlled budget process, including a growth factor
 - d. Created a smaller, more-balanced BOC, reducing membership to 5 from 9, including 2 members of the Executive Branch
 - e. Gave the Board authority for county jail inmate placement
 - f. Created a County Corrections Capital Improvement Fund with funding from the state
 - g. Clarified and expanded the duties and requirements of the BOC Executive Director
 - 1) Added a full-time Financial Analyst to BOC office staff
 - h. Provided incentives for counties to generate efficiencies

Post-LD1824 Progress

1. Begun the rulemaking process for agency rules, drafting rules in the following areas:
 - a. Finance
 - b. Capital improvement
 - c. Inmate management
 - d. Jail operations
 - e. Pre-trial and programming
 - f. Enforcement and non-compliance
 - g. *Targeted rulemaking completion – spring 2015*
2. Development and implementation of new BOC policies
3. Continued property tax increase-avoidance
 - a. Property tax avoidance totaling over \$57,000,000
4. Cost-avoidance to the State of Maine totaling over \$55,000,000 (FY10 to FY14)
 - a. Original consolidation planned for over \$40,000,000 in inverse debt payments and,
 - b. Over \$15,000,000 in planned funding for jail operations (FY10-FY14)
5. Improved system cooperation, even in the face of a \$2 million budget shortfall
6. Increased performance measure reporting
7. Increased financial accountability
8. Introduced budget initiative procedures
9. Expenditure growth has been slower than inmate population growth
10. Standardization of the inmate transfer process
11. Increased use of pre-trial and community corrections services
 - a. Pre-trial services now available in 13 of 16 counties
 - b. Regionalized mid-coast pre-trial services

Current Barriers

1. Two (of 5) vacant Board seats
 - a. Inability to proceed with rulemaking decision-making process

- b. Inability to fully implement and utilize new authorities of Board
- 2. One (of 2) vacant CWG co-chair seats
- 3. Inmate population has exceeded current operating capacity
- 4. Operating with a \$1.3 million budget reduction coupled with revenue shortfall
- 5. Continue to defer capital expenses
- 6. Experiencing paralysis due to on-going funding concerns

Short-term Priorities

- 1. Filling vacant Board seats
 - a. And, vacant CWG co-chair seat
- 2. Securing FY15 supplemental funding of \$2.4 million
- 3. Securing increased biennial funding (FY16/17), including capital improvement funding
- 4. Completing initial rule-making process and implementing rules
- 5. Review county jail capacities and use in FY16/17 budget approvals
- 6. Revise CCA funding distributions for 72 hour hold facilities
- 7. Standardize jail operations, including inmate risk assessment and classification

Long-term Priorities

- 1. Establish a BOC Strategic Plan
- 2. Encourage standardized jail staffing analyses using NIC guidelines
- 3. Review purpose and utilization of every county correctional facility
- 4. Continue rule-making
- 5. Establish regionalized and/or statewide services for efficiency, standardization, and reinvestment strategies, including:
 - a. Pre-trial services
 - b. Inmate programming
 - c. Reentry services
- 6. Utilize video arraignment in all county correctional facilities
- 7. Work with judiciary and other key stakeholders to improve coordination and collaboration
- 8. Build on performance measurement of operations, programming, and finance

Alternatives to Status Quo

- 1. Revert to pre-2008 county jail operations**
 - a. County jails funded by property tax payers, local control is reestablished
 - 1) Opportunity for same problems that led to creation of BOC
 - b. Statewide, county jail property taxes would increase 21% from currently capped amounts (see Appendix A)
 - 1) Future cost increases determined by property taxpayers (previously trended at 9%), not legislature
 - c. Future capital expenditures born by the property tax payer
 - 1) Pre-2008 plans called for \$110 million in major capital expenditures
 - i. Would lose efforts at statewide efficiencies and coordination, reverts back to inefficient, costly solution
 - j. Reestablishes “bidding” for inmates to fill jail beds
- 2. State DOC assumes control of county jails**
 - a. Jails become funded by state tax dollars
 - b. Provides a single line of authority and decision-making
 - c. Allows for consolidation, repurposing, and better utilization of jails and services
 - d. Significant legal and other hurdles to overcome for completion
 - e. *Proposed as possible future plan if Commission’s 2013-2014 reform failed*

APPENDIX A:

Return to County Control - Financial Impact						
	Property Tax Impact				Additional Impact	
	2008 Tax Cap	FY16 Increase	Total	% Increase ('08-'16)	Capital (FY16 Est)	Inmates Boarded Out
ANDROSCOGGIN	4,287,340	1,176,240	5,463,580	27%	170,000	10
AROOSTOOK	2,316,666	1,268,234	3,584,900	55%	667,062	3
CUMBERLAND	11,575,602	2,654,402	14,230,004	23%	481,750	0
FRANKLIN	1,621,201	0	1,621,201	0%		23
HANCOCK	1,670,136	320,000	1,990,136	19%	217,000	2
KENNEBEC	5,588,343	880,142	6,468,485	16%	180,000	61
KNOX	3,188,700	239,800	3,428,500	8%	143,800	8
LINCOLN	2,657,122	1,019,379	3,676,501	38%		0
OXFORD	1,228,757	0	1,228,757	0%	132,131	30
PENOBSCOT	5,919,118	1,030,521	6,949,639	17%	525,000	66
PISCATAQUIS	878,940	178,038	1,056,978	20%	92,500	0
SAGadahoc	2,657,105	1,019,379	3,676,484	38%		0
SOMERSET	4,863,215	1,125,543	5,988,758	23%		3
TBRJ	-	-	-	-	96,169	2
WALDO	2,832,353	0	2,832,353	0%	118,500	37
WASHINGTON	2,000,525	435,303	2,435,828	22%	78,000	0
YORK	8,386,815	1,787,349	10,174,164	21%	517,350	10
Total	61,671,938	13,134,330	74,806,268	21%	3,419,262	
				Approx. 3%/year		

Maine Sheriffs' Association
Chronological– Summary of Sentencing in County Jails
Brief Legislative History of the Community Corrections Fund

1979 – No apparent sentencing limit, other than the limit authorized in law for the crime, on the time sentenced by the court to a county jail.

1983 – 1st Session: 17A §1203 – Removes the limitations imposed by section 2 – Repeals sections 2 & 3 (?) Inadvertently removed the ability of the court to sentence to county jails(?)

1983 – 2nd Session (Emergency Preamble): 17A §1203 – Amended by removing generic language referring to a “different institution” and adds – The court must specify if imprisonment is to be a county jail. Section 2A’s, Enacted then replaces section 3 with 17A §1251 – murder must be sentenced to Department of Corrections. 17A §1252 – Adds same language as Section 1203 above – 17A §1258 Spells out Sheriff’s responsibility to notify Department of Corrections when a prisoner is sentenced to Department of Corrections by the court for transport reason - Department of Corrections decides what State facility.

1985 – 2nd Special Session – 17A §1203 – Establishes for the first time since 1979 limits on time frame sentences at the county jail. After 4/1/1987 split sentences -must be sentenced to a county jail for 6 months or less until 1/1/1989 when it changes to 9 months or less.. 17A §1252 Amended same as 1203. 1252-§ 6 & 9 allowed for placement of D & E offenses up to 1 year in the County jail – however A, B, C’s more than 9 months – stayed with Department of Corrections.

***34A §1210 – Community Corrections** – Enacted – provided for reimbursement from Department of Corrections to counties for housing inmates – convicted of A,B,C. After 3/31/1987 special conditions were set in the statute – requiring Department of Corrections and County Commissioners to agree then opt out a quarterly basis - Department of Corrections would reimburse the County at a rate of \$34/Day per prisoner for a limited time – 4/1/1987 to 6/30/1987 then July 1, 1987 then rates changed semi-annually by Department of Corrections Commissioner based upon long list of criteria.

1989 – 17A §1203 Amended to clarify D&E crimes must go to County jail – A, B, C 9 months or less to County – all others to Department of Corrections – 17A §1252 Section 7 – added to say that D&E sentences over 1 year may go to Department of Corrections. 17A §1203 then sets 1/1/1995 as date when A,B,C 1 year or less go to County jail – 17A §1252 same language

1995 – 1st Regular Session – 17A §1203 & §1252 repealed 1 year in County jail language.

1999 – 2nd Regular Session – 17A §1203 β 1 repealed, replaced with 1203 β 1A. D&E County jail – A,B,C 9 months less County jail – 17A §1252 same.

2001 – 34A §1210-A Community Corrections updated and amended to correct formula dictates – 80 – 20 Split – allows for counties to request an increase in distribution to Department of Corrections – sets the bar for distribution in the 1st year (2001) at the same as actual funds reimbursed to counties under 34A §1210 – for FY 1996/1997. Percentages to Counties based upon that total.

Maine Sheriffs' Association

"Sheriff's Sound"

A bulletin for the Maine Legislature

March 10, 2014

Edition 1: The future of Maine's County Jails?

Welcome the first edition of the "Sheriff's Sound", an informational bulletin for the Maine Legislature. We hope you find the material contained here in insightful as you consider legislative actions that may impact your 16 County Sheriffs' Offices. Our goal, is to simply provide you with facts and potential impacts regarding the legislative process rather than lobbying for a particular outcome. As always, the Maine's Sheriffs stand prepared to assist you in any way possible.

Sheriff Joel Merry, President.

Can counties work together?

- ❖ There is a perception that Maine's 16 County Sheriff's and 15 County Jails are unable to work together as stated by Governor LePage in a recent radio address and by Dr. Joseph Fitzpatrick, Commissioner of Corrections in a February 13th letter to all 16 Sheriff's where he states "... *It seems to be challenging for some counties to cooperatively collaborate around the use of jail beds... I do not believe the county system has a lack of bed space; however, there does appear to be a lack of cooperation amongst some counties.*"

While we respect Governor LePage and Commissioner Fitzpatrick, MSA has a different point of view. Here are some interesting facts and examples of how closely your Sheriffs work together on a daily basis:

- Since 2008 the Two Bridges Regional Jail (TBRJ) has averaged 186 inmates per day. Only 80 of those are local Lincoln and Sagadahoc County inmates any given day. The remaining 106 come to TBRJ from other counties and the state.
- Cumberland County has averaged 462 daily, 260 of which are local and 202 come from other counties. In addition Cumberland works closely with the Androscoggin and Oxford Counties coordinating and assists with transportation of inmates to and from each. Approximately ?? transports per week.
- Somerset County has averaged a population of X, X of which are local and X come from other counties. Somerset works closely with Franklin County much like, Cumberland and shares transport services with Franklin.
- York County
- Penobscot County despite severe overcrowding continues to coordinate the northern Maine prisoner transportation hub, accepting, holding, and transporting inmates from Aroostook,

Maine Sheriffs' Association

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Washington, Hancock, and Piscataquis counties. Over X number of transports since 2008. Saving about \$ per year.

- Sagadahoc, Lincoln, Knox, and Waldo Counties share a single contract with Maine Pretrial Services who supervises pretrial contracts and alternative sentencing programs in all four counties. A contract that includes home monitor and release and intensive domestic violence supervision. A reduction of about \$ over fiscal year 2014 cost in those counties.
- ...
- ...

A historical perspective \$\$:

- ❖ The year 2008 found the Maine’s State Prison system in crisis, caused in part by overcrowding, understaffing, and budget restraints. As one of the outcomes of the crisis, jail consolidation legislation was born. That year the Department of Corrections published “A plan for a unified correctional system for Maine”. The report indicated that county jail expenses had grown at a rate of 9% in the previous three years and projected county jails costs statewide to reach \$148 million by 2013 and \$184 million by 2015.

Here is a look at actual county jail spending over the past five years as provided by CRAS, the budget reporting software supported by DAFS:

SBOC Overall Spending - FY10 through FY14 Actuals						
	FY10	FY11	FY12	FY13	FY14	Average Increase
Wages	35,481,573	37,164,858	38,382,948	39,312,271	39,493,894	2.6%
Benefits	12,968,636	13,929,078	14,700,397	15,780,683	16,053,235	5.2%
Contractual	19,451,857	19,766,686	20,429,771	20,009,919	21,003,114	1.9%
Commodities	3,269,691	3,422,735	3,518,526	3,468,741	3,358,360	0.6%
Capital	1,372,317	1,578,041	1,573,250	975,366	679,249	-23.0%
Miscellaneous	156,255	118,297	128,742	117,715	128,761	-6.2%
Grand Total	72,700,329	75,979,696	78,733,634	79,664,695	80,716,613	2.6%

Note that actual county jail spending has increased from \$72 million in FY 2010 to \$80 million in FY 2014 and not from \$62 million to \$83 million over a four year period as quoted in the past.

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Outside influences impacting our jails:

- ❖ Here are some interesting facts regarding the impact State systems have on our jails:
 - In 2014 X number of persons were sentenced to the custody and supervision of Department of Corrections, Probation and Parole. Of the # on probation X violated and ended up in a county jail compared to X violating and ending up in a DOC facility.
 - Maine Judges continue to sentence certain individuals to pay off the debt of a fine unpaid to the courts by serving time credited at \$50 or \$100 per day (for example) in a county jail.
 - Recently, a Judge sentenced an individual to exceed 9 months in the county jail by exercising consecutive sentences. In other words issued two separate 9 month sentences to be served consecutively in a county jail, rather than 18 months with DOC. Similar practices have occurred across our state as Judges sometimes side step sentencing guidelines.
 - A February snap shot of the Penobscot County Jail revealed the inmate population on that day totaled 213. 200 of which were Penobscot County Inmates, 90 of those were sentenced and 110 were pretrial status. Not only were 55% of the inmates awaiting trial on that day, take a look at the number of days some of inmates have been awaiting trial at the County's expense:
 - 3 of those pretrial inmates had been held for more than 2 years the average number of days in jail thus far for those 3 totaled 891.3.
 - 8 had been held for more than 1 year awaiting trial the average of those is 507 days.
 - 10 had been held for more than 9 months averaging 309.7 days thus far.
 - 12 had been held for more than 6 months averaging 206 days.
 - 37 had been held for more than 3 months averaging 135.5 days.
 - 130 had been held less than 3 months averaging 26.8 days.

On this day in February at the Penobscot County Jail all of the inmates held for 9 months or more were not yet sentenced by the court. Those held less than 9 months are a mixture of sentenced and pretrial inmates.