

Board of Pardons and Parole and Department of Corrections
CCCS, Inc. 471 E. Mercury St.
Butte, Mt 59701
March 17, 2010

The meeting attendees expressed their thanks to Mike Thatcher and staff for extending the invitation to use the corporate facilities for the meeting as well as providing snacks and lunch for the group. Thank you so much.

Board members in attendance were: Chairman Mike McKee, Sam Lemaich, John Ward, Margaret Hall-Bowman, and Teresa McCann-O'Connor

Board member absent were: John Rex and Darryl Dupuis

Board staff in attendance were: Executive Director Craig Thomas, Senior Parole Board Analyst Julie Thomas, Parole Board Analyst Fern Osler, Parole Board Analyst Brain Callarman, Parole Board Analyst John Cameron, and Parole Board Analyst Christine Slaughter

Department of Corrections staff in attendance were: Department of Corrections Director Mike Ferriter, Montana Women's Prison Warden Jo Acton, Montana Men's Prison Warden Mike Mahoney, Adult Community Corrections Division Administrator Pam Bunke, Legal Counsel to Director Diana Koch, and Executive Assistant to the Director Myrna Omholt-Mason

Guest: Governor's Policy Advisor on Health and Families Eve Franklin

Review of old business - meeting summary of October 14, 2009

Correction made to male jail hold should have read "decrease" of 12%.

Population Projections:

Ms. Bunke said the population growth remains flat in her programs, Warden Acton reported that her facility is currently below capacity, and Warden Mahoney said the male jail hold numbers will increase due to ADA construction projects that are currently join on in cell blocks.

Length of Stay (LoS):

Ms. Acton reported that average LoS at MWP is 18 months and is increasing from the statistics reported in October 2009. Female offenders suffering from mental and serious medical issues are increasing the LoS. Warden Mahoney is seeing an

increase of adjudicated teens coming into the system as adults. Gang culture is appealing to youth and causing security challenges for MSP.

DUI/Sex Offenders:

Ms. Bunke said the Law & Justice Interim committee will meet on April 5 and 6. SJR 39 – DUI study as well as sex offender placement challenges will be discussed. Dr. Tim Conley did a study titled *Assessing Montana's Multiple Offender Drunk Drivers for Prevention Strategy Ideas*. The study is posted on the DOC's Intranet site for review. One of the findings from Dr. Conley's research showed that offenders want a longer period of treatment after being charged with their first DUI.

Placement of sex offenders (SO's) is still problematic. Only two prerelease centers, Billings and Missoula, accept SO's. A panel comprised of DOC staff and community based program staff will present their views to the committee on April 6 regarding placement of SO's into the community. The panel will stress that the SO's going to the prerelease centers are Level One's. Butte and Bozeman prerelease center will not take SO's and Great Falls is taking the issue under advisement with no firm decision made as yet. Mr. Ferriter recommended a representative of BOPP also attend the meeting to give BOPP's perspective.

Sex Offenders 46-18-207(4) MCA:

Ms. Koch read the statute and it says in part...“during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203.” The Intensive Treatment Unit at MSP is not classified as a residential treatment program. Offenders at MSP attend SO treatment as well as participating in other programming/jobs as opposed to WATCH which is an eight hour per day treatment module. The expanded Work and Re-entry Center (formally the Work Dorm) could be utilized as a specialized residential treatment program therefore lessening the offender population that is currently treatment complete but still housed behind the double-wire.

Community Corrections Interventions for High-Risk Offenders in Rural Montana:

Ms. Bunke said that eight full time P&P officers have been hired. Five of the officers will be specialized in working with Native American offenders and three will work with offenders that have co-occurring issues (chemical dependency and mental health). A federal Department of Justice field auditor will be in Helena in mid-March to review the management of the grant. One of the goals is to meld Native American strategies into treatment programming.

Craig Thomas said the grant will now give the Board the tools to specifically parole offenders to one of the specialized officers.

E-Rim Project:

Mr. Thomas reported little progress has been made with the project. Funding is a problem as well as file storage. CITRIX and OMIS access for all Board members has to be granted and the correct computer access program hasn't been installed on the laptop computers used by the Board. Electronic records are stored in a program called FileNet through the Department of Administration. DofA charges large sums of money for storage and those expenditures are not in the DOC budget. Mr. Thomas also said that wireless connectivity in correctional facilities is also a problem due to how the facilities were constructed (ex. concrete walls).

CDFS(Conditional Discharge from Supervision):

Mr. Thomas said that in the last ten years 20 parolees have been discharged from supervision. The goal of CDFS was to reduce the P&P officer's caseload by rewarding offenders for completing the terms of his/her sentence. CDFS requires more effort on behalf of the officer as the officer has to approach the Board and request a CDFS. The conditions pertaining to offenders on probation or parole status have changed due to updating the Administrative Rules relating to conditions of probation or parole. The existing Administrative Rule 20.25.704 dealing with conditional discharge from supervision has been re-worded when Mr. and Mrs. Thomas met with Ms Koch regarding updating Chapter 25 – Board of Pardons and Parole - in the Administrative Rules of Montana. Mr. Thomas said the Board's goal is to be compliant with ACA Standard 2-APA-1125 which states "if not discharged after one year of release on parole or the statutory minimum period, the parolee may request a discharge review by the authority." Mr. Thomas stated the current ARM statute on conditional discharge from supervision does not have any bearing on parole. The P&P officer can recommend CDFS but the Board does not have to approve – offenders do not have the right to parole.

ADMINISTRATIVE RULES:

Mr. McKee stated that it has been 11 years since the administrative rules governing the Board have been reviewed. The meeting summary of October 2009 reflected that the rules will be reviewed and amended to accurately reflect the Board's function. Craig and Julie Thomas and Diana Koch have met and new rules have been drafted. The proposed changes have been sent to the Board members for their review. If changes to the working document need to be made, please submit the suggested changes to Mr. Thomas by the first week in May. A video conference will be scheduled in May to review the final document before submission to the Legislative Services rule reviewer, Valencia Lane. Diana Koch talked about the protocol through the Secretary of State's office regarding the administrative rule process. The Board does not have to hold a public hearing to amend the rules but must send a notice to interested persons

and take their comments into consideration before the rules are adopted. Any changes to the statutes need to be sent to Ms. Koch by April 1 for her review.

INMATE CLASSIFICATION FOR OFFENDERS NOT INTERESTED IN PAROLE:

Mr. McKee stated that offenders have the right to refuse parole consideration and he has observed some offenders have become acclimatized to the prison lifestyle. He questioned Mr. Mahoney about the current MSP's classification system. Mr. Mahoney stated that offender's with lengthy discharge dates are reviewed every six months and are moved to different secure facilities if all they want to do is serve their time. Ms. Acton stated that MWP does not have the opportunity to move female offenders that refuse to appear before the Board.

BUDGET/EPP OVERVIEW:

Mr. Thomas said he will only present two EPP requests to DOC – funding for ACA and per diem for Board members.

Mr. Ferriter said DOC has undergone 6.8 million in budget reductions. DOC is still going to move forward with the NW prerelease center and the eight new specialized P&P officer positions that are currently funded through a federal grant could be eliminated. He stated that to maintain the existing budget it will require 174 million.

Mr. Mahoney and Ms. Acton will be submitted their EPP requests for DOC management team review and prioritization. Ms. Acton said MWP is in critical need for a new control system of operation of all doors in her facility.

Mr. McKee asked that the Board be kept apprised and included in any discussions if the department is contemplating the possibility of early release of offenders due to budget cuts.

MOU-JURISDICTION:

Ms. Koch gave the attendees a copy of the MOU that reflects the current practice between the Board and DOC. The changes to the document are: 1) to take out the word "treat" and replace it with "manage". The corrected sentence will read: "The purpose of this MOU is to reflect the agreement of the parties as to how they will *manage* offenders who are committed to the Department of Corrections (DOC Commits) and whom the COC places in prison. 2) delete in its entirety item #3 which reads: "DOC Commits and prison commits that have been screened and accepted by prerelease through the screening process as outlined in DOC Policy 5.8.1. 3) add Pam Bunke's name to the signatory page as well as correcting Mr. McKee's name to Michael E. McKee.

The effective date of the MOU will be upon signing of all parties.

PARDONS/OFFENDER REMOVAL FROM OMIS:

Mr. Thomas said the consensus of the Board members is to remove all felony offenders names from the DOC's Correctional Offender Network (CON) site when an he/she is granted a pardon from the Governor. 46-23-301(b) states "Pardon" means a declaration of record that an individual is to be relieved of all legal consequences of a prior conviction. The Board will take the responsibility to notify DOC when a pardon is granted so ensure the offender's name is removed from the site. When an offender's deferred sentence ends the offender has to work through the courts to get the record expunged. Once that is accomplished the Board is requesting their names be removed from the site.

COMMENTS REGARDING MEDICAL MARIJUANA:

The members had an open discussion regarding the supervisory issues created when offenders have a medical marijuana card. One incident was cited about a mental health clinic that kicked an offender out of the treatment program because he came to his treatment session under the influence. The general agreement was that the medical community has to develop protocols in prescribing the cards and Ms. McCann-O'Connor said that offenders will have to get a specific recommendation from the Board to give the ok for a card-not just an ok from a doctor. The marijuana registry is causing problems for DPHHS because there is no case law to draw on. Ms. Koch said that according to the medical marijuana statute the persons who possess a registry identification cards may not be arrested, prosecute or penalized in any manner.

Mr. McKee said the Board will join any law enforcement grass roots organization that may evolve before the 2011 legislative session to change the statute.

NEXT MEETING:

October 8 in Billings at Passages.

Meeting summary prepared by Myrna Omholt-Mason