

**Department of Corrections
Prison Issues Board
Helena, MT
December 8, 2009**

Warden Mike Mahoney, Kara Sperle, Dan Maloughney , Lena Havron, Gayle Lambert, Chris Ivins, Ron Sturchio, Patrick Smith, Colleen Ambrose, Kris Studeny, Dan O'Fallon

Via computer/vision net – MWP/Warden Jo Acton, DW Bob Paul, DCCF/Warden Steve Ray

Patrick Smith – Welcome and Introductions

Division Updates - Warden Mahoney

Warden Mahoney attended the quarterly meeting with the parole board. He was advised of the site for the Kalispell Pre-Release Center. The Department's secure care population numbers were also discussed. Sex offenders staying in the system too long are a concern. Diana Koch found in statutory authority a piece that may help us out. It says that once an inmate completes a residential treatment program, he/she can be moved to a probationary status. Department staff met and talked about adding an after-care piece at the WRC. This would be a six-month program. We would ask the Board to parole inmates to the program. Once the inmate completes the program, he/she would be considered for placement in the community on a probationary status. This item will get discussed at next quarterly meeting with Board. We are continuing to watch our numbers very closely. Half of inmates housed at the WRC are sex offenders. We are looking at the potential of this program being the missing piece of the puzzle between prison and the release into the community for sex offenders. This could help bridge that gap. The program is still in the design and development stage and there is a good deal of work to be done to determine if this concept will move forward.

Warden Mahoney spent a week in court. This was for a lawsuit from a former correctional officer for an unsafe work environment from an incident in Close 3 from 2006. There was a problem with the electronics in the cage, so the officers were manually operating the blocks. Some inmates refused to lock down after returning to the unit from chow and an incident occurred when an inmate refused to lock down and several other inmates joined in the disruptive behavior. The incident lasted 1.5 hours from start to finish. This Correctional Officer had been a member of the Special Response Team. The officer came back to work the next day. Then he said he could not come back to work. We went to court and both parties were found liable by the jury. We need to look at policies on post traumatic stress situations. Department policy calls for one of the following things to take place: one on one counseling, diffusing and debriefing after an incident. MSP policy says we must choose one of the three. We are making adjustments at MSP. Employees have to sign a form that says you are aware of the policy. The Warden suggested that all facilities review their policies related to such issues as Department policy applies to all of you.

We just settled a federal case. Sherman Hawkins filed a case against us in federal court. It was regarding his inability to have access to a Catholic priest while in a locked housing unit. The federal magistrate suggested he was not going to be happy if this went to jury trial. Warden Mahoney agreed to pay fifty dollars and had to write a letter that stipulated that a priest would request to provide services in our locked housing units. Another letter would be addressed to Bishop Thomas regarding a replacement be considered by the dioceses if Father Porter is ever re-assigned. A letter was also sent to staff in Max and Close 3 that states that inmates must have reasonable access to clergy. Sherman Hawkins also had to pay a \$250 filing fee.

Overall population numbers are looking decent. All facilities are looking well population-wise, with the exception of MSP, it continues to have a waiting list for low custody beds.

At the last PIB meeting, Montana Interactive did a presentation about the development of software for inmate accounts. We need to make a decision on this issue and facility administrators were asked to send their comments to Pat Smith within the next two weeks.

Patrick Smith said Barry Beach took us back to court claiming that when we settled the original property case, that we were to allow him to keep his original property. We actually were to meet with the PIB and make a uniform property list for all inmates. We went back to court and the court agreed the current list is a uniform property list and we did what we said we were going to do.

Policy Issues and updates – Colleen Ambrose

Mary Greene was unable to attend today's meeting. The big one right now is the Emergency Preparedness Policy. There is a new department policy on this. We all need to be aware of the policy. Garret Fawaz will be meeting with the facility staff regarding the emergency preparedness policy.

Colleen Ambrose said one of the policies Mary Greene has been working on with MSP is the PREA Policy. The inmates are grieving the pat search. Upon review of the policy, it was decided that we just needed to clean up the wording. You will be getting a new version of the PREA policy soon. In addition, the Pat Search Policy will be cleaned up. There will also be changes in the training classes of how to do a pat search, and also some changes in inmate orientation regarding the pat search.

Grievance Review – Kris Studeny

Patrick Smith said the grievance staffs have been meeting quarterly. The information they share is important and Patrick would like to have someone from the Grievance Department on our schedule regularly so that we are consistent with our facilities and critical information is shared.

Kris Studeny said there were a number of things they went over at the annual grievance meeting. The primary thing is the OMIS tab for grievances. They will be using this to track all grievances. There will be individual files for each grievance for the inmates. This has proved to be very complicated. For the 2010 fiscal year, we will have to use the old report form. If anyone needs a copy of this, Kris can send them out. They will be generating a new report. The Department is still setting up OMIS to be compatible with old system, so they can transfer all the old information into OMIS. Grievance staff will no longer be handling the pat search grievances as emergent at MSP. When they get a pat search grievance, staff will go and talk to the inmate and decide where to go with the claim. Staff should be familiar with the pat search and they can determine if the pat search grievance is a regular grievance or an emergent grievance.

Kris passed out a "Response to Grievance" memo regarding pat searches. The memo Kris passed out was sent out electronically to all the facilities. If anyone did not get it, let Pat know and he will make sure that they get a copy.

99% of PREA grievances received in last year have been about the pat search. Since they changed how they handle the grievances, there has been a decrease in the pat search grievances. The policy did not clarify what pertained to inmates and what was applicable to staff. We are developing a video that will show various methods of how a pat search is completed. This video is approximately 3.5 minutes long. There is a quick pat search and the full pat search. Inmates are now being told there is a difference. Just because one is longer and possible more intrusive than another does not automatically mean there is a PREA issue.

Kris said the Grievance Department is expecting to be using the new grievance format by fiscal year 2011.

Pat Smith said the hope is that once we get this set up in OMIS, it should save us all a lot of time. Information Technology staff has been putting a lot of work into the OMIS grievance tab.

Kris Studeny said that because there are different levels of appeals, it will clean up the grievance system. Another problem is that property keeps coming up missing when an inmate gets rolled up. The property was not making it back to the units. We addressed that by making a property liability form. The units become liable for the property. Testing is taking place in Max and CU3. This continues to be effective.

Warden Mahoney commended the Grievance Unit for all their hard work. Patrick Smith added the annual meetings with grievance and disciplinary staff is very helpful for all encouraged facilities to keep sending their staff.

Guidance for Movies in Facilities – DW Bob Paul

Handout

DW Bob Paul wanted to inform us of a situation they had at MWP where one staff member walked by a movie being shown at MWP and there was some graphic sexual material. DW Paul began looking at what can and cannot be shown. He also looked at what other places were doing regarding this and found everyone was doing something a little differently. DW Paul looked at making a policy for the department so that we are all using the same policy. Once adjustments were made to what they were showing, the only complaints came from three inmates who were at MWP for sex crimes. DW Paul wanted the Administrators to look at the policy he had typed up and get comments. DW Bob Paul would like the policy in place in case someone has issues with it.

Warden Mahoney said there is no constitutional right to movies. We went through a process where we put our TV process out to bid. We (MSP) had lost control of the inmate TV system and have taken steps to correct this critical security issues. We found unexplained videos in the system that no one wanted to take responsibility for nor was there an audit trail to note how the movie came into the institution.

Warden Mahoney does not want videos back at MSP. He has a list of channels available to inmates at MSP and there are several movie channels available. If any of you feel that this is a management tool that you want the discretion to us in your facility it will be your responsibility to promulgate rules and regulations to control such a program.

AW Chris Ivins from Shelby said his facility shows movies on the weekends. They do not have a post order in place regarding this. He sends a list out for approval to the Warden and chiefs for approval about the movies being shown. AW Ivins does not want a policy in place.

The Great Falls facility shows movies on special occasions and wished to continue this practice.

Warden Ray said Glendive facility has the same problems MWP was having. Now they have a post order in place and the movies must be approved by the warden. He put out a memo to his staff and it maps out what rating of movies may be rented for presentation at the facility.

Pat Smith asked Colleen Ambrose if DOC Legal should be involved in this issue. In some respect, she agrees with Warden Mahoney that there is no constitutional right to TV. She will look and see if Legal should be involved. Pat Smith said we just need to make sure that what we are showing does not offend anyone, staff or inmates or is contrary to our mission.

Pat Smith said at some of the smaller facilities, this is a good incentive program. When you do use this type of thing, make sure it is incentive based and stay within reasonable guidelines and have an approval process of what is shown. DW Bob Paul agreed the incentive part is good, especially when you have to lock the facility down for something.

MWP ran into a cost issue with the movie channels. IWF was paying a lot of money to have movie channels available. DW Paul agrees with Warden Ray that there does need to be at least a post order in place.

Warden Mahoney said that if MWP does this, they will need to manage it and do some spot check audits and make sure the administration, not the inmates control the process. .

Pat Smith said that what he is hearing is that each facility is doing something different and as long as there is a procedure and protocols in place with a review process, we should be covered. All agreed to leave the movie issue in place as is for now.

Legislative, Management Team and Advisory Council updates - Director Ferriter

At the last Management Team Meeting they talked about whether they would have a new Department Advisory Council or not (eliminating this would be a cost saving measure). They spoke about youthful offenders being a possible agenda item. Youthful offenders are a big issue when they enter the system. These offenders often end up at Montana State Prison in Max or CU3. These offenders often come into MSP without a significant crime, but they end up being assaultive to staff and become problem inmates.

Another thing the management team talked about was an update on the communication plan. People complain they never know what is going on. Each division has a communication plan posted on the department website. The director follows this.

On December 17th, the Law and Justice Committee will be meeting. They are focused on three topics – DUI, DNA and sex offenders. The next meeting there will be a tour and visit to the WATCH Program and WATCH Graduation. There will be a discussion at the capital on what we are doing with DUI's. The topic of sex offenders was scheduled for the next meeting, but has been moved out. Senator Shockley has expressed concerns about our inability to move these offenders from the prison system to the community.

The Finance Committee wanted to look at our population and outcome measures. Last week, we were able to report and give projections on this. At the meeting, they discussed the NW Pre-Release Center. The Department is trying to establish a Pre-Release Center in Kalispell. Overtime and tracking it is a huge issue in our department. The last Legislative session, MSP was given 12 positions to off-set overtime. The next finance committee meeting will be looking at those twelve positions and seeing if we are utilizing these positions and cutting down on overtime.

Director Ferriter said the DOC has had a PREA re-org and now the PREA Investigator is in the same bureau as the other investigators for the department. All the PREA complaints need to get reported to the investigators. Colleen Ambrose said by policy, all PREA complaints need to be reported to Rich Collins.

Roundtable Discussion

MASC – Dan Maloughney

MASC is doing great. Dan is glad to be invited to these meetings. Today, what we have discussed, there are issues here that MASC has to address. Dan will make an effort to attend these meetings. Over all, the facility is doing well. About 73 percent of MASC offenders are going to community placement. The goal was 50 percent placement. When MASC first began being utilized, they thought they could divert at least 50 percent. MASC has been able to divert 70-75 % to community programs.

MSP – Warden Mike Mahoney

Good news first. The juveniles that have been challenging us seem to be calming down and they have not been as problematic. We are optimistic that some of the new programming being designed for the locked housing units will continue to impact the inappropriate behavior as well.

The facility has also been working on the New Directions and Steps Programs. These programs seem to be making a difference in the number of inmate write ups.

The bad news is that some of our senior staff is starting to retire. Unit Manager Greg Budd has held many positions throughout the years and will retire at Christmas time as he reaches his 30 years of service to the Department.

At the WRC, Sam Casey has proven to be a smart choice for the Re-entry program position. He has gotten out and met with some community people and already sat in on local pre release screening committees and has several ideas on how to improve the screening process.

The holidays are very hard on inmates and staff. Be aware of signs of depression and the increased risk of substance abuse. I recommend you increase your shakedowns and advise staff to pay closer attention to the little details in day to day interactions with the inmates. We need to recognize that the Holidays can be a tough time for some of our staff as well and should all be aware of the different programs that are available to staff. We have an employee assistance program that is available for staff that struggle with the holidays.

The Montana Interactive Group was at our last meeting and the Warden wanted to know where everyone is on this. Pat Smith said we had the presentation at our last meeting and we were supposed to meet with our facilities and bring it back to this group. No one from the facilities ever got back to Patrick. Accounting had some issues regarding fraud and liability. CCA had questions regarding the liability and fraud issue also. Patrick said we (DOC) did have one time with restitution where a card was used fraudulently.

Dan O'Fallon said Cascade has a program already in place that is run through their CACTUS Program and they have all kinds of issues with the program. One problem is they only take the money out of the accounts twice a week. There is an issue about the money going on the inmates account and getting spent before the facility actually receives the money. Gayle Lambert said this is a different program than what we are looking at.

Pat Smith said the biggest problem is liability. Who would end up paying back the money? The Director said we need to talk to Kim Timm at DOC Accounting to see who pays the money back.

DW Paul said this program would open the door for inmates getting money from inmates through their families etc. Warden Mahoney and Pat Smith both agreed that this already happens. Warden Mahoney said there should be a follow-up meeting with legal and accounting regarding this and then put it out to the group as a questionnaire or some type of follow up.

Warden Acton wanted to know if all the facilities have to agree to this program. If one of the other prisons (Cascade) is using a program like this with CACTUS, then why are all facilities not using this?

Cascade uses this program, but not with the state inmates. They only use this for the county inmates.

The Director feels we need to come up with a consensus. MWP does not have the volume of movement from facility that the other facilities do. We will wait and see. For the men's facilities, we definitely need to have consensus. A follow up meeting with the Fiscal and Legal departments will be scheduled and they can report back to this group.

Fiscal – Kara Sperle

We are 3.3 million over budget. This number is projected and will be carried over to next fiscal year.

Jody has been working with facilities about per diem rates. This needs to be updated so we can have accurate projections.

MCE – Gayle Lambert

MP3 player updates – MCE is working on putting together an RFP for the MP3 players. There is new technology available for this. The purchase of the MP3 player will be handled through the canteen. A catalog of songs is available on the MP3 player. The songs do not download until the funds are taken from account. There will be

some security measures in place to limit bulldogging. Inmates would be able to download music, books, bibles, etc. This would eliminate the CD's.

Sam Casey has been going out and meeting with the facilities and going to the communities. We are seeing a large impact with the new STEPS program and how the inmates are interacting with inmates and employees. We have been seeing a big impact on the high side also with how the inmates are getting along. Inmates involved in these programs are being housed in the same unit.

MCE now has an actual job application process for hiring inmates. They are looking at the inmates in the regional and private prisons. They will have some supervisors go to the regional and private facilities to meet with the people there to help set up a whole process.

Great Falls – Captain Dan O’Fallon

The facility population is stable. No major problems or concerns. The budget issue remains big in Great Falls. Dan O’Fallon commended the people who run the facility for keeping focused and professional.

CCA – AW Ivins

AW Ivins said Shelby had the H1N1 scare last month. The facility spent a lot of money on masks. They have a couple of lawsuits going right now. They had a PREA allegation. Everything has been filed on that and it has been investigated by local law enforcement and is in someone else's hands now. Shelby will have a mock ACA audit next quarter to prepare for re-accreditation.

MWP – DW Bob Paul

Graduating last ICP person this week, so the Women's Prison will be ready to bring in the last of the jail hold.

Director Ferriter said that within the Women's Prison there is/was a program (ICP) that is similar to the men's boot camp. This was a problematic program. They now just have general population inmates and are using the area as an intake unit.

DCCF – Warden Steve Ray

Warden Ray said there has not been a lot of staff turnover lately. Inmates are pretty quiet. The education program through the college is going very well.

Approved Magazine List – Patrick Smith

Pat sent out a list to everyone so that we had a starting point to look at. This has been an ongoing problem. We spend a lot of money and staff time on this issue. Do we limit the magazines due to nudity, security issues, inappropriate and gang related materials and is it possible to sell them on the canteen?

Colleen Ambrose was asked by Ross Swanson last week to put together a legal opinion of this issue. She has not had a chance to do this. At one time, legal was going through the magazines page by page. If there were less than five pages of disallowed material, the magazine was sent in, with the disallowed material removed. There has been some talk about limiting the magazines we will allow inmates to have. What Ross Swanson has done in the past was look at other state policies and see what they do. He has found several states that allow just certain magazines for inmates.

Pat Smith would like this group to look at this and possibly say this is what we offer and just provide the magazines through the canteen.

Gayle Lambert said there are 111 magazines that are identified. We would like to limit the list to around forty. The publisher would restock weekly and the providers would buy back what we don't sell. We could offer a discount off the newsstand price. There are other correctional canteens that do this. We need to make sure there is a good cross reference of magazines.

Director Ferriter asked if this privilege is any different than the privilege/right to other products. How is this different than TV stations, candy bars, etc?

Colleen Ambrose said this issue has been challenged more from the publisher's standpoint than the inmates.

Warden Mahoney said the problem is, one month a magazine is allowed and the next month, the same magazine is not allowed. We spend a copious amount of resource money going through the magazines. If we standardize the number and type of magazines allowed into all the facilities we could achieve consistency and reduce the amount of staff time spent on this matter.

Gayle Lambert said if this was done through the canteen, we could take this a step further. You could say that for sports illustrated, we do not offer the swimsuit edition.

Pat Smith said this should make it more affordable for the inmate who may not be able to buy a years' worth of a magazine subscription, but may be able to get a magazine every now and again.

Director Ferriter asked if we have an inmate group that gets together that we could get to review the magazine choices. Also, will this be an issue with the ACLU? We are pulling staff away from important rehabilitative things to look at magazines, so it should not be that big of an issue with them.

Colleen Ambrose said it would not hurt to talk with the ACLU.

Director Ferriter asked Colleen to visit with the rest of DOC Legal regarding this issue and get a legal opinion back to this group before the next meeting.

DW Bob Paul said that MWP would be more than happy to have this placed on canteen and be done with it. This is a man powered intensive issue. Warden Ray said that if legal says yes, he was in favor of having a list of magazines. Dan Maloughney and AW Ivins agreed.

Kris Studeny asked if the canteen carries the magazines, would the inmates be prohibited from getting them through the mail. Gayle Lambert said that if we sell magazines through the canteen, this would be the only place the inmates would get magazines.

Colleen Ambrose will try and get something back to Patrick Smith.

Pat Smith said we want to do this right the first time. We will wait on Colleen Ambrose and then send out an email to the Prison Issues Board or put it on the agenda again for the next meeting.

IWF – Lena Havron

Handout

Lena Havron passed out the "IWF Funds Recap" and brought up the idea of having a pool of IWF money to make programs available to facilities that can't afford them. Lena would like to visit with legal and see what our options might be. We have quite a bit of money sitting in IWF funds. If we have a pool of money available, it would be to the betterment of all offenders.

Director Ferriter asked if the IWF pool would be for educational purposes and can we be liberal enough for re-entry needs? Can we assist inmates when they leave?

Warden Mahoney said if we build something there should be some continuity. If you go through the programs, and need help when you are getting ready for the community we would be willing to spend some money on re-entry.

Lena Havron said we would need to set guidelines for usage.

Director Ferriter asked why offenders don't go directly to Conditional Release from MASC. Is the issue resources? If we give an inmate \$500 to go to supervision, it would be a good idea.

Gayle Lambert said a lot of states that do this but the money does not go directly to the offender and this works out very well. Nevada does this.

Lena Havron said one person could be appointed to track and oversee the spending of the money.

Patrick Smith said this could really help some of the smaller facilities with the education programs, etc. The bigger facilities could still use it for appropriate things that benefit the inmates too.

Patrick Smith asked if we needed a proposal to set up the parameters.

Lena Havron said if everyone is in favor, we can get a group together to set up the parameters.

Warden Acton asked how much involvement the inmates have in the decision on how to use the money.

Lena Havron said the proposal would be brought to the inmate IWF representatives so they would be told what we have proposed to do. Then their input would be brought back to the PIB. Statute says we have to have inmate input on it.

Warden Acton asked if MASC puts money into the IWF Program. She is wondering in case we get questioned about why we are benefitting inmates who do not contribute. Kara Sperle said there is still past revenues from MASC that are part of the IWF total fund. Dan Maloughney said about 25% of MASC inmates move on to MSP. The Director added that about half the IWF money has come from MASC.

Lena Havron said it can be based on contributions. We will look at the parameters as we are setting this up.

Patrick Smith asked if anyone would be opposed if Lena Havron and Patrick worked on this and brought it back to the Prison Issues Board at the next meeting. Gayle Lambert said she would like Sam Casey involved. The Director would like Pam Bunke and the IPPO from MASC involved also. The biggest thing for inmate success when they get out is the cost involved. If anyone else wants to be involved, just let Patrick Smith know.

IWF REQUESTS

Lena has not received any requests.

MSP will be making a request for the STEPS and New Directions Programs at the next meeting.

MWP does not have any IWF requests.

DCCF does not have any IWF requests.

GFRP does not have any IWF requests.

CCC does not have any requests at this time.

Legal has an IWF requests.

DOC Legal would like \$3000 for the legal library. This has come up before. Lena Havron has not seen this bill. We are being billed between \$600-\$800 dollars a month for this. DOC needs to pay for this. Westlaw had failed to provide us with updates. This has already been approved and will be apportioned appropriately.

The inmate legal program still has problems. We changed from LEXUS to Westlaw. They have not been very good about providing quarterly updates. These two programs no longer utilize disks, so this is a very outdated form of providing information. Pat Smith and Colleen Ambrose got to preview a service that Westlaw provides, but they do not see IT approving this. Colleen would like to explore this as a possibility, but not sure how much more expensive this would be. The inmates do not have access to the internet, just to the program. Chris Ivins said the Federal Bureau of Prisons is already using this. Colleen thinks we should continue to deal with Westlaw. Pat said we will keep exploring this and see what we come up with.

Pat Smith asked if there was any public comment. There was none.

Warden Mahoney would like to say thank you to everyone for all that you do for the Department and wishes everyone merry Christmas and Happy New Year. We will undoubtedly be facing many new challenges together in the New Year and we look forward to working with all of you in the New Year.

The next meeting will be **March 23rd at Deer Lodge from 10:00 a.m. until 2:00 p.m.** We can approach Craig Thomas about using the **Board of Pardons Conference Room.** Meeting adjourned!