

**Board of Pardons and Parole and Department of Corrections Joint Meeting
Meeting Summary
Helena Holiday Inn
October 14, 2009**

Board members in attendance were: John Rex, Margaret Bowman, Chairman
Mike McKee, John Ward, Darryl Dupuis and Sam Lemaich
Board member absent: Teresa McCann O'Connor

Board staff in attendance were: Executive Director Craig Thomas, Senior Parole
Board Analyst Julie Thomas, Parole Board Analyst Fern Osler, Parole Board
Analyst Brian 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 Deputy Warden Bob Paul,
Montana State Prison Warden Mike Mahoney, Adult Community Corrections
Division Administrator Pam Bunke, and Executive Assistant to Director Ferriter
Myrna Omholt-Mason

Guest: Eve Franklin

Review of old business:

Mr. Ferriter gave an overview of the May 5, 2009 meeting summary and
no changes to the summary were suggested.

The Legal Bureau has undergone a temporary management change.
Diana Koch will serve as the attorney for the "support" divisions which includes
the Board of Pardons and Parole. Steve Barry will serve as the temporary
bureau chief for the Investigation and Legal Bureaus. All Habeas Corpus cases
should be directed to Steve Barry for his review and reassignment to the proper
attorney. Mr. Thomas stressed the importance of having Diana complete a draft
copy of the amendments to the Board's administrative rules. Mr. Ferriter assured
the members that the rules will be one of her top priorities.

Population Projections:

Mr. Ferriter discussed population projections. Population statistics are
compiled quarterly. Due to the date of the joint meeting the statistics he
presented were for the end of August:

- Male prison beds- increase of 2.6%
- Female prison beds-decrease of 5%
- Male jail hold-decrease increase of 12%
- Female jail hold-decrease of 5%
- Alternative to prison-increase of 4.6%
- Prerelease/transitional living-increase of 6%
- Intensive supervision-increase of 1.8%
- Probation and parole-increase of 1% flat growth rate

Ms. Bunke was asked to explain the P&P flat growth projection. She did not have an answer for the anomaly. Length of sentence could be a factor as well as having more P&P officers to manage their caseloads.

Mr. Paul at MWP spoke about the ICP program. The program is the female version of boot camp and has been underutilized. The program is in the process of being phased out. The ICP pod could then be used for intake or Phase 1 (acclimatizing offenders to a prison setting). If the court recommends an offender to ICP, the prison could contract with Passages and place the offender there.

Mr. Ferriter attributed the Alternatives to prison programs being full to capacity as good management and the local screening committee's favorable consideration of placing offenders into the various programs.

Ms. Bunke was asked the question as to the status of the proposed Kalispell prerelease center. She stated that an Administrative Rules hearing was held, money for the center is allocated in the budget, and the siting for the center is moving forward.

Mr. Ferriter thanked the Board for their key role the member play in managing the offender population.

Length of Stay:

Mr. Thomas asked for statistics regarding MWP and MSP length of stay. Mr. Ferriter gave the attendees a handout showing statistics for both facilities covering fiscal years 2003 through 2009. MWP released 832 female offenders, the longest stay in months was from 66.8 to 120.3 making the average stay in months for female offenders 11.6 to 17.4. Montana State Prison released 5,179 male offenders in the same time frame. The longest stay in months for men was from 231.1 to 307.0, making the average stay in months ranging from 20.1 to 23.8.

Mr. Mahoney said the norm for offenders is to be at MSP for 141 days then transferred. 48 months is the normal length of stay for male offenders. He said when the meth treatment centers were implemented it increased the length of stay for offenders.

DUI & Sex Offenders:

The Law & Justice Interim committee met on August 3 and determined that a study of DUI laws requested by SJR 39 would be the committee's top priority. The committee also agreed to study emerging issues, including prerelease placements for sex offenders.

Mr. Ferriter gave the members a handout the department prepared for the interim committee members relative to convictions and sentences of offenders that the department supervises. Since the felony DUI law was enacted in 1997, DOC has supervised 2,441 offenders with 3,008 felony DUI convictions.

- 17.9% (1,950) have had a single felony DUI conviction
- 17.4% (424) have had two convictions
- 2.4% (58) have had three convictions

- 0.4% (9) had had four convictions

Of the 2,441 offenders sentenced for felony DUI:

- 42.4% (1,035) are on probation or parole
- 12.4% (302) are in treatment programs
- 8.4% (206) are in prison
- 4% (98) are on conditional release
- 1 is in the intensive supervision program
- 2 are awaiting new sentencing
- 32.6% (797) have successfully discharged and are no longer under supervision

For the most part, the prevalence of felony DUI convictions mirrors the state's population distribution. DOC statistics showed that Lewis and Clark, Silver Bow and Lake counties have a disproportionately high share of DUIs in relation to their populations.

Mr. Thomas said the Board deals with a lot of felony DUI cases and he's concerned with the type of supervision offenders are receiving once paroled. He said that the Board has granted permission for offenders to drive to and from the job site as the Board driving aids offenders in their efforts to be employed.

Ms. Bunke said that the Board is compromising DOC policy by allowing offenders to drive. P&P officers and the offender's addiction counselor make the determination if a DUI offender should be granted a license. She feels very strongly that the Board should NOT allow DUI offenders the privilege of getting a license as alternative methods of transportation are available. Allowing DUI offenders to drive creates a huge public safety issue and she hopes that the legislature drafts legislation to ban habitual offenders from receiving any type of license to drive.

Mr. Thomas said the Board could restrict driving for a year in order for the offender to demonstrate stability and after the year restriction the offender could petition the Board for reconsideration.

Mr. Ferriter extended the invitation to the Board members and staff to tour the WATCH facility and to attend the WATCH graduation on December 17th. The Law & Justice interim committee members will tour the facility at 10 a.m. and the graduation is scheduled in the afternoon. Mr. Ferriter also invited any interested Board members to speak at the interim committee meeting scheduled for December 18th at the capitol

Mr. Ferriter said that the department had proposed a 116 bed sex offender treatment facility (decreased to 64 beds) but the legislature did not approve the funding. He stated a treatment facility is critical and the department's proposal will be included in the Executive Planning Process for the 2011 session. In response to Mr. McKee's question regarding a state operated prerelease center for sex offenders, Mr. Ferriter said that a state operated facility is not being considered.

A statistical handout prepared by the department was given to the attendees. Mr. Ferriter stated the statistics are based on figures as of June, 2009.

- Sex offenders account for almost 11% of all offenders under department supervision
- 42.7% (706) of all adult sex offenders are in prison. The remaining sex offenders are in various community corrections programs
- 51.6% (857) of all adult sex offenders are on probation and parole
- Sex offenders represent a growing portion of the prison population. In January 2007, they accounted for 24.7%. Today, they account for 28.7%
- The average for 44 surveyed states is 15.4%
- The average Montana prison sentence for sex offenders is 17 years. The average prison stay is 34% of that time (5 years, 9 months)
- 73.4% (1,202) of adult sex offenders are 25-54 years old, almost evenly divided between three age groups
- Nine male sex offenders are less than 20 years old and 162 are at least 60

In the past five years, 148 sex offenders entered the only two prerelease centers accepting sex offenders – Billings and Missoula. Sex offenders account for 28.7% of the total offender population and only 1.1% are in prerelease centers.

Ms. Bunke stated that the department is currently in negotiations will all prerelease centers. The department is requesting that the remaining centers; Bozeman, Butte, Great Falls, and Helena accept sex offenders with an increase in per diem for taking sex offenders. The negotiations have come to a standstill.

Board members and DOC staff discussed and agreed that public education is a critical factor in getting communities to accept sex offenders in prerelease centers and their communities in general. Housing is a huge issue for sex offenders as well as the stigma associated with the crime. Ms. Bunke said sex offenders are very compliant with the conditions imposed upon them by probation and parole. She said placing more offenders in the Intensive Supervision Program and GPS could help reduce the caseloads.

Mr. Mahoney said the Montana State Prison has the only in-patient sex offender treatment program in the state. He told the members there is a huge backlog of offenders awaiting placement and being denied prerelease. He said the safety issue is critical if sex offenders simple discharge their sentence without the benefit of being under supervision of a prerelease center. A treatment facility for Tier 1 offenders is key to re-integrate them back into the community.

Ms. Franklin suggested the possibility of taking a few special profiles i.e., an offender that has to live in his van because he can't find housing, and present their cases to the interim committee to show their plight.

DOC Staff Comments:

Mr. Mahoney asked Mr. Thomas about the status of electronic parole reports. Mr. Thomas thought the reports could be implemented within the next six months. Mr. Mahoney congratulated the Board in their due diligence at the

parole hearings he's attended. He was impressed by the member's preparedness relative to the cases they had before them at the hearings.

Mr. Paul expressed his willingness to answer any questions the members may have in relation to DUI questions.

Ms. Bunke said the department was awarded a two year federal grant that gives the department the authority to hire eight additional P&P officers. The officer's caseload will focus on co-occurring disorders and Native American offenders. Ms. Bunke said the caseloads are in the beginning stages of organization and the eight positions will be included in the Executive Planning Process that will be presented to the 2011 legislature. She expressed her thanks to the Board for working with P&P officers. Ms. Bowman told Ms. Bunke that she would be willing to work with the Native American issue as this offender population has a 2.5% higher rate of recidivism.

Mr. Ferriter told the members that he recognized the good working relationship between the Board and the department. In years past this was not the case and he appreciates the change.