

MAINE DEPARTMENT OF CORRECTIONS

PROPOSAL FOR THE RESTRUCTURING OF MAINE'S COUNTY JAILS



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Table of Contents

[Executive Summary](#) 3

[Definitions and Acronyms](#) 4

[Proposal](#)5

[Reasoning](#) 8

[Previous Considerations](#)9

[Conclusion](#).....10

[References](#)10

Executive Summary

During the First Session of the 128th Maine Legislature enacted Public Law chapter 284 Sec. SSSSS-2. 34-A MRSA §1402, sub-§14 to read: By February 15, 2018, the department [of Corrections], shall submit a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial matters on plans to restructure the funding and operation of county jails, correctional facilities, and prisoner population capacity.

This report acknowledges the extensive study over the last decade by well-intentioned stakeholders to examine and propose viable propositions for reforming the way various county jail and state correctional facilities overlap, collaborate, braid funds, and otherwise work together. This exhaustive breath of material was reviewed for the creation of the proposal within.

Innovation notwithstanding however, the aim of this report is to meet the obligations presented by the current legislature. The Department has not been mandated to reconcile past proposals, though the Department studied publicly available documents and reports, noted in the reference section. With full acknowledgement of others' commitment to resolving the issues inherent in the matter of correctional control, this proposal simply offers the Department's best supposition, distinctive from previous propositions.

The Maine Department of Corrections (MDOC) recommends a regionalization approach to county corrections with oversight by a quasi-independent organization to be created by the legislature, housed under the executive branch, to be known as the Maine Jail Commission.

The creation of a quasi-independent organization falls within the scope of the Legislature, as detailed in Title 5, Part 18, Chapter 379, subchapter 3 of the Maine Revised Statutes.

The newly formed Maine Jail Commission will have a small team of paid staff, including an executive director, all advised by a board of directors.

As part of the regionalization approach to county corrections, the Maine Jail Commission will oversee new Multicounty Regional Jail Authorities, established in statute.

The DOC recommends three multicounty regional jail authorities: Southern, Coastal, Northern, with 5 jails in each region, with the potential closure of 1-2. Each individual facility will be managed under their respective Multicounty Jail Authority, consisting of a board of directors. The Multicounty Regional Jail Authorities will ensure that the mandates of the Maine Jail Commission are carried out by the staff working in the respective facilities.

Budgets shall be established, distributed and enforced by the Maine Jail Commission.

The MDOC Proposes:

1. The joint standing committee identify a task force to review and implement this proposal.
2. Legislation for the creation of a new quasi-independent entity, the *Maine Jail Commission*, including its board of directors with authority over regional jails.
3. Legislation for the creation of new multicounty regional jail authorities.
4. Regionalization of county corrections.

Definitions and Acronyms

Definitions

Quasi-independent state entity

An organization that has been established by the Legislature as an independent board, commission or agency to fulfill governmental purposes and that receives revenues that are derived, in whole or part, from federal or state taxes or fees. [2011, c. 616, Pt. A, §1 (NEW) .]

Maine Jail Commission

Quasi-independent entity with authority and power established by statute to direct regional jails; collect all funds from State, Federal, municipal sources for jails, and enforcement of mandates toward regional jails.

Maine Jail Commission Board of Directors

Oversight body associated with the Maine Jail Commission; consisting of 7 members, appointed by the Governor, subject to review by the Legislature.

Multicounty Regional Jail Authority

Includes three regions in Maine: Northern, Coastal, Southern. Each region includes a 12-person board of directors.

Acronyms

BOC - Board of Corrections

MDOC - Maine Department of Corrections

TBRJ - Two Bridges Regional Jail

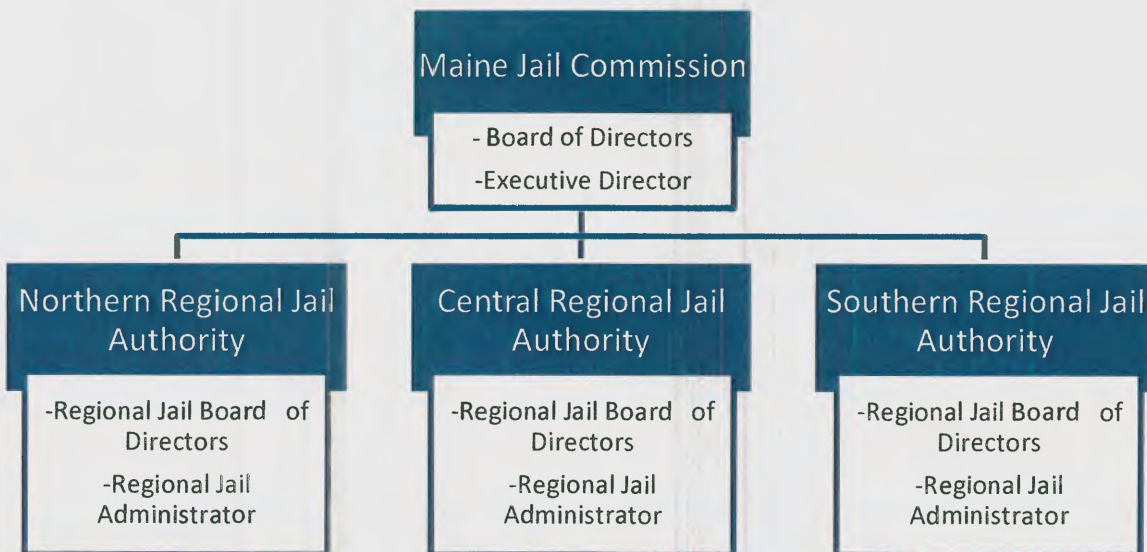
Proposal

The Maine Department of Corrections (MDOC) recommends a regionalization approach to county corrections with oversight by a quasi-independent agency to be created by the legislature, housed under the executive branch, to be known as the Maine Jail Commission.

The creation of a quasi-independent agency falls within the scope of the Legislature, as detailed in Title 5, Part 18, Chapter 379, subchapter 3 of the Maine Revised Statutes.

As identified in Title 5, Sec 12021 (5) a quasi-independent state entity is established by the Legislature as an independent board, commission or agency to fulfill government purposes and that receives revenues that are derived, in whole or part, from federal or state taxes or fees.

The newly formed Maine Jail Commission will have a small team of paid staff, including an executive director all advised by a board of directors.



As part of the regionalization approach to county corrections, the Maine Jail Commission will oversee new Multicounty Regional Jail Authorities, established in statute.

The DOC recommends three multicounty regional jail authorities: Southern, Coastal, Northern with 5 jails in each region, with the potential closure of 1-2. Each individual facility will be managed under their respective Multicounty Regional Jail Authority, consisting of a board of directors. The Multicounty Regional Jail Authority Board of Directors will ensure that the mandates of the Maine Jail Commission are carried out by the staff working in the respective facilities.

Regionalization, as the approach to county corrections is necessary as it will allow for a more efficient and fiscally responsible approach to the organization and operations of jail facilities. Regionalization consolidates and streamlines many functions for substantial cost savings and more efficient use of public resources.

Regional jails are used throughout the United States with positive results, including right here in Maine. Sagadahoc and Lincoln Counties formed a multicounty jail authority known as the Two Bridges Regional Jail (TBRJ) which was based on Virginia's Regional Jail model. Other states, including Ohio, Washington and Michigan to name a few, offer models the State of Maine can consider replicating. The reference section of this report provides further reading on other jurisdictional approaches to regionalization.

The advantages to regionalization have been written about extensively by multiple sources. The National Institute of Corrections Information Center (NICIC), the authority on best practices in American corrections, identified the following general advantages to regionalization:

- Counties with limited resources have access to modern facilities.
- Expanded services and specialized care [would be] available for prisoners.
- Staff and professionals, and advanced management practices are used.
- Multijurisdictional jails generally have greater access to community resources.
- Multijurisdictional jails offer more sophisticated classification options.

Looking more specifically at Maine, the Department recognizes the following advantages to the regionalization approach:

- Reduced individual facility costs
- Reduced reliance on State General funds
- Standardized policies and practices
- Balanced approach to utilization of bed space
- Use of economies of scale
- Reduced maintenance and capital costs
- Innovation expansion, new trends in corrections
- Enhanced stakeholder relationships
- Unified reporting system
- Balanced approach to pretrial services
- Standardized pay rate

At its core, this regionalization and the system of oversight provides a framework with established authority lines, something that was missing during the Board of Corrections years. The established power structure will ease the dependence county jails have traditionally had on State funds, as the Maine Jail Commission will collect all funds related to jails and then distribute funds utilizing an equitable calculations formula.

It is the stance of the Commissioner's Office within the Department of Corrections that creating three Multicounty Regional Jail Authorities, working from the direction of the Maine Jail Commission will allow for a more fiscally responsible approach to the organization and operations of local corrections. Regionalization consolidates and streamlines many functions for substantial cost savings and more efficient use of public resources.

A regionalized approach builds on the strengths of each individual county, uniting toward the shared goal of public safety and effective deployment of tax payer dollars for the collective citizenry.

The MDOC proposes:

1. The joint standing committee identify a task force to review and implement this proposal.
2. Legislation for the creation of a new quasi-independent entity, the *Maine Jail Commission*, including staff and a board of directors.
3. Legislation for the creation of new multicounty regional jail authorities.
4. Regionalization of county corrections.

Maine Jail Commission

The creation of the Maine Jail Commission, pursuant to Title 5, Part 18, Chapter 379, subchapter 3 of the Maine Revised Statutes would provide for a fully vested authority established and granted powers and duties as a public body corporate and politic and an instrumentality of the State.

The Maine Jail Commission will be the fiscal agent of all funds associated with regional jails. Legislation would be enacted authorizing the Maine Jail Commission with power and duties, including but not limited to:

- A. Serve as the public agency of the State for the purposes of accepting and distributing all funds, including property tax and other special revenue, from any entity for use of multicounty jails.
- B. Accept and distribute funds to each multicounty regional jail authority based on equitable calculations.
- C. Develop, monitor and enforce financial and budgetary plans for each multicounty jail authority.
- D. Establish a system for prisoner classification, transport, movement, bed control.
- E. Establish mandatory policies and procedures for the multicounty regional jail authorities, reflective of best practices and evidence-based whenever possible.
- F. Establish expectations for regionalization contracts and services;
- G. Ensure compliance of all standards, policies and procedures for the multicounty regional jail authorities and impose penalties for noncompliance.

The Maine Jail Commission will have authority under a board of directors, established in statute.

Maine Jail Commission Board of Directors

It is proposed the Maine Jail Commission Board of Directors will be composed of 7 members. The members must be appointed by the Governor, subject to review by the Legislature.

The board members will include: experts in the field of corrections, behavioral health and/or finance at the State level.

Multicounty Regional Jail Authority

It is proposed the Maine Jail Commission will oversee the Multicounty Regional Jail Authority. These authorities will be divided into three regions: Northern, Coastal and Southern with 5 jails in each region.

Each region will receive their funding, budgetary constraints, and direction from the Maine Jail Commission.

Each multicounty regional jail authority will consist of a board of directors who will provide direct oversight to the regional jail administrator. The regional jail administrator will provide oversight to staff employed in the regional jails. Staff will become employees of their respective regional jail authority.

Looking at existing statute for the Lincoln and Sagadahoc counties Multicounty Jail Authority, Title 30-A, Part 1, Chapter 17, subchapter 2, the boards of the new regional jail authorities will be organized similarly.

Each region's facilities will be managed by 1 regional jail administrator and a 12-member board of directors.

The board will consist of county commissioners, county sheriffs, Department of Corrections, members of the public.

Reasoning

The model of authority and power bestowed to the Maine Jail Commission will support efficient use of funds by regional jails, resulting in general and specific cost savings.

Cost savings under this plan will be felt immediately with the closure of 1-2 facilities in each region.

Coupled with savings incurred using economies of scale, e.g., regional contracts for services, regional purchasing power, including for medical, food, transport, etc., bundling costs for staff training, and the immediate reduction from decreased costly capital improvements and maintenance, the fiscal sense becomes difficult to ignore.

Streamlining bed space, as part of this proposal, will quickly result in a positive impact. County jails often report overcrowding in their facilities. However, per Average Daily Population (ADP) reports pulled in October of 2017, only two of the fifteen jails were experiencing overcrowding. Leaving between 500-600 empty county beds state-wide. Under the regional approach, even with the closure of 1-2 facilities per region, these beds become available at no additional cost.

Regionalization allows for facilities to increase needed treatment services and specialization units. Jails in regions with high rates of incarcerated individuals with substance use and opiate use disorders can provide specialized treatment, for example. These treatment services are inherently more efficient under this proposal as they will be RFPed under the Maine Jail Commission, allowing for innovation in the actual RFP.

A first order of business for the new Maine Jail Commission will be the implementation of a single data management system to be used by each regional jail facility. Use of a singular data management system will have an immediate positive impact on how data is managed, performance monitored, and continuous quality improvements are prioritized. This system will provide the public and the Legislature with data to hold the Maine Jail Commission accountable for progress in monitoring financial impact of regionalization, operations and crime reduction (reduced return to custody rates).

Operationalizing modern correctional trends is necessary, not just for the cost savings but for the outcomes associated. The Maine Jail Commission will have the responsibility to see to it that the regional jails begin to implement trends being used across the US shown to reduce return to custody rates. Innovations include the use of technology for education attainment, prosocial skills and job training programs. Innovation also includes partnerships with employers, other trends with positive outcomes including: video arraignment, enhanced judicial partnership, specialty pods, and specialized substance use treatment like Vivitrol, as seen in use in Penobscot County.

Previous Considerations

In considering multiple approaches to the mandate by the Legislature, the Department focused on the regionalization approach under a newly formed quasi-independent agency as the most fiscally sound, sustainable approach to the administering of local correctional services.

The Department of Corrections acknowledges the decades of work countless individuals, organizations, State and County agencies have dedicated to finding common ground around this issue.

Most notably, the Department reviewed the following for guidance in determining the best path forward:

- 2006 Report of the Corrections Alternative Advisory Committee
- 2008 Plan for a Unified Correctional System
- 2014 Report of the Commission to Study the State Board of Corrections and the Unified Corrections Systems

While parties in each report suggested variations to solve the obstacles associated with county and state corrections, similar themes emerged in each report.

Each report saw a need for change as necessary to manage the county and state correctional issues. These suggestions, while approached differently, shared common themes. Themes still grappled with today, including:

- Control (State, County, mixed)
- Lack of coordination of bed space
- Rising facility costs (maintenance / new construction)
- Funding streams (Tax cap, General Funds, boarding rates)
- Operational efficiency
- Fragmented decision making
- Transportation

In 2008 the Board of Corrections (BOC) was formed by the Legislature in what many identified as a good faith compromise between either full State control or full county control. However well intentioned, infighting about leadership, funding and politics dwarfed incremental progress that was happening in very localized pockets.

In June 2013, the Chairs of the Joint Standing Committee on Appropriations and Financial Affairs wrote a letter to the Chairs of the Joint Standing Committee on Criminal Justice and Public Safety addressing issues related to the control and authority of the BOC. The full letter can be found in the reference section, and includes the following concerns:

- Lack of BOC authority;
- Lack of BOC enforcement authority;
- Counties unreliable in delivering revenue to BOC;
- Disagreements of debt and liabilities among counties.

The Board was dissolved in 2015.

The Department recognizes that the dissolution of the BOC was due, in part or whole, to its lack of authority. To counter, the Department has chosen the strategies outlined in the proposal, especially the formation of a new State agency, the Maine Jail Commission because it will have, by statute, all the necessary power and authority the BOC was lacking.

Conclusion

This proposal may not be perfect, but the administration of sound public policy shall not be based on perfection; perfect shall not be the enemy of good public policy. Rather this proposal allows for the transparent process of a new government entity that places itself inside a framework of monitoring effectiveness. The creation of the new quasi-independent Maine Jail Commission mandates that the agency's outcomes: financial, operational and crime reduction (reduced return to custody rates) be monitored. This is the definition of good public policy.

The regional, or multicounty approach has the potential to lower facility, staffing and purchasing costs, improve delivery of services, improve bed space utilization and boarding rate issues while positively impacting public safety. This is a fiscally responsible approach that reflects the need for authority by granting powers, including that of imposing penalties upon involved stakeholders who act with disregard for the mandates directed by the Maine Jail Commission.

While the advantages of this proposal, cost savings, implementation and standardization of consistent practices, expanded services and specialized care are noteworthy. Also noteworthy is that to properly execute the intricacies outlined herein, all branches of Maine's government must work together, under the framework of the administration of effective, efficient, democratic and fair public policy.

Respectfully, the Department suggests this proposal as an ideal option to restructure the funding and operations of county jails.

References

The references below provided context for this report. The reference will be useful in contextualizing for stakeholders involved in decision making related to county/State jail operations.

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Legislation

P.L. 2017, Ch.284

P.L. 2015, Ch. 335 An Act to Reverse Jail Consolidation (LD186)

P.L. 2017, Ch. 281 An Act to Improve Funding of County Jails (LD 463)

L.D. 1266 (128th Legislature 2017). An Act to Transfer Operations and Ownership of County Jails

L.D. 186 (127th Legis. 2015). An Act to Reverse Jail Consolidation.

Part SSSSS - County Jail Analysis High Level Estimates

County	Reported Revenue	FY17 ADP	Reported Expenditures	Budgeted Capacity	Proposed ADP	Change in ADP	Marginal Cost (FY17 Actuals)	Incremental Cost	Revised CJ Expenditures	Revenue vs. Revised CJ Exp.
ANDROSCOGGIN	6,031,044	162	6,015,326	160	0	(162)	\$ 20.12		0	6,031,044
CUMBERLAND	18,518,878	394	18,762,624	625	590	196	\$ 27.46	1,964,445	20,727,069	(2,208,191)
KENNEBEC	7,988,278	155	7,594,988	174	155	0	\$ 30.78	0	7,594,988	393,290
OXFORD	1,660,638	10	2,143,419	27	0	(10)	\$ 39.98		0	1,660,638
YORK	10,563,483	204	10,319,058	298	180	(24)	\$ 21.05	(184,387)	10,134,671	428,812
HANCOCK	2,609,008	50	2,496,053	58	47	(3)	\$ 15.06	(16,487)	2,479,566	129,442
KNOX	3,983,003	54	3,588,068	70	60	6	\$ 19.93	43,655	3,631,723	351,280
LINCOLN	512,519	0	469,356	0	0	0		0	469,356	43,163
SAGADAHOC	438,142	0	401,326	0	0	0		0	401,326	36,816
TWO BRIDGES	7,308,421	150	6,887,585	217	185	35	\$ 27.08	345,938	7,233,524	74,897
WALDO	3,330,873	24	3,619,713	32	24	0	\$ 1,054.19	0	3,619,713	(288,840)
WASHINGTON	2,191,092	38	2,355,197	42	0	(38)	\$ 16.81		0	2,191,092
AROOSTOOK	3,417,262	92	3,488,780	123	101	9	\$ 21.85	71,778	3,560,559	(143,296)
FRANKLIN	1,868,399	27	1,931,217	39	0	(27)	\$ 41.13		0	1,868,399
PENOBSCOT	7,904,457	191	8,499,857	157	150	(41)	\$ 20.42	(305,524)	8,194,333	(289,876)
PISCATAQUIS	1,471,122	26	1,405,176	36	0	(26)	\$ 16.59		0	1,471,122
SOMERSET	6,953,042	98	6,795,107	234	183	85	\$ 29.96	929,376	7,724,483	(771,441)
TOTAL	86,749,661	1675	86,772,850	2292	1675	0		2,848,794	75,771,311	10,978,350

Model Assumptions:

- financial information based on highest cost of last three years
- revenue anticipated to remain at this level
- assumes no changes to programming or other efficiencies or initiatives
- model uses the marginal cost of the receiving jail for transferred population
- ADP redistribution of jail closures is arbitrary

Personnel Costs	(\$1,057,804)
One Time Setup Costs	(\$56,400)
Ongoing Costs (AO)	(\$125,604)
Net of Staffing Costs *	9,738,542

* savings will diminish over time.

Unemployment	\$ 1,571,544
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