

# Nova Scotia Custody Configuration Project

*FRED HONSBERGER*

In late 1996, Nova Scotia Correctional Services entered into a partnership with a private consortium to develop a plan that would improve the Nova Scotia adult jail system and related programs. This chapter will focus on three areas: why we are entering into this partnership with the private sector, what we are doing, and how we intend to proceed.

## **Why are we doing it?**

To know where we are and where we are going, it is important to know where we have been. Nova Scotia has a very rich history and, in many ways, Correctional Services is a victim of that rich history. Over the past 200 years, a well-defined, county-based system of government has evolved in our province. Each of the 18 counties established its own local jail, which was planned by the county, built by the county with very limited expertise, and intended for county use alone. Unlike larger provinces in central Canada, we did not have a central provincial reformatory to complement our county jails.

George Sinclair, our first Inspector for Penal Institutions, wrote in his first report of 1901 that a provincial reformatory should be built because of the inadequacy of the county jail system. He noted a lack of essential services, deficiencies in safety and security, the idleness of the inmates, and overall lack of expertise in the management of the county jails. He made a similar recommendation in each of his reports, until his final report in 1913, in which he requested, in frustration, that if a provincial reformatory could not be built, the Province should at least upgrade the existing county jail system.

Twenty years passed. In 1933, a Royal Commission on Jails was established. The Commission travelled to Ontario and New England and returned with further recommendations for the establishment of a provincial reformatory, citing the same reasons that George Sinclair had reported 30 years earlier. The Royal Commission's report was not acted upon.

Twenty-five years passed. Nova Scotia's government sought the advice of the province of Ontario and requested that Mr. Leo Hackyl, who subsequently served as deputy minister of Corrections for Ontario, conduct a study of the size, type, and number of jails needed in Nova Scotia. Mr. Hackyl made recommendations similar to those contained in the Royal Commission's report and the reports of the first Inspector. Again, no action was taken; the county jails persisted. A number were replaced by the counties but, again, these newer facilities were intended for county use only.

In 1979, Corrections developed a master plan that recommended that the Province assume responsibility for the county jails, an action that had been taken many years earlier in other provinces. This became a reality in 1986, primarily because the counties could no longer afford to operate their facilities consistent with the fire marshal's requirements, life-safety standards, and security requirements as determined by the inspector of Penal Institutions.

One of the conditions of the provincial takeover was that the Province assume all existing staff and facilities without change. Following takeover, facilities were upgraded to meet fire standards and training was provided to staff. In 1989, a further master plan proposed a realignment of facilities into three regions. In addition, it was suggested that remand and short-term inmates be placed in detention centres while long-term offenders

who required programs would be placed in correctional centres. New construction was proposed for Halifax to replace the non-functional Halifax Correctional Centre. Although this plan was accepted in principle by Cabinet, it fell victim to the downturn in the economy: additional resources sufficient to meet the requirements of the master plan were not available.

Between 1970 and 1990, 9 of the 18 Nova Scotia jails closed due to fire damage, failure to meet standards, and restraint. Nine remain today and with them there are many problems such as the following.

- (1) Concern about inmates' safety and security as 58 percent of the bed space is dormitory, which is difficult to supervise, where inmates are vulnerable, and which cannot be "locked down." In addition, dormitory and cell-block areas are poorly laid out, having blind-spots that hamper supervision. Special categories of inmates—those under remand, protective custody, intermittent sentences, and daily release; those who are mentally ill or who have special medical needs; and federal inmates who are pending appeal or transfer to penitentiary—cannot be separated effectively.
- (2) Capacity is insufficient. In Nova Scotia, facilities are not allowed to exceed 100 percent capacity and, for this reason, intermittent custody and other sentenced inmates are released to house arrest earlier than normal for administrative reasons. In our view, this action erodes the order of the court.
- (3) Facilities lack programs and useful activity due to physical layout and lack of program staff. In addition, health care services are inadequate.
- (4) Much of the inadequacy in our programs can be explained by the fact that a relatively small inmate population of 550 is dispersed among nine institutions, creating duplication in all areas of operation. Given that 80 percent of our operating costs are for staff and that a high staff-to-inmate ratio is required, the institutions are costly to operate.
- (5) In Nova Scotia, the environment in which our staff are required to work is inadequate for many reasons. This environment is a partial factor in high stress levels, absenteeism, and related costs.

In Nova Scotia, as in other provinces, the inmate profile in the 1990s is different than it was in the 1970s. The inmate population is aging; inmates are admitted for more violent offences; they commit more violent acts while in custody and the traditional "inmate code" is either breaking down or shifting, thereby decreasing loyalty within the inmate population and increasing the need for protective custody.

Increased mobility within the province and between jurisdictions has reduced the ability of correctional officers to know inmates and supervise offenders based on long-term, established relationships as they did in the days when the county-based system flourished. Today's environment is further complicated by alcohol and drug abuse and the cross addiction of inmates, and an increased tendency on the part of inmates to bring contraband drugs into correctional institutions.

### **What are we doing?**

Because of this situation, we approached the provincial government in March 1995 with a plan to modify our custody configuration. The plan was not accepted because it would have cost more than we are spending today. At that time, the government had commenced a 4-year budget-control plan that would reduce provincial expenditures by 12.5 percent by fiscal year 1997/98. To suggest that we spend more money was like trying to paddle a canoe up a waterfall.

Recognizing our need and the importance of taking corrective action for our jails, the government directed us to adopt a solution-based process to solve our problem and asked us to consider the Cooperative Business Solutions (CBS) approach, which had been used previously by the Province to upgrade a treacherous 30-mile stretch of the Trans-Canada Highway on the north shore of the province and by the department of Education for the construction of a high-technology school on a lease-back arrangement.

For a number of weeks, we in Correctional Services were in an awkward situation. We had a clear idea of what we had to do to correct our problem and we favoured the traditional approach of conducting an internal review, issuing a Request for Proposals, and commencing work with architects. A solution-based process seemed unnecessary. After talking to representatives of other government departments, however, we became comfortable with

the CBS process, which seemed able to produce results that would not be achievable if we tackled the problem on our own. For my part, perhaps one of the most compelling reasons for accepting the CBS process was that, after 30 years of involvement in correctional services, I had come to the conclusion that I had fewer answers than I did 25 years earlier.

Fifteen years ago, when a small jurisdiction like Nova Scotia embarked on a major planning exercise in corrections, we sought the assistance of larger jurisdictions that had more experience in design work and alternative styles of operation. Although this bilateral assistance was always graciously provided and useful, it was limited by the outreach of that jurisdiction. During the past 10 years an international body of knowledge has emerged, which is much more accessible than it was in previous years. Professional organizations such as the American Correctional Association with its many manuals and standards documents, architectural firms and suppliers that work on prisons internationally, and financial institutions can all provide us with advice that is not available on a simple bilateral basis. Private operators have aggressively sought out innovative and cost-effective ways of providing security and effective program services in well-designed facilities and, whether or not we choose to operate our institutions on a private basis in whole or in part, their advice should be sought.

As time passed, we saw that the CBS process would provide us with the greatest opportunity for creativity in the development of our new system. For those who are not familiar with how the CBS process works, I will explain by way of an analogy. Pretend that you live on one side of a river and you need to get to your work on the other side of the river. The river is fast-flowing most of the year, which prevents crossing, although it dries up for one month in the summer and freezes over for two months in the winter, when you can cross. The traditional response to this dilemma would be to identify the need for a bridge, hire an architect to prepare plans, and issue a request for proposals for construction of the bridge. Using the CBS process, you approach your objective differently. You clearly identify your problem in writing and identify the constraints—the time allowed to get to work, limited funds, and so on—within which you have to work. You document your problem in a Call for Proposals (similar to an enhanced Request for

Qualifications), hold a bidders' conference, and make your document public. Consortia consisting of architects, planners, financial institutions, construction companies, and so on would be formed with the expertise to work with you to resolve your river problem. Although you had originally thought that a bridge would be appropriate, you may find that a bridge, a hovercraft, a tunnel, or a hot air balloon would be appropriate or, indeed, that as a result of computer technology you could work out of your home and would not have to travel across the river at all. The CBS process promotes creativity and links planners, architects, construction workers and operators together as the project progresses.

In Nova Scotia, we hired a consultant group represented by Jim Robinson and Gordon Kyle to guide us through the CBS process, including the preparation of the Call for Proposals, the bidders' conference, the written and oral evaluation processes, and the debriefing of unsuccessful bidders. A bidders' conference was held in Halifax in February 1996, and about 45 representatives of companies from across Canada and the United States attended. At the bidders' conference, we provided a briefing that outlined the scope of our project and our 5 objectives as follows:

- (1) to provide institutions that are safe and secure for the protection of inmates, staff and the public;
- (2) to establish the right number of beds of the right type (our preference is for single-bed cells) at the right location in the province;
- (3) to provide activity for as many inmates as possible while in custody, and basic habilitative programs to reduce recidivism;
- (4) to provide a safe, healthy, working environment for staff;
- (5) to achieve the four objectives above within existing budget restraint policies.

Six consortia formed to bid on our project and four were eliminated during a week-long written evaluation exercise that was conducted in March 1996. Oral evaluations were held in late April of 1996 and one consortium was finally selected. This consortium works in partnership with a team staff from the Nova Scotia government.

## **How do we intend to proceed?**

I would anticipate that the flow of our working relationship will be as follows.

*Planning phase.* We will consider a broad range of issues such as demographics, court requirements, location and condition of existing facilities, and offender typology (e.g., sentence lengths, previous records, security level, and sentencing patterns).

We will look at alternatives to incarceration. Traditional options such as electronic monitoring, intensive supervision, probation-attendance centres, and community-based work programs will be assessed. Meetings will be held with a broad range of individuals including our existing staff, the judiciary, barristers' society, chiefs of police, and community groups.

During this phase, we will identify the appropriate number, type, and location of beds required in Nova Scotia and the program services that should be offered at these locations.

*Design phase.* Facilities will be designed consistent with our objectives to provide safety and security in single cell accommodation.

*Staffing phase.* Position requirements for correctional officers, either full-time or part-time, and staff functions will be identified, in addition to shift schedule options and overall person-year requirements. During this phase, there will be discussion with the Nova Scotia Government Employees' Union (NSGEU) and staff in order to identify the most cost-effective and responsible staffing pattern that can be developed within our existing budget. Comments and suggestions will be invited from the NSGEU during this phase.

*New configuration.* Through this process, existing institutions will close, some facilities may be retrofitted, and new construction may occur. Essential to the success of this process is the maintenance of a very close working relationship with existing staff and the Correctional Officers' Union to ensure that a well-thought-out plan is developed for the gradual transferring and retiring of staff, who must be made aware, well in advance of any changes, that their jobs will be affected in a specific way and that the government and their union will respond to the situation.

*Construction* A critical path for construction will be developed to minimize the impact upon the numbers of beds available and upon programs for offenders. Cost control will be an important feature of this schedule.

*Operations* Nova Scotia politicians and correctional administrators have consistently held the view that a public, rather than private, operation would be preferable in Nova Scotia. We also are convinced that the private sector can do a credible job in operating institutions and we would not shy away from the private-sector option if it is the only avenue available to achieve our 5 objectives.

It is important to emphasize the range of possibilities that exists with respect to privatization. That term normally conjures up only images of private security. Numerous options are available, however, including privatization of services such as provision of food, maintenance, habilitative programs, education, and work activity. Privatization at varying levels could occur in one or two, or in all institutions, or in none.

Further, we intend to give the NSGEU the time and assistance required to consider their options and to make adjustments and recommendations that will keep operations in the public sector. If the private sector is to assume responsibility for all operations including security, the province will be mindful of the needs of its employees as it develops a contractual arrangement with the private sector. It is important to stress that any hardship that may be experienced by staff as a result of private-sector operations will not be the fault of the private sector but of government, as the government is ultimately the body that will dictate the final terms of the contract. Every item that is requested, however, must be paid for and costed out, including the fair profit margin that would be available to the private operator. There is also the possibility that the private operator may make an attractive offer to the union—an offer that could not be met within the existing constraints on government spending—and that the private sector may allow the existing union to represent staff under a new private contract arrangement—an outcome that would be consistent with the relations between management and labour in the Canadian environment.

## **Conclusion**

There are endless possibilities for our future operating arrangement; the only certainty is that it will be different from what it

is now. We currently have private contracts in our adult institutions for activities such as nursing services, garbage removal, chaplaincy, and release programs, and one of our designated correctional institutions for young offenders is fully operated by a not-for-profit organization rather than by the provincial government. The superintendent of that facility has all the powers of a superintendent of a youth facility though she is not an employee of the provincial government.

The CBS Process will, no doubt, present both challenges and opportunities. Among the advantages is the lack of fragmentation in approach as the process of planning, design, construction, and operation will have continuity. Likewise, there will be continuity in terms of the range of custody services and levels that are provided for newly developed, community-based programs, which will be complementary.

Although we emphasize the custody-configuration aspect of our process, it is the intention of Nova Scotia to do a thorough analysis and take a holistic approach to our response to court-ordered custody in the hope that a more gradual blend of control-based community alternatives will be developed both to reduce the need for custody and to provide options for early release from custody. This could be a challenge because Nova Scotia currently has the highest ratio in Canada of persons under sentence in the community to persons in custody. Our ratio of offenders under community-based dispositions as opposed to sentenced custody is presently 11 to 1. Fines and community-service work-orders are used extensively in addition to probation. Nonetheless, new strategies may be available to us—I often wonder what lessons can be learned from western European countries where the rate of incarceration is extremely low in comparison to North America.

To paraphrase Winston Churchill, if you want to understand the fabric of a society, examine the way that it deals with its offenders. We hope that Nova Scotia will be able to establish a positive image in this regard and do so within its existing budget.